

0 ✓
RECEIVED

AUG 01 2006

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

) Subcase

74-15682

) (Insert water right number)
)

Case 39576

) STANDARD FORM 4
)

) MOTION TO FILE:
)

) ☒ LATE NOTICE OF CLAIM
)

) ☐ AMENDED NOTICE OF CLAIM
_____)

INSTRUCTIONS

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even-number pages upside down.

The water right number for your late or amended claim must be indicated above in the blank space following "Subcase." You must use a **separate form for each** late or amended Notice of Claim.

This form has been adopted by the court in **SRBA Administrative Order 1, Rules of Procedure** (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

By filing a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

☐ I have read **SRBA Administrative Order 1, Rules of Procedure** (amended Sept. 30, 1996).

My name is F. James Whittaker AND/OR Paula J. Whittaker

My address is PO Box 240
Leadore ID 83464

My phone number is: Work _____ Home 768 2491

I am an attorney representing _____

My name is _____

My address is _____

My phone number is _____

MOTION TO FILE A LATE NOTICE OF CLAIM

A Motion to File a Late Notice of Claim will require a hearing before the Presiding Judge.

☒ I did not file a Notice of claim to the use of water in the SRBA because:

I just bought this property and found that
the previous owner did not file this
claim that should have been filed

☐ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or stock watering use. I desire to reinstate my Notice of Claim for domestic or stock watering use.

☒ I am providing legal and factual documentation for my claimed use of water. You must describe these documents and attach a readable copy. (You do not need to fill this out if you are reinstating a Notice of Claim for domestic or stock watering use, but you **must** attach a copy of your Notice of Claim.)

DDWR claim 74-15682 with
documentation

I have attached:

- ☒ A fully completed Notice of Claim (available from IDWR).
- ☐ A claim filing fee for a domestic and stock watering use. IDWR may charge this fee pursuant to I.C. § 42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ _____.
- ☒ A claim filing fee and a late claim fee for those claims other than a domestic or stock watering use for which a notice of claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ 148⁰⁰.

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:

This motion will be heard on _____
(Insert Date and Time)

at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

A Motion to File an Amended Notice of Claim may require a hearing before the Presiding Judge or Special Master or may be granted by leave of the court or by written consent of the parties and the Idaho Department of Water Resources. Leave to amend a claim shall be freely given when justice so requires.

- ☐ I must amend my Notice of Claim to the use of water in the SRBA because:

- ☐ I am providing legal and factual documentation to support my amended Notice of Claim. You must describe these documents and attach a readable copy.

I have attached:

- ☐ An amended Notice of Claim (available from IDWR).
- ☐ Payment of the following additional fees required by IDWR:

VERIFICATION (Must be completed)

State of Idaho

County of Lemhi

F. James Whittaker, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

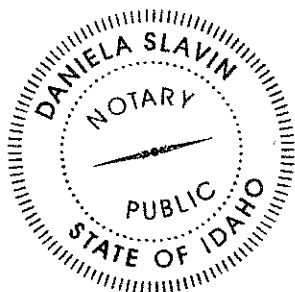
Paula J. Whittaker

That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

F. James Whittaker
Signature of person filing motion
Paula J. Whittaker

Attorney signing in representative capacity

Subscribed and sworn to before me on 27th day of July, 2006
(Insert Date)



Daniela Slavin
Notary Public for _____
Residing at: Salmon, Id
My Commission expires: 11-15-2011

INSTRUCTIONS FOR MAILING

You must mail this form, including all attachments, to the Clerk of the SRBA Court. **FAX filings will not be accepted by the SRBA Clerk of the Court.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on 7/28/06, ~~199~~, I mailed the original and copies of this form, 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
PO Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

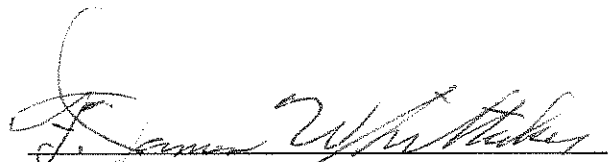
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

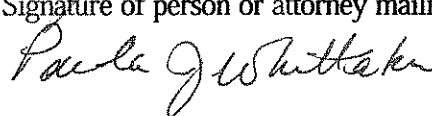
Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

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

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 subcase.

(Insert Names/address of parties)



Signature of person or attorney mailing the form


RECEIVED

AUG 01 2006

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

DEPARTMENT OF
WATER RESOURCES

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 74-15682

Date Received _____

Receipt Number _____

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

1. Claimant: F. James Whittaker
PO Box 240
Leadore ID 83464
208 768 2491
2. Date of Priority: 3/15/1982
3. Source of water (a) Big Eightmile Creek
which is tributary to (b) Lemhi River
4. a. Location of points of diversion:

Township	Range	Section	QQQ	Diversion Name
16N	25E	28	SWSE	

5. Description of existing diversion works.

rockable headgate and weir in
open ditch

6. Water is claimed for the following purposes:

Purpose	Start Date	End Date	cfs	acre feet/year
Irrigation	3/15	11/15	2.1	

7. Total quantity claimed (a) 2.1 (cfs) and/or (b) (acre feet per year)

8. Total consumptive use claimed is _____-acre feet per annum.

9. Non-irrigation uses:

10. Description of place of use

Township	Range	Section													
16N	25E	26													
NE		NW	SW									SE			
NE NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Total
											27	21			48

Total number of acres irrigated 48

11. Irrigated lands are located in county(s) of: Lemhi

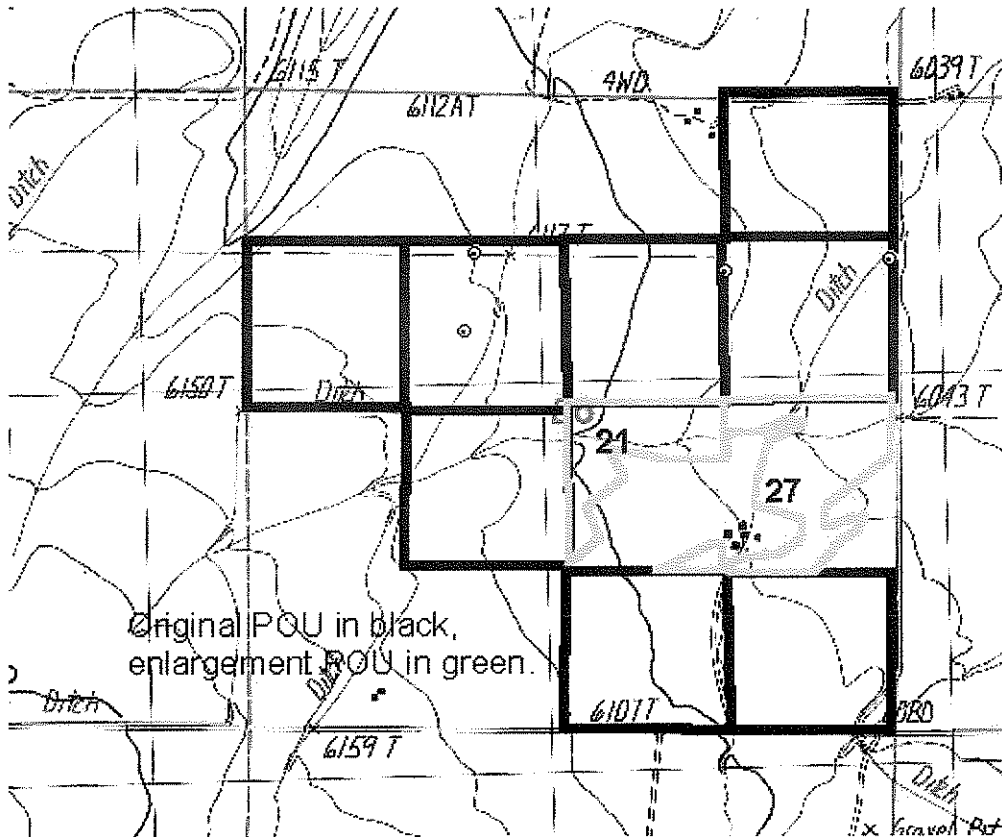
12. Do you own the property listed above as place of use? Yes

13. Describe any other water rights used at the same place and for the same purposes as described above:

This is an enlargement of 74-345 and high-water right 74-15682.

14. Remarks.. In the early 1980s a formal IDWR transfer moved the water from the N1/2 SE1/4 to the S1/2 SE1/2 but because of the way the land lay, tailwater from the north, west and south continued to supply enough water that part of this parcel continued to be irrigated. Please see attached affidavit.

Map of project:



15: Basis of Claim: Beneficial Use

IDWR water right number (none)

16: Signatures

Number of attachments _____

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

Signature of Claimant(s)

F. J. Whittaker
Paula J. Whittaker

Date

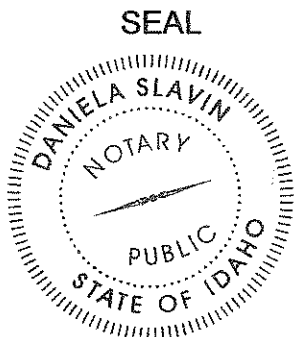
7/27/06

Date

7-27-06

State of Idaho/or _____)
County of Lemhi) SS.

Subscribed and sworn (or affirmed) before me this 27th day of July 2006



Notary Public Daniela Slavin

Residing at Salmon, Idaho

My Commission Expires 11-15-2011

Enlargement

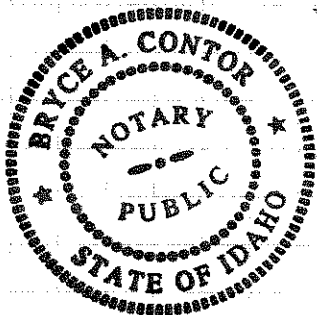
74-15682

To Whom it may concern -

I Donald Peterson used to own the farm in T16N R25E Section 26 now owned by James Whittaker. I transferred the water (~~7~~ 345) from the 80 acres in the North Half of The SE quarter, to the South Half. There was enough tailwater that I was able to continue watering part of the NE quarter of the SE quarter as shown on the sketch. I did this in 1984 and 1985.

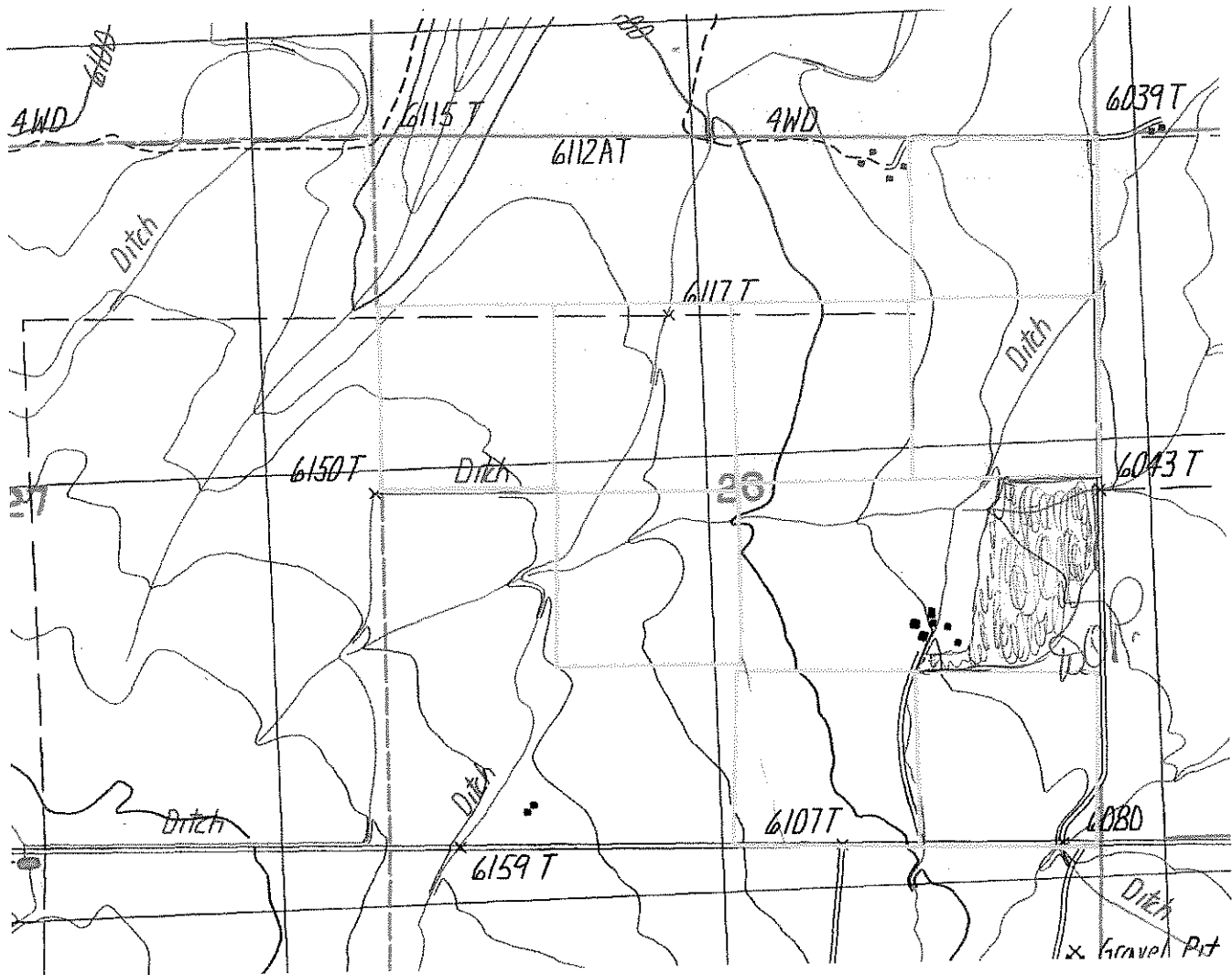
Donald Peterson

Sworn before me this 10th day of July 2006,
Bonnerville County, State of Idaho.



Bryce A. Contor
Notary Public
Residing at Tona
My commission expires
10/14/2011

Attachment to Don Peterson Affidavit July 2006



 Recommendation_74_345.shp

High water

74-15681

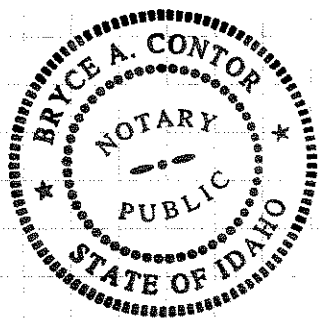
To whom it may concern -

I Donald O. Peterson owned the farm in T16N R25E Section 26, from 1964 until the Spring of 1987. This farm now belongs to James Whittaker.

In years when there was high water early in the spring, I and my neighbors took additional water above our old decrees. What high water there was we shared proportionally. This did not happen every year.

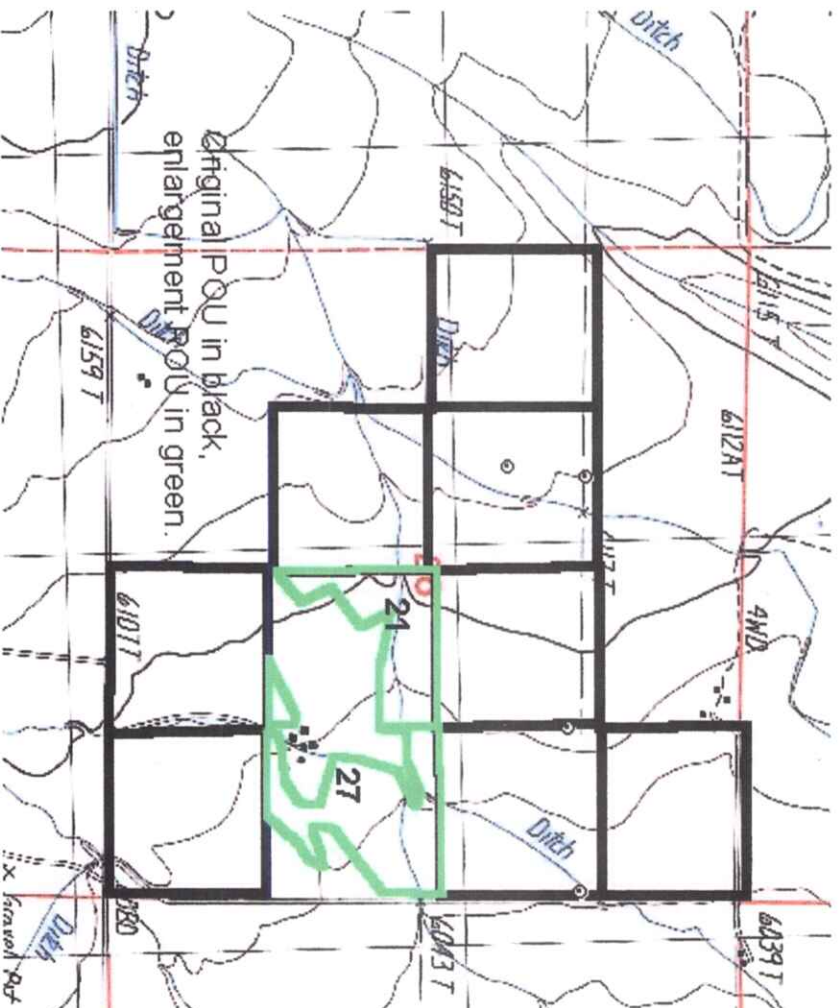
Donald O. Peterson

Sworn before me this 10th day of July 2006,
Bonneville County, State of Idaho.



Bryce A. Contor
Notary Public
Residing at Iona
my commission expires
10/14/2011

Map of project:



15: Basis of Claim: Beneficial Use

IDWR water right number (none)

16: Signatures

Number of attachments _____

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

Signature of Claimant(s)

James Whitaker

Date

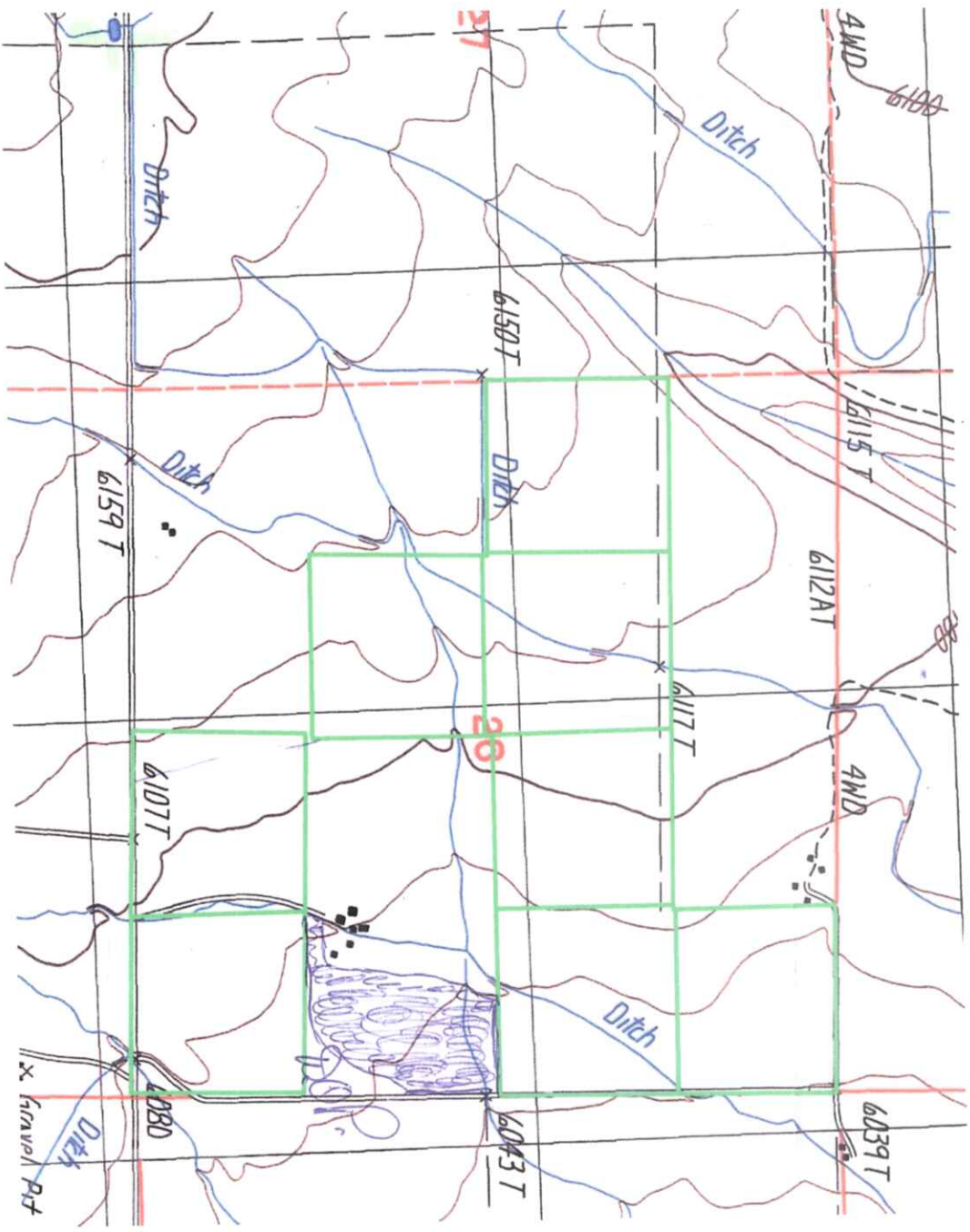
7/27/06

Paul Whitaker

Date

7-27-06

Attachment to Don Peterson Affidavit July 2006



☐ Recommendation_74_345.shp