

**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: May 21, 2004

Water right number: 74-741

LYNN A HERBST
PO BOX 21
TENDON ID 83468
Telephone Number: (208)756-2584

ROBIN R HERBST
PO BOX 21
TENDON ID 83469
Telephone Number: (208)756-2584

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

*I disagree with place of use as the Photo shows
false disagree with priority date*

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

See attachments

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

*Growth has been IIR since May 16 1873 - water right was traded to
Indian Dept June 22 1886 for water right out of Lemhi River, according to Affidavits
of Court hearing June 1910. Affidavit of John W. Snook March 3, 1972,*

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

DATE: 5-18-04 SIGNATURE: Lynn A. Herbst
Please print your name: Lynn A. Herbst

IDWR State Office, 1301 N Orchard St, Boise, ID 83706, 208-327-7925

*only point of diversion was ~~changed~~ on a portion
of the June 22 1886 water right. It was done in 1907 or 1908
when railroad finished. Based on this information water right
74-0741 should have a priority of ~~June 22 1886~~ June 22 1886*

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JUN 07 2004

DEPARTMENT OF
WATER RESOURCES

I, Lynn Herbst object to the priority date 1/8/1908 on water right 74-0741
In a law suit in June 1910 over water in Agency Creek.

Henrietta Pattee, plaintiff verses William Carpenter defendant an affidavit of FB Sharkey, he speaks of a ditch just east of road from Sunfield to Junction. Ditch head is 100 feet east from road in Agency Creek, water right filed May 26, 1873. Sharkey states water was traded to Indian Department in trade for a ditch and water right from Lemhi River. Ditch would be correct elevation to irrigate same ground as May 26, 1873 water right out of Agency Creek.

Court rules in favor of Defendant that water was traded. Also affidavit of CW Snook dated March 26, 1910.

Affidavit of John W Snook dated March 3, 1972, that Joe Pattee Ranch now owned by John F Herbst was irrigated from Indian Ditch in 1888.

In 1907 or 1908 a point of diversion change was made for a portion of the ground irrigated from Lemhi River since June 22, 1886.

I believe the ground irrigated by [REDACTED] has been irrigated since May 26, 1873 from Agency Creek until June 22, 1886 when right was traded for ditch and right out of Lemhi River.

Based on this information I believe that 74-0741 priority date should be June 22, 1886.

Attachments:

2 maps

3 Affidavits

Idaho Department of Water Resources

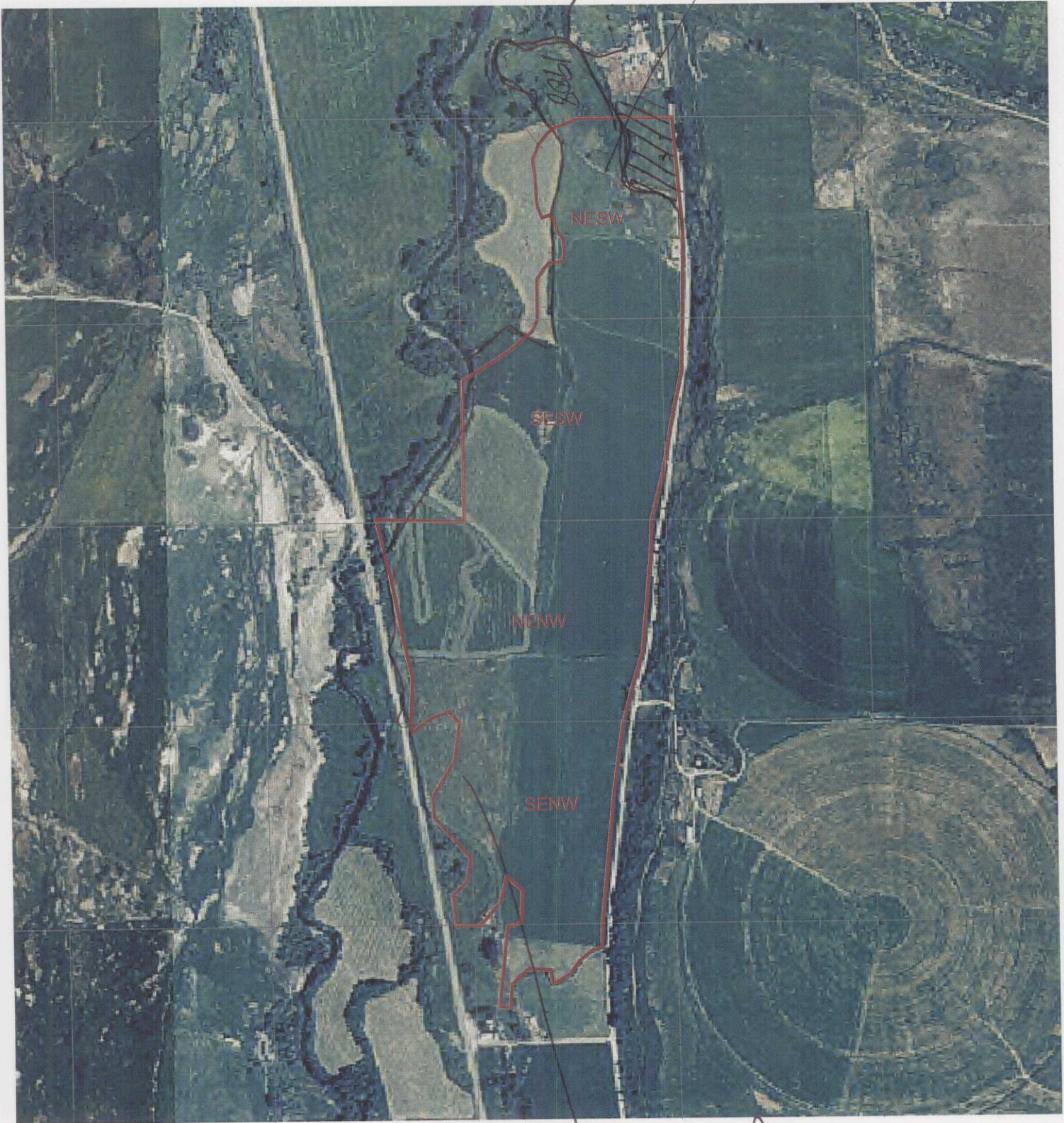
74-00741

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DEPARTMENT OF
WATER RESOURCES

check map



T19N R24E S17, S20



500 0 500 1000 1500 Feet

check map

Prepared by Sandy Egbert
October 11, 2002
1993/94 True Color Aerial Photo