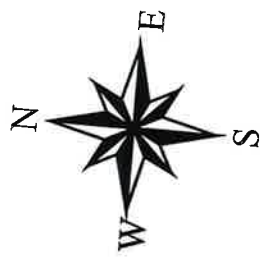




Department of Water Resources

Claim No.: 25-04032



SCANNED
AUG 06 2007

-  Place of Use
-  Grays_lake_idtm83.shp
-  Point of Diversion

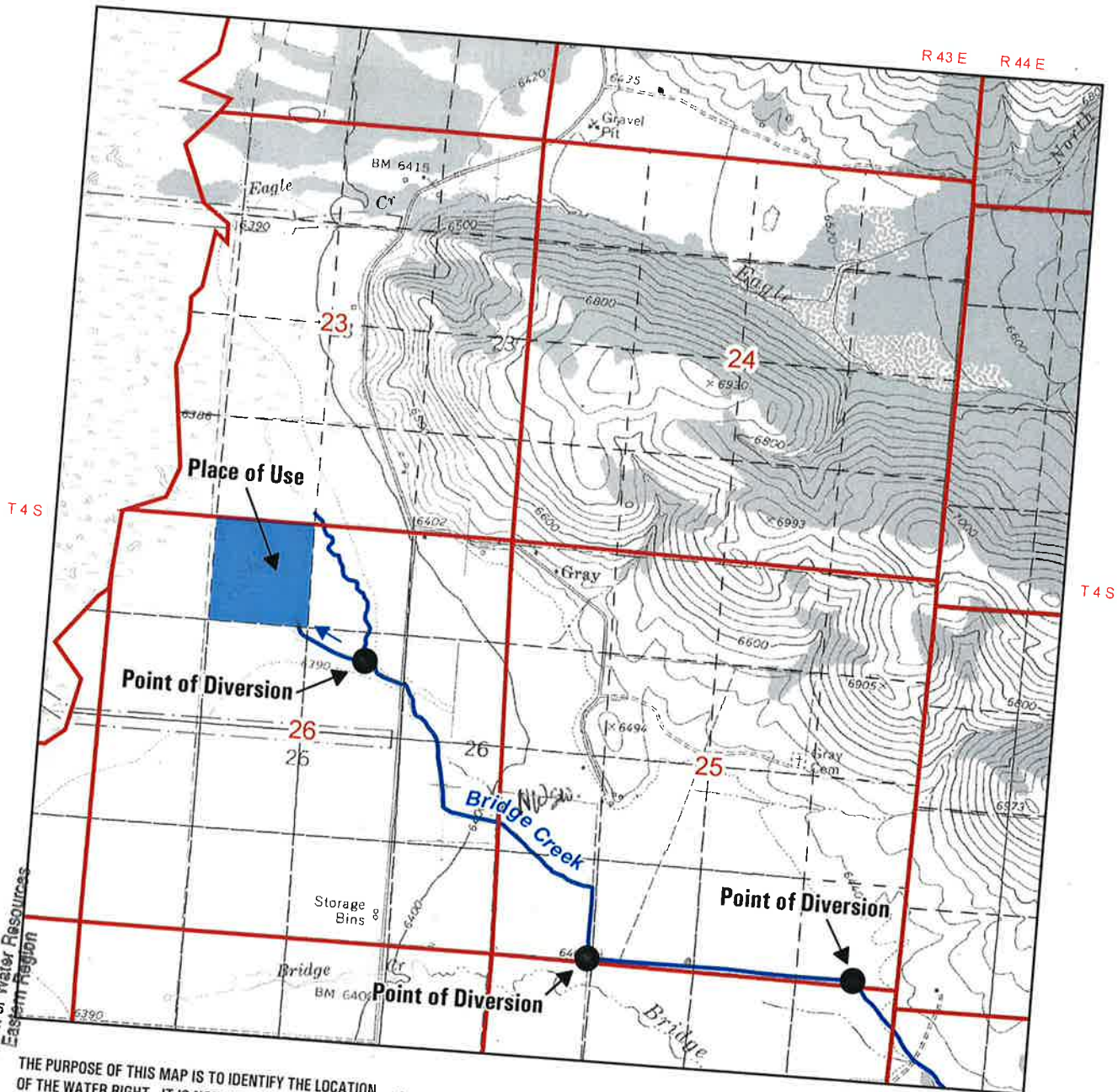
GIS Place of Use Illustration
1987/88 NAPP Photography
Prepared by M. Holliday
Date: January 2005



U.S. Fish & Wildlife Service
Grays Lake National Wildlife Refuge
Bonneville County, Idaho

Map for Claim Number 25-04032

SOURCE: BRIDGE CREEK
QUANTITY: 0.80 CFS, 0.02 CFS
POINT OF DIVERSION: T04S R43E S26 SWNE, S25 SWSW & SESE
PURPOSE OF USE: IRRIGATION/WILDLIFE, STOCKWATER/WILDLIFE



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JAN 12 2005

Department of Water Resources
Eastern Region

THE PURPOSE OF THIS MAP IS TO IDENTIFY THE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

Claim25-04032.MXD, 1/5/05

0 0.25 0.5
0 0.25 0.5
Kilometers Miles
1:24,000 BOISE MERIDIAN

Water Resources Branch
R1 Division of Engineering
911 NE 11th Avenue
Portland, OR 97232-4191
503-231-6251

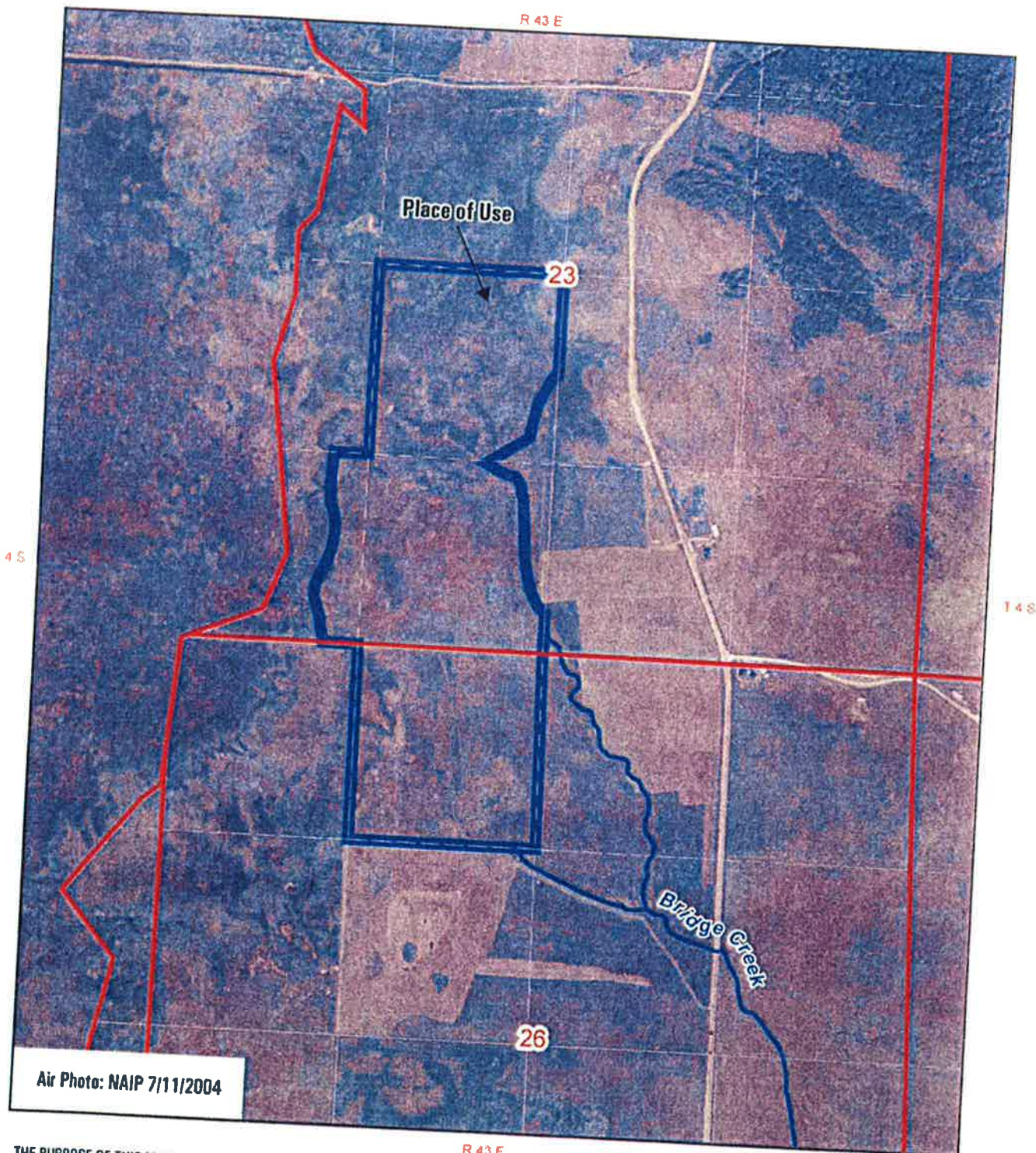


AUG 06 2007



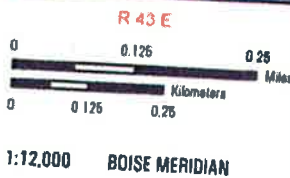
U.S. Fish & Wildlife Service
Grays Lake National Wildlife Refuge
Bonneville County, Idaho

Claim Number 25-04032 Place of Use



THE PURPOSE OF THIS MAP IS TO IDENTIFY THE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

Claim25-04032_20040711.MXD, 6/16/05



Water Resources Branch
R1 Division of Engineering
911 NE 11th Avenue
Portland, OR 97232-4191
503-231-6251



PROFILED

25-4032

swse

nenw

SCANNED

NOV 05 2004

PROFILE

NOTICE OF ERROR

12/23/2004

REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS:

Water right number: 25-4032

UNITED STATES OF AMERICA ACTING THROUGH
USDI FISH AND WILDLIFE SERVICE
DIVISION OF ENGINEERING
911 N E 11TH AVE
PORTLAND OR 972324181
Telephone Number: (503)231-6145

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

Quantity, Point of Diversion, and Purpose

2. Describe the changes you wish to make in the proposed recommendation:

Quantity: Change from "0.020 cfs" to "0.82 cfs."

Point of Diversion: Change from "T04S R43E S26 NENW" to "T04S R43E S26 SWNE" and additional Points of Diversion at "T04S R43E S25 SWSW and SESE within Bonneville County."

Purpose: Change from "Stockwater" to "Irrigation/Wildlife and Stockwater/Wildlife."

3. Give a brief explanation as to why you disagree with these portions:

Quantity: Historically, water was applied to the subject tract for irrigation as well as stockwater as evident by posted notice and aerial photography (Attachments B and D.) Since acquiring the property in 1973, the Service has continued the same use. The Service has monitored its diversion to the place of use since 1995 (Attachment F.) Therefore, 0.80 cfs for irrigation in addition to 0.02 cfs for stock, should be included in this claim.

Point of Diversion: The Point of Diversion shown in the Preliminary Recommendations is the Place of Use. The Points of Diversion for this claim are not located on the Place of Use and therefore, needs to be changed as shown above.

Purpose: As stated above, water was historically applied to the subject tract for irrigation (0.80 cfs) as well as stockwater (0.02 cfs) and has been managed in the same manner since acquired by the Service. The Service adds "Wildlife" as an accomplished change as recognized by I.C.A. 42-1425. The amount claimed for Wildlife is identical to the amount historically used for irrigation or stock.

I AGREE with this proposed recommendation: no changes need to be made.

DATE: 1/7/2005

SIGNATURE: David J. Langman, Agent for USFWS

Please print your name: David J. Langman

SCANNED

AUG 06 2007

RECEIVED

JAN 12 2005

Department of Water Resources
Eastern Region

IDWR Regional Office, 900 N Skyline Dr Ste A, Idaho Falls, ID 83402, 2085257161

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

1000 RIVERWALK DRIVE, SUITE 200
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
FACSIMILE (208) 523-9518
E-MAIL KFOSTER@HOLDENLEGAL.COM

Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

Of Counsel Fred J. Hahn

KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
CHARLES A. HOMER
GARY L. MEIKLE
DONALD L. HARRIS
DALE W. STORER
MARIE T. TYLER
FREDERICK J. HAHN, III
KARL R. DECKER
SHAN B. PERRY
AMELIA A. SHEETS
DeANNE CASPERSON**
ROBERT L. HARRIS
DEBORAH S. O'MALLEY

**Also Licensed in Missouri & Kansas

January 31, 2006

Deputy Clerk
Snake River Basin Adjudication
District Court
253 Third Ave., North
Twin Falls, ID 83303-2707

Re: SRBA Case No. 39576
Subcase No.: 25-4032

Dear Ms. Delaney:

Enclosed with this letter is the original Standard Form 2 Response to Objection.

It is the position of the respondent that the points of diversion claimed by the objector and shown in the map attached to its objection (SESE and SWSW, Section 25, T4S., R43E.) are not now and never have been used as points of diversion for water used by the objector or its predecessors in interest in Sections 23 and 26 of T4S., R43E. One of the sources of water for such place of use is an unnamed stream which heads some distance north of the SE corner of the SWSW Section 25, T4S., R43E., below a pond which collects waste water from respondent's irrigated pasture to the east. This and other water is collected and then diverted in the NESWNE, Section 26, T4S., R43E., to the place of use of the objector.

Thank you for your kind attention to this matter.

Yours very truly,



Kent W. Foster

RECEIVED

FEB 01 2006

Department of Water Resources
Eastern Region

Enclosures

G:\WPDATA\KWF\12619 OW Ranches (O'Brien)\SRBA ltr 013106 wpd.cdv

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RECEIVED
FEB 01 2006
Department of Water Resources
Eastern Region

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

A. Subcase 25-4032

STANDARD FORM 2
RESPONSE TO OBJECTION

Please print or type the following information:

B. NAME AND ADDRESS OF PERSON RESPONDING

Name: OW Ranches, Inc.

Address: c/o Kenneth F. O'Brien, President

364 Judd Lane, Coalville, UT 84017

Daytime Phone: 208-574-2745 or 801-336-2282

Name and Address of Attorney, if any:

Kent W. Foster

PO Box 50130

Idaho Falls, ID 83405-0130

C. NAME AND ADDRESS OF PERSON WHO FILED THE OBJECTION TO
WHICH YOU ARE RESPONDING

Name: United States of America Acting Through USDI Fish & Wildlife Service,
Division of Engineering

Address: 911 NE, 11th Ave.

Portland, OR 97232-4181

D. I am responding to the objections to the following elements. (Please check the appropriate box(es)).

1. ☐ Name and Address
 2. ☒ Source
 3. ☐ Quantity
 4. ☐ Priority Date
 5. ☒ Point(s) of Diversion
 6. ☐ Instream Flow Description
 7. ☐ Purpose(s) of Use
 8. ☐ Period of Year
 9. ☐ Place of use
 10. **Recommendation**
 - ☐ This water right should not exist.
 - ☐ This water right not being recommended, but should be recommended with the elements described above.
- See accompanying letter and Affidavits.

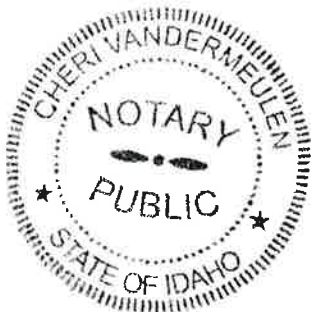
VERIFICATION (Must be Completed)

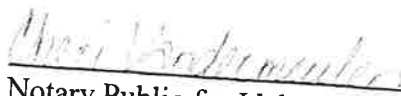
State of Idaho)
County of Bonneville)ss.
)

Kent W. Foster, duly sworn, upon oath, deposes and says:
The I am the attorney for the party/claimant responding and that I have read this response, know its contents and believe that the statements are true to the best of my knowledge.


Kent W. Foster

Subscribed and sworn to before me on this 31st day of January, 2006.




Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: July 7, 2009

PROFILED

CERTIFICATE OF MAILING

I hereby certify that on this 31st day of January, 2006, I mailed the original and copies of this response, including all attachments, to the following persons, by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

2. One copy to the party who filed the objection at the following address:
United States of America Acting Through
USDI Fish & Wildlife Service, Division of Engineering
911 NE 11th Ave.
Portland, OR 97332-4181

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

United States Department of Justice
Environmental and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449


Kent W. Foster

G:\WPDATA\KWF\12619 OW Ranches (O'Brien)\Response to Objection.wpd

PROFILED

Mikesell, Ryan

From: Bromley, Chris
Sent: Tuesday, August 10, 2004 10:38 AM
To: Mikesell, Ryan
Subject: RE: USFWS

Based on what you told me, I'd deny the claim based on forfeiture--continuous non-use for a period of five or more years. You will need to state forfeiture as your basis for denial in your recommendation.

The USFWS will then have the opportunity to object to the recommendation, which one can assume they will. The people who filed the affidavits in opposition to the water right would then have an opportunity to file affidavits in response to USFWS' objection.

Does that answer your questions? If not, please let me know and I'll keep trying.

Thanks,

Chris

-----Original Message-----

From: Mikesell, Ryan
Sent: Monday, August 09, 2004 10:46 AM
To: Bromley, Chris
Cc: Carlsen, Ernie; Holliday, Michael
Subject: USFWS

Chris,

I thought I should send you an update to my previous e-mail. There have been some changes to the situation that I described before. We now have a total of 7 affidavits saying that the USFWS has never irrigated land from the time the USFWS Bird sanctuary was started until 2003. We have also found evidence to sustain their historical use claim that water was used prior to the USFWS taking control of the land. The problem now is that we have no evidence of the USFWS irrigating the land from the time they took possession (6/15/1965) to present and we have evidence that they have not watered. How do you make a recommendation based on this?

I know this is probably confusing. If you need me to clarify anything please give me a call and I'd be happy to help out.

Ryan

PROFILED

don't scan

- Priority date - need evidence.
- Two sources - need two claims -
 - Bridge Creek.
- Affidavits ~~not hear~~ with personal knowledge.

NOTE: FSW

- There is good evidence that this land was irrigated from Eagle Creek with the same priority. 25-4034 A & 25-4034 B.

This QQ is in James Sibbett home stead.

WATER LOCATION

James Abbott

Notice of Water Location

The undersigned having had the undisturbed possession of and used the water in this stream from as Bridge Creek for 5 years on the 6 day of June passed do now locate, and claim and want to the extent of 500 feet around where for agricultural purposes to be conveyed as water for stock from the point to my homestead situated about 6 mile down from Bridge Creek and 1 mile south of Eagle Creek adjoining the foot hills on the East and running thence westerly into the Lake Bottom

Dated this 11 day of January 1888
Signed James Abbott Creator

County of Lincoln
State of Oregon

I the undersigned do solemnly swear that I have for near 6 years been acquainted with the water course known as Bridge Creek described in the above saying water location that the same has not heretofore been located or used for any purpose whatever by any person but myself signed James Abbott
Subscribed and sworn to before me this 11 day of January 1888



Joseph H. Austin
Notary Public

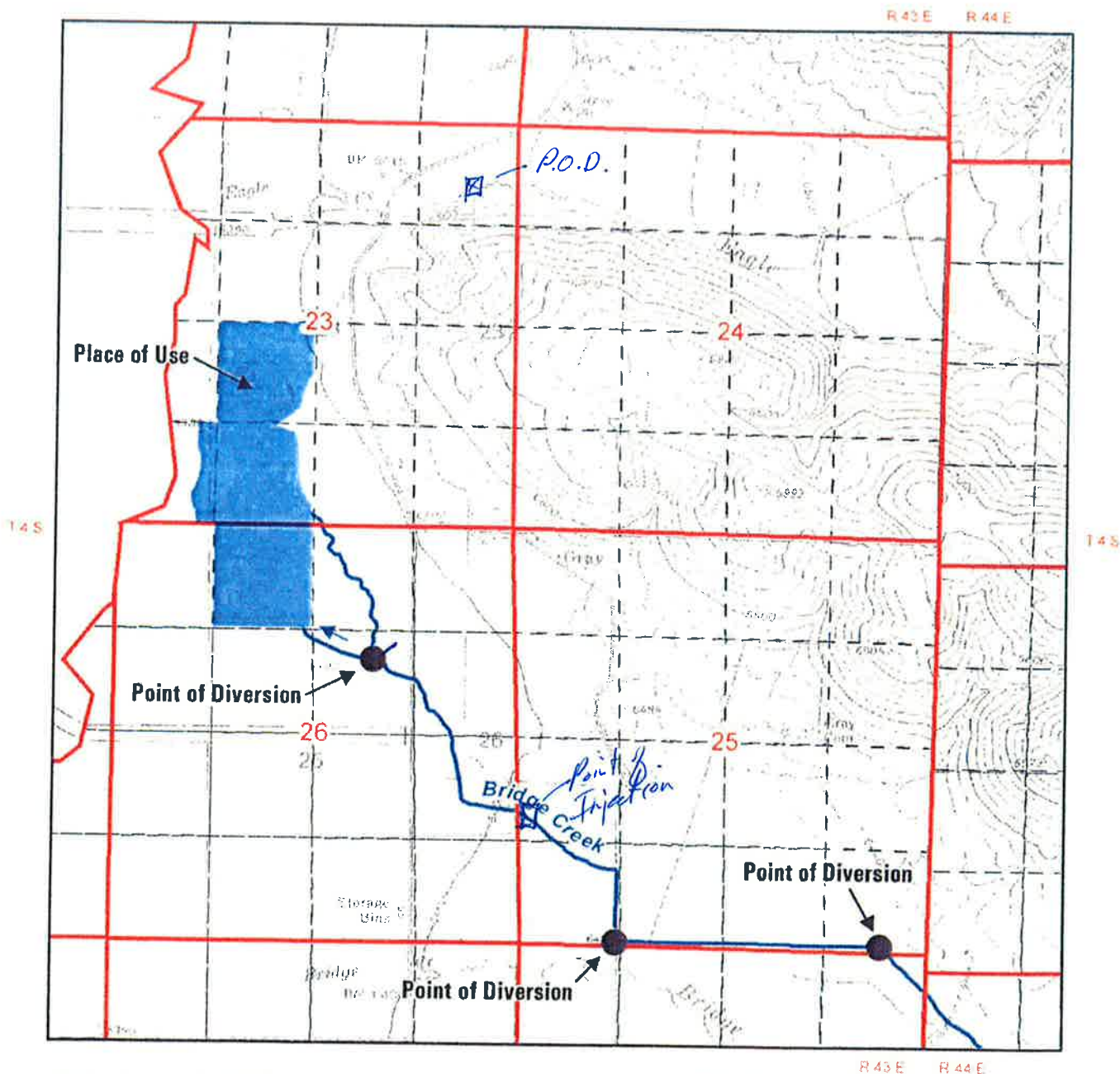
Recorded as the Request of
Austin on 27/1/88 at 3:30 pm
Geo A. Robinson
Recorder

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Amended Claim 25-04032

SOURCE: BRIDGE CREEK
QUANTITY: 2.40 CFS, 0.05 CFS
POINT OF DIVERSION: T04S R43E S26 SWNE, S25 SWSW & SESE
PURPOSE OF USE: IRRIGATION/WILDLIFE, STOCKWATER/WILDLIFE



THE PURPOSE OF THIS MAP IS TO IDENTIFY THE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

Claim_Amended_25-04032.MXD, 3/31/05



1:24,000 BOISE MERIDIAN



Water Resources Branch
R1 Division of Engineering
911 NE 11th Avenue
Portland, OR 97232-4191
503-231-6261



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RECEIVED
JUN 21 2005
Department of Water Resources

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

A. Subcase 25-4032

Case No. 35976

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: OW Ranches, Inc. c/o Kenneth F. O'Brien, President

Address: 364 Judd Lane

Coalville, UT 84017

Daytime Phone: 208-574-2745 or 801-336-2282

Name & Address of Attorney, if any:

Kent W. Foster

PO Box 50130

Idaho Falls, ID 83405

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: United States of America acting through USDI Fish & Wildlife Service,

Division of Engineering

Address: 911 NE 11th Ave.

Portland, OR 97232-4181

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D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**
Should be: _____
2. ☒ **Source**
Should be: Waste water off objector's ranch from Eagle Creek and Bridge Creek
3. ☐ **Quantity**
Should be: _____
4. ☒ **Priority Date**
Should be: Although waste water from objector's ranch may have reached claimant's land, it has never been applied to a beneficial use.
5. ☒ **Points of Diversion**
Should be: NWSW Section 25, T4S., R43E., since 1991
6. ☐ **Instream Flow Description**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☐ **Place of Use**
Should be: _____
10. **I object because:**
 - ☒ This water right should not exist as recommended; should only be a waster water right, if any use has ever been made.
 - ☐ This water right was not recommended, but should be recommended with the elements described above.

E. **REASONS SUPPORTING OBJECTION(S):** See attached affidavits. Any right to divert and use water from Bridge Creek that may have once been appropriated by claimant's predecessors in interest was lost and forfeited for non-use decades ago. Objector believes the only water that ever

PROFILED

reached claimant's land was waste water from the irrigation of objector's ranch under rights from Eagle Creek and Bridge Creek. Even that water has never been applied by claimant to any beneficial use.

VERIFICATION (Must be Completed)

State of Idaho
County of Bonneville) ss.

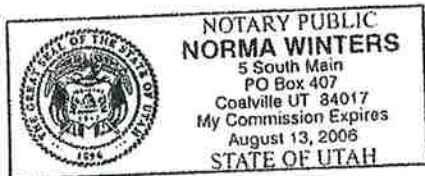
O W Ranch Inc. Kenneth T. Binn duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

Kenneth T. Binn
Signature of person filing objection

Attorney signing in representative capacity

Subscribed and sworn to before me on: June 10th 2005



Norma Winters
Notary Public for Utah
Residing at: Summit County
My Commission Expires: 8-13-06

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Affidavit of OW Ranch, Inc. Ken O'Brien

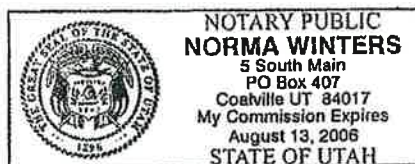
I am writing this letter for the reasons I am protesting the claim for water from Bridge Creek of the USDI Fish and Wildlife Service.

When our family purchased the ranch in 1982, I checked with Idaho Department of Water resources and they told me we were the only ranch that had water rights on Bridge Creek. They told me that Ray Ostler had put in a claim in 1978, but it was never followed up on.

I will provide facts of proof and witnesses that USDI Fish & Wildlife Services, or Ray Ostler never has had a point of Diversion before 1987. (The only way water could get to them was through the natural flow of gravity from our waste water from Bridge Creek, and Eagle Creek.

More affidavits may follow, if so they will be sent appropriately.

OW Ranch, Inc.
Ken O'Brien



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Affidavit of Luella Muir and Brian Muir

We are writing this letter in regards to the history of Bridge Creek that runs east to west through our ranch and the OW Ranch in Section 25, T. 4S., R. 43E.

We are the wife and son of the late Ewart Muir.

The Ditch that goes from south to north on the property line of our ranch and the OW Ranch (essentially along the line separating the W $\frac{1}{2}$ W $\frac{1}{2}$ of said Section 25 from the E $\frac{1}{2}$ W $\frac{1}{2}$ of said Section) was built about 1965. It was built to collect waste water from OW Ranch (which was then the Charles Tingey Ranch) and to divert water from Bridge Creek to a large stock pond that was built on the Muir land just west of the described line about 400-500 feet north of the point of diversion at the same time. Before that, the water from Bridge Creek was diverted about 50-100 yards further west from this newer point of diversion. The water did not run to the north it went to the west and could not reach the land of the Bird Refuge now irrigated with waste water from OW Ranch.

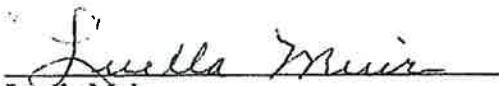
The only persons that ever diverted water in those two places were our immediate family (I Bryan Muir, my father Ewart Muir, and his father).

The only way anyone got water to the North West as far as the Bird Refuge land would be from waste water from OW Ranch (from a combination of Eagle Creek and Bridge Creek rights for the OW Ranch).

In the year 1991, the Bird Refuge put a used head gate and culvert in the same location. (On the Muir and OW property line near the southeast corner of the southwest southwest, Section 25, T. 4S., R. 43E.) Our father and husband were working part-time for the Bird Refuge at that time. We don't know if it was a favor for our dad and husband, or if it was a favor for the Bird Refuge. We are quite sure of the date as my husband, and father only worked for the Bird Refuge part-time for two summers and died while taking a stress test for them the following spring 1992.

If it was a favor for the Bird Refuge they have not maintained it at all since 1991 and do not have any kind of right of way on our property.

Bryan Muir would be willing to testify if needed.


Luella Muir


Bryan Muir

FILED

January 10, 2005

Idaho Department of Water Resources
900 N Skyline Dr. Suite A
Idaho Falls, ID 83402-1718

Idaho Department of Water Resources

I worked for the Bird Refuge in 1996. We were taking water measurements about one mile north of the church on the Grays Lake Road. I asked which Creek and they told me Bridge Creek. I told them that Bridge Creek was dry and to look to the east of the road and it was dry. The water was coming from a ditch that parallels the road that water comes from Eagle Creek. They took the water measurement as Bridge Creek. Mr. Fisher and Ralph Stoor were present when the measurements were taken. The summer I worked for the Bird Refuge we did not irrigate anything, and I have never known them to irrigate up until 2003.


Todd Stoddard


Notary Public 8/19/2010



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AUG 06 2007

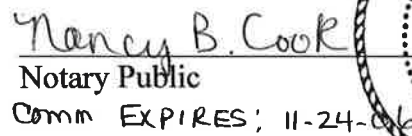
January 10, 2005

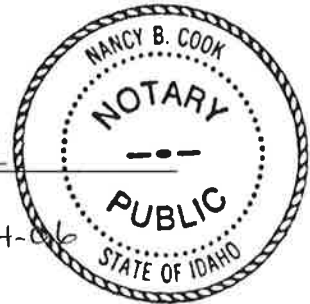
Idaho Department of Water Resources
900 N Skyline Dr. Suite A
Idaho Falls ID 83402-1718

Idaho Department of Water Resources:

I have a ranch at Grays Lake, and have lived here since 1948. I have never known of the Bird Refuge to ever irrigate up until 2003.


Reed Humpherys


Nancy B. Cook
Notary Public
Comm EXPIRES: 11-24-06



SCANNED

AUG 06 2007

January 10, 2005

Idaho Department of Water Resources
900 N Skyline Dr. Suite A
Idaho Falls ID 83402-1718

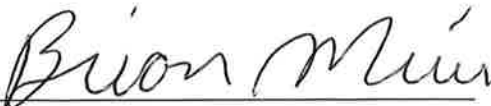
Idaho Department of Water Resources:

I am writing this letter in regards to the history of the diversion dam that is on our property that diverts water from Bridge Creek.

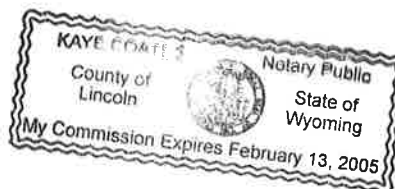
The only persons that ever diverted water their was our immediate family (myself Brian Muir, my father Ewert Muir, and his father etc.) We did it with a canvas dam for the purpose of stock water on the north side of our ranch. Part of the water stays in Bridge Creek for the purpose of stock water for the Steve Tingey ranch that is to the west. After spring snow melts and the water is diverted two ways the water usually dries up on our property between June 10 – first part of July. Bridge Creek usually dries up the first part of July and we have to turn on our well for stock water.

In 1991, my father Ewert Muir was working part time for the Bird Refuge and they asked my father if they could put a used head gate and culvert at the site where we had the canvas dam. He let them do it. It is not operable and has been in the closed position since that time.

I have lived at Grays Lake all my life and my ancestors homesteaded our ranch here.


Brian Muir


Notary Public



SCANNED
AUG 06 2007

January 10, 2005

Idaho Department of Water Resources
900 N Skyline Dr. Suite A
Idaho Falls ID 83402-1718

Idaho Department of Water Resources:

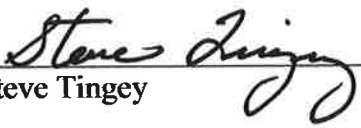
I am writing this letter in regards to the history of the diversion dam on Bridge Creek that is on the Muir Ranch.

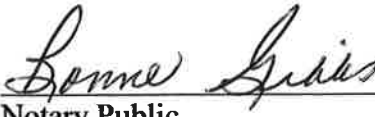
The only family that diverted water there was the Muir Family. They diverted water with a canvas dam for the purpose of stock water to the north. The water is split two ways at that point. I have stock water in Bridge Creek, that water goes straight west of the diversion dam to my property.

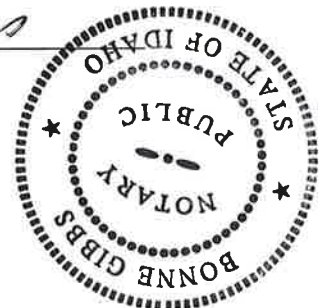
After spring snow melt and the water is diverted two ways Bridge Creek usually dries up between June 10 – first part of July on the Muir property. Then I have to turn on my well for stock water.

In 1991, the Bird Refuge put a used head gate and culvert in Bridge Creek on the Muir Property where Muirs had the canvas dam. It is not operable and has been closed since that time. Pictures are attached to this letter.

My family homesteaded in this valley and we have owned this ranch since that time.


Steve Tingey


Notary Public



SCANNED

AUG 06 2007



SCANNED
AUG 06 2007

Affidavit of Charles Tingey Family

I am writing this letter in regards to Bridge Creek that was an irrigation source on our family's ranch (Perry Tingey our Grandfather, Charles Tingey our father.) This ranch has been owned by the Tingey family from 1888 to 1974. It is now owned by OW Ranch (the Ken O'Brien family).

Our ranch was the only ranch that diverted water from Bridge Creek for irrigation. It was diverted in the South east corner of our ranch.

My nephew Scott Henry was the last person to manage the ranch for my mother after my father passed away. He is willing to testify in court if needed in behalf of our family.

Luana Tingey Hood
Luana Tingey Hood
Representative Charles Tingey Family Estate
1-9-06

Shirley Baustert
Notary
Jan - 9-06



SCANNED
AUG 05 2007

November 22, 2003

Idaho Department of Water Resources
900 N Skyline Dr. Suite A
Idaho Falls ID 83402-1718

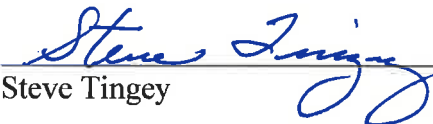
Idaho Department of Water Resources:

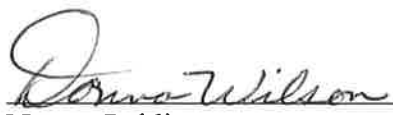
My family has been in the Gray's Lake Valley ever since ranches were homesteaded here.

My grandfather Perry Tingey owned the ranch that is now the OW Ranch Inc. (owned by the Ken O'Brien family). That ranch was the only one's that irrigated out of Bridge Creek. The only ranches that irrigated below there, irrigated out of ditch that James Sibbitt SR. hand dug to Eagle Creek.

I have stock water out of Bridge Creek, but the Bird Refugee put a head gate in the creek that is impossible to open and has diverted the water away from me and the natural flow.

I have never known of the Bird Refugee to ever irrigate anything up until 2003.


Steve Tingey


Notary Public

SCANNED

AUG 06 2007

Luana Tingey Hood
122 West 3500 South, Bountiful, UT 84010
(801) 292-9015

Idaho Department of Water Resources
900 N. Skyline Dr., Suite A
Idaho Falls, ID 83402-1718

November 22, 2003

Re: Bridge Creek Tributary Water Rights

Dear Sirs;

I have the following important information in regards to the above referenced water rights for the property now owned by: The **Ken O'Brien** family (**The OW Ranch**):

In 1888, my grandfather, **Perry G. Tingey** (now deceased) **acquired** (from the persons who homesteaded it) **their home ranch/property in Gray, Idaho and used the Bridge Creek Tributary for Stockwater/Agricultural purposes.** My father, **Charles H. Tingey** (now deceased), **purchased the ranch from his father Perry G. Tingey, and owned it until 1974.** The property is now owned by: The Ken O'Brien family, also known as The OW Ranch. Our deeds/records show that the water rights to: Eagle Creek, and Bridge Creek, were included in all sales from that time to present.

It is well known that **from 1888 to 1974, we (Tingey Family) were the only user of irrigation water from Bridge Creek, and maintained all ditches, culverts, and head gates.** My brother Larry Tingey recollects doing much work on those irrigation ditches, "especially in the area of the Linstrom property". The only people who ever irrigated below us were on the old James Sibbett Ranch. They used water from Eagle Creek by way of a ditch hand dug by James Sibbett.

In all the years the Tingey families owned the ranch, **we were never aware of any irrigating related to the Bridge Creek nor Eagle Creek tributaries done by the Bird Refuge employees,** nor was there ever a question of Water Rights ownership.

Please feel free to contact me with any further questions regarding the property and/or Water Rights on the property formerly owned by the Perry G. Tingey and/or the Charles H. Tingey family.

Sincerely,

Luana Tingey Hood

Luana Tingey Hood, Representative
Charles Tingey Family Estate

Cc: Mr. Ken O'Brien, The OW Ranch
LHT/lhc

Notary Public Signature and stamp below:

[Signature]



November 22, 2003

Idaho Department of Water Resources
900 N Skyline Dr. Suite A
Idaho Falls ID 83402-1718

Idaho Department of Water Resources:

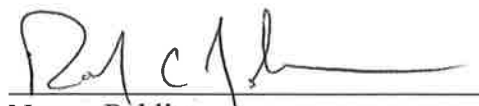
I have lived at Gray's Lake for 88 years. My grandfather James Sibbitt SR.
Homesteaded here.

The old Tingey ranch which is now the OW Ranch Inc. owned by the Ken
O'Brien family was the only ranch that irrigated out of Bridge Creek. The only ranches
that irrigated below there irrigated out of Eagle Creek. That ditch was built by my
grandfather James Sibbitt SR.

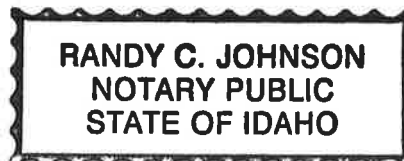
I have lived here all my life and have never known of the Bird Refuge to ever
irrigate anything up until 2003.



Russell Sibbitt



Notary Public



SCANNED

AUG 06 2007

November 22, 2003

Idaho Department of Water Resources
900 N Skyline Dr. Suite A
Idaho Falls ID 83402-1718

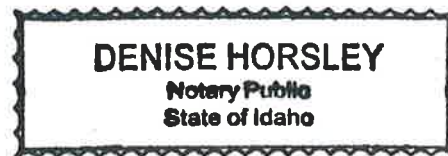
Idaho Department of Water Resources:

My grandfather Homesteaded in the Grays Lake Valley. My father purchased his ranch, and I purchased part of my fathers ranch. We have stock water in Bridge Creek above and below the old Charlie Tingey ranch which is now the OW Ranch Inc. owned by the Ken O'Brien family. That ranch (OW ranch) is the only ranch that has irrigated out of Bridge Creek. The ranches below our place irrigated out of Eagle Creek. A ditch that James Sibbitt SR. hand dug to Eagle Creek.

I have lived here all my life and have never known of the Bird Refuge to ever irrigate anything up until 2003.

Brian Muir
Brian Muir

Denise Horsley
Notary Public



SCANNED
AUG 06 2007

- (7) If you are claiming water as a member of an organization, list name of organization:

A hand-drawn map on a grid background. The map shows a horizontal line representing a river or canal. A vertical line crosses this horizontal line. To the right of the vertical line, a diagonal line branches off from the horizontal line, labeled "Ditch". The point where the ditch branches off is labeled "Point of Diversion". Below the horizontal line, the text "Bridge Cr" is written, and below that, the number "26" is written. To the left of the vertical line, the text "Twp. 4 S." is written. Above the horizontal line, the text "Rge. 43 E." is written. The grid consists of solid lines forming a 10x10 grid, with dashed lines forming a 20x20 grid.

Received by <u>BR</u>	Date <u>4-7-78</u>	Exception filed by:	Forwarded to	Date
Prelim. check by <u>BR</u>	Date <u>4-7-78</u>		claimant by:	
\$10.00 fee received by <u>BR</u>	Date <u>4-07-78</u>	#9922		
Approved for publication by <u>cw</u>	<u>5-09-78</u>			
Published in <u>Post Register</u>				
Dates <u>April 20 & 27, 1978</u>				

Notice of Water Right

I the undersigned having had the undisputed possession of, and used the water in this stream, known as Bridge Creek, for 5 years on the 6 day of June last, have now locate and claim said water as the extent of 500, five hundred inches, for agricultural purposes to be conveyed as herefore in a ditch from this point to my homestead.

Situated about 6 miles down John Gray's Lake and 1 mile south of Eagle Creek, adjoining the foot hills on the East, and running thence West into the Lake Bottom.

Dated this 11 day of January 1888 -

Signed James S. Little Location

County of Lake }
 County of Birmingham }
 State of Alabama }

I have for near 6 years been acquainted with the water course known as Bridge Creek described in the accompanying water location that the same has not heretofore been located or used for any purpose whatever, by any person but myself.

Signed James S. Little

Subscribed and sworn before me this 11 day of January 1888

Joseph H. Harts
 Notary Public

Water Location
on Bridge Creek

Recorded by the Request
of
James Libbitt

I hereby certify that this
certificate was filed for
Record with me at 4 o
clock, P.M., on this 11 day
of January 1888 and is
duly recorded in Book C,
on page 257 of Co. Records

by
Joseph Hawkins
Depty Co. Recorder

Recorded at the Request of
J. Hawkins
727 1888
30 minutes past 3 o'clock
P.M., in Record of N L B
age 137 Records of the
County of Bingham.

Geo. A. Roberson
County Recorder.

Deputy

Holliday, Michael

From: Bromley, Chris
Sent: Friday, July 09, 2004 4:07 PM
To: Holliday, Michael
Subject: RE: Posted Notice Recording Date

OK, I think you could go with the notary date, February 28, 1886, and recommend it as a posted notice right assuming the purpose hasn't changed.

Chris

-----Original Message-----

From: Holliday, Michael
Sent: Friday, July 09, 2004 3:43 PM
To: Bromley, Chris
Subject: RE: Posted Notice Recording Date

hi chris. according to the bingham county clerk's office, the notice was recorded on march 5, 1886 at 11 a.m.

-----Original Message-----

From: Bromley, Chris
Sent: Friday, July 09, 2004 3:12 PM
To: Holliday, Michael
Subject: Posted Notice Recording Date

Michael, in thinking about this again I realized that you didn't tell me when the posted notice was recorded. The date that it was recorded is very important in determining whether it's a valid posted notice right.

The right at issue was posted either January 28, 1886 (date on top right corner of document) or February 28, 1886 (date document was notarized stating it was posted in a conspicuous place). In order for an 1886 posted notice right to be valid, it must have been recorded within 15 days of posting at the recorder's office.

Therefore, if the notice was posted on February 28, 1886, the notice must have been recorded before March 14/15 1886 (not sure whether February 1886 was a leap year), to be valid. If the posted notice was not recorded within 15 days of posting, the posted notice claim cannot be recognized and the claim should proceed as a claim for beneficial use.

I'd be interested to know the date the notice was recorded.

Thanks,

Chris

-----Original Message-----

From: Bromley, Chris
Sent: Friday, July 09, 2004 2:15 PM
To: Holliday, Michael
Subject: RE: Priority for 25-4034A

SCANNED

OCT 13 2004

One more thing I would recommend on this is to make sure that the posted notice purpose, "domestic and agricultural," is the same as the claimed purpose.

According to the Claims Investigation Manual, "If the claimed purpose of use is the same as the purpose of use shown on a . . . posted notice . . . then no further review of this item is generally required. If the agent's review reveals that the claimed purpose of use is inaccurate, the agent may wish to contact the claimant to verify the purpose of use information."

If the purpose is no longer consistent with the posted notice, you should treat the claim as one for beneficial use.

PROFILED

Chris

-----Original Message-----

From: Bromley, Chris
Sent: Wednesday, July 07, 2004 10:46 AM
To: Holliday, Michael
Subject: RE: Priority for 25-4034A

If you have a record that it was actually recorded, then I would say that it meets the requirements of the posted notice statute and can be recommended as a posted notice right.

Chris

-----Original Message-----

From: Holliday, Michael
Sent: Thursday, July 01, 2004 4:47 PM
To: Bromley, Chris
Subject: RE: Priority for 25-4034A

hi chris. you said that the notice was not recorded with the county recorder. according to a warranty deed found in the file, the notice of water location is "shown upon the Records of Bingham County, Idaho in Record of Water Location, page 195 thereof."

based on the .pdf files that were sent, do we have enough evidence to recommend a priority date, or do i need to solicit additional evidence? obviously, obtaining affidavits from individuals with personal knowledge back to the 19th century is out of the question. thanks for your help. michael

-----Original Message-----

From: Bromley, Chris
Sent: Wednesday, June 23, 2004 4:15 PM
To: Holliday, Michael
Subject: FW: Priority for 25-4034A

-----Original Message-----

From: Bromley, Chris
Sent: Wednesday, June 23, 2004 11:47 AM
To: Carlsen, Ernie
Cc: McHugh, Candice; Music, Vicky
Subject: RE: Priority for 25-4034A

SCANNED

OCT 13 2004

While the posted notice seems to meet most of the statutory requirements, it does not appear that the notice was ever recorded with the county recorder of the county in which the land was located at the time the notice was posted. (Contrast this document with the Dewey posted notice that Michael sent me, which was signed by the county recorder, acknowledging that it was duly recorded. Also, the heading of that document is "Water Location Record."). Therefore, the notice does not comply with the statutory requirements and should be considered a claim for beneficial use.

According to the Claim's Manual, "A posted notice is evidence of the intent to appropriate water, but it is not evidence of application of water to beneficial use nor due diligence in completing the appropriation. Some evidence of completion of the appropriation within a reasonable time after the date of posting will therefore be required before a claim may be recommended. Completion within 5 years will be deemed reasonable; the reasonableness of longer periods will depend on the circumstances."

While that statement applies to posted notice claims, it would appear that the posted notice document should not be treated as de facto proof of beneficial use. You will need to conduct further research into the right to ensure that the diversion structures were completed and the extent of the appropriation. However, the posted notice document can be used as a part of your analysis in determining the priority date, just not the entire basis.

As for priority of the beneficial use claim, the posted notice document alleges that the claimant

"ha[s] this) claimed and appropriated and do hereby) m and appropriate five hundred inches of water" Based on the tense, it could be argued that an appropriation was made and the water put to a beneficial use the date the document was signed, January 28, 1886.

The other document you gave me, the Patent, does not specifically state whether there were diversion structures or ditches on the property. Instead, the second paragraph in "Description and Remarks" appears to use general boilerplate statements that the property is "[s]ubject to any vested and accrued water rights" Therefore, it does not appear that the Patent could be used as evidence of priority.

Based on the documents you've given to me, I would say that the best evidence you have of a priority date is the posted notice, which states that water was put to use sometime in the late 19th century. It appears that a site analysis may be needed to determine the age of the diversion structures, as well as having the claimants obtain affidavits from individuals in the area with personal knowledge of when the water was put to use.

Let me know if that answered your question or if you need further comment.

Thanks,

Chris

-----Original Message-----

From: Carlsen, Ernie
Sent: Tuesday, June 01, 2004 11:57 AM
To: McHugh, Candice
Cc: Holliday, Michael
Subject: Priority for 25-4034A

Candice the attached PDF file contains three documents from claim 25-4034A. One of the documents is a copy of a posted notice that appears to comply with all the requirements of a posted notice as outlined in the claims review manual, and which was posted by James Sibbetts on 28 February 1886. The other document indicates James Sibbetts acquired patent to the property on 30 August 1904. The third page is simply a map of the property in question, included under SRBA claims 25-4034A and 25-4034B. There are no other documents that indicate when beneficial use first occurred. The question we have is whether or not the 18 years between the posting of the posted notice and the patent date is greater than what we could consider to be due diligence in development of the irrigation system? What priority date should we recommend?

<< File: 0001 (2).PDF >>

Ernie

No. 13,153

ABSTRACT OF TITLE

to

The following described Real Estate:

The East Half of the Southwest Quarter ($E\frac{1}{2} SW\frac{1}{4}$); Southwest Quarter of the Southeast Quarter ($SW\frac{1}{4} SE\frac{1}{4}$); of Section Twenty-three (23); the Northeast Quarter of the Northwest Quarter ($NE\frac{1}{2} NW\frac{1}{4}$) of Section Twenty-six (26); Township Four (4) South, Range Forty-three (43) East, Boise Meridian.

RECEIVED

MAY 26 2004

Department of Water Resources
Eastern Region

IDAHO TITLE AND TRUST COMPANY
IDAHO FALLS, IDAHO

IDAHO TITLE AND TRUST COMPANY

THE UNITED STATES OF AMERICA
By the President: T. Roosevelt
F. V. McKean, Secretary.
C. H. Brush, Recorder of the General
Land Office.

(SEAL)

Grantors

TO

JAMES SIBRETT,

Grantees

Instrument— U. S. PATENT.

Date— August 30, 1904.

Recorded— July 27, 1934 at 9:12 A.M.

Book 33 of Deeds, at Page 471
Records of Bonneville County, Idaho

Transcribed from Book Page
Records of Bingham County, Idaho

Consideration— Full payment.

Date of Acknowledgment— None.
Name and Title of Officer—
Address of Officer—
Official Seal Attached?
Is Wife Separately Examined
Granting Words—
Covenants—
Conditions, Limitations and Recitals—

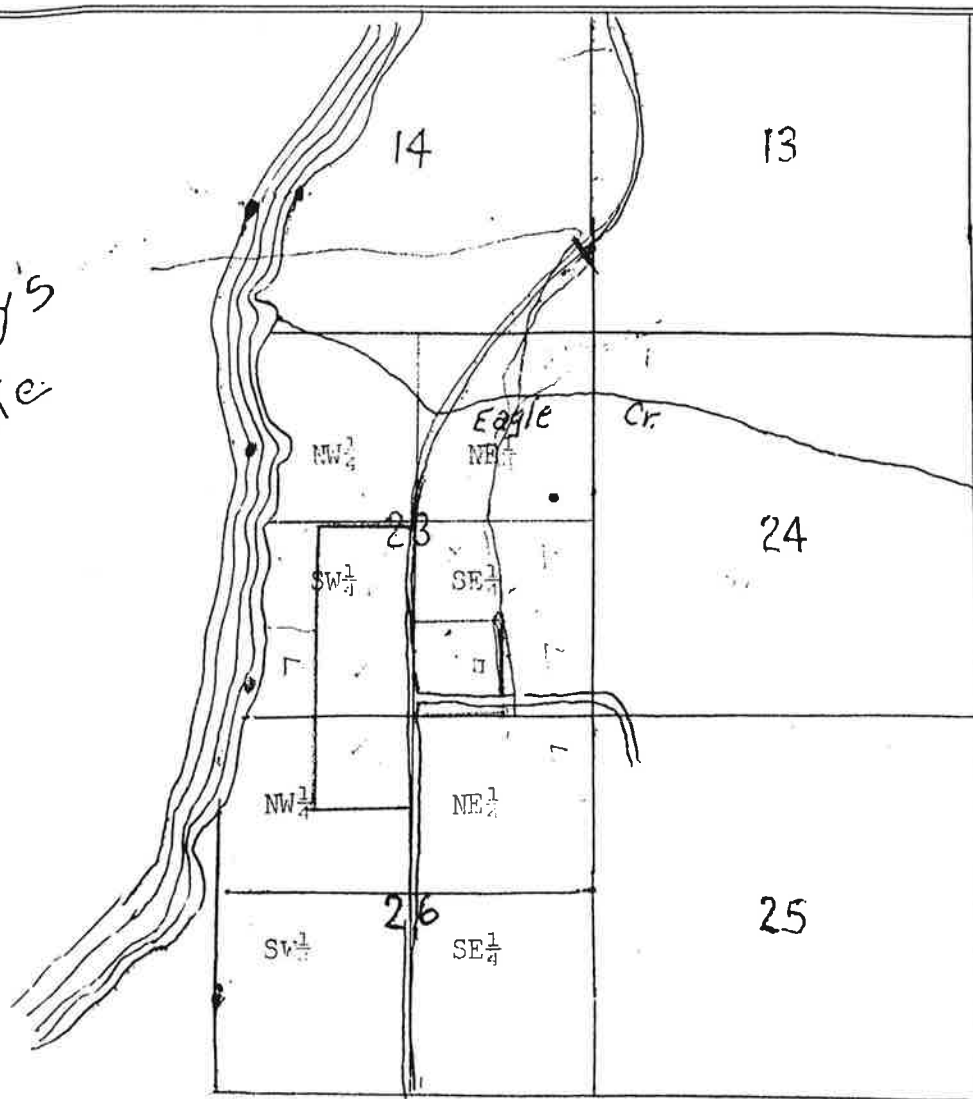
Description and Remarks

The E $\frac{1}{2}$ of the SW $\frac{1}{4}$ and the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 23, and the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 26, in Township 4 South of Range 43, East of Boise Meridian in Idaho, containing 160 acres according to the Official Plat of the Survey of the said Land, returned to the General Land Office by the Surveyor General:

Subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts, and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law. And there is reserved from the land hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

IDAHO TITLE & TRUST COMPANY

Gray's
lake



TOWNSHIP
4 SOUTH
RANGE 43,
E.B.M.

The E $\frac{1}{2}$ of the SW $\frac{1}{4}$; SW $\frac{1}{4}$ of the SE $\frac{1}{4}$; of Section
23; the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 26; Township
4 South, Range 43, East, Boise Meridian.

SCANNED

IDAHO TITLE AND TRUST COMPANY

JAMES SIBBETT, SR., and wife ALMEDA SIBBETT,

Grantors

TO

ALMEDA SIBBETT,

Grantees

Instrument— Warranty Deed.

Date— June 21, 1922.

Recorded— June 23, 1922 at 9:10 A.M.

Book 12 **of** Deeds, at **Page** 469
Records of Bonneville County, Idaho

Transcribed from Book **Page**
Records of Bingham County, Idaho

Consideration— \$1.00 o.v.c.

No. I.R.S. attached.

Date of Acknowledgment— June 21, 1922.
Name and Title of Officer— J. T. Torgesen, Notary Public for Caribou County, Idaho.
Address of Officer— Soda Springs, Idaho.
Official Seal Attached? Yes.
Is Wife Separately Examined
Granting Words— Grant, bargain, sell, convey and confirm.
Covenants— Warranty and defend.
Conditions, Limitations and Recitals—

Description and Remarks

The E $\frac{1}{2}$ of the SW $\frac{1}{4}$; the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 23, the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 26, Township 4 South, Range 43, East Boise Meridian. Containing 160 acres.

SCANNED

OCT 13 2004

PROFILED

IDAHO TITLE AND TRUST COMPANY

ALMEDA SIBBETT, a widow,

Instrument— Warranty Deed.

Date— June 16, 1936.

Recorded— June 19, 1936 at 3:20 P.M.

Book 37 of Deeds, at Page 375
Records of Bonneville County, Idaho

Transcribed from Book Page
 Records of Bingham County, Idaho

Consideration— \$1.00 o.v.c.

No. I.R.S. attached.

Grantors

TO

FARL. SIBBETT,

Grantees

Date of Acknowledgment— June 16, 1936.

Name and Title of Officer— D. K. McLean, Notary Public for Caribou County, State of Idaho.

Address of Officer— Soda Springs, Idaho.

Official Seal Attached? Yes.

Is Wife Separately Examined

Granting Words— Grant, bargain, sell, convey and confirm.

Covenants— Warrant and defend.

Conditions, Limitations and Recitals—

Description and Remarks

The E $\frac{1}{2}$ of the SW $\frac{1}{4}$; SW $\frac{1}{4}$ of the SE $\frac{1}{4}$; of Section 23; the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 26; Township 4 South, Range 43, East, Boise Meridian, and containing 160 acres.

SCANNED

OCT 13 2004

PROFILED

IDAHO TITLE & TRUST COMPANY

TAX REPORT.

Taxes for 1958 and prior years are paid.

Taxes for 1959 are now a lien, but not yet due or payable.

SPECIAL ASSESSMENTS.

We do not certify as to Irrigation District Assessments or Special Assessments of any nature.

SCANNED

IDAHO TITLE & TRUST COMPANY

TAX REPORT

Taxes for 1959 and prior years are paid.

Taxes for 1960 are a lien, but not yet due or payable.

IRRIGATION DISTRICT ASSESSMENTS

We do not certify as to irrigation district assessments or special assessments of any nature.

SCANNED

OCT 13 2004 *

PROFILED

IDAHO TITLE AND TRUST COMPANY

Certificate of Abstracter

No. 13,153

STATE OF IDAHO }
County of Bonneville } ss.

Idaho Title and Trust Company, Abstracters of Titles in and for said County, does hereby certify that the foregoing abstract, consisting of -6- entries, numbered from -1- to -6- inclusive, sets forth a true and correct abstract of the records in the office of the County Recorder of Bonneville County, Idaho, which in any way affect the title to the property described in the caption of this abstract. to-wit: The E $\frac{1}{2}$ of the SW $\frac{1}{4}$; SW $\frac{1}{4}$ of the SE $\frac{1}{4}$; of Section 23; the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 26; Township 4 South, Range 43, East, Boise Meridian.

We further certify that there are no judgments or other liens of record in the office of the Recorder or Clerk of the District Court of said County, which are a lien against the said lands described in caption of this abstract, except as herein shown. Further, that there are no taxes due and unpaid upon the lands described in the caption of this abstract at the date hereof, except:

As shown herein.

~~Further, that there are no special assessments by the City of Idaho Falls, Idaho, against the property described in the caption of this Abstract, at the date hereof, appearing of record in the office of the County Treasurer of Bonneville County, Idaho, or in the office of the Clerk or Treasurer of the City of Idaho Falls, Idaho, except:~~

This certificate is made to EARL SIBBETT
at the request of EARL SIBBETT
Witness our hands this 14th day of SEPTEMBER, 1959, at 8:00 o'clock A.M.

IDAHO TITLE AND TRUST COMPANY

By



Vice-President

PROFILED

SCANNED

OCT 13 2004

IDAHO TITLE AND TRUST COMPANY

Certificate of Abstracter

No. 13,285.....

STATE OF IDAHO }
County of Bonneville } ss.

Idaho Title and Trust Company, Abstracters of Titles in and for said County, does hereby certify that the foregoing abstract, consisting of -1- entries, numbered from -7- to -7- inclusive, sets forth a true and correct abstract of the records in the office of the County Recorder of Bonneville County, Idaho, which in any way affect the title to the property described in the caption of this abstract. to-wit: The E $\frac{1}{2}$ of the SW $\frac{1}{4}$, SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 23; the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 26; Township 4 South, Range 43 East, Boise Meridian.
Since last certificate dated September 14, 1959, at 8:00 A.M.

We further certify that there are no judgments or other liens of record in the office of the Recorder or Clerk of the District Court of said County, which are a lien against the said lands described in caption of this abstract, except as herein shown. Further, that there are no taxes due and unpaid upon the lands described in the caption of this abstract at the date hereof, except:

As Shown Herein.

~~Further, that there are no special assessments by the City of Idaho Falls, Idaho, against the property described in the caption of this Abstract, at the date hereof, appearing of record in the office of the County Treasurer of Bonneville County, Idaho, or in the office of the Clerk or Treasurer of the City of Idaho Falls, Idaho, except:~~

This certificate is made to EARL SIBBETT
at the request of BETTILYON'S, INC.
Witness our hands this 10th day of October, 1960, at 8:00 o'clock A.M.

IDAHO TITLE AND TRUST COMPANY

By

Norma Ford
Secretary

President

PROFILED SCANNED
OCT 13 2004

PROFILED

SCANNED

OCT 13 2004

25-4034 H

10/23/2003

Met with claimant. Address is correct.

Obtained P/D and POA. See attached maps.

N 221350
E 713787

P/D

7/9/2004

According to Birmingham Co. Clerk's Office,
the notice of what location was
recorded on March 5, 1886 at
11:00 a.m.

AGREEMENT

THIS AGREEMENT, Made and entered into the First day of April in the year of our Lord one thousand nine hundred and sixty (1960) between Earl Sibbett and Elaine Sibbett, husband and wife of Soda Springs, County of Caribou, State of Idaho part ~~ies~~ of the first part, and HERMAN WAKEMAN and VERDA WAKEMAN, husband and wife of Soda Springs, County of Caribou, State of Idaho the part ~~ies~~ of the second part.

WITNESSETH, That the said part ~~ies~~ of the first part, in consideration of the covenants and agreements on the part of the said part ~~ies~~ of the second part, hereinafter contained, agree to sell and convey unto the said part ~~ies~~ of the second part, and the second part ~~ies~~ agree to buy all that certain lot, piece or parcel of land, situate, lying and being in Bonneville ~~x~~ County of the ~~State~~ State of Idaho, and bounded and particularly described as follows, to-wit:

The East Half of the Southwest Quarter ($E\frac{1}{2}$ - $SW\frac{1}{4}$); Southwest Quarter of the Southeast Quarter ($SW\frac{1}{4}$ - $SE\frac{1}{4}$) of Section Twenty-three (23); the Northeast Quarter of the Northwest Quarter ($NE\frac{1}{4}$ - $NW\frac{1}{4}$) of Section Twenty-six (26); Township Four (4) South, Range Forty-three (43) East of the Boise Meridian, in Bonneville County, State of Idaho:

Together with all water and ditch rights of every nature and kind, including culinary water, however evidenced, used on said lands and premises, or in connection therewith, INCLUDING, but not limited to, all water, ditch and canal rights used under that certain Notice of Water Location, dated January 28th, 1886 upon the waters of Eagle Creek as shown upon the Records of Bingham County, Idaho in Record of Water Locations, page 195 thereof; and ALSO all water and transmission system used under Permit No. 11963, as approved by the State Engineer of the State of Idaho and recorded in Boise, Idaho in Book 41, Page 11963 and approved by said State Engineer under date of February 26, 1916.

RECEIVED

MAY 26 2004

Department of Water Resources
Eastern Region

PROFILED

SCANNED

OCT 13 2004

Irrigation was not recommended
due to evidence of non-use
and a lack of evidence of irrigation.
Lm- 8/11/04

SCANNED

NOV 05 2004

PROFILED

January 29, 2004

Idaho Department of Water Resources
900 N Skyline Dr. Suite A
Idaho Falls ID 83402-1718

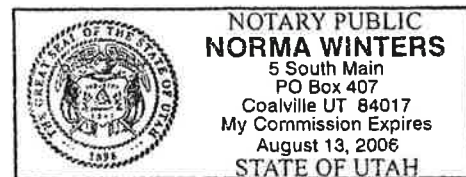
Idaho Department of Water Resources:

In 1982, our family purchased the Tingey Ranch which is now called the OW Ranch Inc. At that time I notified the Department of Water Resources and they confirmed that the ranch stated above was the only ranch that had irrigation rights out of Bridge Creek. OW Ranch has been the only one that irrigated out of Bridge Creek since that time. There is letters from landowners and previous owners on Bridge Creek confirming this in my file. I have shown on Aerial in fared Photo NAPP318123D Dated 1987 to I.D.W.R. clearly showing that the ranchers below O.W. Ranch got their water out of Eagle Creek.

I have never known of the Bird Refuge to ever irrigate anything up until 2003.

Sincerely,

 Pres.
Ken O'Brien
OW Ranch Inc





PROFILED

November 22, 2003

Idaho Department of Water Resources
900 N Skyline Dr. Suite A
Idaho Falls ID 83402-1718

Idaho Department of Water Resources:

I have lived at Gray's Lake for 82 years. My father homesteaded here on a ranch east of the Tingey Ranch which is now the OW Ranch Inc.

The old Tingey ranch which is now the OW Ranch Inc. owned by the Ken O'Brien family was the only ranch that irrigated out of Bridge Creek. The only ranches that irrigated below there irrigated out of Eagle Creek.

I have lived here all my life and have never known of the Bird Refuge to ever irrigate anything up until 2003.


Bernard Lindstrom

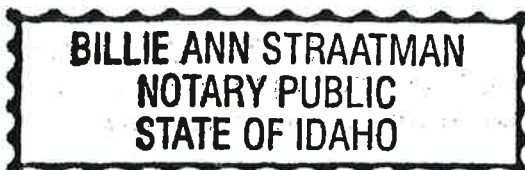
Notary Public

State of Idaho)
 : ss
County of Caribou)

PROFILED

On this 9th day of January, 2004, before me, the undersigned, a Notary Public in and for said State, personally appeared Bernard Lindstrom, a married man, know to me to be the person whose names is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.




NOTARY PUBLIC for the State of Idaho
Residing at : Grace, Idaho
Commission Expires: 8/25/09

November 22, 2003

Idaho Department of Water Resources
900 N Skyline Dr. Suite A
Idaho Falls ID 83402-1718

Idaho Department of Water Resources:

I have lived at Gray's Lake for 83 years. My grandfather James Sibbitt SR.
Homesteaded here.

The old Tingey ranch which is now the OW Ranch Inc. owned by the Ken
O'Brien family was the only ranch that irrigated out of Bridge Creek. The only ranches
that irrigated below there irrigated out of Eagle Creek. That ditch was built by my
grandfather James Sibbitt SR.

I have lived here all my life and have never known of the Bird Refuge to ever
irrigate anything up until 2003.


Glade Sibbitt


Notary Public my Commission Expires
February 13, 2009

JEREMY D. CLAUNCH
Notary Public
State of Idaho

PROFILED

November 22, 2003

Idaho Department of Water Resources
900 N Skyline Dr. Suite A
Idaho Falls ID 83402-1718

Idaho Department of Water Resources:

My family has been in the Gray's Lake Valley ever since ranches were homesteaded here.

My grandfather Perry Tingey owned the ranch that is now the OW Ranch Inc. (owned by the Ken O'Brien family). That ranch was the only one's that irrigated out of Bridge Creek. The only ranches that irrigated below there, irrigated out of ditch that James Sibbitt SR. hand dug to Eagle Creek.

I have stock water out of Bridge Creek, but the Bird Refugee put a head gate in the creek that is impossible to open and has diverted the water away from me and the natural flow.

I have never known of the Bird Refugee to ever irrigate anything up until 2003.


Steve Tingey


Notary Public

PROFILED

Luana Tingey Hood
122 West 3500 South, Bountiful, UT 84010
(801) 292-9015

Idaho Department of Water Resources
900 N. Skyline Dr., Suite A
Idaho Falls, ID 83402-1718

November 22, 2003

Re: Bridge Creek Tributary Water Rights

Dear Sirs;

I have the following important information in regards to the above referenced water rights for the property now owned by: The **Ken O'Brien family (The OW Ranch)**:

In 1888, my grandfather, Perry G. Tingey (now deceased) acquired (from the persons who homesteaded it) **their home ranch/property in Gray, Idaho and used the Bridge Creek Tributary for Stockwater/Agricultural purposes.** My father, Charles H. Tingey (now deceased), **purchased the ranch from his father Perry G. Tingey, and owned it until 1974.** The property is now owned by: The Ken O'Brien family, also known as The OW Ranch. Our deeds/records show that the water rights to: Eagle Creek, and Bridge Creek, were included in all sales from that time to present.

It is well known that **from 1888 to 1974, we (Tingey Family) were the only user of irrigation water from Bridge Creek, and maintained all ditches, culverts, and head gates.** My brother Larry Tingey recollects doing much work on those irrigation ditches, "especially in the area of the Linstrom property". The only people who ever irrigated below us were on the old James Sibbett Ranch. They used water from Eagle Creek by way of a ditch hand dug by James Sibbett.

In all the years the Tingey families owned the ranch, **we were never aware of any irrigating related to the Bridge Creek nor Eagle Creek tributaries done by the Bird Refuge employees, nor was there ever a question of Water Rights ownership.**

Please feel free to contact me with any further questions regarding the property and/or Water Rights on the property formerly owned by the Perry G. Tingey and/or the Charles H. Tingey family.

Sincerely,

Luana Tingey Hood

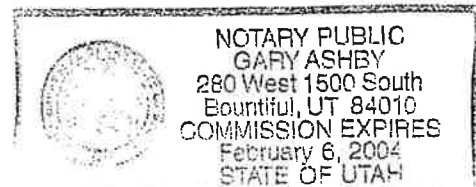
Luana Tingey Hood, Representative
Charles Tingey Family Estate

PROFILED

Cc: Mr. Ken O'Brien, The OW Ranch
LHT/lhc

Notary Public Signature and stamp below:

[Signature]



November 22, 2003

Idaho Department of Water Resources
900 N Skyline Dr. Suite A
Idaho Falls ID 83402-1718

Idaho Department of Water Resources:

I have lived at Gray's Lake for 88 years. My grandfather James Sibbitt SR.
Homesteaded here.

The old Tingey ranch which is now the OW Ranch Inc. owned by the Ken
O'Brien family was the only ranch that irrigated out of Bridge Creek. The only ranches
that irrigated below there irrigated out of Eagle Creek. That ditch was built by my
grandfather James Sibbitt SR.

I have lived here all my life and have never known of the Bird Refuge to ever
irrigate anything up until 2003.


Russell Sibbitt


Notary Public

**RANDY C. JOHNSON
NOTARY PUBLIC
STATE OF IDAHO**

PROFILED

November 22, 2003

Idaho Department of Water Resources
900 N Skyline Dr. Suite A
Idaho Falls ID 83402-1718

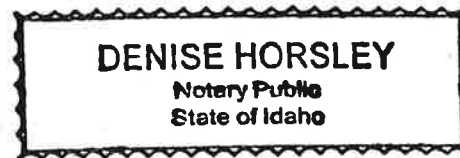
Idaho Department of Water Resources:

My grandfather Homesteaded in the Grays Lake Valley. My father purchased his ranch, and I purchased part of my fathers ranch. We have stock water in Bridge Creek above and below the old Charlie Tingey ranch which is now the OW Ranch Inc. owned by the Ken O'Brien family. That ranch (OW ranch) is the only ranch that has irrigated out of Bridge Creek. The ranches below our place irrigated out of Eagle Creek. A ditch that James Sibbitt SR. hand dug to Eagle Creek.

I have lived here all my life and have never known of the Bird Refuge to ever irrigate anything up until 2003.

Brian Muir
Brian Muir

Denise Horsley
Notary Public



PROFILED

Mikesell, Ryan

From: Bromley, Chris
Sent: Tuesday, August 10, 2004 10:38 AM
To: Mikesell, Ryan
Subject: RE: USFWS

Based on what you told me, I'd deny the claim based on forfeiture--continuous non-use for a period of five or more years. You will need to state forfeiture as your basis for denial in your recommendation.

The USFWS will then have the opportunity to object to the recommendation, which one can assume they will. The people who filed the affidavits in opposition to the water right would then have an opportunity to file affidavits in response to USFWS' objection.

Does that answer your questions? If not, please let me know and I'll keep trying.

Thanks,

Chris

-----Original Message-----

From: Mikesell, Ryan
Sent: Monday, August 09, 2004 10:46 AM
To: Bromley, Chris
Cc: Carlsen, Ernie; Holliday, Michael
Subject: USFWS

Chris,

I thought I should send you an update to my previous e-mail. There have been some changes to the situation that I described before. We now have a total of 7 affidavits saying that the USFWS has never irrigated land from the time the USFWS Bird sanctuary was started until 2003. We have also found evidence to sustain their historical use claim that water was used prior to the USFWS taking control of the land. The problem now is that we have no evidence of the USFWS irrigating the land from the time they took possession (6/15/1965) to present and we have evidence that they have not watered. How do you make a recommendation based on this?

I know this is probably confusing. If you need me to clarify anything please give me a call and I'd be happy to help out.

Ryan

SCANNED
NOV 05 2004

PROFILED

13-782	500 SHEETS, FILLER	5 SQUARE
42-381	50 SHEETS EYE-EASE®	5 SQUARE
42-382	100 SHEETS EYE-EASE®	5 SQUARE
42-383	200 SHEETS EYE-EASE®	5 SQUARE
42-382	100 RECYCLED WHITE	5 SQUARE
42-389	200 RECYCLED WHITE	5 SQUARE

Made In U. S. A.



photo of diversion - culvert left - cattle fence right.

PROFILED

SCANNED

JUL 30 2001

Additional Evidence Supporting this
Beneficial Use Claim is found
in the Declaration of Michael N. Fisher

MICROFILMED

NOV 07 1990

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER
FROM THE SNAKE RIVER BASIN
WATER SYSTEM.

The State of Idaho, ex rel.
Keith Higginson in his official
capacity as Director of the Idaho
Department of Water Resources,

Petitioner,

v.

The United States; The State of
Idaho; and all claimants to the
use of water from the Snake River
Basin Water System,

Defendants.

CASE NO. 39576

DECLARATION OF
MICHAEL N. FISHER

Dec. of Fisher

I, Michael N. Fisher, do declare that:

1. I am the Refuge Manager of the Grays Lake National Wildlife Refuge,
Wayan, Idaho, United States Department of the Interior, Fish and Wildlife
Service, Region 1.

2. I have been employed by the United States Fish and Wildlife Service
since May 1986. I attended Gavilan College in Gilroy, California, and
received an Associate of Science degree in Life Sciences in June 1971. I then
completed a Bachelor of Science degree in Applied Field Biology at California
Polytechnic State University in June 1973. I am a Certified Wildlife
Biologist confirmed by The Wildlife Society.

MICROFILMED

NOV 11 1980

PROFILED

3. My professional career began with the United States Fish and Wildlife Service (Service) in May 1986, when I accepted the position of Refuge Manager of the Hart Mountain National Antelope Range. Prior to entering the Refuge Manager series, I held various positions with the United States Department of Agriculture, Soil Conservation Service, and the United States Department of the Interior, Bureau of Land Management, in Washington and Montana. These positions included soil conservation technician, soil conservationist, and wildlife management biologist.

4. From December 1989 through the present, I have been the Refuge Manager at the Grays Lake National Wildlife Refuge (Refuge). My duties include all phases of operating a wetland refuge for conservation and protection of endangered species, migratory birds, and native wildlife species. One of my main duties is to measure, regulate, and record the use of*the Refuge water supply. Managing this water supply requires close cooperation with adjoining landowners, Refuge permittees, and the Bureau of Indian Affairs.

5. I am familiar with the current operations of the Refuge and have examined historic operations through archival documents, on-site inspections and interviews. Previous landowners, Service employees, and others knowledgeable of the Refuge and its surroundings were interviewed.

6. The United States Department of the Interior, Fish and Wildlife Service, maintains the Grays Lake National Wildlife Refuge for the conservation and protection of endangered species, migratory birds, and native wildlife. This facility requires the use of water to fulfill these purposes.

7. The Grays Lake National Wildlife Refuge was established by the Migratory Bird Conservation Commission on June 15, 1965, for waterfowl nesting and production.

8. To the best of my information and belief, water claimed as a beneficial use water right within the Grays Lake National Wildlife Refuge was first put to beneficial use as follows:

a. Water Right Claim No. 25-4032: Water was used for irrigation and stockwater in the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 26, Township 4 South, Range 43 East, prior to the establishment of the Refuge, as evidenced by statements made to me by Mr. Raymond Ostler. Mr. Ostler is the former owner of this property and currently irrigates and grazes it under a Refuge Special Use Permit. According to Mr. Ostler, he had purchased the parcel from Mr. Herman Wakeman (deceased) in 1960, who had previously purchased it from Mr. Earl Sibbett (deceased). Mr. Ostler also said Mr. Sibbett's father was the original homesteader of the parcel. As related to him by previous owners, Mr. Ostler indicated that water was first beneficially used on this parcel in 1883.

b. Water Right Claim No. 25-4034: Water was used for irrigation and stockwater in the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ and the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 23, Township 4 South, Range 43 East, prior to the establishment of the Refuge, as evidenced by statements made to me by Mr. Raymond Ostler. Mr. Ostler is the former owner of this

property and currently irrigates and grazes it under a Refuge Special Use Permit. According to Mr. Ostler, he had purchased the parcel from Mr. Herman Wakeman (deceased) in 1960, who had previously purchased it from Mr. Earl Sibbett (deceased). Mr. Ostler also said Mr. Sibbett's father was the original homesteader of the parcel. As related to him by previous owners, Mr. Ostler indicated that water was first beneficially used on this parcel in 1886.

- c. Water Right Claim No. 25-4045: Water was used for irrigation and stockwater in the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ and the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ and the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ and the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 11, Township 4 South, Range 43 East, prior to the establishment of the Refuge, as evidenced by statements made to me by Mr. Reed Humphreys. Mr. Humphreys is the former owner of this property and currently irrigates and grazes it under a Refuge Special Use Permit. According to Mr. Humphreys, he inherited the parcel from his father who purchased it from a Mr. Hawkins (deceased). Mr. Humphreys also said that the Hawkins family originally homesteaded this parcel. As related to him by previous owners, Mr. Humphreys indicated that water was first beneficially used on this parcel in 1904.

- d. Water Right Claim No. 25-4046: Water was used for irrigation and stockwater in the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ and the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ and the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 34, Township 3 South, Range 43 East,

prior to the establishment of the Refuge, as evidenced by statements made to me by Mr. Reed Humphreys. Mr. Humphreys is the former owner of this property and currently irrigates and grazes it under a Refuge Special Use Permit. According to Mr. Humphreys, he inherited the parcel from his father who purchased it from a Mr. Madsen (deceased). Mr. Humphreys also said that Mr. Madsen originally homesteaded this parcel. As related to him by previous owners, Mr. Humphreys indicated that water was first beneficially used on this parcel in 1904.

- e. Water Right Claim for Eagle Creek: Water was used for irrigation and stockwater in Lots 2 and 3 of Section 23, Township 4 South, Range 43 East prior to the establishment of the Refuge, as evidenced by statements made to me by Mrs. Luella Muir. Mrs. Muir is the former owner of this property and she stated that the parcel has been in the Muir family for over 100 years. Mrs. Muir stated that water was first beneficially used on this parcel in the 1800's. Another water right claim filed by Mrs. Muir and her husband (deceased) on lands irrigated in common with this parcel indicated a first beneficial use of water on January 11, 1888 (Exhibit A).
- f. Water Right Claim for Headquarters Pond: The Headquarters Pond was constructed in 1969 as evidenced by the 1969 Annual Narrative Report for Grays Lake National Wildlife Refuge (Exhibit B). The pond was constructed for wildlife purposes as further stated by the 1969 Annual Narrative Report.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on this 12th day of March, 1993.

Michael N. Fisher

Michael N. Fisher
Refuge Manager
U.S. Department of the Interior
Fish and Wildlife Service
Grays Lake National Wildlife Refuge
74 Grays Lake Road
Wayan, Idaho 83285

MICROFILMED

NOV 0 / 1990

IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED
WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 25-4032

NAME AND ADDRESS:

UNITED STATES OF AMERICA ACTING
THROUGH
USDI FISH AND WILDLIFE SERVICE
DIVISION OF ENGINEERING
911 N E 11TH AVE
PORTLAND OR 97232-4181

SOURCE:

Source:

Tributary:

UNNAMED STREAM

GRAYS LAKE

~~BRIDGE CREEK~~

~~Point of injection into and point of redirection from Unnamed Stream.~~

QUANTITY:

1.740 CFS

~~0.800 CFS~~

Right Nos. 25-4032 and 25-4034 are limited to a total combined diversion rate of 2.40 cfs.

The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

~~The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.~~

PRIORITY DATE:

06/06/1883

POINT OF DIVERSION:

T04S R43E S26 NESWNE
Within BONNEVILLE County

~~T04S R43E S25 SESWCW~~
~~Within BONNEVILLE County~~

~~T04S R43E S26 NESWNE Rediversion~~
~~Within BONNEVILLE County~~

~~T04S R43E S26 SWSENE Injection~~
~~Within BONNEVILLE County~~

PURPOSE AND
PERIOD OF USE:

Purpose of use	Period of use:	Quantity:
IRRIGATION	05/01 10/31	<u>1.740 CFS</u> ~~0.800 CFS~~
STOCKWATER	03/15 11/15	0.020 CFS

SCANNED
AUG 06 2007

PROFILED

IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED
WATER RIGHTS ACQUIRED UNDER STATE LAW

PLACE OF USE: IRRIGATION within BONNEVILLE County
T04S R43E S23 NESW 3.4
T04S R43E S23 Lot 3 NWSW 0.3
T04S R43E S23 Lot 4 SWSW 8.4
T04S R43E S23 SESW 35.0
T04S R43E S26 NENW 40.0

~~BONNEVILLE County~~ ~~STOCKWATER~~ ~~within~~

~~T04S R43E S26 NENW~~

STOCKWATER Same as IRRIGATION

87.1 ACRES TOTAL

40 ACRES TOTAL

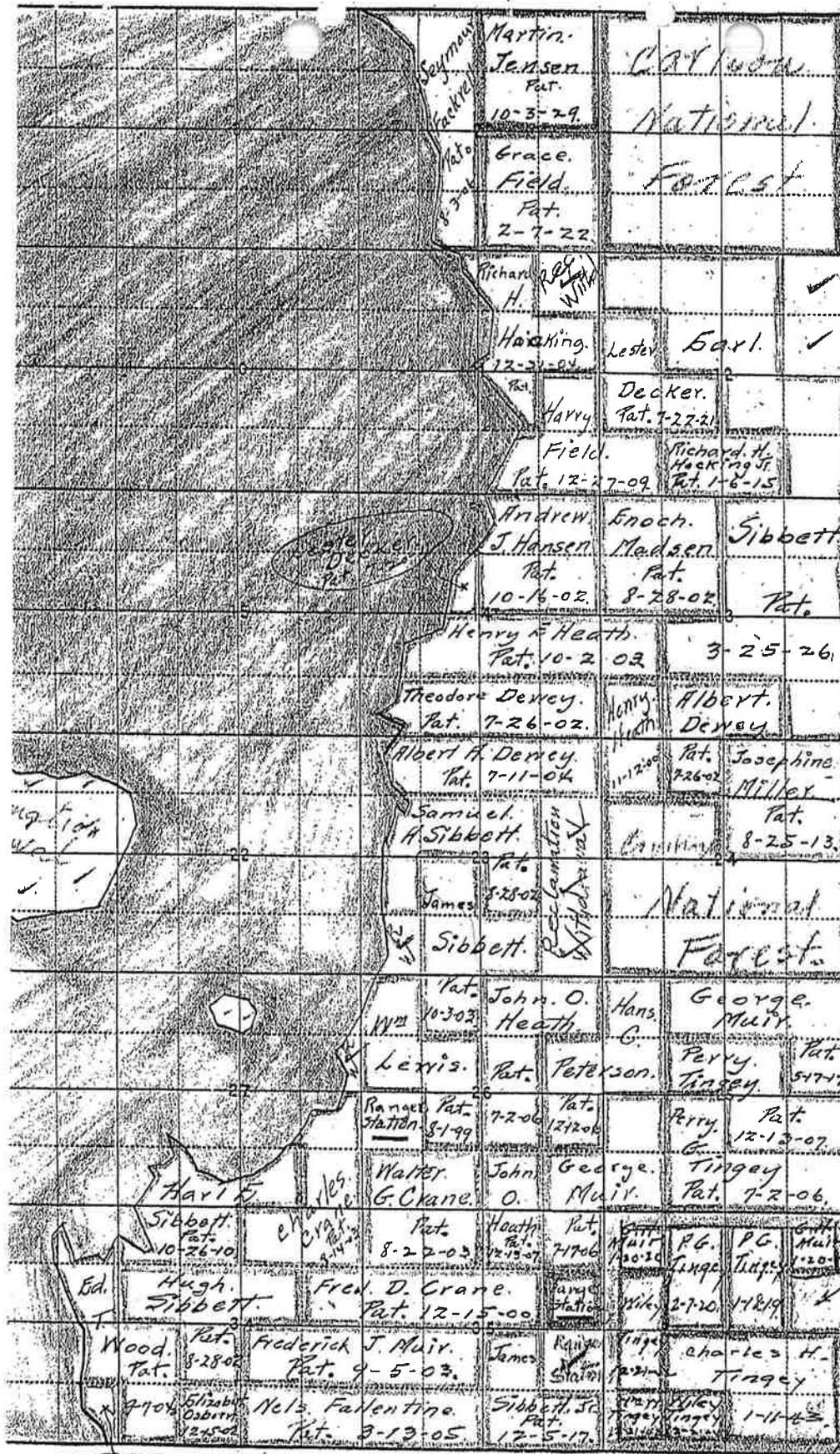
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

SCANNED
AUG 06 2007



as follows: James Sibbett Jr.
10-21-09

\$1.00
2.00
3.00
4.00

a township,
or lot is vacant
, every lot or
own.

Scale 40 Chains to an Inch.

SCANNED

AUG 06 2007

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A25-04032

Date Received:

Receipt No.:

Received By:

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

AMENDED

1. Name: **United States of America** Phone: **503-231-6145**
(Fish and Wildlife Service)
Address: **Division of Engineering**
911 NE 11th Avenue
Portland, OR 97232-4181

2. Date of Priority: June 6, 1883

3. Source: Bridge Creek & Eagle Creek Trib. to: Grays Lake

4. Point of Diversion:

Township 4S Range 43E Section 26, SW1/4 of NE1/4, B.M.,
County of Bonneville

Additional Points of Diversion NE1/4NE1/4, Sec. 23, T.4S., R.43E.

5. Description of diverting works: **Earthen diversion and 2 ditches, flood irrigation.**

6. Water is claimed for the following purposes:

Purpose	From	To	C.F.S. (or)	A.F.A.
Irrigation/Wildlife	Apr. 15	Oct. 15	1.6	
Stockwater/Wildlife	Mar. 15	Nov. 15	0.02	

SCANNED
AUG 06 2007

United States of America
Fish and Wildlife Service

7. Total Quantity Claimed is:
1.62 C.F.S. (and/or) _____ A.F.A

8. Non-irrigation uses: 50 head cattle, wildlife.

9. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
4S	43E	26	NE NW		Irr,S&W	40

Total Number of Acres Irrigated 40

10. Place of use, county(ies): Bonneville

11. Do you own the property listed above as place of use? **Yes.**

12. Other Water Rights Used: **None.**

13. Remarks: **This claim clarifies and updates Water Right Claim No. 25-4032.**

The Grays Lake National Wildlife Refuge was established by the Migratory Bird Conservation Commission on June 15, 1965, for waterfowl nesting and production.

14. Basis of Claim (Check one) Beneficial Use X Posted Notice ____
License ____ Permit ____ Decree ____
If applicable provide IDWR Water Right Number 25-4032
Court _____ Case Number _____ Decree Date _____

SCANNED
AUG 06 2007

United States of America
Fish and Wildlife Service

SCANNED

JUL 30 2001

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A25-04032
Date Received: 3-25-93
Receipt No.: X11111
Received By: V. Kelly

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: United States of America Phone: 503-231-6145
(Fish and Wildlife Service)
Address: Division of Engineering
911 NE 11th Avenue
Portland, OR 97232-4181

2. Date of Priority: June 6, 1883

3. Source: Bridge Creek Trib. to: Grays Lake

4. Point of Diversion:

Township 4S Range 43E Section 26, NE1/4 of NW1/4, B.M.,
County of Bonneville

5. Description of diverting works: Earthen diversion and 2 ditches, flood irrigation.

6. Water is claimed for the following purposes:

Purpose	From	To	C.F.S. or A.F.A.
Irrigation/Wildlife	Apr.15	Oct.15	1.6
Stockwater/Wildlife	Mar.15	Nov.15	0.02

7. Total Quantity Claimed is:
1.62 C.F.S. (and/or) A.F.A.

8. Total consumptive use claimed is 100 Acre Feet Per Annum.

9. Non-irrigation uses: 50 head cattle, wildlife.

MICROFILMED

NOV 07 1990

SCANNED

AUG 06 2007

United States of America
Fish and Wildlife Service

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
4S	43E	26	NE NW		Irr, S&W	40

Total Number of Acres Irrigated 40

11. Place of use, county(ies): Bonneville

12. Do you own the property listed above as place of use? Yes.

13. Other Water Rights Used: None.

14. Remarks: This claim clarifies and updates Water Right Claim No. 25-4032.

The Grays Lake National Wildlife Refuge was established by the Migratory Bird Conservation Commission on June 15, 1965, for waterfowl nesting and production.

15. Basis of Claim (Check one) Beneficial Use ☒ Posted Notice ☐
License ☐ Permit ☐ Decree ☐
If applicable provide IDWR Water Right Number 25-4032
Court ☐ Case Number ☐ Decree Date ☐

MICROFILMED

NOV 07 1990

AUG 06 2007

R43E

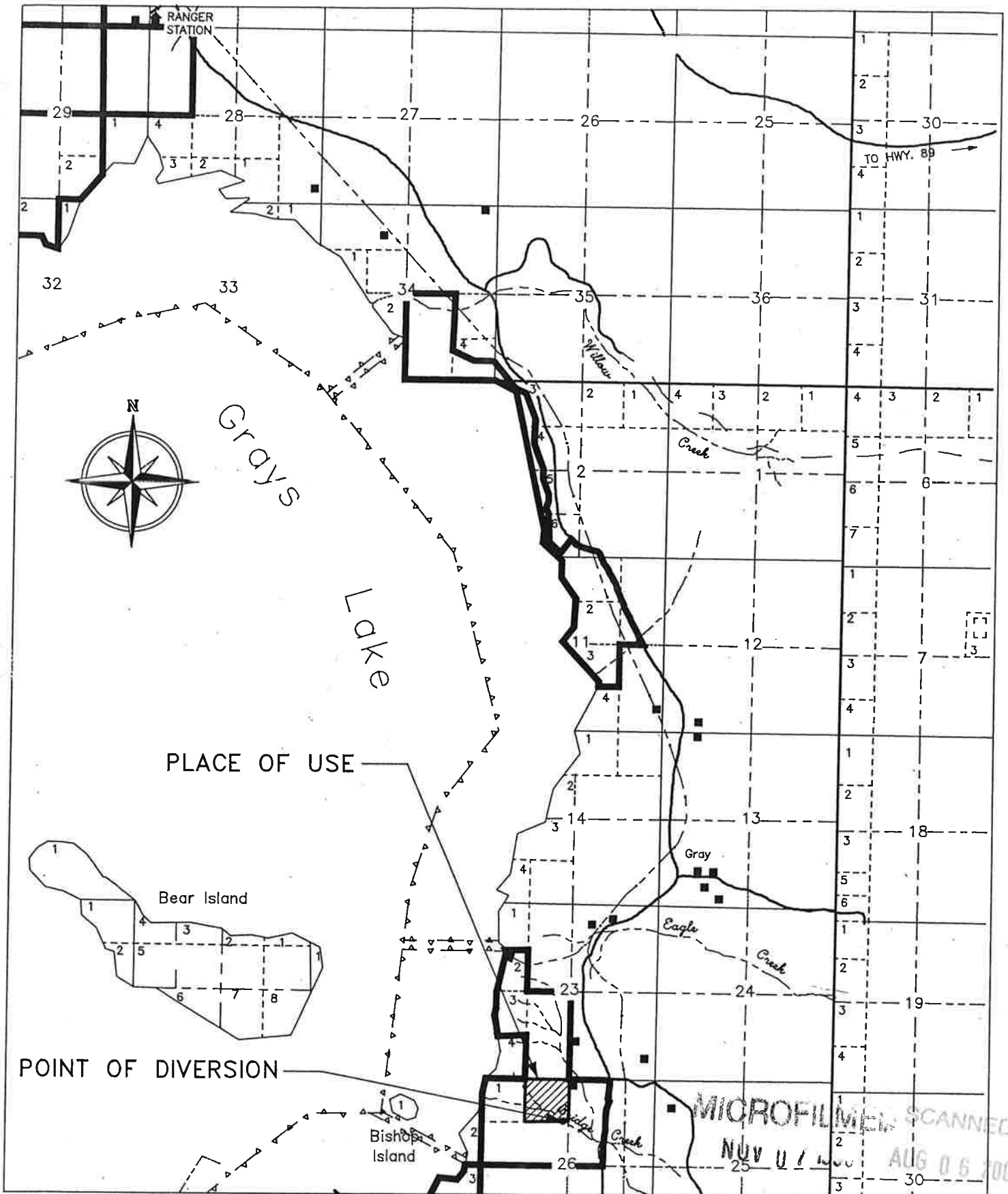
R44E

T 3 S

T 3 S

T 4 S

T 4 S



WATER RIGHT NUMBER 25-4032



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A25-04032
Date Received: _____
Receipt No.: _____
Received By: _____

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

AMENDED

1. Name: **United States of America** Phone: **503-231-6145**
(Fish and Wildlife Service)
Address: **Division of Engineering**
911 NE 11th Avenue
Portland, OR 97232-4181
2. Date of Priority: June 6, 1882 / 1893.
3. Source: Bridge Creek Trib. to: Grays Lake
4. Point of Diversion:
Township 4S Range 43E Section 25, SE 1/4 of SE 1/4, B.M.,
County of Bonneville
Points of Re-diversion T4S R43E S25 SWSW and S26 SWNE
5. Description of diverting works: **Earthen diversion and ditch, flood irrigation.**
6. Water is claimed for the following purposes:

Purpose	From	To	C.F.S. (or)	A.F.A.
Irrigation/Wildlife	Apr. 15	Oct. 15	2.40	
Stockwater/Wildlife	Mar. 15	Nov. 15	0.05	

United States of America
Fish and Wildlife Service

FILED

7. Total Quantity Claimed is: 2.40 C.F.S. (and/or) _____ A.F.A.

8. Non-irrigation uses: 200 head cattle, wildlife.

9. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
4S	43E	23	NE SW		Irr, S&W	38
4S	43E	23	SE SW		Irr, S&W	35
4S	43E	23	SW SW		Irr, S&W	7
4S	43E	26	SW ~~NE~~		Irr, S&W	40
			NE NW			
Total Number of Acres Irrigated						<u>120</u>

10. Place of use, county(ies): Bonneville.

11. Do you own the property listed above as place of use? Yes.

12. Other Water Rights Used: A25-4034B

13. Remarks: **This amended claim reflects a priority date supported by a posted notice (see attachment) posted in Bingham County for a date of first use of June 6, 1883, and the addition of 80 acres in the NESW, SESW, and SWSW of Section 23. This water right combined with water right claimed under No. 25-4034B (Eagle Creek) will not exceed 2.40 cfs.**

The Grays Lake National Wildlife Refuge was established by the Migratory Bird Conservation Commission on June 15, 1965, for waterfowl nesting and production.

14. Basis of Claim (Check one) Beneficial Use X Posted Notice _____
License _____ Permit _____ Decree _____
If applicable provide IDWR Water Right Number _____
Court _____ Case Number _____ Decree Date _____

PROFILED

01/13/2005

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 25-4032

NAME AND ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
USDI FISH AND WILDLIFE SERVICE
DIVISION OF ENGINEERING
911 N E 11TH AVE
PORTLAND OR 97232-4181

SOURCE: BRIDGE CREEK TRIBUTARY: GRAYS LAKE
Point of injection into and point of redirection from Unnamed Stream.

QUANTITY: 0.800 CFS
The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

PRIORITY DATE: 06/06/1883

POINT OF DIVERSION:

T04S R43E S25 SESWSW Within BONNEVILLE County
T04S R43E S26 NESWNE Rediversion Within BONNEVILLE County
T04S R43E S26 SWEENE Injection Within BONNEVILLE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	05/01 10/31	0.800 CFS
STOCKWATER	03/15 11/15	0.020 CFS

PLACE OF USE: IRRIGATION Within BONNEVILLE County

T04S R43E S26 NENW 40.0

STOCKWATER Within BONNEVILLE County

T04S R43E S26 NENW

40 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

EXPLANATORY MATERIAL: Beneficial Use

FILED

08/11/2004

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 25-4032

NAME AND ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
USDI FISH AND WILDLIFE SERVICE
DIVISION OF ENGINEERING
911 N E 11TH AVE
PORTLAND OR 97232-4181

SOURCE: BRIDGE CREEK. TRIBUTARY: GRAYS LAKE

QUANTITY: 0.020 CFS
The quantity of water under this right shall not exceed 13,000 gallons per day.

PRIORITY DATE: 06/06/1883

POINT OF DIVERSION:
T04S R43E S26 NENW Within BONNEVILLE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	03/15 11/15	0.020 CFS

PLACE OF USE: STOCKWATER Within BONNEVILLE County
T04S R43E S26 NENW

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

The quantity of water decreed for this water right is not a determination of historical beneficial use.

EXPLANATORY MATERIAL: Beneficial Use

Water Right 25-4032

FILED

SCANNED

NOV 05 2004

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

RECEIVED
AUG 05 2004
Department of Water Resources
Eastern Region

RECEIVED

JUN 22 2004

Ident. Number: A25-04032

Date Received: _____

Receipt No.: _____

Received By: _____

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

AMENDED

1. Name: **United States of America** Phone: **503-231-6145**
(Fish and Wildlife Service)
Address: **Division of Engineering**
911 NE 11th Avenue
Portland, OR 97232-4181

2. Date of Priority: June 6, 1883

3. Source: Bridge Creek & Eagle Creek Trib. to: Grays Lake

4. Point of Diversion:

Township 4S Range 43E Section 26, SW1/4 of NE1/4, B.M.,
County of Bonneville

Additional Points of Diversion NE1/4NE1/4, Sec. 23, T.4S., R.43E.

5. Description of diverting works: **Earthen diversion and 2 ditches, flood irrigation.**

6. Water is claimed for the following purposes:

Purpose	From	To	C.F.S. (or)	A.F.A.
Irrigation/Wildlife	Apr. 15	Oct. 15	1.6	
Stockwater/Wildlife	Mar. 15	Nov. 15	0.02	

United States of America
Fish and Wildlife Service

SCANNED

JUN 22 2004

7. Total Quantity Claimed is:
1.62 C.F.S. (and/or) _____ A.F.A

8. Non-irrigation uses: 50 head cattle, wildlife.

9. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
4S	43E	26	NE NW		Irr,S&W	40

Total Number of Acres Irrigated 40

10. Place of use, county(ies): Bonneville

11. Do you own the property listed above as place of use? **Yes.**

12. Other Water Rights Used: **None.**

13. Remarks: **This claim clarifies and updates Water Right Claim No. 25-4032.**

The Grays Lake National Wildlife Refuge was established by the Migratory Bird Conservation Commission on June 15, 1965, for waterfowl nesting and production.

14. Basis of Claim (Check one) Beneficial Use X Posted Notice _____
License _____ Permit _____ Decree _____
If applicable provide IDWR Water Right Number 25-4032
Court _____ Case Number _____ Decree Date _____

State of Oregon)
)
County of Multnomah)

Be it known that the undersigned, being duly sworn, deposes and says that he subscribed the forgoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Acting David Waley
Regional Director
U.S. Fish and Wildlife Service, Region 1

Sworn to before me this 16th day of June, 2004.



Bernie Logan
Notary Public

Residing at: Multnomah County, Oregon

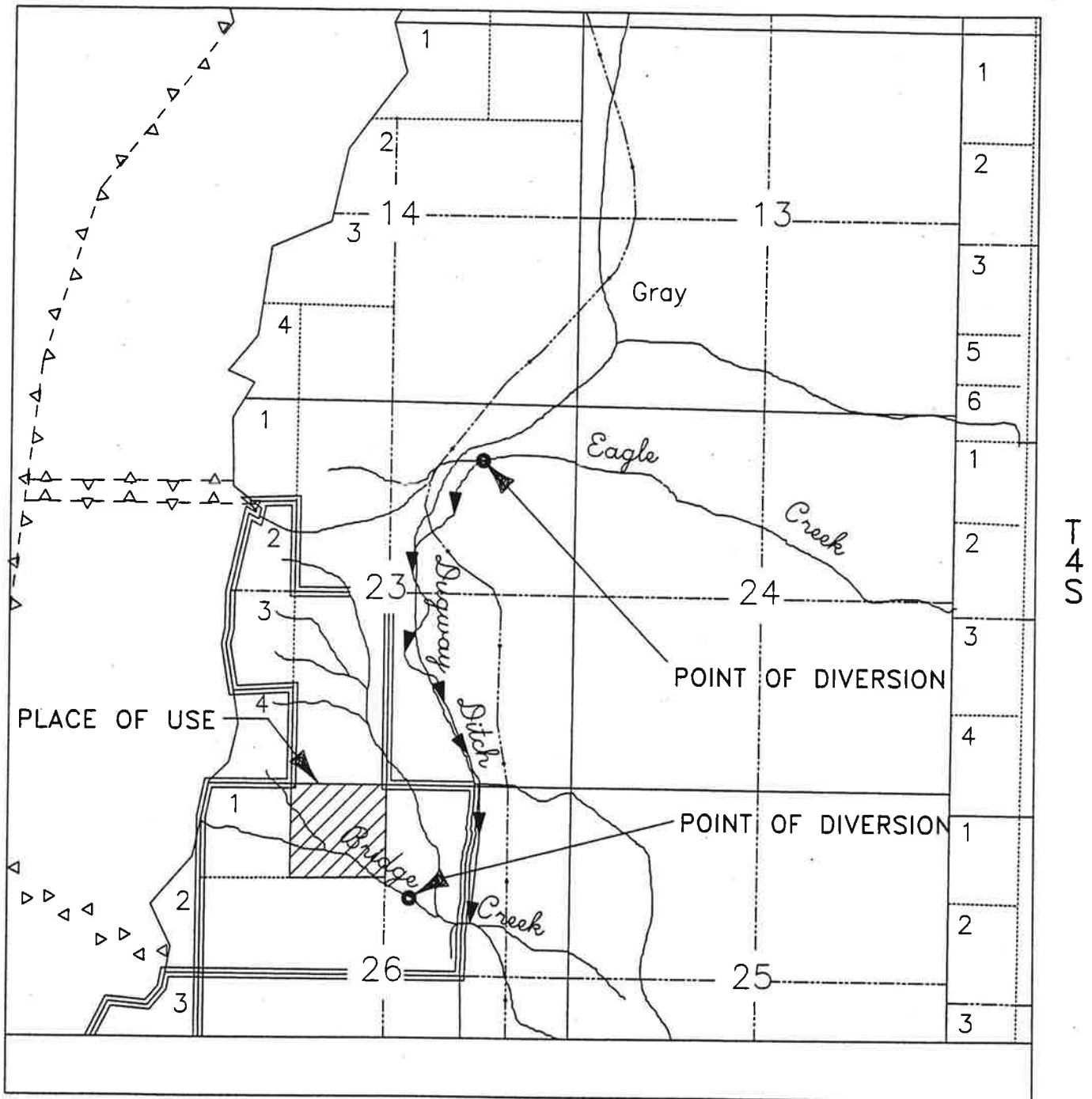
My Commission expires: 10/14/06

FOR DEPARTMENT USE ONLY

Received by _____	Date _____	Published in _____
Prelim. check by _____	Date _____	Publication dates _____
Fee _____	Receipt# _____	Publication checked by _____ Date _____
Receipt prepared by _____	Date _____	Exceptions filed by _____

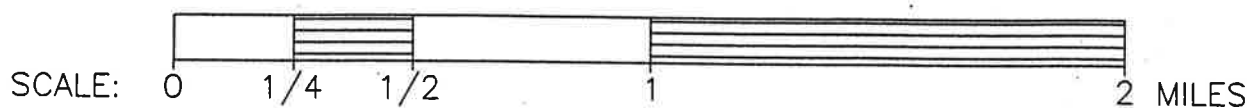
R43E

R44E



WATER RIGHT NUMBER 25-4032

AMENDED CLAIM MAP



SCANNED

JUN 22 2004

INDEX

Right Number 25-4032

Attachment A: Tract 41 Warranty Deed

Attachment B: Posting Notice

Attachment C: Affidavits of: Ostler
Fisher
Langman
Stoor

Attachment D: Aerial Photos of Place of Use

Attachment E: DRAFT (New Claim) Eagle Creek

Attachment F: Annual Water Use Records

SCANNED
AUG 06 2007

Right Number 25-4032

Attachment A: Tract 41 Warranty Deed

SCANNED
AUG 06 2007

Tract 41
Previous Owner: Ostler
Claim Number 4032 and 4034B
Bridge and Eagle Creeks

RECEIVED

JAN 12 2005

Department of Water Resources
Eastern Region

SCANNED
AUG 06 2007

UNITED STATES GOVERNMENT

Memorandum

FISH AND WILDLIFE SERVICE
PORTLAND, OREGON

TO: Refuge Manager
Southeast Idaho Refuge Complex

FROM: Conveyance Examiner
Portland, Oregon (ARW-RE)

SUBJECT: Closing on Grays Lake NWR Tract



Date: November 19, 1986

LA-Idaho
Grays Lake NWR
Raymond H. Ostler (41)

The attached Warranty Deed, Certificate of Rights of Way, and Tract Map for the above-referenced tract should be placed in your permanent file. This land is now a part of the Wildlife Refuge System and should be administered accordingly.

Judee Jacoby
Judee Jacoby

Attachments

Ostler
Bridge and Eagle Creek
Claims # 4034B and 4032

SCANNED
AUG 06 2007

#4
JAC

= 7 1 2 3 3 3

WARRANTY DEED

BONNEVILLE COUNTY
CLERK

AUG 27 1 45 PM '86

The Grantors, Raymond H. Ostler and Voneal I. Ostler, husband and wife, for and in consideration of the sum of Sixty Thousand and 00/100 Dollars (\$60,000.00), the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey to the UNITED STATES OF AMERICA and its assigns, all of the real property with the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, situated in the County of Bonneville, State of Idaho, to-wit:

T. 4 S., R. 43 E., Boise Meridian:

Section 23 : E1/2SW1/4

Section 26 : NE1/4NW1/4

Together with the Grantors' right, title, and interest in and to all mineral and water rights appurtenant to said property.

RESERVING unto the Grantors, the right to use the above described lands, together with the right of ingress and egress, for hay production and grazing through December 31, 1987.

The land is conveyed subject to existing easements for public roads, pipelines, and public utilities.

To Have And To Hold the above described premises to the United States of America and its assigns, forever.

The Grantors further remise, release, and forever quitclaim to the United States and its assigns, all right, title, and interest which the Grantors may have in any roads abutting or adjoining said land and in any means of ingress or egress appurtenant thereto.

The land is being acquired by the Department of the Interior, Fish and Wildlife Service.

The Grantors hereby covenant to and with the United States and its assigns, that Grantors are lawfully seized in fee simple of the above granted premises, have a good and lawful right and power to sell and convey the same, that the same are free and clear of all encumbrances and that Grantors will warrant and forever defend the title thereto and quiet possession thereof against the lawful claims and demands of all persons.whomsoever.

SCANNED
AUG 06 2007

FIRST AMERICAN TITLE CO.
Box 1018
Pocatello, Idaho 83402

Dated this 20th day of August, 19 86.

Raymond H. Ostler
Raymond H. Ostler

Voneal I. Ostler
Voneal I. Ostler

INSTRUMENT NO.	<u>712333</u>
DATE	<u>8-22-86</u>
INST. CODE	<u>35</u>
FICHE NO.	<u>3800-01</u>
FEE	<u>6.00</u>
STATE OF IDAHO)	
COUNTY OF BONNEVILLE) ss	
I hereby certify that the within instrument was recorded.	
Randa Longmore, County Recorder	
<u>Marsha Greenup</u> Request of	

SCANNED
AUG 06 2007

ACKNOWLEDGMENT

STATE OF Idaho)
County of Caribou) ss

On this 20th day of August, 19 86, before me, the undersigned, a Notary Public in and for the State of Idaho, duly commissioned and sworn, personally appeared Raymond H. Oster and Vaneal D. Oster, known to me to be the individual described in and who executed the foregoing instrument and acknowledged to me that they signed and sealed the said instrument as their free and voluntary act and deed for the uses and purposes therein mentioned.

WITNESS my hand and my official seal hereto affixed the day and year in this certificate above written.

Jo Ann L. Rhodes
Notary Public in and for the State of

Idaho residing at Soda Springs

My Commission Expires: 2-19-91



SCANNED
AUG. 06 2007



United States
Department of the Interior

Fish and Wildlife Service

Lloyd 500 Building, Suite 1692
500 N.E. Multnomah Street
Portland, Oregon 97232

CERTIFICATE AS TO RIGHTS-OF-WAY, EASEMENTS, AND RESERVATIONS

WHEREAS, the United States of America is about to acquire title to; the Ostler, Raymond H. tract (41), Grays Lake National Wildlife Refuge, situate in Bonneville County, State of Idaho, under the authority of the Fish and Wildlife Act of 1956 (16 U.S.C. 742a-742j) and amendments therefore, for use in the acquisition of lands for the Refuge System.

WHEREAS, it appears from the title policy and from evidence on the ground and in order to acquire said land by purchase it is necessary to acquire same, subject to certain rights-of-way, easements, and reservations, and

WHEREAS, the said rights-of-way, easements, and reservations of record are:

- reservations contained in the United States Patent
- all road, ditch, and utility rights-of-way
- oil and gas lease to Walter W. Sapp recorded July 7, 1976, under Recorder's Instrument No. 499456, Bonneville County, State of Idaho

WHEREAS, the said rights-of-way, easements, and reservations not of public records are:

- reservation of use of the subject lands for hay production and grazing through December 31, 1987

WHEREAS, the said lands are to be acquired subject to said rights-of-way, easements, and reservations;

NOW, THEREFORE, I do hereby certify that the said rights, easements, and reservations, will not impair the value of or interfere with the use of the area so encumbered for the purpose for which said land is being acquired.

May 30, 1986
Date

James H. Shaw
Chief, Office of Acquisition

SCANNED
AUG 06 2007

GRAYS LAKE NATIONAL WILDLIFE REFUGE

UNITED STATES
DEPARTMENT OF THE INTERIOR

BONNEVILLE AND CARIBOU COUNTIES, ID.

UNITED STATES
FISH AND WILDLIFE SERVICE

111°30'

R 42 E R 43 E

111°20'

T 3 S

43°08'

T 4 S

43°02'

T 5 S

111°30'

R 42 E R 43 E

111°20'

111°22'

COMPILED IN REALTY FROM
SURVEYS BY USGS, FWS, BLM

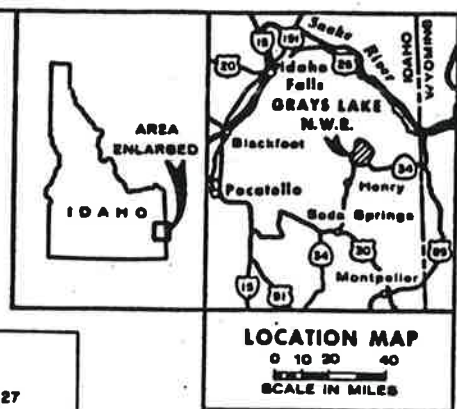
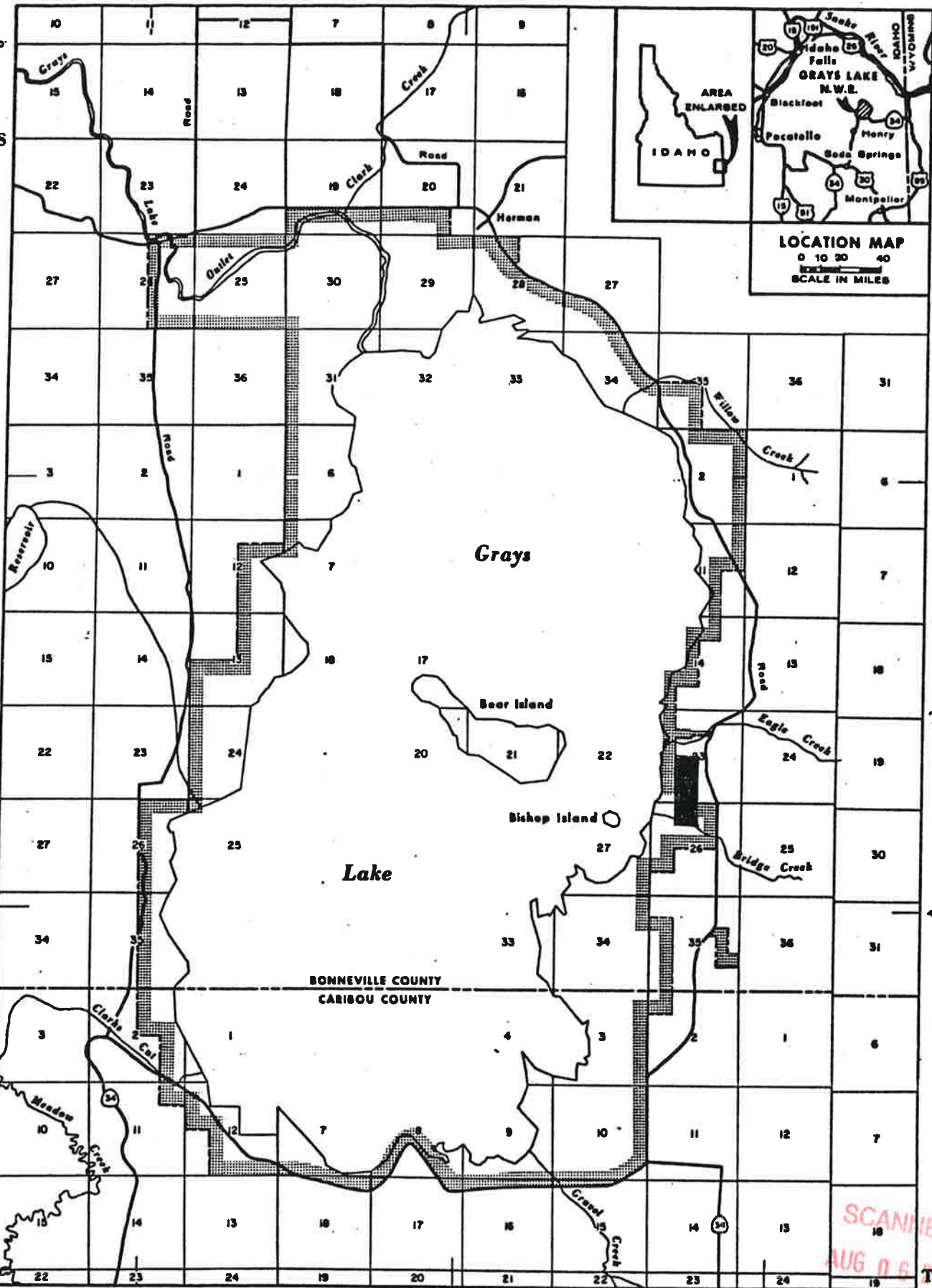
PORTLAND, OREGON MAY 1980
REV.:

BOISE MERIDIAN

0 1/2 1 2 MILES
0 1/2 1 2 3.3 KILOMETERS

18°18' MEAN DECLINATION 1980

1R IDA 691 445



SCANNED
AUG 06 2015

Right Number 25-4032

Attachment B:

Posting Notice

SCANNED
AUG 06 2007

Posting Notice
Located at the Bingham County Recorder's
Office

RECEIVED

JAN 12 2005

Department of Water Resources
Eastern Region

SCANNED
AUG 06 2007

Office of Water Location

James Smith

The undersigned having had
 the undersigned "provision" of and used the water in
 the stream known as Bridge Creek for 5 years on the
 6 day of June passed do now locate said claim over
 water to the extent of 500 feet situated within for
 agricultural purposes to be conveyed as hereafter in a
 which from the point to my homestead situated about
 6 miles down John Gray's Kate and 1 mile south of
 Eagle Creek adjoining the poor hole on the east and
 running thence westerly into the Kate Bottom
 State this 11 day of January 1888
 signed James Smith locator

County of Adams
 State of Idaho

of the undersigned now do solemnly
 swear that I have for near 6 years been acquainted
 with the water course known as Bridge Creek situated
 in the same paying attention that the same
 has not been from located or used for any
 purpose other than by any person but myself
 and I swear to give me this 11 day
 of January 1888

SEALED

James H. Hawthorne
 Notary Public

Witness at the request of
 Hawthorne 3/27/88 at 3:20 pm
 Geo. A. Robinson
 Recorder

Homestead Map
Located at Bonneville County Recorder's Office

SCANNED
AUG 06 2007

SCANNED
AUG 06 2007

Right Number 25-4032

Attachment C:

Affidavits of: Ostler
Fisher
Langman
Stoor

SCANNED
AUG 06 2007

Right Number 25-4032

Attachment D: Aerial Photos of Place of Use

SCANNED
AUG 06 2007



U.S. Fish & Wildlife Service

Grays Lake National Wildlife Refuge

Bonneville County, Idaho

Claim Number 25-04032 Place of Use



THE PURPOSE OF THIS MAP IS TO IDENTIFY THE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

Claim25-04032_20040711.MXD, 1/5/05



Water Resources Branch
R1 Division of Engineering
911 NE 11th Avenue
Portland, OR 97232-4191
503-231-6251



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AUG 06 2007

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JAN 12 2005

Department of Water Resources
Eastern Region

Right Number 25-4032

Attachment E: DRAFT (New Claim) Eagle Creek

DRAFT

DRAFT

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: NEW
Date Received: _____
Receipt No.: _____
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: **United States of America** Phone: **503-231-6145**
(Fish and Wildlife Service)
Address: **Division of Engineering**
911 NE 11th Avenue
Portland, OR 97232-4181

2. Date of Priority: January 28, 1886 (see posting)

3. Source: Eagle Creek Trib. to: Grays Lake

4. Point of Diversion:

Township 4S Range 43E Section 23, NE1/4 of NE1/4, B.M.,
County of Bonneville

Point of Injection: T04S R43E S26 NESWNE

Point of Re-diversion: T.4S R.43E S26 NESWNE

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JAN 12 2005
Department of Water Resources
Eastern Region

5. Description of diverting works: **Earthen diversion and 2 ditches, flood irrigation.**

6. Water is claimed for the following purposes:

Purpose	From	To	C.F.S. (or)	A.F.A.
Irrigation/Wildlife	Apr. 15	Oct. 15	0.80	
Stockwater/Wildlife	Mar. 15	Nov. 15	0.02	

7. Total Quantity Claimed is:
0.82 C.F.S. (and/or)

SCANNED
AUG 06 2007
A.F.A.

United States of America
Fish and Wildlife Service

8. Non-irrigation uses: 50 head cattle, wildlife.

9. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
4S	43E	26	NE NW		Irr,S&W	40

Total Number of Acres Irrigated 40

10. Place of use, county(ies): Bonneville

11. Do you own the property listed above as place of use? **Yes.**

12. Other Water Rights Used: **None.**

13. Remarks: **This water right combined with claim no. 25-4032 will not exceed 0.82 cfs**

The Grays Lake National Wildlife Refuge was established by the Migratory Bird Conservation Commission on June 15, 1965, for waterfowl nesting and production.

14. Basis of Claim (Check one) Beneficial Use X Posted Notice _____
License _____ Permit _____ Decree _____
If applicable provide IDWR Water Right Number _____
Court _____ Case Number _____ Decree Date _____



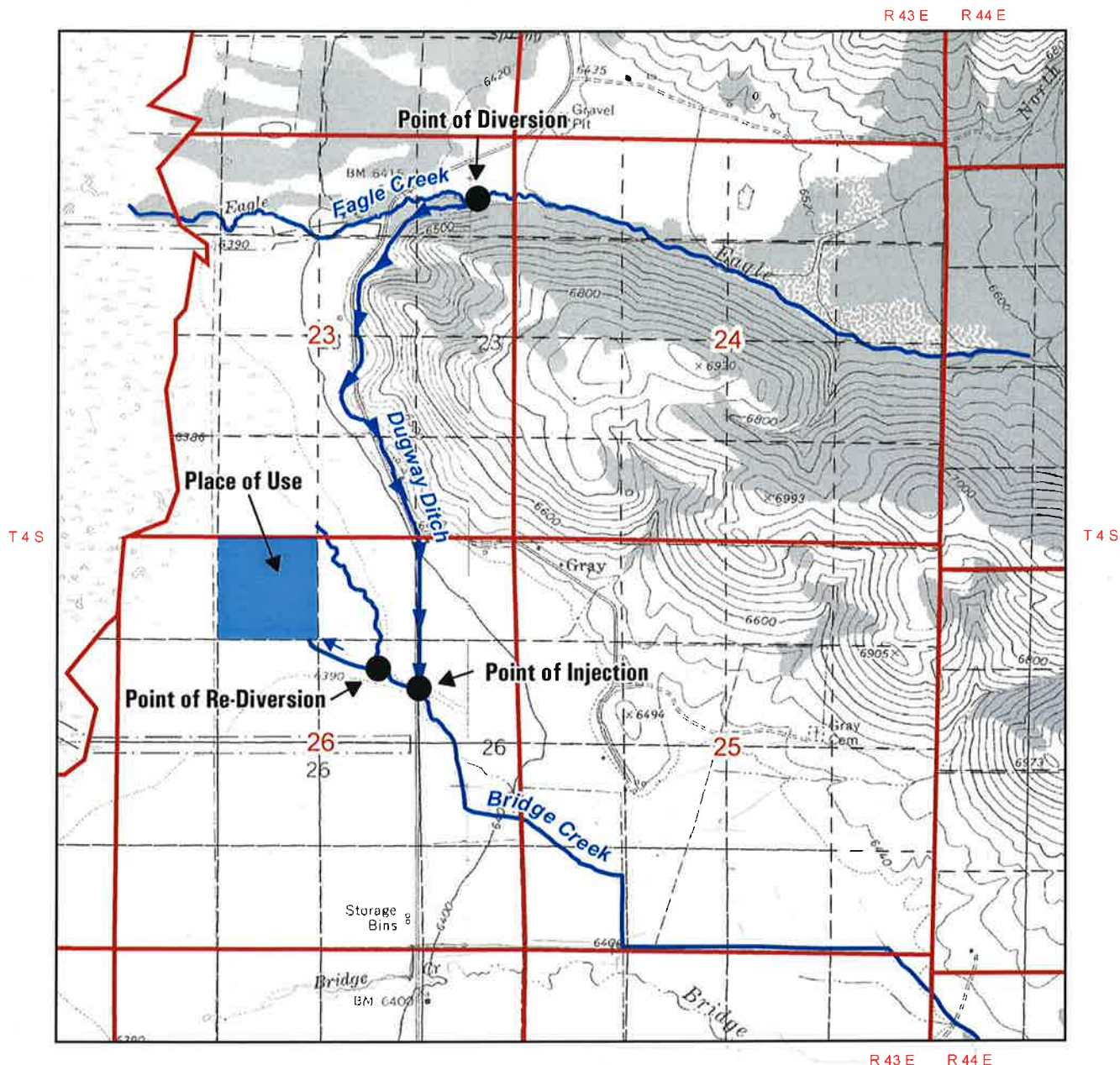
U.S. Fish & Wildlife Service

Grays Lake National Wildlife Refuge

Bonneville County, Idaho

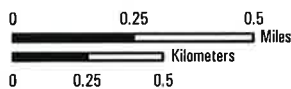
New Claim (Eagle Creek)

SOURCE: EAGLE CREEK
QUANTITY: 0.80 CFS, 0.02 CFS
POINT OF DIVERSION: T04S R43E S23 NENE
POINT OF INJECTION: T04S R43E S26 NESWNE
POINT OF REDIVERSION: T04S R43E S23 NESWNE
PURPOSE OF USE: IRRIGATION/WILDLIFE, STOCKWATER/WILDLIFE



THE PURPOSE OF THIS MAP IS TO IDENTIFY THE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

Claim_New_EagleCreek.MXD, 1/10/05



1:24,000 BOISE MERIDIAN



Water Resources Branch
R1 Division of Engineering
911 NE 11th Avenue
Portland, OR 97232-4191
503-231-6251



SCANNED
AUG 06 2007

RAY OSTLER
226 GRAYS LAKE ROAD
WAYAN, ID 83285

November 5, 2004

Idaho Department of Water Resources
SRBA Eastern Region Unit
900 N. Skyline Drive
Idaho Falls, Idaho 83402-1714
Attn: Ernie Carlsen

Dear Mr. Carlsen:

I have lived and ranched cattle in the Grays Lake Basin, Wayan, Idaho, since the Spring of 1961. Prior to the refuge acquiring lands up here in 1965, I owned approximately 130 acres of property just west of Bridge Creek Lane and approximately 120 acres west of Grays Lake Road; just across from my residence. During my time as a landowner at Grays Lake, I relied on the waters from Bridge Creek to provide stockwater and irrigation for both parcels of my property. I used Bridge Creek waters almost annually to irrigate pastures (the "South" and "Middle 40" pastures) and provide stockwater for 10 to 12 years; prior to selling these lands to the bird refuge (U.S. Fish & Wildlife Service) in about 1986. Around the mid-1960's, I had surveys done and constructed a ditch in the "South 40" and "Middle 40" pasture to facilitate increased water flows to that area. In addition, waters from the south Eagle Creek Channel were also used to irrigate the "North 40" pasture and an adjacent neighboring Stoddard property to the north. The Stoddard (or Ewart) Field was flood irrigated almost every year to provide water for crops, livestock and wildlife.

In addition to the property across from my residence, Eagle Creek waters were used to irrigate and the Bridge Creek Channel was also used on my southern parcels located off Bridge Creek Lane. Property neighboring the Bridge Creek Lane parcel (at that time owned by the Tingy family) was hayed almost annually and was flood irrigated during the Spring and early-Summer. The Bridge Creek channel, on these parcels, was used as a main source for providing water to livestock and wetlands, as well as early irrigation water for the Tingy property. As far back as I can remember, the Fulton Creek and Bridge Creek Channels never merge naturally, and the north diversion of the Bridge Creek Channel existed prior to us purchasing property up here. Today, there is a minor diversion off the Fulton Creek which flows into a diversion on the Muir property, and the Bridge Creek waters now flow to supplement the Fulton Creek waters across the Tingy property. Both creek channels provided an important source of water for my northern and southern properties.

In 1972, my wife and I purchased additional property and house in Thatcher, Idaho, but continued grazing our cattle up in the Grays Lake Basin every Spring through Fall from 1961 to present. About 1972 is when I sold 130 acres of property west of Bridge Creek Lane to the bird refuge.

RECEIVED

JAN 12 2005

Department of Water Resources
Eastern Region

PROFILED

During the time that I owned it, and since the bird refuge took it over, waters from Bridge Creek were used to irrigate and provide stockwater and Eagle Creek was used to provide water when Bridge Creek was dry.

Ray Ostler



PROFILED

I, Michael N. Fisher, being first duly sworn, depose and testify as follows:

My name is Michael N. Fisher and I have been employed by the U.S. Fish and Wildlife Service (USFWS or Service) since 1986. I am currently employed as a Supervisory Wildlife Biologist at the Southeast Idaho National Wildlife Refuge Complex in Chubbuck, Idaho. I have been in this position since November, 2003. Previous to this position, from December, 1989 to November, 2003, I was the Refuge Manager at the Grays Lake National Wildlife Refuge (Refuge), near Wayan, Idaho.

In my role as Refuge Manager, I was responsible for administering and managing the daily operations of the Refuge. Besides routine Refuge administrative duties, a large portion of my time was spent managing important Refuge wildlife and habitat resources, including expansive wet meadows and uplands adjacent to the 22,000 acre lake bed. My duties included managing critical habitat management programs, such as: habitat enhancement, habitat restoration and water manipulation; burning; weed spraying; wildlife surveys; irrigation of agricultural lands and wetlands; and conducting farming, haying and grazing activities. Critical irrigation duties included ensuring that wet meadows were properly irrigated for use by wildlife during the critical breeding, nesting and migration seasons to produce cover/forage for wildlife and stock use; for filling shallow wetland ponds and sloughs for wildlife and stock use; irrigation of grain/alfalfa fields, grown for wildlife; and irrigation of Refuge hay meadows. Besides providing forage for permittees' livestock and for growing crops of hay, the flood irrigation methods used at the Refuge by me and my Refuge staff created valuable habitats such as wet meadows, dense grass stands and grain crops for nesting, foraging and migrating greater sandhill cranes, ducks, geese, trumpeter swans, shorebirds (i.e. willet, avocet, curlew), marshbirds (i.e. herons, egrets, white-faced ibis) and a wide assortment of other wildlife species dependant on these types of wetland habitats (meadows, grain fields, ponds, shallow sloughs).

I have personal knowledge and 14 years of field experience in diverting, and allowing Refuge permittees to beneficially divert, water for irrigation and wildlife purposes onto Refuge lands covered under SRBA claims A25-00229A, A25-02161, A25-04032, A25-04034B, A25-04045, A25-13722, A25-14084, A25-14096 and the new Bridge Creek, Eagle Creek, and unnamed stream (locally known as Hawkins Creek) claims. I personally irrigated Refuge meadows and fields, using diversion structures, canvas dams, irrigation ditches and irrigation laterals. In addition, ponds and sloughs were manipulated by me for stock and wildlife use. The Refuge staff and I have documented and quantified this use by using staff gauges, water flow meters, fixed flumes, portable flumes, water brooms and water volume measurement methods. Specifically, water was diverted for irrigation, stock and wildlife purposes as indicated below:

RECEIVED
JAN 12 2005
Department of Water Resources
Eastern Region

PROFILED

1) CLAIM: A25-00229A

SOURCE: Herman Creek (also known as Meyers Creek)

PLACE OF USE: T.3 S., R.43 E., Sec. 28, NWNW, SWNW, and Sec. 29, NENE, SENE, Bonneville Co., B.M

POINT OF DIVERSION: T.3 S., R.43 E., Sec. 28, NWNW, Bonneville Co., B.M.

IRRIGATION OF PLACE OF USE: As shown by the enclosed title documents, the Service acquired the land associated with this claim in 1976. After acquisition of the property, the Refuge Manager was often annually involved in attempts to coordinate water use on the property with neighbors. In 1992, I attempted to divert water in old ditches to the Place of Use, but flows were too low. Refuge staff replaced headgates and cleaned ditches in fall of 1992. Since 1993, the Refuge staff have irrigated the Place of Use (the Rich Tract, which consists of the west grain field, the northwest meadow and the northeast meadow) annually. Waters from Herman Creek are used to irrigate the west grain field, the meadows and to provide stock water along the main Herman Creek channel within the Rich Tract. A series of irrigation ditches and canvas dams are used to distribute Herman Creek flows to the Place of Use described above. The Refuge has measured irrigation water flows on the Refuge through instantaneous flow measurements, flumes and by other methods since 1995. To the best of my knowledge, the Service manages irrigation of the Rich Tract similar to the previous owners.

2) CLAIM: A25-02161

SOURCE: A well near Headquarters

PLACE OF USE: T.4 S., R.43 E., Sec. 35, SENE, Bonneville Co., B.M.

POINT OF DIVERSION: T.4 S., R.43 E., Sec. 35, SENE, Bonneville Co., B.M.

IRRIGATION OF PLACE OF USE: As shown by the enclosed documents, the Service acquired the lands associated with this claim in 1969 and this replacement well was drilled in 1976. Previously, there was a well at this site that could no longer be used for domestic uses. Since 1976, the Refuge has used the well to: supply water to a residence headquarters office, shop, bunkhouse, guard station, three hydrants and three recreational vehicle/travel trailer pads; irrigate the lawn surrounding the office area; and provide water for livestock and wildlife. During my 14-year tenure as Refuge Manager of Grays Lake NWR, I supervised the application of, or personally applied, the well water to these uses.

3) CLAIM: A25-04032 and new claim to Eagle Creek

PAGE 2 OF 7: Affidavit of Michael N. Fisher

PROFILED

SOURCE: Bridge Creek (A25-04032) and Eagle Creek (new claim)

PLACE OF USE: T.4 S., R.43 E., Sec. 26, NENW, Bonneville Co., B.M

POINT OF DIVERSION:

A25-04032: T.4 S., R.43 E., Sec. 26, SWNE, and T.4 S, R.43 E, Sec. 25, SESE and SWSW, Bonneville Co., B.M.

New Claim: T.4 S., R.43 E., Sec. 23, NENE; Point of Injection: T.4 S., R.43 E., Sec. 26, NESWNE; Point of Re-diversion: T.4 S., R.43 E., Sec. 26, NESWNE

IRRIGATION OF PLACE OF USE: As shown by the enclosed title documents, the Service acquired the land associated with these claims in 1973. After acquisition of the property, the Refuge Manager was involved in attempts to coordinate water use on the property with upstream and downstream neighbors. To the best of my knowledge, since the Service acquired the lands, Refuge permittees irrigated all of the lands every year until 1995. Since 1995, Refuge staff has irrigated the lands every year. The Place of Use includes meadows in the South 40 field which produce hay. The Refuge staff cleaned all upstream delivery ditches and channels located on Ewart Muir Estate land, with the permission of the heirs, to the point of diversion in 1992. The Refuge staff also maintained and improved ditches on the Refuge in 2002.

Water from Bridge Creek and Eagle Creek water, coming through the Dugway Ditch and into the Bridge Creek channel, is used on these lands for irrigation, wildlife, and stock. Water from the point of diversion moves north and west to irrigate meadows in the South 40 fields. Water from these diversions also provides livestock water and flood irrigation for hay production to create wet meadow habitats for wildlife. Wildlife use in these wet meadows is high, including use by sandhill cranes, waterfowl and shorebirds for breeding, nesting and migration. Spring, summer and early fall water from Bridge Creek and flows from Eagle Creek provide water that I have diverted (via structures, ditches and using canvas dams) and monitored, or measured, while Refuge Manager at Grays Lake. I have also directed Refuge staff to conduct the diversions and measurements. Water measurements were made at least once per month and after flow adjustments were made, since 1995, at the north ditch flume (Sec. 26, SWNE) (by flume gauge or water flow meter prior to the flume) and the west water control structure (Sec. 26, SWNE) along the Bridge Creek channel on the Refuge.

4) CLAIM: A25-04034B and new claim to Bridge Creek

SOURCE: Eagle Creek (A25-04034B) and Bridge Creek (new claim)

PLACE OF USE: T.4 S., R.43 E., Sec. 23, NESW, SESW, and SWSW, Bonneville Co., B.M.

POINT OF DIVERSION:

PAGE 3 OF 7: Affidavit of Michael N. Fisher

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A25-04034B: T.4 S., R.43 E., Sec. 23, NENE, and NWSWNE, Bonneville Co., B.M.; Point of Injection: T.4 S., R.43 E., Sec. 26, NESWNE; Point of Re-diversion: T.4 S., R.43 E., Sec. 26, NESWNE;

New Claim: T.4 S., R.43 E., Sec. 26, SWNE, and T.4 S, R.43 E, Sec. 25, SESE and SWSW, Bonneville Co., B.M.

IRRIGATION OF PLACE OF USE: The Service acquired the land associated with these claims in 1986. After acquisition of the property, the Refuge Manager was involved in attempts to coordinate water use on the property with neighbors. To the best of my knowledge, since the Service acquired the lands, Refuge permittees irrigated all of the lands every year until 1995. Water from Eagle Creek and Bridge Creek is diverted onto these lands. The Place of Use includes the North 40 Field and Center 40 Field. From 1995 to 2003, the Refuge staff and I continued the historic practice of diverting water from the Main Eagle Creek diversion structure (Sec. 23, NWSWNE) on the Refuge. Water was diverted south and west across the Ewart (Stoddard) Field to the Place of Use in the North 40 Field and the Center 40 Field. The Refuge staff and I also diverted water from 1995 to 2003 across the Sibbett field to the Center 40, as had been done historically. Irrigation water on this Place of Use is used for stock and wildlife watering and to provide hay production to create diverse wet meadow habitats for sandhill cranes, waterfowl and shorebirds.

Since 1995 until 2003, Refuge staff have taken water measurements at specific water diversion points to quantify flows using water flow meters and, more recently, fixed flumes in two locations. In 1995, the Refuge staff cleaned the delivery ditch across private land, with the permission of the owner, from the point of diversion to the Place of Use. The distribution ditch within the Place of Use was cleaned at the same time. Maintenance and improvements to ditches were done again in 2002 to improve flows.

5) CLAIM: A25-04045 and new claim to unnamed stream (known as Hawkins Creek)

SOURCE: Willow Creek (A25-04045) and Unnamed Stream (a.k.a. Hawkins Creek) (new claim)

PLACE OF USE: T.4 S., R.43 E., Sec. 11, SENE, SWNE, NESW, NWSE, Bonneville Co., B.M.

POINT OF DIVERSION:

A25-4045: T.4 S., R.44 E., Sec. 6, SESW, Bonneville Co., B.M.; Point of Injection: T.4 S., R.43 E., Sec. 1, SESW; Points of Re-diversion: T.4 S., R.43 E., Sec. 11 SESENE.

New Claim: T.4 S., R.43 E., Sec. 11 SESENE, and additional in SESENE.

IRRIGATION OF PLACE OF USE: The Service acquired the land associated with these claims in 1975. After acquisition of the property, the Refuge Manager was involved in attempts

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to coordinate water use on the property with neighbors. For the first five years following purchase, an agreement was in place, as a condition of purchase, allowing the original owner to continue to manage the property for haying and grazing as he had done previously, including water management which supported haying, grazing and wildlife. This water management was considered beneficial to the Refuge. To the best of my knowledge the former owner irrigated all of the lands in the Place of Use until 1980 and after the five year agreement expired in 1980, the Refuge permittee continued to irrigate all of the lands every year until 1995. The Place of Use consists of meadows, also known as Hayfield and Hawkins Creek fields, which are part of tract #32. Since 1995, the Refuge staff and I have taken an active role in irrigating the Place of Use every year. I coordinated closely with the adjacent landowner upstream to ensure the Refuge receives sufficient flows through Willow Creek and Hawkins Creek. This water is used for hay production and stock water and provides important wildlife habitat for sandhill cranes, waterfowl and shorebirds. Maintenance and improvements to ditches were done in 2002.

6) CLAIM: A25-13722

SOURCE: Eagle Creek

PLACE OF USE: T.4 S., R.43 E., Sec. 23, Lots 2 & 3, Bonneville Co., B.M.

POINT OF DIVERSION: T.4 S., R.43 E., Sec. 23, NENW, Bonneville Co., B.M.

IRRIGATION OF PLACE OF USE: The Service acquired the land associated with this claim in 1988. After acquisition of the property, the Refuge Manager was involved in attempts to coordinate water use on the property with neighbors. To the best of my knowledge, since the Service acquired the lands, the Refuge permittee irrigated all of the lands in the Place of Use every year from 1988 to 1995. Refuge staff cleaned the ditches and laterals in the Place of Use in 1992. Since 1995, the Refuge staff has continued to irrigate all of the lands every year. The Place of Use is also known as Boathouse Field (Tract 40).

As Refuge Manager I diverted water into the Boathouse Field (Tract 40) annually via a ditch from the main Eagle Creek ditch. This water irrigated the Boathouse Field, to the south and west of the Point of Diversion, for hay production, while also providing wildlife and stock water. From 1995 through 2003, I measured water flows using flow meters and, more recently, a Parshall flume to quantify Eagle Creek flows used to irrigate this Place of Use. Maintenance and improvements to ditches were done in 2002.

7) CLAIM: A25-14084

SOURCE: Bridge Creek

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PLACE OF USE: T.4 S., R.43 E., Sec. 35, SWNW and Sec. 34, NENE, NWNE, SWNE, SENE, NESE, NWSE, Bonneville Co., B.M.

POINT OF DIVERSION: T.4 S., R.43 E., Sec. 35, NWNW, B.M.

IRRIGATION OF PLACE OF USE: The Service acquired the land associated with this claim in 1980. After acquisition of the property, the Refuge Manager was involved in attempts to coordinate water use on the property with neighbors. Since the Service acquired the lands, irrigation flows have reached the Place of Use every year. The Place of Use is the Tingey Tract, #51. The Refuge staff has irrigated these lands every year since 1980. Water is used for hay production, stock water and for important wildlife use by sandhill cranes, waterfowl and shorebirds. Since 1995, I have measured water flows down the Bridge Creek channel using flow meters. Maintenance and improvements to ditches were done in 2002.

8) CLAIM: A25-14096

SOURCE: Willow Creek

PLACE OF USE: T.3 S., R.43 E., Sec. 34, NWSE, SWSE, SESE, and Sec. 35 SWSW, Bonneville Co., B.M.

POINT OF DIVERSION: T.3 S., R.43 E., Sec. 35, NESW, Sec. 34, NESE, Bonneville Co., B.M.

IRRIGATION OF PLACE OF USE: The Service acquired the land associated with this claim in 1975. After acquisition of the property, the Refuge Manager was involved in attempts to coordinate water use on the property with neighbors. For the first five years following purchase, an agreement was in place, as a condition of purchase, allowing the original owner to continue to manage the property for haying and grazing as he had done previously, including water management to support the haying, grazing, and wildlife. This water management was considered beneficial to the Refuge. To the best of my knowledge, the former owner irrigated all of the lands in the Place of Use until 1980, and after the five year agreement expired in 1980, the Refuge permittee irrigated all of the lands every year until 1995. After 1995, Refuge staff continued to irrigate the Place of Use every year. Water from Willow Creek irrigates the Place of Use, known as Willow Creek Field (Tract #32). Uses include stockwater and watering of meadows for important wildlife habitat for sandhill cranes, waterfowl and shorebirds. I have been measuring Willow Creek flows since 1995 using water flow meters. Maintenance and improvements to Willow Creek ditches were done in 2002.

Further affiant saith not. **DATED** this _____th day of January 2005.

PROFILED

Michael N. Fisher
U.S. Fish and Wildlife Service
4425 Burley Drive, Suite 4
Chubbuck, ID 83202

STATE OF _____)
COUNTY OF _____)

The affiant, Michael N. Fisher, being first duly sworn by me, hereby declares that he has read the foregoing Affidavit and that the information contained therein is true and accurate to the best of his knowledge and belief.

Subscribed and sworn to me by Michael N. Fisher this ____th day of January 2005.

NOTARY PUBLIC

Residing at _____

(Seal)

My Commission Expires:

DESCRIPTIVE SUMMARY

This document is an affidavit by David J. Langman regarding the management of water from various sources at the Grays Lake National Wildlife Refuge (Refuge).

AFFIDAVIT

I, David J. Langman, being first duly sworn,

1. I am a resident of Battle Ground, Washington, and am employed by the U. S. Fish and Wildlife Service (FWS), Region 1 as a Regional Hydrologist in the Water Resources Branch of the Division of Engineering in Portland, Oregon.
2. I am a trained hydrologist with an Associate of Applied Science Degree in Water Resources from Spokane Community College, Spokane, Washington and a Bachelor of Science Degree in Geology from Eastern Washington University, Cheney, Washington. Since college, I have received additional advanced training in hydraulics and hydrology.
3. I have been employed by the FWS as a hydrologist since October 1989. Previous to my current position, I was employed by the U. S. Geological Survey as a Hydrologic Technician (1981 - 1983) and as a Hydrologist (1983 - 1989) before transferring to the U. S. Fish and Wildlife Service in October 1989. My responsibilities include the areas of hydrology and water rights management for the six states comprising Region 1, which includes Idaho. These duties also include among others, recommending measurement devices for specific sites and situations, designing and installing water measurement devices, making water flow measurements, providing training in water measurement procedures to other personnel in the Region, reviewing and interpreting water-measurement data , and researching water rights.
4. I also have a thorough understanding of the 48 Snake River Basin Adjudication (SRBA) claims pertinent to the Refuge. I have been the point of contact for the FWS regarding these claims since 1994, and have worked with Refuge staff to ensure the validity of each claim described below.
5. Between 1994 and 2003, I have installed/overseen the installation of approximately 16 water-use monitoring systems at the Refuge. The purpose of these monitoring sites is to quantify the amount of water diverted to the place of use covered under the Refuge's irrigation water rights claims filed in the SRBA. Specifically, these irrigation claims include A25-00229A, A25-04032, A25-04034B, A25-04045, A25-13722, A25-14084, A25-14096, and three new claims for Bridge Creek, Eagle Creek, and an unnamed stream locally known as Hawkins Creek. The monitoring sites relevant to these claims are:

Station Name: Herman Creek near Collins Ranch - East Channel

Station Number 461201

Monitors water-use under claim no. A25-0229A

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Source - Herman Creek
Period of record - July 1995 to present

Station Name: Herman Creek near Collins Ranch - West Channel
Station Number 461202
Monitors water-use under claim no. A25-0229A
Source - Herman Creek
Period of record - July 1995 to present

Station Name: Bridge Creek & Eagle Creek at Sibbett Field
Station Number 461203
Monitors water-use under claim no. A25-4032 and A25-4034B
Source - Bridge Creek and Eagle Creek
Period of record - July 1995 to present

Station Name: Willow Creek near Mann Ranch
Station Number 461204
Monitors water-use under claim no. A25-4046B
Source - Willow Creek
Period of record - July 1995 to present

Station Name: Hawkins Creek near Linstrom Ranch
Station Number 461205
Monitors water-use under claim no. A25-4045
Source - Hawkins Creek
Period of record - July 1995 to present

Station Name: Eagle Creek Ditch near Boathouse
Station Number 461206
Monitors water-use under claim no. A25-13722
Source - Eagle Creek
Period of record - July 1995 to present

Station Name: Herman Creek near Collins Ranch - Main Channel
Station Number 461208
Monitors water-use under claim no. A25-0229A
Source - Herman Creek
Period of record - July 1995 to present

Station Name: Bridge Creek near Tingey Ranch
Station Number 461212
Monitors water-use under claim no. A25-14084
Source - Bridge Creek
Period of record - unknown

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Station Name: Eagle Creek at Ewart Field - East Ditch

Station Number 461213

Monitors water-use under claim no. A25-4005 and A25-4034B

Source - Eagle Creek

Period of record - May 2002 to present

Station Name: Eagle Creek at Ewart Field Field - West Ditch

Station Number 461214

Monitors water-use under claim no. A25-4005 and A25-4034B

Source - Eagle Creek

Period of record - May 2002 to present

Station Name: Dugway Ditch at East Ewart Field - Upper Site

Station Number 461215

Monitors water-use under claim no. A25-4034B

Source - Eagle Creek

Period of record - May 2002 to present

Station Name: Dugway Ditch at East Ewart Field - Lower Site

Station Number 461216

Monitors water-use under claim no. A25-4034B

Source - Eagle Creek

Period of record - May 2002 to present

7. I have included copies of the FWS's Annual Water Use records for specified years for the above stations. These reports demonstrate the amount of water diverted for the specified year(s).
8. Since 1994 I have made over 35 trips to the Refuge. These trips were made to recommend and/or install measuring systems and to become familiar with the various water resources of the Refuge. Over the past 11 years, I have gained an understanding of water sources, delivery, and management under the claims referenced above at paragraph #4, including: where and how the Refuge receives its water under its SRBA claims and how it is managed.
9. Based on the data collected at FWS monitoring stations and my familiarity with the water systems on the Refuge, I provide the following conclusions:

CLAIM:A25-00229A

The source of water for this claim is Herman Creek (also known as Meyers Creek). The water is first diverted from its source in the NWNW, Sec.28, T.3S., R.43E., B.M. and is diverted for wildlife, stock and irrigation purposes onto the NWNW, SWNW, Sec. 28, and NENE, SENE, Sec. 29, T.3S., R43E., B.M. It is my understanding that since the Service acquired the Place of Use (POU) in 1976,

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Refuge staff have diverted the water for irrigation, stock and wildlife purposes. Water use under this claim has been measured at Stations No(s).461201, 461202, and 461208 since July of 1995. The attached FWS's Annual Water Use Records, 1996-1997 Water Years, show that the claimed amount was diverted, and the Ralph Stoor and Michael Fisher affidavits show that the water was beneficially used.

CLAIM:A25-04032 (Bridge Creek) & New Claim (Eagle Creek)

The primary source of water for the POU covered by these claims is Bridge Creek. When sufficient water is not available from Bridge Creek, water is used from Eagle Creek, coming through the Dugway Ditch into the Bridge Creek channel for use on the Refuge. I have observed this several times on my visits to the Refuge. Water use under these claims has been measured at Station No. 461203 since July of 1995. It is my understanding that since the Service acquired the POU in 1975, Refuge staff have diverted the water for irrigation, stock and wildlife purposes every year. The attached FWS's Annual Water Use Records, 1996-1997 Water Years, show that the claimed amount was diverted, and the Ralph Stoor and Michael Fisher affidavits show that the water was beneficially used.

CLAIM:A25-04034B (Eagle Creek) & New Claim (Bridge Creek)

The primary source of water for the POU covered by these claims is Eagle Creek. However, Bridge Creek water is also diverted onto these lands. Eagle Creek water reaches the POU from a ditch approximately one quarter mile north of the POU and from the Dugway Ditch to the east. Eagle Creek also co-mingles with Bridge Creek and reaches the POU through the Bridge Creek channel. Bridge Creek reaches the POU of use from the southeast. I have observed this several times on my visits to the Refuge. Water diverted under these claims can be monitored at Stations Nos. 461203, 461213, 461214, 461215, and 461216. It is my understanding that since the Service acquired in the POU in 1986, Refuge staff have diverted the water for irrigation, stock and wildlife purposes every year. The attached FWS's Annual Water Use Records, 1996-1997 Water Years, show that the claimed amount was diverted, and the Ralph Stoor and Michael Fisher affidavits show that the water was beneficially used.

CLAIM:A25-04045 (Willow Creek) & New Claim [(Unnamed Stream (a.k.a. Hawkins Creek))]

The sources of water for the POU covered by these claims are Willow Creek and an unnamed stream (a.k.a. Hawkins Creek). Water from Willow Creek is injected into an unnamed stream (a.k.a. Hawkins Creek). It is my understanding that since the Service acquire the POU in 1975, Refuge staff have diverted the water and it has been used for irrigation, stock and wildlife purposes every year.

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Since 1994, on two occasions I have observed water being diverted to the POU. Water-use under these claims have been monitored at one of its two points of re-diversion at Station No. 461205 since July 1995. The attached FWS's Annual Water Use Records, 1996-1997 Water Years, show that most of the water claimed was diverted through the first point of re-diversion. There is also a second point of diversion which is not measured. As stated in the affidavits of Ralph Stoor and Michael Fisher, the Refuge uses all of the water made available to it.

CLAIM:A25-13722

The source of water for this claim is Eagle Creek. It is my understanding that since the Service acquired the POU in 1988, Refuge staff have diverted the water for irrigation, stock and wildlife purposes every year. Since 1995 on several occasions, I have observed water being diverted to the POU. Water use under this claim has been monitored at Station No. 461206 since July 1995. The attached FWS's Annual Water Use Records, 1996-1997 Water Years, show that the claimed amount was diverted, and the Ralph Stoor and Michael Fisher affidavits show that the water was beneficially used.

CLAIM:A25-14084

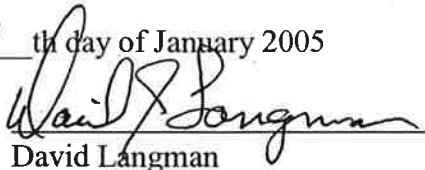
The source of water for this claim is Bridge Creek. It is my understanding that since the Service acquired the POU in 1980, Refuge staff have diverted the water for irrigation, stock and wildlife purposes every year. Since 1995 on several occasions, I have observed water being diverted to the POU. Water use under this claim is monitored at Station No. 461212. The attached FWS's Annual Water Use Records, 1996-2003 Water Years, show that the claimed amount was diverted, and the Ralph Stoor and Michael Fisher affidavits show that the water was beneficially used.

CLAIM:A25-14096

The source of water for this claim in Willow Creek. It is my understanding that since the Service acquired the POU in 1975, Refuge staff have diverted the water for irrigation, stock and wildlife purposes every year. Since 1995 on several occasions, I have observed water being diverted to the POU. Water use under this claim has been monitored at Station No. 461204 since July 1995. The attached FWS's Annual Water Use Records, 1996-1997 Water Years, show that the claimed amount was diverted, and the Ralph Stoor and Michael Fisher affidavits show that the water was beneficially used.

PROFILE

Further affiant saith not. **DATED** this 11 th day of January 2005

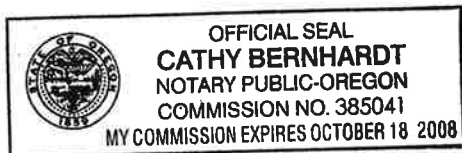


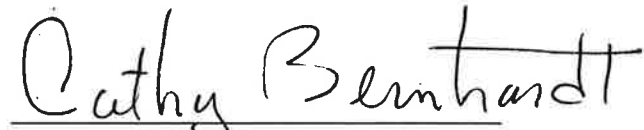
David Langman
U.S. Fish and Wildlife Service
911 NE 11th Avenue
Portland, Oregon 97232-4181

STATE OF Oregon)
COUNTY OF Multnomah)

The affiant, David Langman, being first duly sworn by me, hereby declares that he has read the foregoing Affidavit and that the information contained therein is true and accurate to the best of his knowledge and belief.

Subscribed and sworn to me by David Langman this 11 th day of January 2005.




NOTARY PUBLIC

Residing at Portland, Oregon

(Seal)

My Commission Expires: October 18, 2008

PROFILED

I , Ralph Stoor, being first duly sworn, depose and testify as follows:

My name is Ralph E. Stoor and I am currently employed by the U.S. Fish and Wildlife Service (USFWS or Service) as an Engineering Equipment Operator at the Grays Lake National Wildlife Refuge (Refuge), near Wayan, Idaho. I have been employed by the USFWS since 1966. In my role as an Engineering Equipment Operator, I am assigned responsibility and duties for, operating and maintaining heavy equipment, maintaining government owned buildings, grounds, and facilities, maintaining refuge fencing, refuge farming operations, checking on refuge haying and grazing permittees, maintaining water levels, managing refuge water gaging controls, irrigating refuge lands, assisting in installation of water measurement flumes, coordinating Regional Office Service Personnel and other refuge programs, and attending water training sessions.

In addition to working at the refuge, I have lived in the Wayan and Soda Springs, Idaho, area for 60 years. I am familiar with irrigation practices both on- and off-refuge lands, before and after the refuge was established. I have owned my own ranching operation in the Wayan area (Grays Lake Valley) since 1962, and was also born and raised on the same ranch which I have worked for approximately 50 years.

I have personal knowledge and experience in diverting water for irrigation and wildlife purposes onto the Grays Lake Refuge lands covered under claims A25-00229A, A25-02161, A25-04032, A25-04034B, A25-04045, A25-13722, A25-14084, A25-14096, and the new Bridge Creek, Eagle Creek, and unnamed stream (locally known as Hawkins Creek) claims. Specifically, water was diverted for irrigation and wildlife purposes as indicated below:

1) CLAIM: A25-00229A

SOURCE: Herman Creek (also known as Meyers Creek)

PLACE OF USE: T.3 S., R.43 E., Sec. 28, NWNW, SWNW, and Sec. 29, NENE, SENE, Bonneville Co., B.M

POINT OF DIVERSION: T.3 S., R.43 E., Sec. 28, NWNW, Bonneville Co., B.M.

IRRIGATION OF PLACE OF USE: The Service acquired the 160 acres of land associated with this claim in 1976. I refer to these lands as the Rich Tract. Since the Service acquired the lands, Refuge staff have made efforts to irrigate every year. Since that date, I was involved in constructing wildlife and stockwater ponds in areas tied directly to this specific diversion and in approving irrigation. During 1977, I was involved in the construction of a low elevation dike off the diversion and in October of 1994 a new west ditch was constructed in the Rich Tract. In August of 1982, I was involved in the construction of a pond for wildlife and stockwater use off the Herman Creek Channel. On July 1, 1993, the area was surveyed for culvert installation and water control structures

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were in place by August 4, 1993. During the period from 1976 through 2004 ditches and water control structures were cleaned and maintained on a regular basis (as needed). Since the installation of the water control structures, water levels have been actively managed in that area when water was available. In October (25th and 26th) of 1994 two new ditches were created off the Herman Creek Channel to improve irrigation and on November 3rd and 4th of that same year additional work was done on the ditches, including surveys. Throughout the time the Service has owned the property, water has been used for irrigation, wildlife and stockwater.

From a historical perspective, obvious evidence of old natural water and diversion channels exists in that same area today (within the Rich Tract and on BLM property just east of the County Road - Grays Lake Road).

2) CLAIM: A25-02161

SOURCE: A well near Headquarters

PLACE OF USE: T.4 S., R.43 E., Sec. 35, SENE, Bonneville Co., B.M.

POINT OF DIVERSION: T.4 S., R.43 E., Sec. 35, SENE, Bonneville Co., B.M.

IRRIGATION OF PLACE OF USE: The Service acquired the land associated with the claim in 1969. Since the Service acquired the lands, the Refuge has used this well to: supply water to a residence, headquarters office, shop, bunkhouse, guard station, 3 hydrants, an RV pad; irrigates lawn surrounding the office area; and provide water for livestock.

3) CLAIM: A25-04032 and new claim to Eagle Creek

SOURCE: Bridge Creek (A25-04032) and Eagle Creek (new claim)

PLACE OF USE: T.4 S., R.43 E., Sec. 26, NENW, Bonneville Co., B.M

POINT OF DIVERSION:

A25-04032: T.4 S., R.43 E., Sec. 26, SWNE, and T.4 S, R.43 E, Sec. 25, SESE and SWSW, Bonneville Co., B.M.

New Claim: T.4 S., R.43 E., Sec. 23, NENE; Point of Injection: T.4 S., R.43 E., Sec. 26, NESWNE; Point of Re-diversion: T.4 S., R.43 E., Sec. 26, NESWNE

IRRIGATION OF PLACE OF USE: The Service acquired the 40 acres of land associated with this claim in 1973. I refer to these lands as the South 40. Since the Service acquired the lands, Refuge staff have made efforts to irrigate every year. Bridge

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Creek water serves the entire place of use. However, water from Eagle Creek (coming through the ditch east of the County Road and into the Bridge Creek channel) is also used. Since Service ownership, I have observed that water from these diversions primarily served to provide irrigation, stockwater, and to supply wildlife wetlands during the Spring, Summer, and Fall. As long as I can remember, and before the Service acquired the property, waters from these diversions irrigated pasture lands, provided livestock water, and supplied water to wetlands. On August 29, 1988, the north diversion channel of Bridge Creek was cleaned to improve irrigation, stock, and wildlife water delivery to the South and Middle 40 Units and southern edge of the North 40 Unit.

4) CLAIM: A25-04034B and new claim to Bridge Creek

SOURCE: Eagle Creek (A25-04034B) and Bridge Creek (new claim)

PLACE OF USE: T.4 S., R.43 E., Sec. 23, NESW, SESW, and SWSW, Bonneville Co., B.M.

POINT OF DIVERSION:

A25-04034B: T.4 S., R.43 E., Sec. 23, NENE, and NWSWNE, Bonneville Co., B.M.;

Point of Injection: T.4 S., R.43 E., Sec. 26, NESWNE; Point of Re-diversion: T.4 S., R.43 E., Sec. 26, NESWNE;

New Claim: T.4 S., R.43 E., Sec. 26, SWNE, and T.4 S, R.43 E, Sec. 25, SESE and SWSW, Bonneville Co., B.M.

IRRIGATION OF PLACE OF USE: The Service acquired the 80 acres of land associated with this claim in 1986. I refer to these lands as the North 40 (NESW) and Middle 40 (SESW). Since the Service acquired the lands, Refuge staff have made efforts to irrigate every year. The primary source of water for this tract is Eagle Creek. However, there are times when Bridge Creek water is additionally diverted onto these lands. Prior to Service ownership, I observed early-Spring through mid-Summer and Fall irrigation of crops located in the "North 40" and "Middle 40" for haying and pasture. Since Service ownership of this property, the lands continue to receive irrigation water for haying crops, pasture and wildlife. Beginning with the establishment of the refuge in 1965, work to improve water delivery from the main Eagle Creek channel was initiated. On September 22, 1976, work was done on the Eagle Creek water control structure and main diversion to improve water delivery to the refuge and lands owned by adjacent neighboring landowners (now the refuge). I have documented additional work to maintain this particular water delivery system beginning in 1987 to present; this work has occurred almost on an annual basis. In addition, at least six diversion culverts out of the Dugway Ditch supply Eagle Creek water to the Ewart Field (or Stoddard Field) and the Middle and North 40 Units. These diversions from the Dugway Ditch divert water prior to running onto the adjacent private landowner to the south. Historically, these fields

were flood irrigated on almost an annual basis prior to refuge ownership. Since refuge ownership of these same parcels, they have been irrigated in the same manner almost annually for the purposes of proving irrigation of croplands, stockwater and wildlife. Refuge staff has done, and continues to do, a considerable amount of maintenance work on the Dugway Ditch (as needed); including filling leaks, upkeep of culverts, and cleaning ditches. On August 29, 1988 the north diversion channel of Bridge Creek was cleaned to improve irrigation, stock, and wildlife water delivery to the South and Middle 40 Units and southern edge of the North 40 Unit.

5) CLAIM: A25-04045 and new claim to unnamed stream (known as Hawkins Creek)

SOURCE: Willow Creek (A25-04045) and Unnamed Stream (a.k.a. Hawkins Creek) (new claim)

PLACE OF USE: T.4 S., R.43 E., Sec. 11, SENE, SWNE, NESW, NWSE, Bonneville Co., B.M.

POINT OF DIVERSION:

A25-4045: T.4 S., R.44 E., Sec. 6, SESW, Bonneville Co., B.M.; Point of Injection: T.4 S., R.43 E., Sec. 1, SESW; Points of Re-diversion: T.4 S., R.43 E., Sec. 11 SESENE

New Claim: T.4 S., R.43 E., Sec. 11 SESENE, and additional in SESENE.

IRRIGATION OF PLACE OF USE: The Service acquired the 69.2 acres of land associated with this claim in 1975. I refer to these lands as the Hawkin's Field (NWSE) and the Hay Field (SENE, SWNE, and NESW). Since the Service acquired the land, Refuge staff have taken an active role in irrigating on regular basis as water is available for croplands, livestock and wildlife. Since approximately November 30, 1977, the refuge has coordinated with the neighboring private landowner to maintain the initial diversion from the Willow Creek Channel into Hawkin's Creek. The refuge has also spent a significant amount of time throughout the years coordinating with the same private landowner to ensure the refuge receives sufficient water for irrigation of hay fields, pasture lands and for wildlife habitat. The original Hawkin's Creek Channel was changed by the landowner from the Hay Field to the fence line diverting water into the Hawkin's 40 Field. Refuge staff have since cleaned, improved and cut new ditches in order to more adequately provide irrigation water to the Hawkin's 40 Field. Refuge staff have coordinated with the adjacent landowner for several years to divert water to the North Ditch in order to provide irrigation and wildlife water to the Hay Field. I have documented additional work on the Hawkin's Creek Channel for both September 21 and October 17, 1995. It is my understanding that this same property was historically irrigated prior to Service acquisition.

PROFILED

6) CLAIM: A25-13722

SOURCE: Eagle Creek

PLACE OF USE: T.4 S., R.43 E., Sec. 23, Lots 2 & 3, Bonneville Co., B.M.

POINT OF DIVERSION: T.4 S., R.43 E., Sec. 23, NENW, Bonneville Co., B.M.

IRRIGATION OF PLACE OF USE: The Service acquired the 44.5 acres of land associated with this claim in 1988. Since the Service acquired the land, Refuge staff have irrigated almost every year. Prior to Service ownership, I observed the primary source of water supply to these tract coming from Eagle Creek. Prior to Service ownership, I observed early-Spring through mid-Summer, and when water was available, throughout the Fall, irrigation of the Boat House Field for hay crops, pasture units, wetlands, and for a stockwater pond. Since Service ownership of this property, the lands continue to receive irrigation water for haying crops, pasture and wetlands for wildlife. Beginning with the establishment of the refuge in 1965, work to improve water delivery from the main Eagle Creek channel was initiated. On September 22, 1976, work was done on the Eagle Creek water control structure and main diversion to improve water delivery to the refuge and lands then owned by adjacent neighboring landowners (now the refuge). I have documented additional work to maintain this particular water delivery system from 1976 to present; which has occurred almost on an annual basis. In addition, since November 9th, 1987, the refuge also has records of irrigating the Boat House Field with waters from the Eagle Creek Channel on a fairly regular basis, for purposes of irrigating croplands, and providing water for livestock and wildlife.

7) CLAIM: A25-14084

SOURCE: Bridge Creek

PLACE OF USE: T.4 S., R.43 E., Sec. 35, SWNW and Sec. 34, NENE, NWNE, SWNE, SENE, NESE, NWSE, Bonneville Co., B.M.

POINT OF DIVERSION: T.4 S., R.43 E., Sec. 35, NWNW, B.M.

IRRIGATION OF PLACE OF USE: The Service acquired the 140.84 acres of land associated with this claim in 1980. I refer to these lands as the Tingy Field. Since the Service acquired the lands, Refuge staff have irrigated as often as possible when water is available, which usually occurs during Spring and early-Summer and occasionally mid-

PROFILED

Summer, using water from the Bridge Creek Channel (also know as the Fulton Creek Channel). Prior to Service ownership, the Service installed on July 28, 1977, culverts along, and within, the Service right-of-way (Bridge Creek Access Road) for the purposes of diverting water. On November 5, 2001, additional lateral ditches were constructed and the creek channel cleaned. On June 27, 1988, the Service replaced the original water control structure (on Ewart Muir property). The stock ponds, currently used for livestock and wildlife, were established prior to these parcels being purchased by the Service. Prior to refuge establishment in 1965, the Tingy Field was irrigated and Bridge Creek water was the source of irrigation for these areas while under private ownership. Since that time, the refuge has assisted in operating the water control structure to divert waters either west or north for the purposes of irrigation and providing water for livestock and wildlife. Since 1988, the Service has also solely maintained and cleaned (as needed) the Bridge Creek delivery channel and water control structure to ensure water delivery to private landowners and the refuge. Bridge Creek waters are used annually by the refuge, during the Spring and Summer, to fill several ponds and for irrigation at the west end of Bridge Creek Lane for stockwater, croplands, and wildlife.

8) CLAIM: A25-14096

SOURCE: Willow Creek

PLACE OF USE: T.3 S., R.43 E., Sec. 34, NWSE, SWSE, SESE, and Sec. 35 SWSW, Bonneville Co., B.M.

POINT OF DIVERSION: T.3 S., R.43 E., Sec. 35, NESW, Sec. 34, NESE, Bonneville Co., B.M.

IRRIGATION OF PLACE OF USE: The Service acquired the 100 acres of land associated with this claim in 1975. Since the Service acquired the lands, Refuge staff in association with a neighboring landowner, have irrigated almost every year. Prior to Service ownership, existing ditches and creek channels were used by the previous landowner to deliver water for irrigation, stockwater and wetlands. Since November 30, 1977, the refuge (in cooperation with the adjacent landowner) has continued to maintain the diversion and flow water from the Willow Creek channel for irrigation, and for providing water for livestock and wildlife. On October 21, 2002 ditches off the main Willow Creek Channel were cleared and additional diversion channels added for purposes of providing increased flows for irrigation, livestock and wildlife.

Further affiant saith not. **DATED** this _____th day of January, 2005.

PROFILED

Ralph E. Stoor
U.S. Fish and Wildlife Service
911 NE 11th Avenue
Portland, Oregon 97232-4181

STATE OF _____)

COUNTY OF _____)

The affiant, Ralph Stoor, being first duly sworn by me, hereby declares that he has read the foregoing Affidavit and that the information contained therein is true and accurate to the best of his knowledge and belief.

Subscribed and sworn to me by Ralph Stoor this ____th day of January, 2005.

NOTARY PUBLIC

Residing at: _____

(Seal)

My Commission Expires:

PROFILED

WATER LOCATION

Notice of Water Location

January 28th 1886

Bon

James Webbitt

Notice is hereby given that the undersigned have this day claimed & appropriated and do hereby claim and appropriate five hundred inches of Water measured under a four inch pressure or so much thereof as there is or may be in the waters of Eagle Creek remaining unclaimed.

Said Water is to be diverted from said Creek by placing a dam across the creek at a point about one mile in a North easterly direction from the House now owned and occupied by the undersigned James Webbitt.

The Water is to be used for domestic and agricultural purposes on the land now settled on and claimed by the undersigned James Webbitt.

The water is to be conducted to said land by means of a ditch four feet wide and one foot deep with a fall equal to the natural fall of the land.
Territory of Idaho } ss James Webbitt,
County of Teton

James Webbitt first being duly sworn deposes and says that he posted a full true and correct copy of the foregoing Notice in a conspicuous place at the place stated therein as the point of diversion on the 28th day of February A.D. 1886.

Subscribed and sworn to before me this 3rd day March A.D. 1886.

John A. Foster

Justice of the Peace.

Recorded March 5th 1886
at 11 o'clock am.

J. Mc Lifford
Recorder
by Frank N. Bigby
County.

Homestead Map

Located at Bonneville County Recorder's Office

BRIDGE CREEK NR. SIBBETT FIELD
Annual Water-Use Records
1996-1997 WATER-YEAR

SCANNED
AUG 06 2007

RECEIVED
JAN 12 2005
Department of Water Resources
Eastern Region

UNITED STATES DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE
REGION 1
SITE DESCRIPTION

1. **REFUGE/HATCHERY NAME:**
Gray Lake National Wildlife Refuge
2. **SITE NAME:**
Bridge Creek Channel at Sibbett Field
3. **SITE NUMBER:**
461203
4. **PURPOSE OF GAGE:**
To monitor water-use for Water Right No. 25-4032.
5. **DESCRIPTIVE LOCATION OF SITE:**
Latitude 43° 02' 43", Longitude 111° 25' 12" (approximately); approximately 1 mile north of headquarters 500 feet downstream from Grays Lake Road.
6. **SUMMARY OF GAGE SYSTEM:**
None - Instantaneous measurements only.
7. **DESCRIPTION OF RECORDING SYSTEM:**
None
8. **REFERENCE GAGE:**
None
9. **REFERENCE MARKS:**
None
10. **DATA COLLECTION:**
Instantaneous discharge measurements are taken bi-weekly by float method due to extremely low velocities.
Also possibly with March McBirney.
11. **ESTABLISHMENT:**
Measuring reach established by Regional and Refuge Staff on July 19, 1995.
12. **HISTORY:**
July 19, 1995 - Monitoring site selected and established for instantaneous discharge measurements.
13. **FUTURE WORK NEEDS (CLEANING, LEVELS, ETC.):**
Need to keep measuring reach free of grass and weeds.
14. **DESCRIPTION OF CHANNEL:**
The Channel meanders and is lined with heavy grass growth on both banks. The bed is composed of sand and silt.
15. **DESCRIPTION OF CONTROL (FLUME, WEIR, ETC.)**
None
16. **WINTER FLOW:**
Subject to ice cover.

SCANNED
AUG 06 2007

17. LOCATION AND TYPE OF DIVERSIONS:

Stop-log structure located approximately 50 feet down stream, conveys water to the north and south portions of the place-of-use.

18. LOCATION AND TYPES OF REGULATION:

None

19. LAND STATUS:

Site is located on Fish and Wildlife Service property.

20. COOPERATING AGENCIES:

None

21. USGS TOPO MAP:

Bear Island, Idaho

PREPARED BY:

David Langman

DATE:

August 11, 1995

SCANNED
AUG 06 2007

U.S. Department of the Interior
Fish and Wildlife Service
 (Discharge Measurement Summary Sheet)

Grays Lake NWR -- W.Y. 1996

SCANNED
AUG 06 2007

Site Name: Bridge Creek at Sibbett Field

Station No. 461203

Meas. No.	Date	Made By	Width (ft)	Area (ft2)	Mean Vel. (ft/sec)	Gage Height (ft.)	Discharge (cfs)	Rating No. N/A		Method	Remarks
								Shift	% Diff		
9	4/23/1996	Stoor Fisher	26.4	29.1	0.64	-----	18.7	-----	-----	Wading	Bridge Creek flooding slightly out of banks. Diversion culvert full. 30 % going to N. Channel. Meas. rated good (G).
10	5/9/1996	Fisher	26.5	29.6	0.29	-----	8.61	-----	-----	Wading	Flooding slightly. Diversion open but restricting flow. 50% to N. Channel. Meas. rated good (G).
11	5/29/1996	Nuffer Stoor	18.0	26.2	0.37	-----	9.63	-----	-----	Wading	All Bridge Creek water. 40% to Place of Use (Irr) 60% in channel for Wildlife use. Meas. rated good (G).
12	6/24/1996	Nuffer Stoor	8.00	6.90	0.14	-----	1.00	-----	-----	Wading	Small amount of vegetation in channel. Meas. rated good (G).
13	7/17/1996	Nuffer Stoor	9.00	0.75	1.05	-----	0.79	-----	-----	Wading	Co-Mingled water; 50% Bridge Creek and 50% Eagle Creek. Ostler passing Eagle Creek water upstream. Meas. rated good (G).
14	8/26/1996	Nuffer Newbold	8.00	5.55	0.05	-----	0.25	-----	-----	Wading	Small amount of vegetation in channel. Meas. rated good (G).

Remarks: Seasonal water diversion to place of use began on 4/15 and was shut-off on 8/26/96.
 Sixt measurements of flow were obtained by the "Current Meter" method.

U.S. FISH AND WILDLIFE SERVICE - DIVISION OF ENGINEERING
461203 Bridge Creek Channel at Sibbett Field

DAILY DISCHARGE IN CUBIC FEET PER SECOND WATER YEAR OCT 1995 TO SEP 1996

Day	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
1	0	0	0	0	0	0	0	14	8.6	.94	.59	0
2	0	0	0	0	0	0	0	13	8.3	.93	.57	0
3	0	0	0	0	0	0	0	12	8.0	.92	.56	0
4	0	0	0	0	0	0	0	12	7.6	.91	.55	0
5	0	0	0	0	0	0	0	11	7.3	.90	.53	0
6	0	0	0	0	0	0	0	11	7.0	.89	.52	0
7	0	0	0	0	0	0	0	9.9	6.6	.88	.51	0
8	0	0	0	0	0	0	0	9.2	6.3	.87	.49	0
9	0	0	0	0	0	0	0	*8.6	6.0	.86	.48	0
10	0	0	0	0	0	0	0	8.7	5.7	.85	.47	0
11	0	0	0	0	0	0	0	8.7	5.3	.84	.45	0
12	0	0	0	0	0	0	0	8.8	5.0	.84	.44	0
13	0	0	0	0	0	0	0	8.8	4.7	.83	.43	0
14	0	0	0	0	0	0	0	8.9	4.3	.82	.41	0
15	0	0	0	0	0	0	0	8.9	4.0	.81	.40	0
16	0	0	0	0	0	0	19	9.0	3.7	.80	.39	0
17	0	0	0	0	0	0	19	9.0	3.3	*.79	.37	0
18	0	0	0	0	0	0	19	9.1	3.0	.78	.36	0
19	0	0	0	0	0	0	19	9.1	2.7	.76	.34	0
20	0	0	0	0	0	0	19	9.2	2.3	.75	.33	0
21	0	0	0	0	0	0	19	9.2	2.0	.74	.32	0
22	0	0	0	0	0	0	19	9.3	1.7	.72	.30	0
23	0	0	0	0	0	0	*19	9.3	1.3	.71	.29	0
24	0	0	0	0	0	0	18	9.4	*1.0	.70	.28	0
25	0	0	0	0	0	0	17	9.4	.99	.68	.26	0
26	0	0	0	0	0	0	17	9.5	.98	.67	*.25	0
27	0	0	0	0	0	0	16	9.5	.97	.65	0	0
28	0	0	0	0	0	0	16	9.6	.96	.64	0	0
29	0	0	0	0	0	0	15	*9.6	.95	.63	0	0
30	0	0	0	0	-----	0	14	9.3	.95	.61	0	0
31	0	-----	0	0	-----	0	-----	9.0	-----	.60	0	-----
TOTAL	0	0	0	0	0	0	265	302.0	121.50	24.32	10.89	0
MEAN	0	0	0	0	0	0	8.83	9.74	4.05	.78	.35	0
MAX	0	0	0	0	0	0	19	14	8.6	.94	.59	0
MIN	0	0	0	0	0	0	0	8.6	.95	.60	0	0
AC-FT	0	0	0	0	0	0	526	599	241	48	22	0

CAL YEAR 1995 TOTAL* 0.00 MEAN 0 MAX 0 MIN 0 AC-FT 0
WTR YEAR 1996 TOTAL 723.71 MEAN 1.98 MAX 19 MIN 0 AC-FT 1,440

* Measured values, all others interpolated.

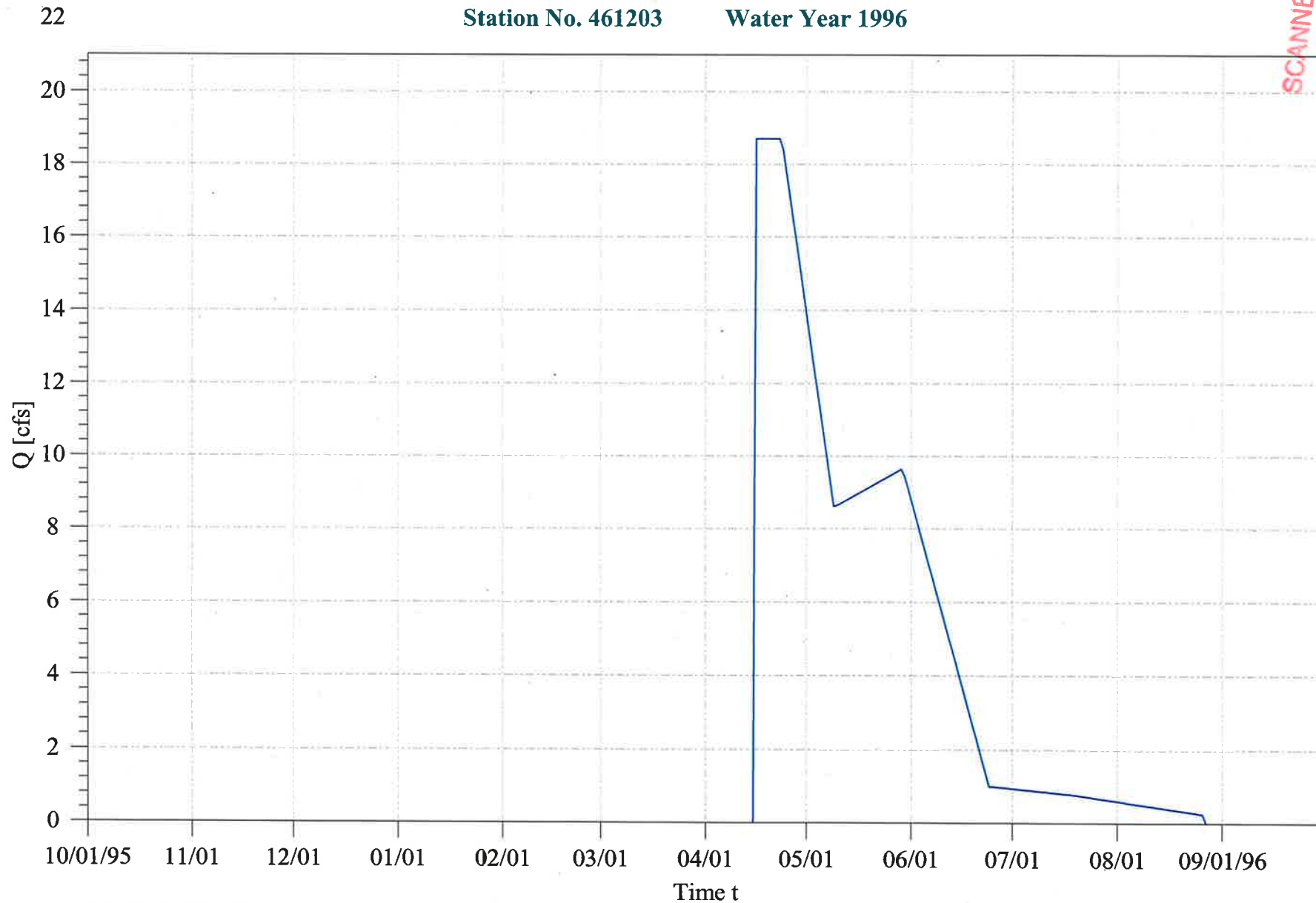
SCANNED
AUG 08 2007

BRIDGE CREEK CHANNEL AT SIBBETT FIELD

Station No. 461203

Water Year 1996

SCANNED
AUG 06 2007



Process date 27.12.2004 08:19

WATER MONITORING SITE ANALYSIS - WY 1996**SITE NUMBER:** 461203**SITE NAME:** Bridge Creek at Sibbett Field, ID**FACILITY:** Grays Lake NWR**EQUIPMENT:**

Instantaneous measurements made with Marsh McBirney flowmeter.

GAGE-HEIGHT RECORD: (Raw)**COMPLETENESS OF RECORD**

Not a continuously recorded station. Six instantaneous discharge measurements were made during the water year. Daily flow values were interpolated between measurement points.

DATA STORAGE:

Discharge measurements were made approximately monthly while water was being diverted from Bridge Creek. Measurements were recorded on discharge measurement note forms and returned to the Water Resources Branch. Measurements were entered in the WISKI database on 11/11/04 in the BrdgCrk.1.O time series.

GAGE-HEIGHT RECORD: (Edited)

Measurements were begin on 4/23/96 and end on 8/26/96. Assumed flow = 18.70 cfs after irrigation starts. Assume irrigation stopped on 8/27/96. All measurements were entered with times of 12:00 am. No other editing of discharge measurements were performed prior to entering data into WISKI. Interpolations were made between raw data points by the WISKI program itself. Gaps were inserted between measurements separated by more than 40 days. Interpolated values are stored within the time series "BrdgCrk.Q.1440.E"

DATUM AND TIME CORRECTIONS:

None

CONTROL:

Unknown

RATING/CONTENTS TABLE:

No rating curve exists for this site.

REMARKS:

Water diversions began on 4/15/96 and ended on 8/26/96. Six instantaneous discharge measurements were made during the irrigation season (No. 9-14). All were rated good in the field. The record is rated poor due to the limited number of measurements.

SCANNED

AUG 06 2007

WORKED BY: Fred Wurster**DATE:** November 2004

U.S. Department of the Interior
Fish and Wildlife Service
(Discharge Measurement Summary Sheet)

Grays Lake NWR -- W.Y. 1997

SCANNED
AUG 06 2007

Site Name: Bridge Creek at Sibbett Field

Station No. 461203

Meas. No.	Date	Made By	Width (ft)	Area (ft ²)	Mean Vel. (ft/sec)	Gage Height (ft.)	Discharge (cfs)	Rating No. N/A		Method	Remarks
								Shift	% Diff		
15	05/28/97	Nuffer Fisher	20.0	26.8	0.47	-----	12.5	-----	-----	Wading	95% Bridge and 5% Eagle. First meas. of the year. Rated good.
16	06/25/97	Fisher	7.50	5.50	0.02	-----	0.13	-----	-----	Wading	Ostler stopped Eagle Creek flow. Meas. not rated.
17	07/14/97	Heinz Fisher	9.00	8.80	0.16	-----	1.37	-----	-----	Wading	100% Bridge Creek. Meas. rated fair.
18	07/30/97	Heinz Fisher	8.00	6.20	0.08	-----	0.52	-----	-----	Wading	100% Bridge Creek. Meas. rated good.

Remarks: Seasonal water diversion to place of use began on 4/25 and was shut-off on 11/15/97.
Four measurements of flow were obtained by the "Current Meter" method.

461203

Bridge Creek Channel at Sibbett Field, Id

DISCHARGE (CFS), WATER YEAR 1997

DAILY MEAN VALUES

	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
1	0.00	0.00	0.00	0.00	0.00	0.00	0.00	13	11	0.51	0.5	0.35
2	0.00	0.00	0.00	0.00	0.00	0.00	0.00	13	10	0.58	0.5	0.35
3	0.00	0.00	0.00	0.00	0.00	0.00	0.00	13	10	0.66	0.49	0.34
4	0.00	0.00	0.00	0.00	0.00	0.00	0.00	13	9.6	0.73	0.49	0.34
5	0.00	0.00	0.00	0.00	0.00	0.00	0.00	13	9.1	0.8	0.48	0.34
6	0.00	0.00	0.00	0.00	0.00	0.00	0.00	13	8.7	0.88	0.48	0.33
7	0.00	0.00	0.00	0.00	0.00	0.00	0.00	13	8.2	0.95	0.47	0.33
8	0.00	0.00	0.00	0.00	0.00	0.00	0.00	13	7.8	1	0.47	0.32
9	0.00	0.00	0.00	0.00	0.00	0.00	0.00	13	7.3	1.1	0.46	0.32
10	0.00	0.00	0.00	0.00	0.00	0.00	0.00	13	6.9	1.2	0.46	0.31
11	0.00	0.00	0.00	0.00	0.00	0.00	0.00	13	6.4	1.2	0.45	0.31
12	0.00	0.00	0.00	0.00	0.00	0.00	0.00	13	6	1.3	0.45	0.3
13	0.00	0.00	0.00	0.00	0.00	0.00	0.00	13	5.5	1.4	0.44	0.3
14	0.00	0.00	0.00	0.00	0.00	0.00	0.00	13	5.1	*1.5	0.44	0.29
15	0.00	0.00	0.00	0.00	0.00	0.00	0.00	13	4.6	0.51	0.43	0.29
16	0.00	0.00	0.00	0.00	0.00	0.00	0.00	13	4.2	0.51	0.43	0.28
17	0.00	0.00	0.00	0.00	0.00	0.00	0.00	13	3.7	0.51	0.43	0.28
18	0.00	0.00	0.00	0.00	0.00	0.00	0.00	13	3.3	0.51	0.42	0.27
19	0.00	0.00	0.00	0.00	0.00	0.00	0.00	13	2.8	0.51	0.42	0.27
20	0.00	0.00	0.00	0.00	0.00	0.00	0.00	13	2.4	0.51	0.41	0.26
21	0.00	0.00	0.00	0.00	0.00	0.00	0.00	13	1.9	0.51	0.41	0.26
22	0.00	0.00	0.00	0.00	0.00	0.00	0.00	13	1.5	0.51	0.4	0.25
23	0.00	0.00	0.00	0.00	0.00	0.00	0.00	13	1	0.51	0.4	0.25
24	0.00	0.00	0.00	0.00	0.00	0.00	0.00	13	0.58	0.51	0.39	0.25
25	0.00	0.00	0.00	0.00	0.00	0.00	0.00	13	*0.13	0.51	0.39	0.24
26	0.00	0.00	0.00	0.00	0.00	0.00	13	13	0.14	0.51	0.38	0.24
27	0.00	0.00	0.00	0.00	0.00	0.00	13	13	0.21	0.51	0.38	0.23
28	0.00	0.00	0.00	0.00	0.00	0.00	13	*13	0.29	0.51	0.37	0.23
29	0.00	0.00	0.00	0.00	---	0.00	13	12	0.36	0.51	0.37	0.22
30	0.00	0.00	0.00	0.00	---	0.00	13	12	0.44	*0.51	0.36	0.22
31	0.00	---	0.00	0.00	---	0.00	---	11	---	0.51	0.36	---
Total	0	0	0	0	0	0	65	399	139.15	22.48	13.33	8.57
Mean	0.000	0.000	0.000	0.000	0.000	0.000	2.1	12.4	4.7	0.73	0.43	0.29
Max	0.00	0.00	0.00	0.00	0.00	0.00	13	13	11	1.5	0.5	0.35
Min	0.00	0.00	0.00	0.00	0.00	0.00	0.00	11	0.13	0.51	0.36	0.22
AC-Ft	0.00	0.00	0.00	0.00	0.00	0.00	129	791	276	45	26	17
WTR YE 1997	TOTAL		647.53	MEAN	1.8	MAX	13	MIN	0.000	AC-FT	1284	

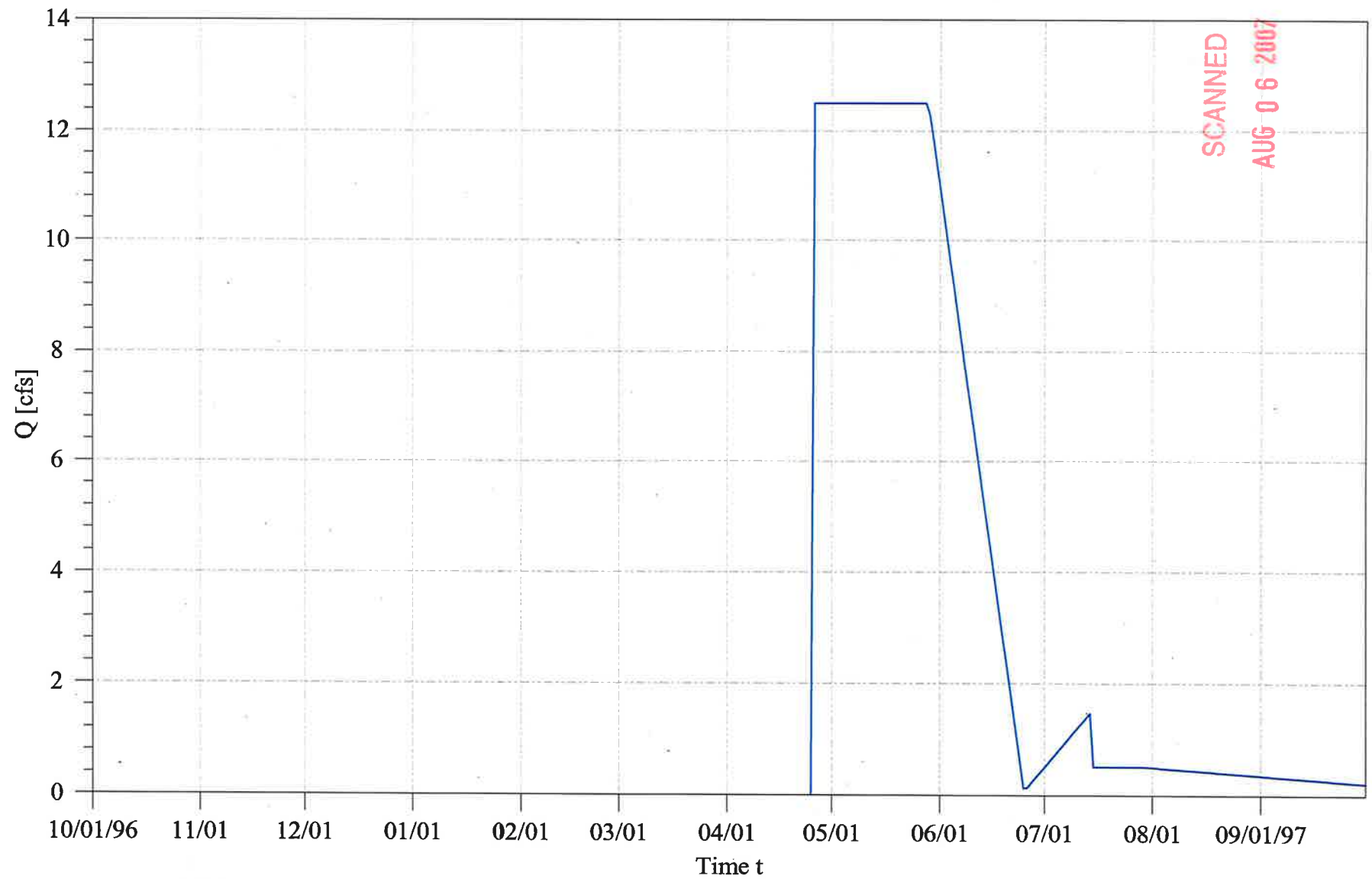
* Measured values, all others interpolated.

SCANNED
AUG 06 2007

Bridge Creek at Sibbett Field

Station No. 461203

Water Year 1997



SCANNED

AUG 06 2007

Process date 27.12.2004 09:40

WATER MONITORING SITE ANALYSIS - WY 1997**SITE NUMBER:** 461203**SITE NAME:** Bridge Creek at Sibbett Field, ID**FACILITY:** Grays Lake NWR**EQUIPMENT:**

Instantaneous measurements made with Marsh McBirney flowmeter.

GAGE-HEIGHT RECORD: (Raw)**COMPLETENESS OF RECORD**

Not a continuously recorded station. Four instantaneous discharge measurements were made during the water year. Daily flow values were interpolated between measurement points.

DATA STORAGE:

Discharge measurements were made approximately monthly while water was being diverted from Bridge Creek. Measurements were recorded on discharge measurement note forms and returned to the Water Resources Branch. Measurements were entered in the WISKI database on 11/11/04 in the BrdgCrk.1.O time series.

GAGE-HEIGHT RECORD: (Edited)

Measurements begin on 5/28/97 and end on 7/30/97. Assume flow = next Q measure on 4/26, after irrigation starts. Assume flow = next Q measure when irrigation stops on 7/15. Assume all flow ends after last Q measure on 7/30. No other editing of discharge measurements were performed prior to entering data into WISKI. Interpolations were made between raw data points by the WISKI program itself. Gaps were inserted between measurements separated by more than 40 days. Interpolated values are stored within the time series "BrdgCrk.Q.1440.E"

GAUGE AND TIME CORRECTIONS:

None

CONTROL:

Unknown

RATING/CONTENTS TABLE:

No rating curve exists for this site.

REMARKS:

Water diversions began on 4/25/97 and ended on 11/15/97. Four instantaneous discharge measurements were made during the irrigation season (No. 15-18). All were rated good in the field. The record is rated poor due to the limited number of measurements.

SCANNED

AUG 06 2007

WORKED BY: Fred Wurster**DATE:** November 2004

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 25-4032
Date Received: 3/25/1993
Receipt No: X999999
Received By:

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name of Claimant(s)

UNITED STATES OF AMERICA ACTING THROUGH Phone: (503)231-6145

USDI FISH AND WILDLIFE SERVICE
DIVISION OF ENGINEERING
911 N E 11TH AVE
PORTLAND OR USA 97232-4181

2. Date of Priority: 06/06/1882

3. Source: BRIDGE CREEK Trib. to: GRAYS LAKE

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
04S	43E	25	SE SE	BONNEVILLE	
04S	43E	25	SW SW	BONNEVILLE	R
04S	43E	26	SW NE	BONNEVILLE	R

5. Description of diverting works:

EARTHEN DIVERSION AND 2 DITCHES, FLOOD IRRIGATION.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/15	10/15	2.4	
STOCKWATER	03/15	11/15	0.05	
WILDLIFE	03/15	11/15	0.05	
WILDLIFE	04/15	10/15	2.4	

7. Total Quantity Appropriated is:
2.4 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
04S	43E	23	NE	SW	WILDLIFE	
			SW	SW	WILDLIFE	
			SE	SW	WILDLIFE	
			NE	SW	STOCKWATER	
			SW	SW	STOCKWATER	
			SE	SW	STOCKWATER	
			NE	SW	IRRIGATION	38
			SW	SW	IRRIGATION	7
			SE	SW	IRRIGATION	35
					Section Acres	80
04S	43E	26	SW	NE	IRRIGATION	40
			SW	NE	STOCKWATER	
			SW	NE	WILDLIFE	
					Total Acres	120

11. Place of use in counties: BONNEVILLE

12. Do you own the property listed above as place of use? No

13. Other Water Rights Used:

14. Remarks:

THIS CLAIM CLARIFIES AND UPDATES WATER RIGHT CLAIM NO. 25-4032. THE GRAYS LAKE NATIONAL WILDLIFE REFUGE WAS ESTABLISHED BY THE MIGRATORY BIRD CONSERVATION COMMISSION ON JUNE 15, 1965, FOR WATERFOWL NESTING AND PRODUCTION. ADDITIONAL EVIDENCE SUPPORTING THIS BENEFICIAL USE CLAIM IS FOUND IN THE DECLARATION OF MICHAEL N. FISHER.

THIS AMENDED CLAIM REFLECTS A PRIORITY DATE SUPPORTED BY A POSTED NOTICE (SEE ATTACHMENT) POSTED IN BINGHAM COUNTY FOR A DATE OF FIRST USE OF JUNE 6, 1883, AND THE ADDITION OF 80 ACRES IN THE NESW, SESW, AND SWSW OF SECTION 23. THIS WATER RIGHT COMBINED WITH WATER RIGHT CLAIMED UNDER NO. 25-4034B (EAGLE CREEK) WILL NOT EXCEED 2.40 CFS.

15. Basis of Claim: Beneficial Use

SCANNED
DEC 23 2005

This is hand-written
because I could not
get the scanned SF4
to print properly. JC 12/15/05

THE SNAKE RIVER BASIN WATER SYSTEM.

Ident Number: 25-4032
~~25-04032~~

Receipt No.: _____

Received By: _____

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

AMENDED

USA

(Fish and Wildlife Service)

Div of Engineering
911 NE 11th Ave
Portland, OR 97232-4181

2. Date of Priority: June 6, 1882

Bridge Creek

Grays Lake

4. Point of Diversion:

Township 4S Range 43E Section 25, SE 1/4 of SE 1/4, B.M.,
County of Bonneville

POINTS OF REDIVERSION: 14S 43E S25 SW1/4 AND S20 SW1/4

Points of Rediversion: 4S 43E 25 SWSW
26 SWNE

6. Water is claimed for the following purposes:

Irrigation/Wildlife	Apr. 15	Oct. 15	2.40
Stockwater/Wildlife	Mar. 15	Nov. 15	0.05

SCANNED
DEC 23 2005

2.40 C.F.S. (and/or) _____ A.F.A.

9. Place of Use: 200 head cattle, wildlife

~~4S~~	~~43E~~	~~23~~	~~NE SW~~	~~Irr, S&W~~	~~35~~
4S	43E	23	SE SW	Irr, S&W	35
4S	43E	23	NESW	Irr, S&W	38
4S	43E	23	SESW	"	35
4S	43E	23	SWSW	"	7
4S	43E	26	SWNE	"	40
Total Number of Acres Irrigated					<u>120</u>
					<u>120</u>

10. Bonneville County

11. Do you own the property listed above as place of use? Yes.

12. Other Water Rights Used: A25-4034B

Remarks: This amended claim reflects a priority date supported by a posted notice (see attachment) posted in Bingham County for a date of first use of June 6, 1883, and the addition of 80 acres in the NESW, SESW, and SWSW of Section 23. This water right combined with water right claimed under No. 25-4034B (Eagle Creek) will not ~~be~~ exceed 2.40 cfs

The Grays Lake National Wildlife Refuge was established by the Migratory Bird Conservation Commission on June 15, 1965, for waterfowl nesting and production. *Conservation Commission on June 15, 1965, for waterfowl nesting + production.*

14. Basis of Claim (Check one) Beneficial Use X Posted Notice _____
License Permit Decree _____

Court _____ Case Number _____ Decree Date _____

SCANNED
DEC 23 2005

I certify that on September 16, 2005, I mailed the original and copies of this

1. Original to:

Snake River Basin Adjudication
253 Third Avenue North

2. Copies to:

PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division

STATE OF IDAHO
PO Box 44449
Boise, ID 83711-4449

IDAHO DEPARTMENT OF LAND
550 West Fort Street, MSC 033
BOISE, ID 83720

3. If you are filing an amended Notice of Claim in a subcase being heard before the Presiding Judge or a Special Master, you must serve a copy on all parties to that

(insert names/address of parties)

/s/ L. A. R.