

08/31/2004

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

RIGHT NUMBER: 25-4152A
NAME AND ADDRESS: GORDON MORRIS
584 E 400 N
FIRTH ID 83236
SOURCE: POSEY CREEK TRIBUTARY: GRAYS LAKE
QUANTITY: 0.250 CFS
The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
PRIORITY DATE: 05/01/1931
POINT OF DIVERSION:

T03S R43E S16 SWNESW Within BONNEVILLE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	05/01 11/01	0.020 CFS
IRRIGATION	05/01 10/31	0.250 CFS

PLACE OF USE: IRRIGATION Within BONNEVILLE County

T03S R43E S20 NENE 5.8 T03S R43E S20 SWNE 6.8

STOCKWATER same as IRRIGATION

12.6 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

SCANNED
SEP 01 2004

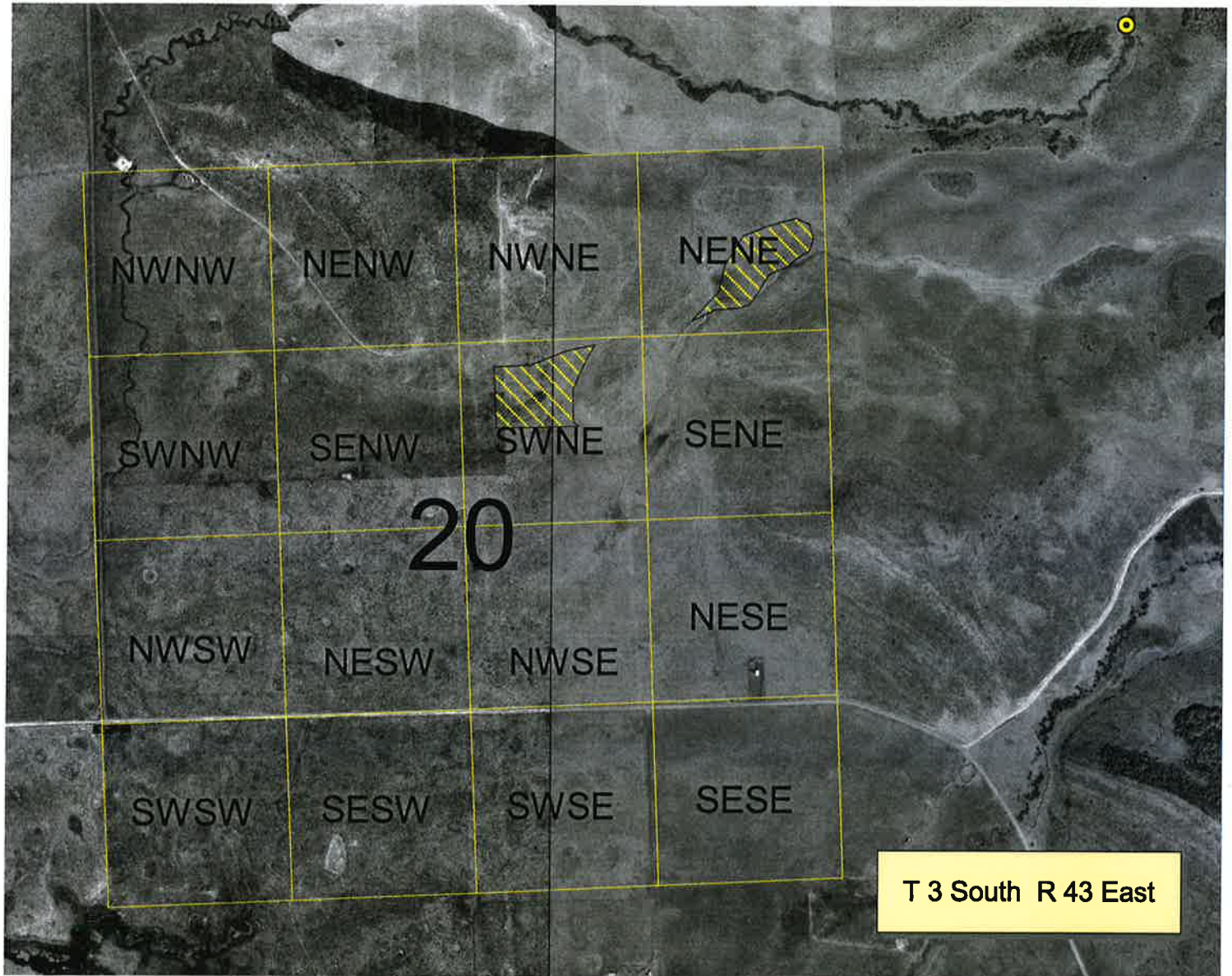


State of Idaho

Department of Water Resources

Eastern Region

Water Right(s): 25-4152A



1320 0 1320 2640 3960 Feet

- Point of Diversion
- Place of Use
- Section 20

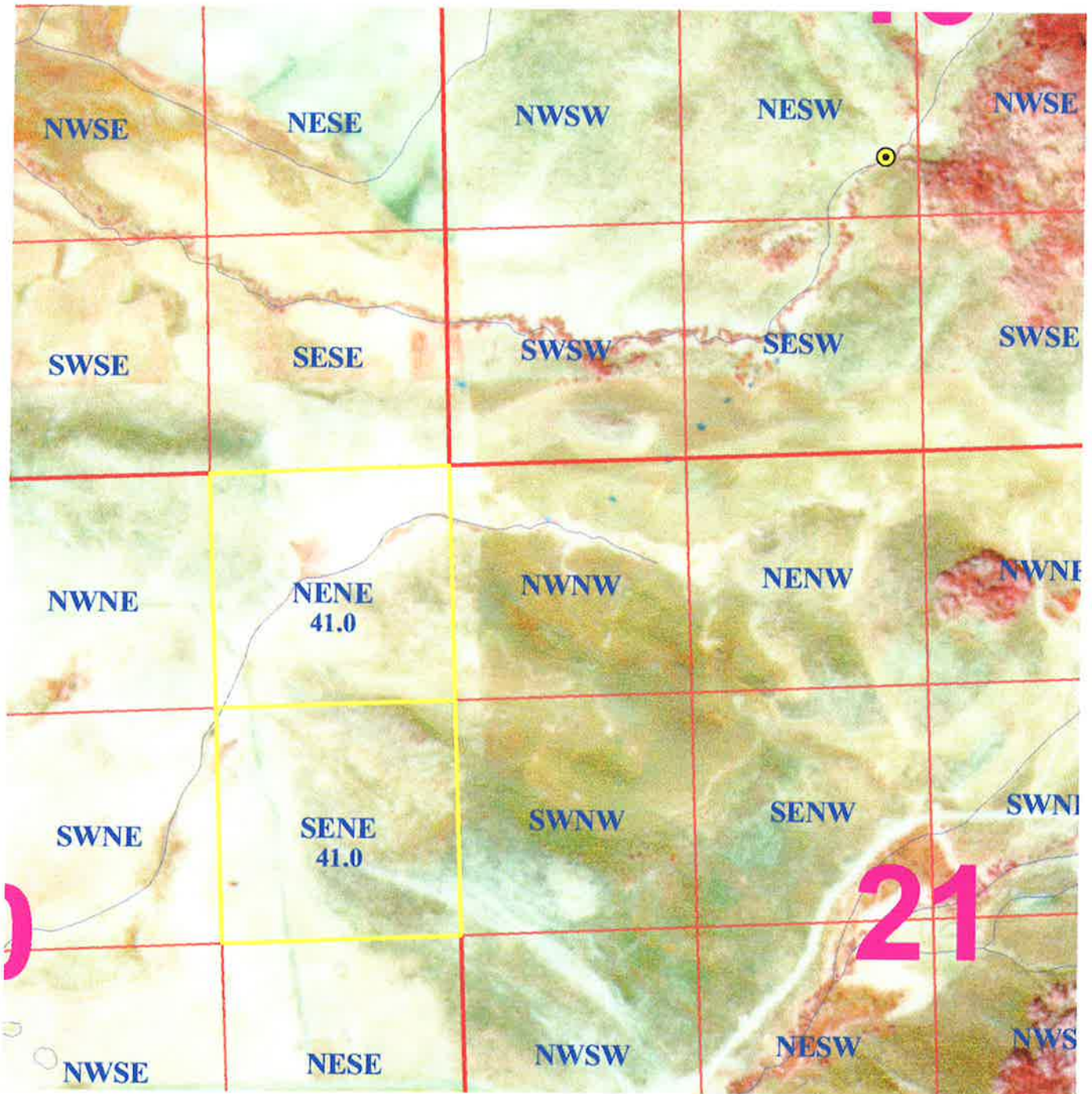
PROFILED



GIS Place of Use Illustration
1987/1988 NAPP photography
Prepared by R. Mikesell
Date: August 2004

Water Right Claim Number 25-04152A
Township , 3S43E

11/17/2000



SPATIAL DYNAMICS

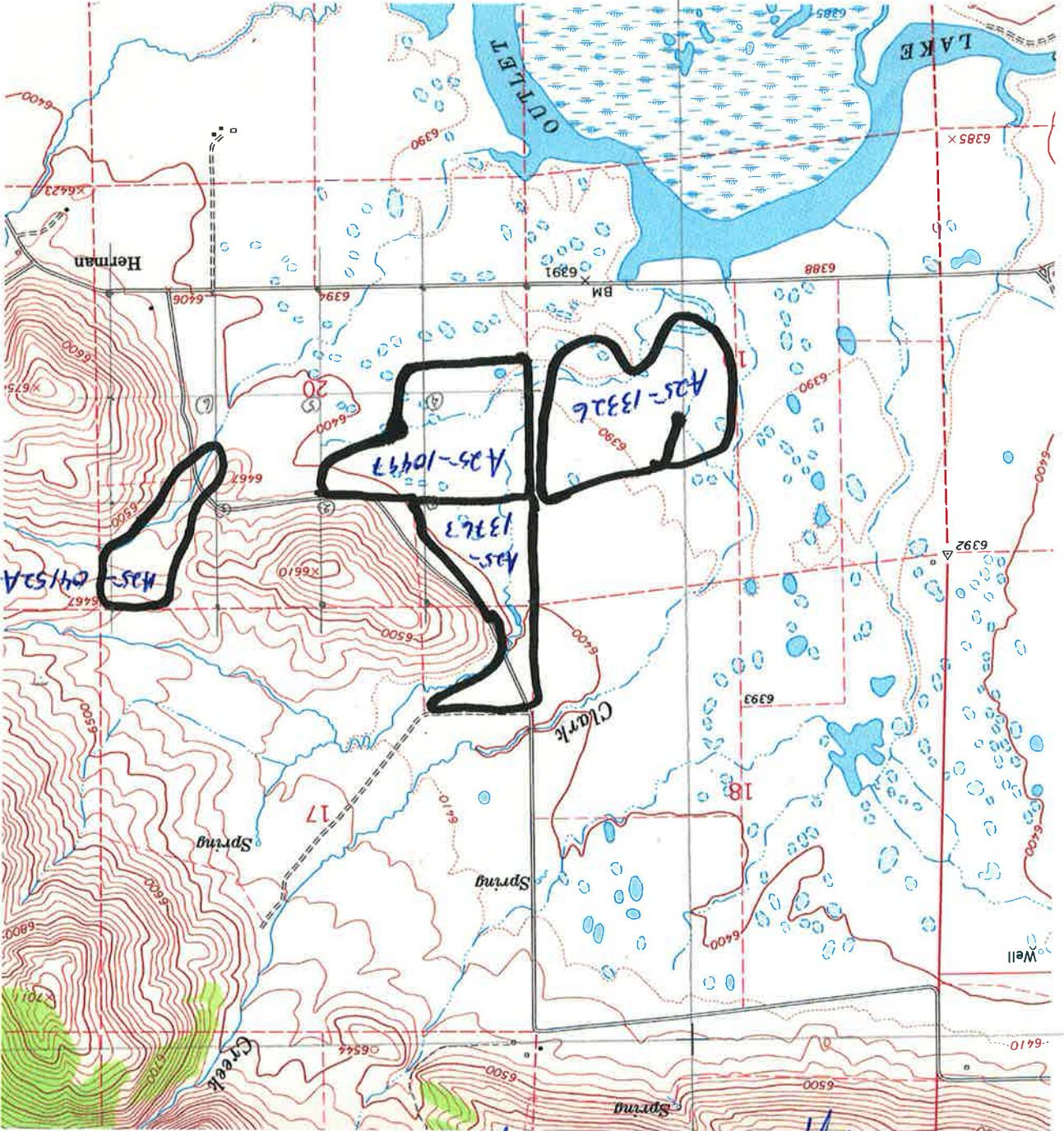


PROFILED

708115 230257
708521 230269

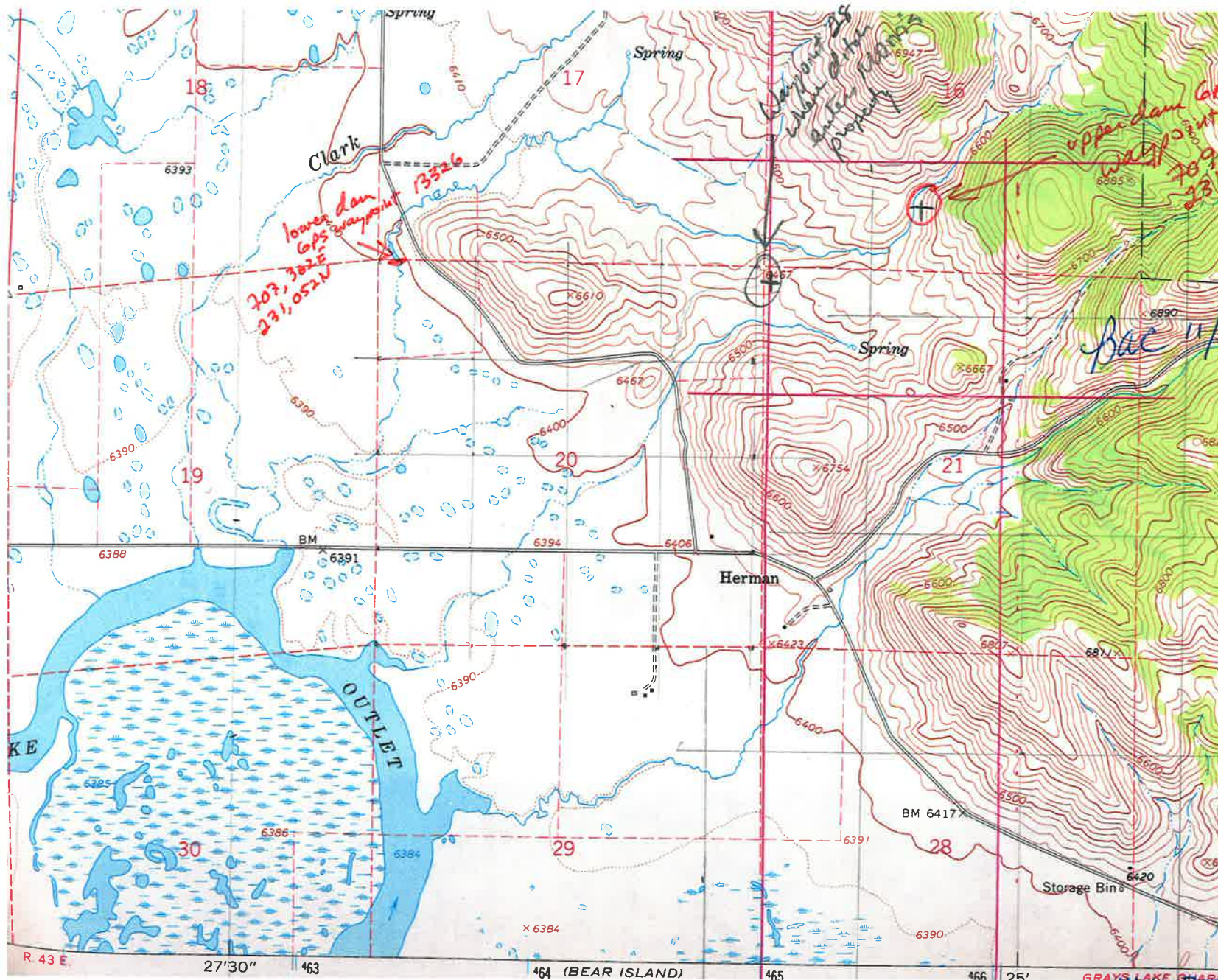
707696 230642

APR 30 2004



Approved sketch of claims

43° 10'



lower dam
gap
waypoint
707, 382E
231, 052N

3526

upper dam
gap
waypoint #27
709, 559E
231, 369N

pac 11/20/03

PROFIED

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16 30 2004

Water Resources
Field Services
208 663 4667

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USGS 87 km E of Pocatello, Idaho, United States 07 Sep 2000



0 1 2 3 4 5 Km

0 1 2 3 4 5 Mi

Water Resources
Field Services
208 663 4667

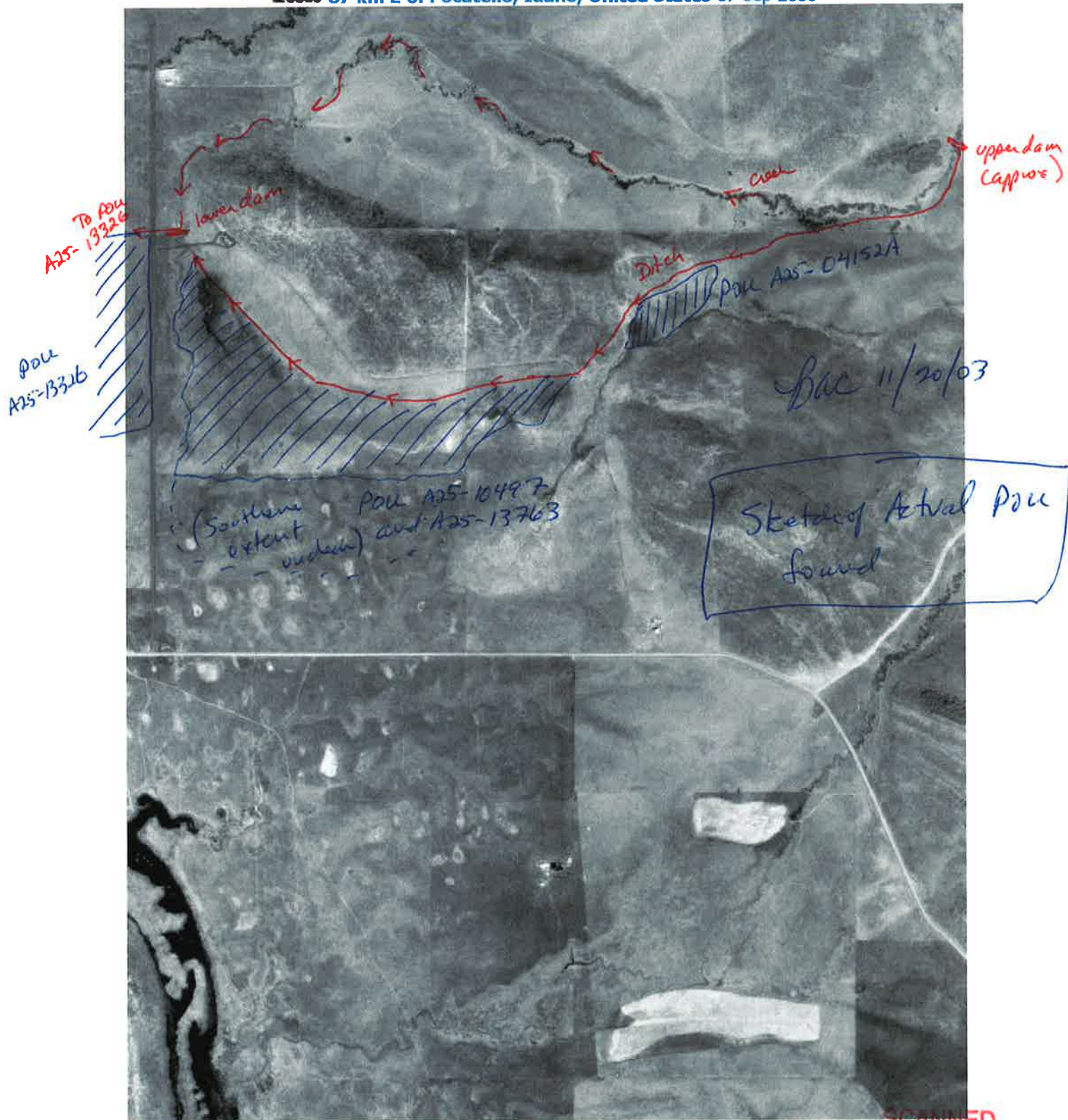
Image courtesy of the U.S. Geological Survey
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USGS 87 km E of Pocatello, Idaho, United States 07 Sep 2000



Water Resource
Field Service
208 663 4667

0 0.5Km

0 0.25Mi

Image courtesy of the U.S. Geological Survey
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RM
08/31/2004

**NOTICE OF ERROR
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: 25-4152A

GORDON MORRIS

584 E 400 N

FIRTH ID 83236

Telephone Number: (208)785-7396

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

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

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

RECEIVED

OCT 01 2004

Department of Water Resources
Eastern Region

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

DATE: 9-19-04

SIGNATURE:

Gordon Morris

Please print your name:

GORDON MORRIS

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

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OCT 06 2004

Field Exam Summary A25-04152A 21 November 2003

Bryce Contor
Water Resources Field Services

General Comments

Please see summary for all Posey Creek rights. These rights are related by source, history, and conflict.

Ownership

Correct per Bonneville County Assessor.

POD

POD is claimed in the SW NE SW of Section 16, T3S R43E. Check with GPS, it may be in the SE NW SW. GPS location is waypoint 27, 709,559E 231,369N IDTM.

POU

The claimed POU is a little larger than actual irrigation. See my sketch on the Terra Server images. The layout is too faint to interpret.

Overlap

POD is shared with A25-10497 and A25-13763.

Conflict

See Posey Creek summary.

Priority

See Posey Creek summary.

Quantity

I propose 0.02 cfs/acre. Manning's calculation confirms diversion works capacity.

Water Use

Irrigation and stockwater confirmed.

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AUG 30 2004

List of Photos

- A25-04152A_1.jpg Upper dam on Posey Creek. This was taken from the hillside on the west. The creek comes in from the left (north) and the natural channel continues to the right. The ditch goes away from the camera to the southeast on the far side of the pond.
- A25-04152A_2.jpg Ditch at location of Manning's calculations looking downstream.
- A25-04152A_3.jpg Ditch bottom at location of Manning's calculations.
- A25-04152A_4.jpg Ditch at location of Manning's calculations looking downstream.
- A25-04152A_5.jpg Ditch where it enters Morris property on the top of the ridge, marked on map by GPS location.
- A25-04152A_6.jpg POU looking south from north edge. Ditch is at foot of photographer.
- A25-04152A_7.jpg Upper end of POU looking east from same location.


Bryce A. Contor


Date

*please see notes in A25-10497 re: phone
conversation w/ Kim Morris 11/24/03 bac*

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Field Exam Summary - Posey Creek claims, Basin 25. 20 November 2003

Bryce Contor

Water Resources Field Services

General Comments

There are four claims for Posey Creek water, all beneficial use claims. As outlined below there are two different theories of origin/priority/proof of beneficial use. The documentation is sometimes contradictory. Most of the current sources of information are interested parties. There is active conflict between two of the parties.

Most of the documentation is attached to the copy of this general summary in paper file A25-04152A, the lowest numbered of these claims. Additional documentation provided by individual claimants is in the paper files for their own claims. Attachments and referenced documents are listed at the end. Other documents in the claim files, but not referenced in this summary, are not listed.

This general summary discusses all the claims in relationship to one another and is copied to all the claims files. An individual summary will be prepared for each claim as well.

Ownership

Claim A25-04152A is in the name of Gordon Morris, consistent with assessor's records (attached).

Claim A25-13326 is claimed by Matt Mann. A recent change of ownership documents his ownership of the claimed POU. Note I have proposed an amended claim for a different POU, but this also appears to belong to Mr. Mann.

Claim A25-10497 is in the name of Basil Poulsen but Bonnie Gardner has submitted a change of ownership. Gordon Morris asserts ownership of six acres in the SW of section 20, which appears consistent with the claims and the assessor's plat map (attached). However it is somewhat unclear from the photos how far south irrigation actually extended. The land lays in such a way to allow irrigation into the SW, so I propose splitting the right. I have invited Morris to submit a change of ownership for the six-acre portion.

Claim Bonnie P. Gardner claims A25-13763. The courthouse shows this POU is owned by Leon and Bonnie P. Gardner.

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POD

There are two active points of diversion.

Upper Dam. The "upper dam" point of diversion is a dam in Posey Creek in section 16, north east of all the claimed places of use. It delivers water to a ditch that goes over a ridge and through the claimed POU for A25-04152A in the NE of section 20, then around into the claimed POU of A25-10497 and finally into the south end of the claimed POU of A25-13763. It then potentially spills into the natural channel of Posey Creek, which goes into the south end of the claimed POU of A25-13326 (however this part of the claim appears to be in error, see POU discussion below).

The 1936 affidavit of Arthur Bell in file A25-04152A states this dam delivered "all" the waters of Posey Creek to the east 1/2 of section 20 (corresponding to claim A25-04152A).

The 1973 letter from Kent Foster to IDWR asserts the dam was built in 1921 (but does not claim "personal knowledge") and that there may be "25 or 30" inches of useable water in Posey Creek not diverted by the dam.

Gary Mann indicated that until the dam was rebuilt recently, about 80% of the water went down Posey Creek's natural channel, where it would be available to the north end of A25-13763 and all of A25-13326. Before then the dam was just a hand-dug rock structure. It was rebuilt around ten or eleven years ago, but not more than fifteen years ago.

Matt Mann states that the upper dam washed out in the 1980's and until it was rebuilt the full flow of Posey Creek went down to Matt's lands (A25-13326). Matt states it was rebuilt ten years ago. Currently during high water there is some bypass around the dam, and some water springs up in the channel of Posey Creek below the dam.

Lower Dam. This is an earthen dam at Gardner's driveway, between the SWSW of section 17 and the NWNW of section 20. It diverts water west into Matt Mann's property. There is currently no provision for water to continue south into section 20.

Mrs. Gardner states that this dam is a new development. Mr. Gardner believes it has been there a long time but it used to have a headgate to allow water to go south. Gardners believe the current dam is more recent than 1994 (1984?), which was when the road was changed.

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Matt Mann states that there was a headgate in the dam until the 1970s, but it kept washing out so Manns rebuilt the dam without a headgate.

The pond created by the dam shows on my version of the USGS topo map, based on 1965 aerial photography and field checked in 1966.

POU

A25-04152A. The 1936 affidavit of Arthur Bell asserts the east half of section 20 is the only POU from Posey Creek. This is the only claim in the east half of 20. This 1936 affidavit is the first "personal knowledge" evidence of use on the east half. 1936 is the date of recording; it is unclear when the affidavit was taken.

This POU appears to be somewhat smaller than the claimant's sketch. I propose recommending based on my Terra Server sketch. The NAPP is too hard to interpret. IDWR's GIS shop should be able to scan and rectify the Terra Server images to allow digitizing of the POU.

A25-10497. The 1904 deed from Posey Oglesby to Alexander Brown describes lands in section 20, but not these quarter-quarters. This irrigation would have to be a later development, an accomplished transfer, or an enlargement. The Bill Shultz 1939 affidavit and the Bonnie Gardner 1935 affidavit are quite generic but appear to refer to this irrigation.

See my sketch on the Terra Server image and the claimant's sketch in the original filing. The claimant's sketch is reasonable and probably as good or better than my sketch. I propose recommending as sketched by the claimant, splitting appropriately per the legal description in the change of ownership.

A25-13326. The claim appears to be in error. I have mailed an amended claim to Mr. Mann. The place of use shown me by Mr. Mann is in the NE 1/4 of Section 19. My inspection indicated recent (though probably not in 2003) irrigation.

The 1904 Oglesby/Brown deed specifically includes the NE 1/4 of 19 and references irrigation. Note that this is a conflict with the 1936 Arthur Bell affidavit. A possible explanation is forfeiture and then resumption.

Gary Mann says until the dam was rebuilt "80%" of the water went to this POU. Matt Mann states that now he only receives floodwater that bypasses the dam or spring water that rises in the creek, but that until the dam was rebuilt he enjoyed virtually the full flow of the creek. The existence of the pond on the 1965/1966 USGS quad suggests a history of water in the main channel of the creek.

I propose recommending according to my sketch on the layout, up to the claimed acreage, if Mann amends his claim. The claimed POU has access to the lower reaches of Posey Creek but it is too rough to irrigate. It is likely what Mr. Mann showed me is the correct historical POU.

A25-13763. This parcel is mentioned in the 1904 Oglesby/Alexander Deed and appears to be reflected in the Shutlz and Gardner affidavits. The north half (lands in section 17) could only be irrigated from the natural channel of Posey Creek. Photos A25-13763_1.jpg and A25-13763_2.jpg show no evidence of irrigation of this parcel. Gardners were not comfortable asserting irrigation of this, though they did not specifically acknowledge that it hasn't been irrigated. Matt Mann says Gardners have only irrigated south of their driveway, that is, only in Section 20.

The lands in Section 20 are currently irrigated by the ditch coming around from the south, from the section 16 (upper) dam. This is the water seen in photo A25-13763_3.jpg and is the only evidence I saw of 2003 irrigation on any of these claims.

I believe my sketch on the Terra Server image is quite accurate for the NWNW of section 20. I propose using it to base the A25-13763 recommendation upon.

Overlap

The actual POU of A25-13326 overlaps the south end of A25-00002, though the claimed POU does not. If the claimant files the amended claim the overlap will have to be considered in recommendations.

A25-13326 and (potentially) A25-13763 share the POD at the pond in the SWSW of 17. A25-04252A, A25-10497 and A25-13763 share the dam in section 16 (upper POD).

Conflict

There is a conflict between Gardner and Morris regarding relative quantities of water and ditch maintenance rights, and perhaps even on whether Gardners have a water right.

The deeds produced by Gardner (see *.jpg documents 4,5, and 6) and Morris (see paper file A25-04152A) each convey "1/4" of the underlying existing rights as well as ditch easements. There are a few problems with this split: 1) What happened to the other 2/4? 2) The irrigated acreage is not equal. 3) The deed produced by Gardner does not describe all the lands claimed in A25-10497.

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I propose interpreting the intent of the split to allow an equal diversion rate *per acre*. I think water law and the easements already address access for ditch maintenance; there shouldn't be a need to include that in recommendations.

Priority

The Oglesby deed implies a 1904 priority for A25-13763 and A25-13326, which is earlier than documented for the other rights. The Arthur Bell affidavit conflicts with this and implies forfeiture. The Arthur Bell affidavit also appears to conflict with the Dorothy Poulsen affidavit asserting irrigation of A25-13326 and A25-10497. Poulsen's affidavit asserts personal knowledge since February 1935. Bell's affidavit was recorded in 1936 but I don't know when it was given.

I propose getting help from legal staff, but one possibility is to recommend an equal priority of 1935 (based on Dorothy Poulsen's affidavit and an assumption of accomplished transfers) for all the rights. This is based on the following reasoning:

The Oglesby/Alexander deed implies an equal priority between A25-13326 and A25-13763. The Poulsen and Shultz affidavits imply equal priority between A25-04152A, A25-10497, and A25-13763. If there was forfeiture as implied by the Arthur Bell affidavit, the Poulsen, Shultz and Bud Morris affidavits imply resumption. Whatever the basis or history, there is no evidence to suggest a practice of A25-13326 and A25-13763 enjoying senior status to A25-04152A and A25-10497. If indeed they were senior, perhaps there was a subordination or relinquishment of priority along with the resumption.

Quantity

No Manning's equation was done for A25-13326 because the ditch was wide and flat. The headgates and not the channel control likely flow. The ditches appear adequate to support 0.02 cfs/acre.

A Manning's equation on the ditch leading from the upper dam suggests a capacity of 9.5 cfs, which is adequate for 0.02 cfs/acre on all the rights served by the south ditch. Note that the small stream of water observed was reaching all the way to the end of the ditch, so ditch loss is very minor. A bigger issue is the availability of water. This was late in a very dry year, but the streambed itself is small enough to suggest it generally has only modest flows. I propose recommending 0.02 cfs/acre for all rights.

Water Use

Irrigation and stockwater confirmed for all the claims.

List of Photos

- A25-04152A_1.jpg Upper dam on Posey Creek. This was taken from the hillside on the west. The creek comes in from the left (north) and the natural channel continues to the right. The ditch goes away from the camera to the southeast on the far side of the pond.
- A25-04152A_2.jpg Ditch at location of Manning's calculations looking downstream.
- A25-04152A_3.jpg Ditch bottom at location of Manning's calculations.
- A25-04152A_4.jpg Ditch at location of Manning's calculations looking downstream.
- A25-04152A_5.jpg Ditch where it enters Morris property on the top of the ridge, marked on map by GPS location.
- A25-04152A_6.jpg POU looking south from north edge. Ditch is at foot of photographer.
- A25-04152A_7.jpg Upper end of POU looking east from same location.
- A25-10497_1.jpg Looking north from road at POU. Foreground is not part of claimed POU. There is a low round hill in the center; the ditch comes behind that hill. POU for A25-04152A is up the draw to the east (right) of that hill; POU for A25-10497 is to the west (left).
- A25-13326_1.jpg Looking west from where the ditch goes under the road, just west of the POD. This is from the NW corner of the POU.
- A25-13326_2.jpg Looking SW at POU from west edge (county road).
- A25-13326_3.jpg Looking west across dam at POD towards POU. POU is on the far side of the pickup.
- A25-13326_4.jpg Looking upstream from lower dam. Both sides of the creek are the claimed POU for A25-13763 in SWSW of section 17.
- A25-13763_1.jpg Looking NW towards section 17 POU from the top of the hill about on the section line.

A25-13763_2.jpg	Looking NE towards section 17 POU from about the same location. The clump of red willows towards the right of the photo is about where a POD would have to be to irrigate the section 17 POU.
A25-13763_3.jpg	Looking SW across section 20 ^{POU} ~~POD~~ from the top of the hill about 300 feet south of the previous two photos. This is the end of the ditch from the upper dam. The water shown running in the field also shows on the Terra Server image in paper file A25-04152A.
A25-13763_4.jpg	Looking SE from the same location. This actually shows the POU for A25-10497.
A25-13763_5.jpg	Same as photo 4, looking more ESE.
A25-13763_6.jpg	End of water flow seen in photo 3. This is taken on the Section 20 POU of A25-13763.
A25-13763_A25-10497_Doc1.jpg	Record of old deed, but it does not reference water rights. Provided by Mrs. Gardner.
A25-13763_A25-10497_Doc2.jpg	Bud Morris affidavit. Provided by Mrs. Gardner.
A25-13763_A25-10497_Doc3.jpg	Bill Schulz affidavit. Provided by Mrs. Gardner.
A25-13763_A25-10497_Doc4.jpg- A25-13763_A25-10497_Doc6.jpg	Deed for most of POU of A25-10497 to Bonnie Poulsen.

Documents

A. Documents attached to this summary in paper file A25-04152A

Approximate sketch of claims. Hand sketched on copy of USGS quad. Shows claimed POU, not what I found.

GPS locations. Hand sketched on USGS quad using lat/lon from GPS locations.

Terra Server Image. Unmarked, to let reviewers see the indications I used to identify ditch locations and POU.

Terra Server Image, marked with ditch locations and observed POU. Note that I am uncertain about the southern extent of POU for A25-10497.

Plat map from Bonneville County Assessor, marked in color according to "Parcel Master Inquiry" pages.

Parcel Master Inquiry pages from assessor.

Summary of phone conversation with Matt Mann 10/29/03. Matt is the claimant of A25-113326.

Summary of phone conversation with Gary Mann 10/23/03. Gary owns adjoining property in Section 17. Posey Creek flows through this property but Gary does not claim Posey Creek water. Gary is Matt's brother.

B. Related documents in individual claims files

A25-4152A: Continuation of Abstract of Title, Waiver and/or Relinquishment recorded 1936. Arthur Bell affidavit.

Quitclaim deed to Gordon Morris. References 1/4 interest in water right & easement for ditch maintenance.

Copy of 1973 letter from Kent Foster to Keith Higginson regarding history of dam in Posey Creek.

A25-10497: Contact log of phone calls and meeting w/ Gardners.

A25-13763: Title abstract, Alex Brown to Emma M. Ashton, 1916. Identifies NWNW of 20 (part of A25-13763) and part of NE of 19 (part of A25-13326) along with 160 inches of Posey Creek water.

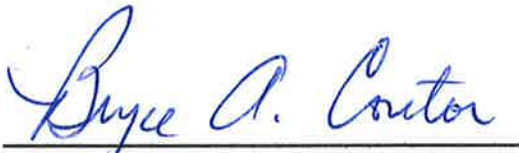
Title abstract, Posey Oglesby to Alex Brown, 1904. Same lands as 1912 abstract along with SWSW 17 (the remaining part of A25-13763) along with a private water right in Posey Creek.

Dorothy Poulsen affidavit asserting irrigation in sections 17 and 20 (A25-4152A, A25-10497, A25-13763) in 1935. Dorothy is former claimant of A25-10497.

Print of photo of Bud Morris affidavit (scanned as A25-13763_A25-10497_Doc2.jpg) asserting water has "gone over the dam on Posey Creek" since 1947.

Photo of Bill Shulz affidavit (scanned as A25-13763_A25-10497_Doc3.jpg) asserting Posey Creek was "running down into section 17 & 20... since the spring of 1939."

Three photos (one of each page) of quitclaim deed conveying part of lands of A25-10497 to Dorothy Poulsen. The deed specifies a 1/4 share of the water right & an easement for ditch maintenance. It looks to have been executed at the same time as the Gordon Morris deed in A25-04152A. Scanned images are A25-13763_A25-10497_Doc4.jpg through A25-13763_A25-10497_Doc6.jpg


Bryce A. Contor


Date

Matt Mann 10/29/03 7AM 538 7894

- 1) Upper dam on Posey Creek washed out $\approx$ mid 1980's. Repaired 10 years ago. In the interim Matt enjoyed full flow of Posey Creek.
- 2) Until 1970's there was a headgate @ dam in Gardner's yard that allowed water to go south. It kept washing out so Manns rebuilt dam w/o headgate.
- 3) Due to quarrel between Morris & Gardner, the ditch that comes around the south did not get maintained & water didn't reach Gardner. I'm unclear on how long this occurred. About 15 years ago Matt & Gary began to lease the Poulsen pasture (now Gardner) & they restored the ditch at that time.
- 4) Currently there is some Posey Creek flow around the North side from springs & runoff early in the year & Matt still uses that water.
- 5) Matt will put this in a letter & send to me

Dora A. Contor

Posey Creek - phone call to Gay Mann
10/23/03 ~~357-3777~~ 574-2195 7:20 PM

Dam on Posey Creek - Historically almost
all water went around N side
till about 15 yrs. Bonnie Gardner
used S. of driveway only.

Matt's claim - died only, before
dam 80% went to Matt's piece.

Maybe 10-11 yrs - not 15 - Kin
Morris Dwyer - 5 yrs before Forrest Mann
died, he died 5 yrs ago.

Before the dam was built w/ the
bulldozer the only water that went
South was diverted by a hand-dug
diversion. Forrest Mann's bulldozer
was used to do the work.

Jae

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AUG 30 2004



g:\dgn\gcdb\out\3s43e.dgn 10/20/2003 09:04:44 AM

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AUG 30 2004

Water Resources
Field Services
208 663 4667

Source: Donnerville Co Assessor

Date: 10/20/03

10/20/03

PMO100 - PARCEL MASTER INQUIRY

09:02:22

PARCEL: RP 03S43E200621 A

F9=MS

F17=DD

F23=AG

LEGAL DESCRIPTION

112.31 A NW1/4,

SEC 20, T 3S, R 43 (BG) (BG05)

ProVal Area Number 1

CODE AREA 62-0000 OWNER CD

PARC TYPE RG LOC CODE

EFFDATE 12061988 EXPDATE

PREV PARCEL

469 E 400 N

BLACKFOOT ID 83221

X for parcel comments

CAT	RY	QUANTITY	UN	VALUE	HO MRKT	HO EXMP	CB MRKT	OTHER
4	2003	15000	AC	3210				
5	2003	96240	AC	3163				
19	2003	1070	AC					

TOTALS

112310

6373

ENTER NEXT PARCEL NUMBER RP A

FKeys: F2=TX F3=Exit F5=SS F6=Nm F7=LG
F8=CT F13=TM F18=HS F20=Srch F22=EU

Water Resources
Field Services
208 663 4667

SCANNED
AUG 30 2004

Source: Bonneville Co. AssessorDate: 10/20/03

10/20/03

PMO100 - PARCEL MASTER INQUIRY

09:02:52

PARCEL: RP 03S43E203001 A

F9=MS F10=SW

F12=RC

F17=DD

F23=AG

GARDNER, LEON J &
GARDENR, BONNIE P

LEGAL DESCRIPTION

NW1/4 NW1/4 LESS 1.5 A R/W,
SEC 20, T 3S, R 43 (BG) (BG05)
SUMMER HOME

ProVal Area Number 1

CODE AREA 62-0000 OWNER CD

PARC TYPE RG LOC CODE

EFFDATE 1012000 EXPDATE

PREV PARCEL RP03S43E203001T

469 E 400 N

BLACKFOOT ID 83221

70

MANN RD

83285

X for parcel comments

CAT	RY	QUANTITY	UN	VALUE	HO MRKT	HO EXMP	CB MRKT	OTHER
4	2003	5000	AC	1070				
5	2003	31600	AC	695				
10	2003	1000	AC	15300				
19	2003	900	AC					
TOTALS		38500		100806				

ENTER NEXT PARCEL NUMBER RP A

FKeys: F2=TX F3=Exit F5=SS F6=Nm F7=LG
F8=CT F13=TM F18=HS F20=Srch F22=EU

Water Resources
Field Services
208 663 4667

SCANNED
SEP 01 2004

Source: Bonny Co. AssessorDate: 10/20/03

10/20/03

PMO100 - PARCEL MASTER INQUIRY

09:02:44

PARCEL: RP 03S43E201609 A

F9=MS

F17=DD

F23=AG

MORRIS, GORDON

LEGAL DESCRIPTION

112.31 A CENTER,

SEC 20, T 3S, R 43 (BG) (BG05)

582 E 400 N

ProVal Area Number 1

CODE AREA 62-0000 OWNER CD

PARC TYPE RG LOC CODE

EFFDATE 12061988 EXPDATE

PREV PARCEL

FIRTH ID 83236

X for parcel comments

CAT	RY	QUANTITY	UN	VALUE	HO MRKT	HO EXMP	CB MRKT	OTHER
4	2003	5500	AC	1177				
5	2003	104880	AC	4405				
19	2003	1930	AC					

TOTALS

112310

5582

ENTER NEXT PARCEL NUMBER RP A

FKeys: F2=TX F3=Exit F5=SS F6=Nm F7=LG
F8=CT F13=TM F18=HS F20=SrcH F22=EU

Water Resources
Field Services
208 663 4667

SCANNED
SEP 01 2004

Source:

Bonneville Co. Assessor

Date:

10/20/03

10/20/03

PMO100 - PARCEL MASTER INQUIRY

09:02:46

PARCEL: RP 03S43E202088 A

F9=MS F10=SW

F12=RC

F17=DD

F23=AG

LEGAL DESCRIPTION

112.31 A E1/2,

SEC 20, T 3S, R 43 (BG05)

SUMMER HOME

ProVal Area Number 1

CODE AREA 62-0000 OWNER CD

PARC TYPE RG LOC CODE

EFFDATE 3012003 EXPDATE

PREV PARCEL RP03S43E202088T

LOGSTON, WILLIAM J

207 S 2ND E

ABERDEEN ID 83210

1012 GRAYS LAKE RD

83285

X for parcel comments

CAT	RY	QUANTITY	UN	VALUE	HO MRKT	HO EXMP	CB MRKT	OTHER
5	2003	111310	AC	4201				
10	2003	1000	AC	11600				
31	2003			27040				
32	2003			1000				
TOTALS		112310		43841				

ENTER NEXT PARCEL NUMBER RP A

FKeys: F2=TX F3=Exit F5=SS F6=Nm F7=LG
 F8=CT F13=TM F18=HS F20=SrcH F22=EU

Water Resources
 Field Services
 208 663 4667

SCANNED
 SEP 01 2004

Source: Bonn. Co. Assessor
 Date: 10/20/03

See Field Notes in A25-04152A

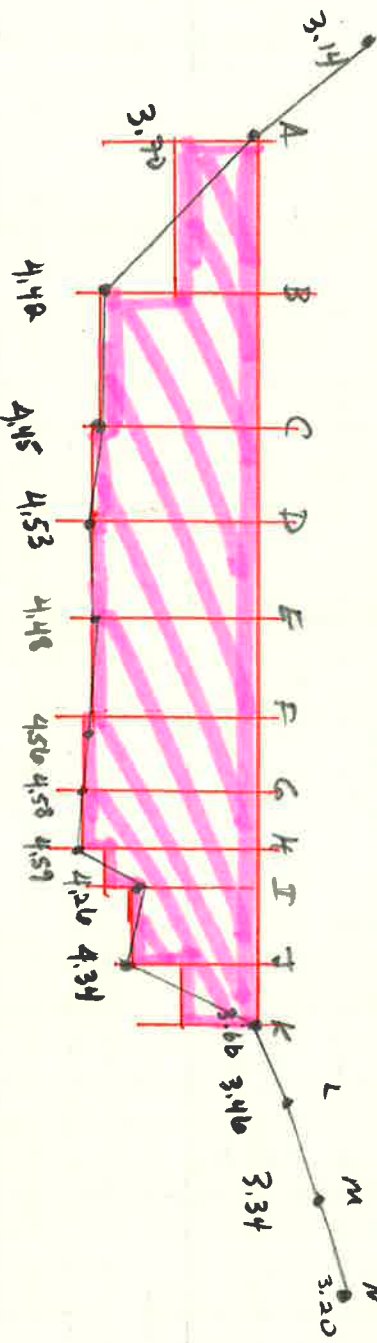
Cloddy downstream

— 8.0	0
— 7.5	
— 6.7	7
— 6.0	6
— 5.5	
— 5.0	5
— 4.5	
— 4.1	4
— 3.8	
— 3.6	
— 3.2	
— 2.9	3
— 2.5	
— 2.0	2
— 1.9	

Left Bank full

Right high water

Right Bear Full
(downhill side)



**Water Resources
Field Services
208 663 4667**

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13-782	50 SHEETS FILLER	5 SQUARE
42-361	50 SHEETS EYE-ENGL	5 SQUARE
42-362	100 SHEETS EYE-ENGL	5 SQUARE
42-363	200 SHEETS EYE-ENGL	5 SQUARE
42-362	100 RECYCLED WHITE	5 SQUARE
42-362	200 RECYCLED WHITE	5 SQUARE

Made in U.S.A.



Mannings equation calculations for A25-04152A and other Posey Creek Ditch rights.

Ditch Profile

Station	Horizontal	Rod	Wtr Surf	Depth
Left Bank	8.0	3.14	3.66	0.00
A	7.5	3.70	3.66	0.04
B	6.7	4.42	3.66	0.76
C	6.0	4.45	3.66	0.79
D	5.5	4.53	3.66	0.87
E	5.0	4.48	3.66	0.82
F	4.5	4.66	3.66	0.90
G	4.1	4.58	3.66	0.92
H	3.8	4.59	3.66	0.93
I	3.6	4.26	3.66	0.60
J	3.2	4.34	3.66	0.68
K	2.9	3.66	3.66	0.00
L	2.5	3.46	3.66	0.00
M	2.0	3.34	3.66	0.00
N	1.5	3.20	3.66	0.00

Wetted Portion

Section	Width	Depth	Area	Wetted P.
AB	0.8	0.40	0.320	1.08
BC	0.7	0.78	0.543	0.70
CD	0.5	0.83	0.415	0.51
DE	0.5	0.85	0.423	0.50
EF	0.5	0.86	0.430	0.51
FG	0.4	0.91	0.364	0.40
GH	0.3	0.93	0.278	0.30
HI	0.2	0.77	0.153	0.39
IJ	0.4	0.64	0.256	0.41
JK	0.3	0.34	0.102	0.74
			Area ft^2	Wetted P. ft
Sum			3.283	5.530

Hydraulic Radius = Area/WP = 0.594 ft

Mannings n = 0.045

Perry, Civil Engineering, 1959. "Rock, jagged, 0.040 - 0.045"

Slope

Upstream rod 3.08
Downstream rod 3.40

Change in elevation 0.32

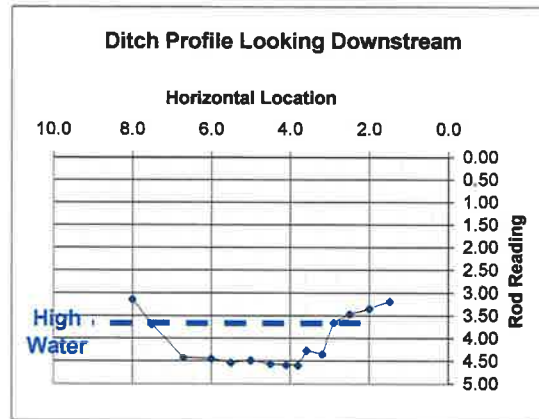
Distance 21

Slope 0.015238

Mannings Equation: $Q = (1.486/n) * Area * (Hydraulic\ Radius)^{2/3} * (Slope)^{1/2}$

USBOR Water Measurement Manual p 170

Q = 9.5 cfs



Wetted Perimeter calculated using distance formula:

square root ((width1 - width2)^2 + (depth1 - depth2)^2)

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SEP 01 2004

Water Resources
Field Services
208 663 4667

STATE OF IDAHO)
COUNTY OF BONNEVILLE) ss
I hereby certify that the within
instrument was recorded.
Ronald Longmore
County Register
Paula Kelling
Request of *Wm. Fischer*

19493

BONNEVILLE COUNTY
CLERK

DEC 1 11 05 AM '86

QUITCLAIM DEED

FOR VALUABLE RECEIVED, BUD MORRIS, Individually, and as Personal Representative of the Estate of Leona T. Morris, Deceased, of Bingham County, Idaho, DOROTHY POULSON, of Bingham County, Idaho, and MILDRED CUTTER, of Salt Lake County, Utah, do hereby convey, release, remise and forever quitclaim unto GORDON MORRIS, of 582 East, 400 North, Blackfoot, Idaho 83221, the following described premises, to-wit:

Beginning at the Northeast corner of Section 20, Township 3 South, Range 43, East of the Boise Meridian, Bonneville County, Idaho (the location of said corner being as determined by the Department of Interior Surveyors in 1978, and as perpetuated and recorded in November 1985), and running thence N 89°40'17" W 2475.60 feet along the Section line; thence S 0°02'26" E 1912.68 feet; thence S 89°58'20" E 2619.49 feet to an existing fence line; thence N 1°07'57" W 1690.14 feet along said fence; thence N 9°59'36" W 215.32 feet to an existing fence corner; thence N 89°40'17" W 15.57 feet to the point of beginning, containing 112.31 acres.

TOGETHER WITH their appurtenances and all ditch and ditch rights and water and water rights thereunto belonging or in anywise appertaining, including an undivided one-fourth (1/4) interest in all water rights pursuant to Claim Nos. 25-4152 and 25-7289.

ALSO TOGETHER WITH an easement for purposes of ingress and egress to effectuate the aforementioned water rights, over, across and upon the following described real property, to-wit:

NE1/4; E1/2NW1/4; SW1/4NW1/4; N1/2S1/2 of Section 20, Township 3 South, Range 43, East of the Boise Meridian, Bonneville County, Idaho.

Dated this 5th day of September, 1986.

Source: Gordon Morris (will)
Date: 10/25/83

March 19, 1973

Mr. R. Keith Higginson, Director
Idaho Department of Water Administration
240 So. Holmes
Idaho Falls, Idaho 83401

Re: Forrest Mann Application No. 25-7025

Dear Mr. Higginson:

We are writing this letter at the request of Mr. Clifford Morris and his son, Mr. Bud Morris, the present owner and operator respectively of certain property near Grays Lake in Bonneville County, Idaho. The Morrises are concerned about the application of Forrest Mann No. 25-7025 for a permit to appropriate 2.0 cfs of water from Posey Creek, a tributary of Grays Lake. The Morrises have directed us to file a written protest to the issuance of said permit which we are doing by this letter.

Mr. Clifford Morris is the record owner of certain deeded ground including a majority of Section 20, Township 3 South, Range 43 E.B.M. in Bonneville County which is presently operated by his son, Mr. Bud Morris. Mr. Clifford Morris purchased this property in 1935 and either he or his son have operated the property every year since. At the time of the purchase of this ground by Mr. Morris in 1935, a ditch, which heads in Section 16, Township 3 South, Range 43 E.B.M., was located on his property which carried the waters of Posey Creek to his land where it has been used every year since 1935. The point of diversion and diversion works for said ditch are located in Section 16, Township 3 South, Range 43 E.B.M. and consist of a rock dam across Posey Creek which diverts, except in unusual period of very high water, all of the waters of Posey Creek into the ditch mentioned. The Morrises have been advised by their predecessors

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SEP 01 2004

Source: Gordon Morris
(encl.)
Date: 10/25/03

Mr. R. Keith Higginson, Director
Idaho Department of Water Administration
March 19, 1973
Page Two

in title that the dam and ditch were constructed and first used in 1921 and have been used every year from 1921 until 1935.

The water has always been used and is presently used for stock water and for irrigation of approximately 90 acres of deeded ground in Section 20, Township 3 South, Range 43 E.B.M. It is the understanding of the Morrisises that at some point below the above described diversion dam, there are some springs which feed Posey Creek and that the seepage from their ditch may contribute somewhat so that during a portion of the summer there may be up to 25 or 30 inches of water in Posey Creek which could be used by Mr. Forrest Mann.

We will be happy to supply any additional information which we can at your request and would appreciate it if you will advise us of hearing dates and all actions of which our clients should be aware in this matter.

Very truly yours,

Kent W. Foster

KWF:jr

SCANNED

SEP 01 2004

Source: Gordon Morris (Memo)
Date: 10/25/03

October 25, 2003

Gordon Morris
582 E 400 N
Firth ID 83236

Re: Posey Creek Water Right Claims

Dear Mr. ~~Mann~~ Morris: (mailed w/ corrected) BAC

Thank you for showing me your water use on Posey Creek. With what you showed me, with documentation in your file and the other Posey Creek files, and with documentation that you and Mrs. Gardner are sending me, I have enough information to document the original basis of the Posey Creek water rights. What you and the other claimants showed me gives me a good idea of the lands currently able to be irrigated. The enclosed sketch shows where water use has been claimed.

Because actual application of water to beneficial use is the "basis, limit, and extent" of a water right, I also need a better understanding of the use of Posey Creek water during the five years leading up to signing of the adjudication claims. These claims were signed in 1988, 1989, and 1995. I would appreciate any information you can give me regarding all irrigation from Posey Creek from 1983 through 1995. The more detail you can provide - dates, acres irrigated, which ditches were used and which way the water ran - the more useful the information will be and the better job I can do.

A water right is protected from being lost by forfeiture if "circumstances beyond the water user's control" prevent the use of the right. If any of the Posey Creek claimants *were prevented* from irrigating by some circumstance they couldn't control, please also describe that situation.

I realize that the people who know the most about these things are the claimants themselves. However, if some "disinterested person" can provide a written statement about this water use, that is stronger evidence than a statement from a claimant.

Any statement (from the claimant or anyone else) needs to show "personal knowledge." This doesn't mean just that the person *knows* about the water use, but that they actually *saw it* themselves. A statement like "I know this water use occurred because I saw it myself the summer I worked for the

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SEP 01 2004

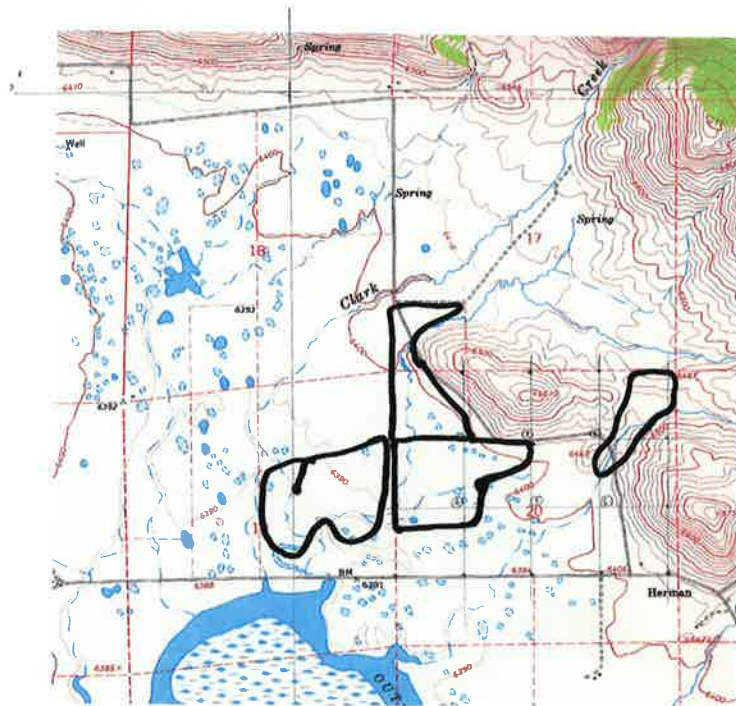
Water Resources
Field Services
208 663 4667

Forest Service at Caribou, which would have been 1988 or 1989" is the kind of thing we need. Please try to include specific detail about *exactly where* the water was used, *when* it was used, and *how much* was used.

Please mark up this map, write a statement, get statements from other people if you can, and mail it back to me at the address at the top of the letter. If you have questions, please call me at 208 663 4667 or 208 681 9100.

Thank you,

Bryce A. Contor



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SEP 01 2004

Water Resources
Field Services
208 663 4667

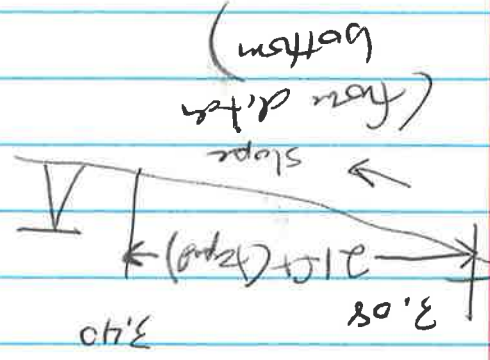
A25-04152A 10/22/03

1 Photo poll - dam on Posey Creek
GPS waypoint at 708,557E
231,369N

Mr. Morris has better accuracy historically
only in high water does water go beyond
dam.

3 photos showing Mannings Equation site

where after enters Morris / photo
GPS 025 708,947E 231,038N



Right high water

Right breast fall

Left Breast Fall	8.0	3.14
	7.5	3.20
	6.7	4.42
	6.0	4.45
	5.5	4.53
	5.0	4.48
	4.5	4.56
	4.1	4.58
	3.8	4.59
	3.6	4.26
	3.2	4.34
	2.9	3.66
	2.5	3.46
	2.0	3.34
	1.5	3.20

SCANNED
SEP 01 2004

A25-04152A Gordon Morris Contact log

10/20/03 11:47 AM 785-1559

Gordon Morris

- OK to enter place -
- Water follows top of hill,
Bonnie Gardner also has Posey Creek
Water -
 - Comes around rocky knoll, to
old road.
 - Mann's don't have Posey Cr. Water per Mr. ^{Morris}
 - Dam in title refers to dam in
old School Section. Ted (Gordon's
Son) owns
- 67 Ford - Blue - (Blue Green?)
(Gate off South)
- He will be looking for me Wed.
afternoon

A25-04152A 10/22/03 p2

used to water about 6 acres beyond
Gardner, can't now - ditch dispute

2 photos of poa from top of ridge,
standing at ditch. 1st looking SW,
2nd looking S

SCANNED

JUL 30 2001

Log for claim 25-04152A

Spatial Dynamics CAT

11/17/00

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
03s43e	20	NENE	20	41	Indiscernible
03s43e	20	SENE	8	41	Indiscernible
Totals:			28	82	

AJ5809NP
No. A25-04152A

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 10/18/00
PAGE: 46

Point(s) of Diversion: T03S R43E S16 SWNESW

BONNEVILLE County

Place of use Legal Description for: IRRIGATION

	NE					NW					SW					SE										
T	R	S	: Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	: Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	: Lt	Ac	Lt	Ac	Lt	Ac	: SUM	
03S	43E	20	:	20					08	:									:						:	28.0
																							:	28.0		
																							:	TOTAL ACRES	:	28.0

Place of use location for STOCKWATER is the same location as described for: IRRIGATION

POU County: BONNEVILLE

Non-Irrigation Uses: STOCKWATER FOR 200 HEAD OF RANGE CATTLE

Other Rights: NONE

Remarks: GEN PORTION OF RIGHT OWNED BY CLAIMANT

Dates: Exam Made Date: Verified Date: Objection Filed Date:

Misc: Water District Number: Field Inspection Flag:
Presumption Flag:

Audit: 03/16/89 VERNER 03/29/95 POST-STD

AJ5809NP
No. A25-04152A

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 10/18/00
PAGE: 45

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	GORDON MORRIS 582 E 400 N FIRTH ID 83236 (208) 785-1559	06/15/1921	IRRIGATION STOCKWATER	04-01 11-01 05-10 11-01	1.500 CFS 0.020 CFS	
TOTAL DIVERSION:					1.500 CFS	
CONSUMPTIVE USE:						70.00 AFA
Water Source: POSEY CREEK		Tributary to: GREYS LAKE			Stage: BENEFICIAL USE	

41521A

May 6, 1991

GORDON MORRIS
582 E 400 N
FIRTH ID 83236

RE: **Evidence of Priority**

Dear Mr. Morris:

The Notice of Claim identified with the number shown at the end of this letter has been filed in the Snake River Basin Adjudication (SRBA). The Notice indicates the water usage is based on "Beneficial Use" or a "Statutory Claim". Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed, at or on the place of use identified on the Notice. The date the water was first put to use, known as the priority date, has not been confirmed by a License, Decree, or Permit. For this reason, proof must be provided supporting the priority date.

For your reference I have provided a printout of your Notice and the pamphlet entitled **"Evidence of Priority"**. The pamphlet describes the types of evidence required and suggests which documents will fulfill this requirement. While I encourage you to read all of the pamphlet, I direct your attention to the two sections entitled **"What Kind of Evidence is Required"** and **"Some Examples of Documents Which May Be Evidence of the Priority Date"**.

It is our goal to recommend this historical water rights within the Snake River Basin as accurately as possible. Field exams to verify other items of the Notice have been or soon will be conducted by Department personnel. **But, the Department will not recommend the Notice be decreed by the court if no evidence of a priority date is submitted.**

Please submit the required evidence supporting the priority date by **June 6, 1991**, referencing all documents with the corresponding Notice number. If you have any questions not covered by this letter or the enclosed pamphlet, please contact this office.

MICROFILMED
NOV 10 1992

Gordon Morris

Page 2

All Notices required to submit this evidence are currently being reviewed for recommendation to the court. Hence, the need for expediency on your part or your agency. Every effort should be made to submit this information within 30 days of the date of this letter.

Respectfully submitted,

Ernest Carlsen
Water right Supervisor, Adjudication

EC:sc

Enclosure: Brochure on "Evidence of Priority"
Proof Report

A25-04152A
GORDON MORRIS
582 E. 400 N.

FIRTH

ID 83236

MICROFILMED
NOV 10 1956

MICROFILMED
NOV 10 1992

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: A25-04152A
Date Received: 3/16/1989
Receipt No: 6006157
Received By: SV

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: GORDON MORRIS
Address: 582 E. 400 N.
FIRTH, ID 83236 208-785-1559

2. Date of Priority: JUN 15, 1921

3. Source: POSEY CREEK *April-13-1936* Trib. to: GREYS LAKE *5-18-91 Gm*

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
03S	43E	16	SW	NE	SW		BONNEVILLE

5. Description of diverting works:
HEADGATE IN STREAM TO DITCH FOR FLOOD IRRIGATION

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	1.500		
STOCKWATER	05/10	11/01	0.020		

7. Total Quantity Appropriated is:
1.500 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 70.0 Acre Feet Per Annum.

9. Non-irrigation uses:
STOCKWATER FOR 200 HEAD OF RANGE CATTLE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
03S	43E	20	NE	NE		IRR	20.0
			SE	NE		IRR	8.0

Section Acres 28.0

A25-04152A

Page 1

Date: 03/16/89

A2504152A

MICROFILMED
NOV 10 1992

10. Place of Use: Continued

Total Acres 28.0

11. Place of use in counties: BONNEVILLE

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

13. Other Water Rights Used:
 NONE

14. Remarks:
 PORTION OF RIGHT OWNED BY CLAIMANT

15. Basis of Claim: BENEFICIAL USE

MICROFILMED
NOV 10 1992

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 2

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Gordon Morris Date: 3-16-89

Date: _____

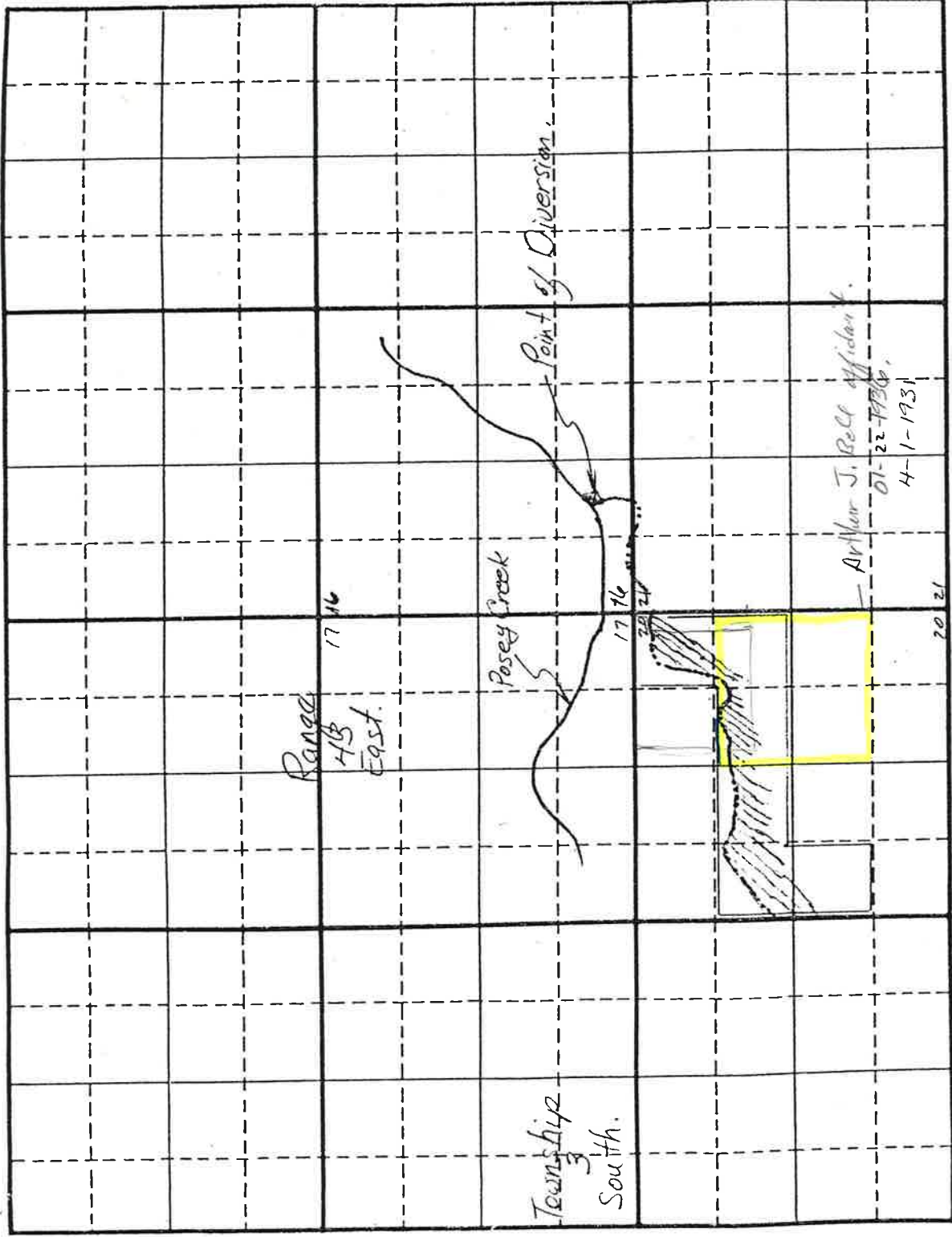
State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 16 day
of March 19 89

E. J. Keme
Notary Public

Seal

Residing at Idaho Falls, Id
My Commission Expires 22 Aug 1994



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho

County of Laramie

ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing 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.

Sworn to before me this 21st day of August

1982.

(Claimant)

Arthur J. Bell

Notary Public
Residing at Shoshone Falls Id

My commission expires 6/15/85

