

08/31/2004

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

RIGHT NUMBER: 25-13763

NAME AND ADDRESS: BONNIE P GARDNER
469 E 400 N
BLACKFOOT ID 83221

SOURCE: POSEY CREEK

TRIBUTARY: SINKS

QUANTITY: 0.290 CFS

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

PRIORITY DATE: 02/06/1904

POINT OF DIVERSION:

T03S R43E S16 NWSW 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	0.290 CFS
STOCKWATER	04/15 11/01	0.020 CFS

PLACE OF USE: IRRIGATION Within BONNEVILLE County

T03S R43E S20 NWNW 14.5

STOCKWATER Within BONNEVILLE County

T03S R43E S17 SWSW T03S R43E S20 NWNW

14.5 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

RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION
PURSUANT TO SECTION 42-1425, IDAHO CODE.

RECEIVED

SEP 13 2004

08/31/2004

NOTICE OF ERROR
REPLY

Department of Water Resources
Eastern Region

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: 25-13763

BONNIE P GARDNER
469 E 400 N
BLACKFOOT ID 83221
Telephone Number: (208)785-1688

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:

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

DATE:

9/13/04

SIGNATURE:

Bonnie P Gardner

Please print your name:

BONNIE P. GARDNER

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

PROFILED

SCANNED

SEP 15 2004

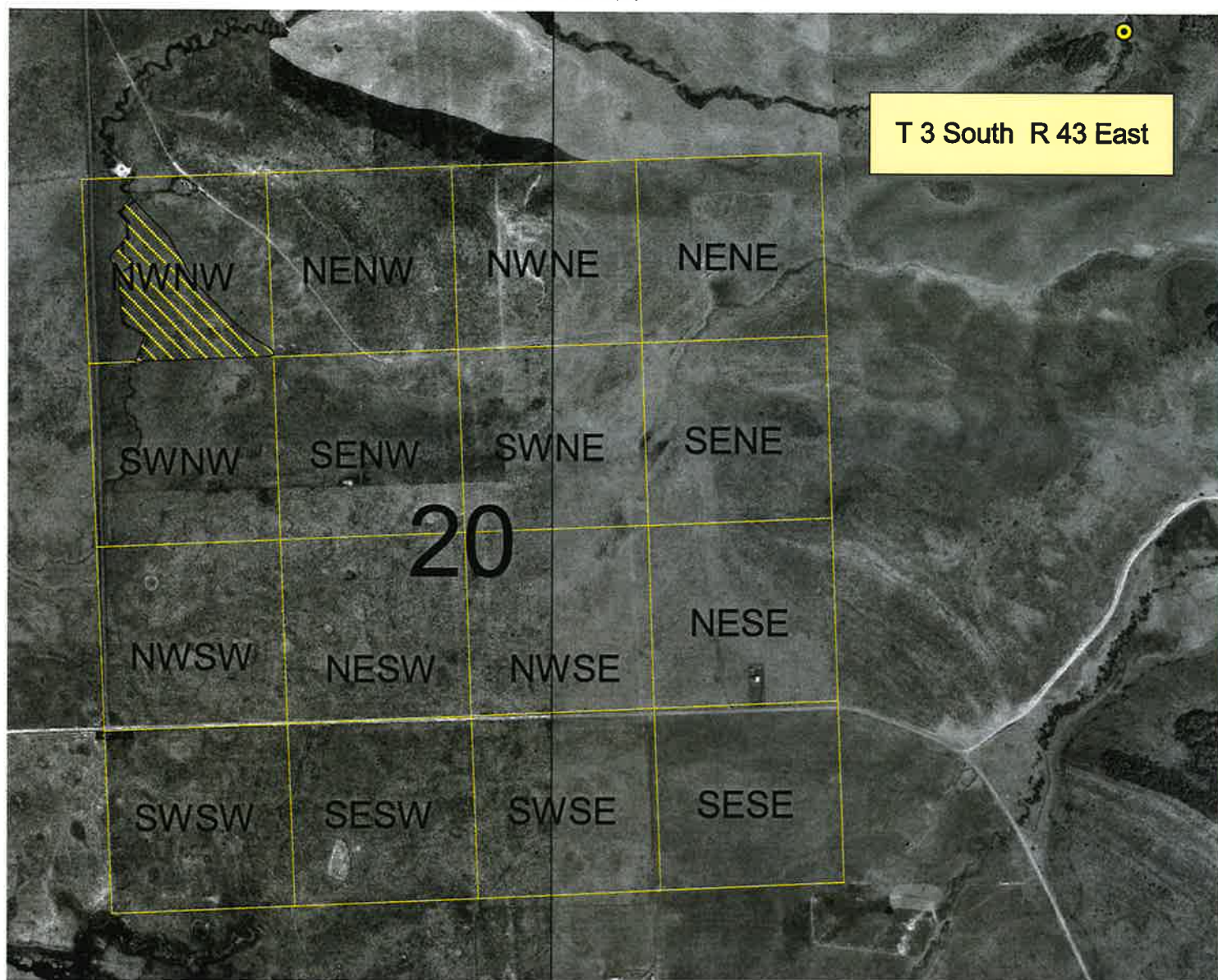


State of Idaho

Department of Water Resources

Eastern Region

Water Right(s): 25-13763



1320 0 1320 2640 3960 Feet

PROFILED

- ⊙ Point of Diversion
- Place of Use
- Section 20



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

21 November 2003

General Comments

Please see summary for all Posey Creek claims in this paper file.

Part of the claimed place of use appears to be irrigated.

Ownership

The claim is correct per the Bonneville County Assessor's Office.

POD

The current active POD is in T3S R43E Section 16, probably in the SE NW SW. The GPS waypoint is 27 and the IDTM coordinates are 709,559E 231,369N.

The claimed POD is correctly described but appears not to have been used since the 1970s, according to Matt Mann. Matt is not a completely disinterested party, however, since he also has a POD at the claimed location. The waypoint at the claimed location is number 13326, IDTM coordinates 707,326E 231,052N.

I propose getting some advice. The current use is from the active POD but the same lands could potentially be irrigated from the claimed POD. It may be a valid argument that the claimant has been prevented from using the claimed POD by the dams built by Morris and Mann. It may also be that the claimed POD was used within five years of the claim date. It might be tough to assert the claimed POD has been forfeited or abandoned.

POU

See my sketch on the attached USGS topo and on the Terra Server photo in paper file A25-04152A. Note that the registration of the PLS or else the image on the layouts appears to be incorrect. The pond should be on the section line per the USGS topo, and the driveway appears to also line up with the section line in the Terra Server image.

Overlap

If the Section 17 POD is recommended, this is an overlap with A25-13326. The Section 16 POD is an overlap with A25-04152A and A25-10497.

SCANNED

Conflict

See Posey Creek summary.

Priority

See Posey Creek summary.

Quantity

I propose 0.02 cfs/acre.

Water Use

Irrigation and stockwater use confirmed.

List of Photos

- | | |
|------------------------------|---|
| 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 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. |

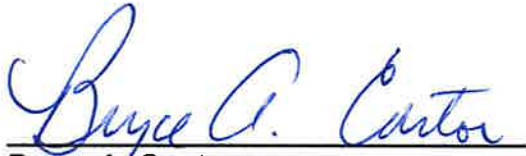
SCANNED

A25-13763_A25-10497_Doc2.jpg

Bud Morris affidavit. Provided by Mrs. Gardner.

A25-13763_A25-10497_Doc3.jpg

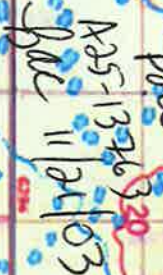
Bill Schulz affidavit. Provided by Mrs. Gardner.


Bryce A. Contor

21 Nov 03
Date

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

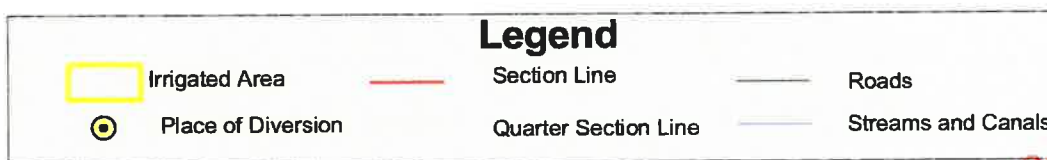
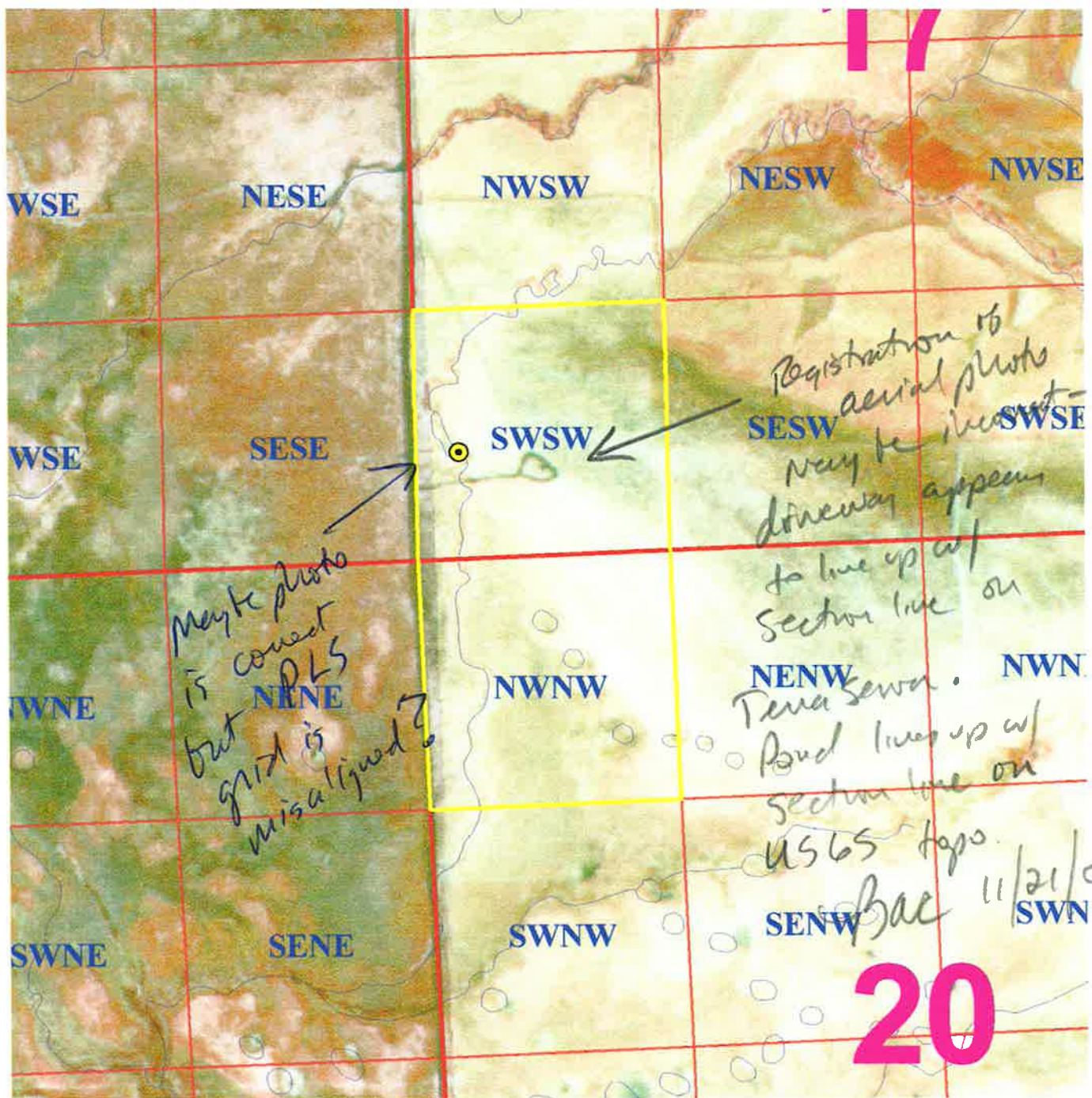
SCANNED



SCANNED
SEP 01 2004

Water Right Claim Number 25-13763
Township , 3S43E

11/20/2000



500 0 500 1000 1500 Feet



SPATIAL
DYNAMICS

SCANNED
SEP 01 2004



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.

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.

SEP 01 2004

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 Shutiz 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. SCANNED
SEP 01 2004

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.

SCANNED

SEP 01 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.
- 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.

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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

STATE OF IDAHO
COUNTY OF BINGHAM
NOTARY PUBLIC
WILLIAM T. MORRIS
My Commission Expires 12/31/85

719492

BONNEVILLE COUNTY
CLERK

Dec 1 11 05 AM '85

QUITCLAIM DEED

Personal Representative of the Estate of Leona T. Morris,
Deceased, of Bingham County, Idaho, GORDON MORRIS, of Bingham
County, Idaho, and MILDRED CUTLER, of Salt Lake County, Utah, do
hereby convey, release, remise and forever quitclaim unto DOROTHY
FOULSON, of 133 East, 200 North, Blackfoot, Idaho 83221, the
following described premises, to-wit:

Beginning at a point that is N 89°45'17" W
2475.60 feet along the Section line from 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
1983), and running thence N 89°45'17" W
280.35 feet to the North Quarter corner of
said Section 20 (said Quarter corner being a
found stone marked "X" perpetuated and
recorded November 1983); thence N 89°49'39" W
1302.54 feet along an existing fence line;
thence S 3°57'17" E 1279.57 feet along an
existing fence line; thence N 85°08'12" W
1621.03 feet along an existing fence line to
the East right-of-way fence of an existing
County Road; thence S 0°02'26" E 912.10 feet
along said right-of-way fence; thence S
89°58'20" E 2916.48 feet; thence N 0°02'26" W
2300.26 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. 13-4152 and 23-7129.

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

NE1/4, E1/2NW1/4, SW1/4NW1/4, E1/2SE1/2 of
Section 20, Township 3 South, Range 43, East
of the Boise Meridian, Bonneville County,
Idaho.

Dated this 1st day of September, 1986.

Bud Morris Bud Morris
BUD MORRIS, Individually BUD MORRIS, as Personal
Representative of the Estate
of Leona T. Morris
Gordon Morris Mildred Cutler
GORDON MORRIS MILDRED CUTLER

STATE OF IDAHO
County of Bingham

ON THIS 1st day of September, 1986, before me,
H. WILLIAM FURCHER, a Notary Public in and for said State,
personally appeared BUD MORRIS, individually, and as Personal
Representative of the Estate of Leona T. Morris, Deceased, known
to me to be the person whose name is subscribed to the within and
foregoing instrument, and acknowledged to me that he executed the
same, individually, as such Personal Representative.

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

H. William Furcher
Notary Public for Idaho
Residing at Blackfoot, Idaho
My Commission Expires Dec 31, 1990

STATE OF IDAHO
County of Bingham

ON THIS 1st day of September, 1986, before me,
H. WILLIAM FURCHER, a Notary Public in and for said State,
personally appeared GORDON MORRIS, known to me to be the person
whose name is subscribed to the within and foregoing 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.

H. William Furcher
Notary Public for Idaho
Residing at Blackfoot, Idaho
My Commission Expires Dec 31, 1990

STATE OF UTAH
County of Salt Lake

ON THIS 1st day of September, 1986, before me,
H. WILLIAM FURCHER, a Notary Public in and for said State,
personally appeared MILDRED CUTLER, known to me to be the person
whose name is subscribed to the within and foregoing instrument,
and acknowledged to me that she 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.

H. William Furcher
Notary Public for Utah
Residing at Blackfoot, Idaho
My Commission Expires Dec 31, 1990

CLARENCE, DORRIS (B)
JULIA, DORRIS (B)
A2510497
A2513762

SCANNED

AUG 01 2001

Log for claim 25-13763

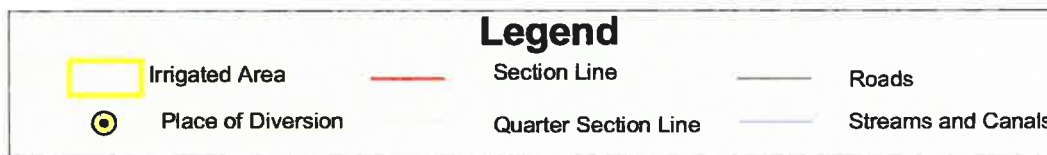
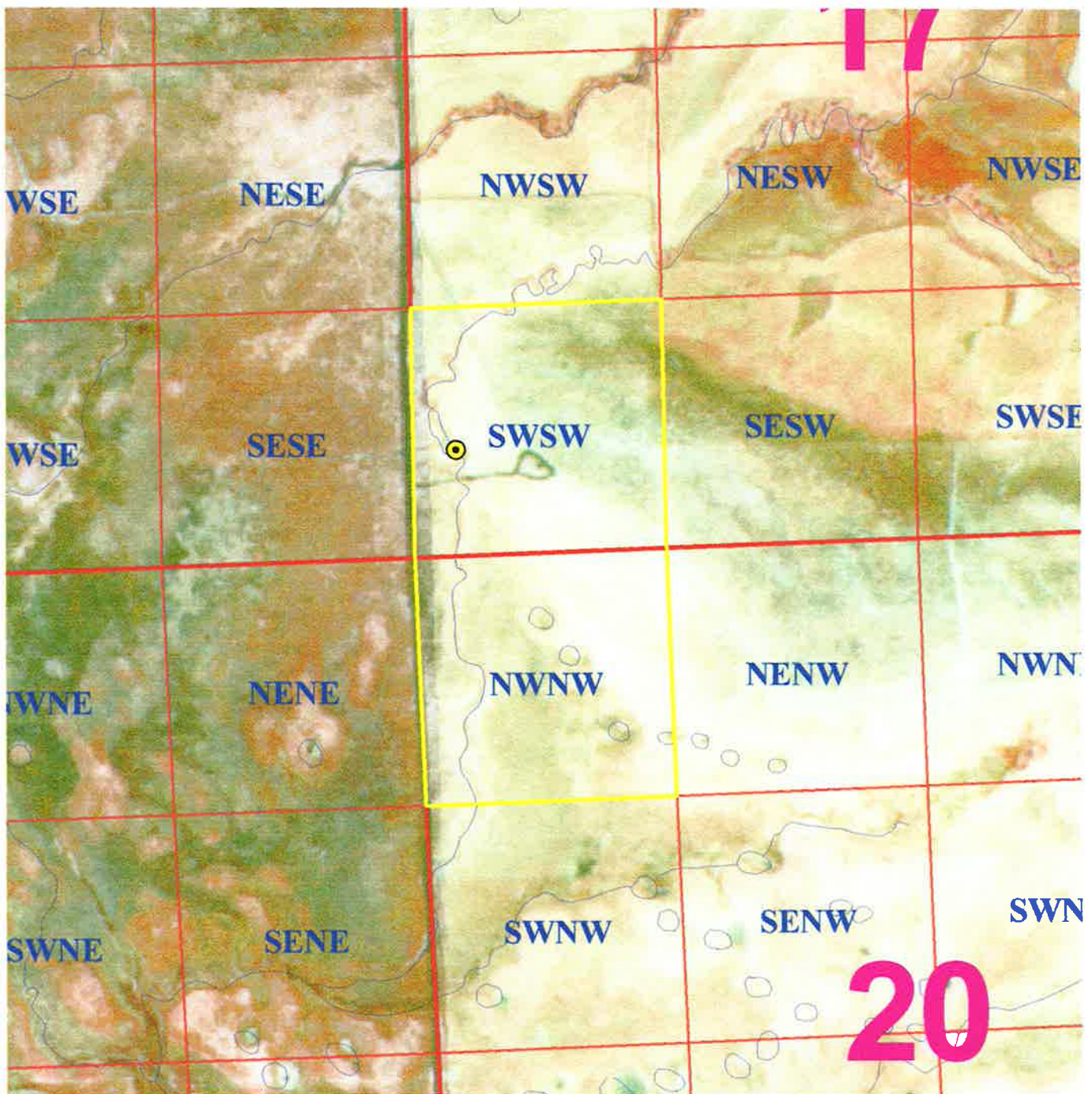
Spatial Dynamics CAT

11/20/00

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
03s43e	17	SWSW	14	41	Indiscernible
03s43e	20	NWNW	25	41	Indiscernible
Totals:			39	82	

Water Right Claim Number 25-13763
Township , 3S43E

11/20/2000



500 0 500 1000 1500 Feet

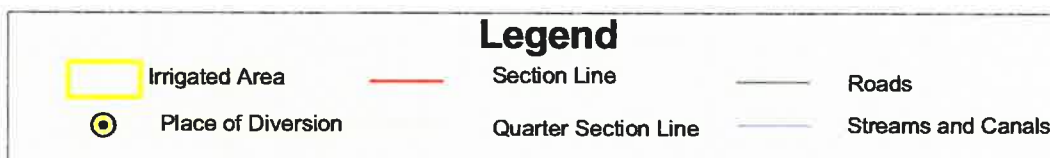
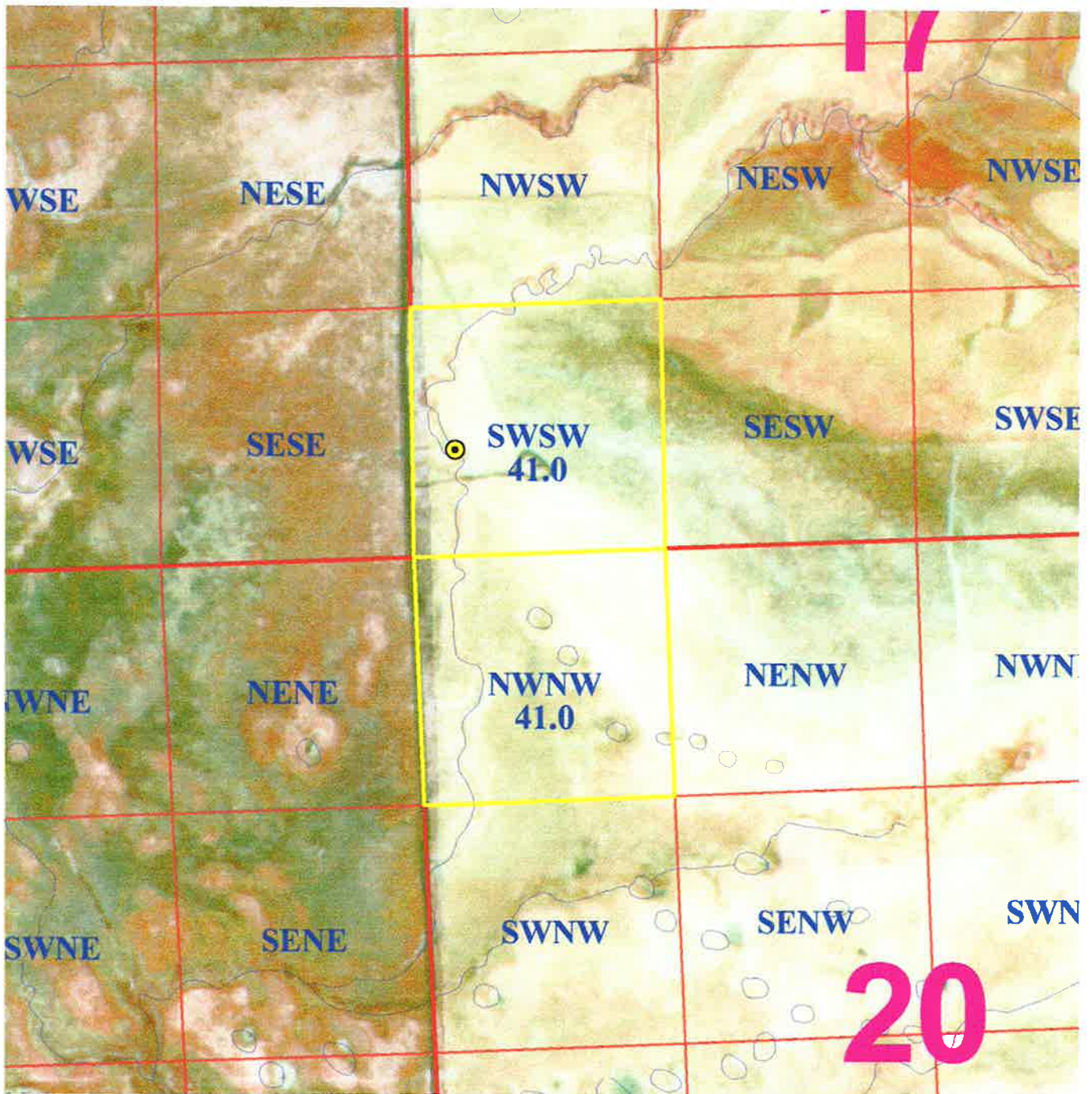


SPATIAL
DYNAMICS



Water Right Claim Number 25-13763
Township , 3S43E

11/20/2000



500 0 500 1000 1500 Feet



SPATIAL
DYNAMICS



AJ5809NP
No. A25-13763

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 10/18/00
PAGE: 92

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	BONNIE P GARDNER 469 E 400 N BLACKFOOT ID 83221 (208) 785-1688	02/06/1904	IRRIGATION STOCKWATER	04-15 10-15 04-15 11-01	0.780 CFS 0.020 CFS	
TOTAL DIVERSION:					0.800 CFS	
CONSUMPTIVE USE:						72.50 AFA

Water Source: POSEY CREEK

Tributary to: SINKS

Stage: BENEFICIAL USE

Point(s) of Diversion: T03S R43E S17 SWSWSW

BONNEVILLE County

Place of use Legal Description for: IRRIGATION

				NE				NW				SW				SE								
T	R	S	:	NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:	SUM
---	---	---	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	---
03S	43E	17	:					:					:				14	:					:	14.0
03S	43E	20	:					:					:					:					:	25.0
TOTAL ACRES																							39.0	

Place of use Legal Description for: STOCKWATER

				NE				NW				SW				SE								
T	R	S	:	NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:	
---	---	---	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	
03S	43E	17	:					:					:					:					:	
03S	43E	20	:					:					:					:					:	

POU County: BONNEVILLE

Non-Irrigation Uses: STOCKWATER, 60 RANGE CATTLE.

Other Water Rights with Same Point(s) of Diversion with Stage (Includes All Sources):
25-10612 A25-10612

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

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

Audit: 01/20/95 ECARLSEN 03/29/95 POST-STD 09/11/95 RBODELL

A25-13763.

State of Idaho)
County of Bingham)

I DOROTHY POWLSON being first duly sworn,
deposes and says: _____

I married Basil Poulson on
Feb. 20-1935. At that time Posie
Creek was running a stream of water
on Twp 35 Rg 43 E. Sec. 17-20 in
Grays Lake Idaho. This irrigated 39 acres
besides watering cattle.
Dorothy Poulson

Dorothy Boulson
(Signature)

Subscribed and sworn to before me this 10th day of January, 1995

Martha Querdorf
(Notary Public)

Residing at Blackfoot, Idaho
My Commission Expires 11-4-98

1000
1000



EL ROS
LAUTLOCH



- MR. MORRIS HAS DAMMED OFF ENTIRE STREAM AND IS DIVERTING ALL OF THE WATER TO HIS 28 ACRES (CLAIMED 1.50 ACS)

- MR. GARDNER WANTS SOME OF H₂O LEFT IN STREAM.

- BOTH HAVE 8/4 CLAIMS

MORRIS - 1936

GARDNER - 1904

- MR. GARDNER NEEDS WATER FOR PASTURE AND STOCKWATER

UNRECORDED
NOV 13 1936

Continuation of Abstract of Title

~~Next~~- The Bonneville Abstract Company, Ltd., Idaho Falls, Idaho

Posey Oglesby, widower,
(Signs by mark - X)

Wm. Wickel and R. H. Hocking,
witnesses.....

Grantor.

TO

Alexander Brown,

Grantee.

Character of Instrument **Warranty Deed**

Date **February 6, 1904**

Recorded **May 23, 1916 at 10:05 A.M.**

Book **#2** of Deeds at Page **575**

Records of Bonneville County, Idaho.

Transcribed from Book ... Page ...

Records of Bingham County, Idaho.

Consideration **\$600.00 (No IRS)**

Acknowledgement.

Date **May 23, 1904**

Before **Harry Field, Justice of Peace**

In and for **Bingham** County, State of **Ida.**

Is Official Seal Affixed? **XX**

Is Acknowledgement regular? **Yes**

Does Acknowledgement show separate examination of wife? **XX**

No IRS-

Granting Words. Grant, bargain, sell, and convey

Covenants. Warranty and defend

Does wife join throughout instrument?

Are there any irregularities or defects?

Are there any conditions, limitations or recitals?

NOT IN TITLE.
Not abstracted
Alexander

Conveys the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 20, the
E $\frac{1}{2}$ of the NE $\frac{1}{4}$ and SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 19,
the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 17 and the SE $\frac{1}{4}$ of
the SE $\frac{1}{4}$ of Section 18, in Twp. 3 South of Range
43 E.B.M. containing 240 acres more or less. To-
gether with a private water right from Posey Creek.

RECORDED
Nov 13 1916

17 ELQ47

Continuation of Abstract of Title

~~No. 20~~ The Bonneville Abstract Company, Ltd., Idaho Falls, Idaho

Alex Brown, (Not stated)

Character of Instrument Quitclaim Deed
 Date May 12, 1913
 Recorded May 17, 1916 at 9:06 A.M.
 Book #4 of Deeds at Page 471
 Records of Bonneville County, Idaho.
 Transcribed from Book . . . Page . . .
 Records of Bingham County, Idaho.
 Consideration \$900.00 (IRS \$1 cld.)

Grantor.

TO

Emma M. Ashton,

Grantee.

Acknowledgement.

Date May 12, 1916
 Before W.B. Hardy, a Notary Public
 In and for Minidoka County, State of Idaho
 Is Official Seal Affixed Yes
 Is Acknowledgement regular Yes
 Does Acknowledgement show separate examination of wife ~~2x~~
 No IRS- Residence Rupert, Idaho

Granting Words. Demise, release and forever quitclaim
 Covenants. To have and to hold
 Does wife join throughout instrument?
 Are there any irregularities or defects?
 Are there any conditions, limitations or recitals?

Conveys the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section
 20, the East Half E $\frac{1}{2}$ of the NE $\frac{1}{4}$, the
 SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 19, in Twp. 3
 South of Range Fourty-three (43) East of
 Boise Meridian, Idaho, containing 160 acres,
 according to Government Survey. Together with
 160 in. of water our of Poisi Creek.

NOV 13 1916

SCANNED

AUG 1 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: **A25-13763**
Date Received: 1/19/1995
Receipt No: E020626
Received By: _____

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

AMENDED

1. Name: BONNIE P GARDNER 208-785-1688
Address: 469 E 400 N
BLACKFOOT ID 83221

2. Date of Priority: FEB 6, 1904

3. Source: POSEY CREEK Trib. to: SINKS

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
03S	43E	17	SW	SW	SW		BONNEVILLE

5. Description of diverting works:
EARTHEN DAM AND OPEN DITCHES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/15	10/15	0.780		
STOCKWATER	04/15	11/01	0.020		

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

8. Total consumptive use is 72.5 Acre Feet Per Annum.

9. Non-irrigation uses:
STOCKWATER, 60 RANGE CATTLE.

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
03S	43E	17	SW	SW		IRR	14.03
			SW	SW		STOCK	

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	14.0
		20	NW	NW	IRR	25.0
			NW	NW	STOCK	
					Section Acres	25.0
					Total Acres	39.0

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:

14. Remarks:

15. Basis of Claim: BENEFICIAL USE

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 ___ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

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): *James P. Gordon* Date: *Sept 11, 1995*

Date: _____

NOV 13 1995

State of Idaho)

County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 11 day
of Sept 19 95

[Signature]
Notary Public

Seal

Residing at Heise, Id
My Commission Expires 2/26/96

RECORDED
NOV 13 1995

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: **A25-13763**
Date Received: 1/19/1995
Receipt No: E020626
Received By: PMC

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

1. Name: BONNIE P GARDNER 208-785-1688
Address: 469 E 400 N
BLACKFOOT ID 83221

2. Date of Priority: FEB 20, 1935

3. Source: POSEY CREEK Trib. to: SINKS

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
03S	43E	17	SW	SW	SW		BONNEVILLE

5. Description of diverting works:
EARTHEN DAM AND OPEN DITCHES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/15	10/15	0.780		
STOCKWATER	04/15	11/01	0.020		

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

8. Total consumptive use is 72.5 Acre Feet Per Annum.

9. Non-irrigation uses:
STOCKWATER, 60 RANGE CATTLE.

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
03S	43E	17	SW	SW		IRR	14.0
			SW	SW		STOCK	

14.0
NOV 13 1995

A2513763



10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	14.0
		20	NW	NW	IRR	25.0
			NW	NW	STOCK	
					Section Acres	25.0
					Total Acres	39.0

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:

14. Remarks:

15. Basis of Claim: BENEFICIAL USE

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 _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

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): Donna P. Gardner Date: 1/19/95

Date: _____

MICROFILMED
NOV 13 1995

State of Idaho)
County of Bonnerville) SS.

Subscribed and sworn (or affirmed) before me this 19 day

of January 19 95

Ernest Carlson
Notary Public



Residing at Alta Falls

My Commission Expires 6-14-2000

MICROFILMED
NOV 13 1995

