

08/31/2006

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: September 29, 2006

Water right number: 73-11971

PRESTON E DIXON
PO BOX 707 — PO Box 367
CHALLIS ID 83226
Telephone Number: (208)876-4100 (N)

208-879-2225 (d)

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

- 1 - quantity
- 2 - priority date
- 3 - acreage

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

- 1 - quantity to be 12 inches used in rotation with other users of the ditch
- 2 - priority date to be pre 1900 - the same as adjoining landholders
- 3 - acreage to be 8.53 per legal description

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

- 1 - IT TAKES the whole of the ditch to flood irrigate and get across the field.
- 2 - see Attached copy of deed 9/17/1901 + supporting statements
- 3 - Acreage to be per attached map + legal description
- 4 - Attached from Boise H. Ellis describing Weller Slough Ellis ditch + other lower ditches

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

DO NOT AGREE

DATE: 9/28/06

SIGNATURE:

Preston E. Dixon

Please print your name:

Preston E. Dixon

IDWR Regional Office, 322 E Front St
PO Box 83720, Boise, ID 83720-0098, 2082874800

1 I request A Hubble Analysis Done
2 Request copy of review of notice of
error reply before it goes to the
court

08/31/2006

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

RIGHT NUMBER: 73-11971

NAME AND ADDRESS: PRESTON E DIXON
PO BOX 707
CHALLIS ID 83226

SOURCE: PAHSIMEROI RIVER

TRIBUTARY: SALMON RIVER

QUANTITY: 0.150 CFS

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

PRIORITY DATE: 04/01/1933

POINT OF DIVERSION: T15N R21E S8 NWNW Within LEMHI County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	0.150 CFS
STOCKWATER	01/01 12/31	0.020 CFS

PLACE OF USE: IRRIGATION Within LEMHI County

T15N R21E S06 Lot 3 NENW 5.70 T15N R21E S06 Lot 4 NWNW 1.70

STOCKWATER same as IRRIGATION

7.4 ACRES TOTAL

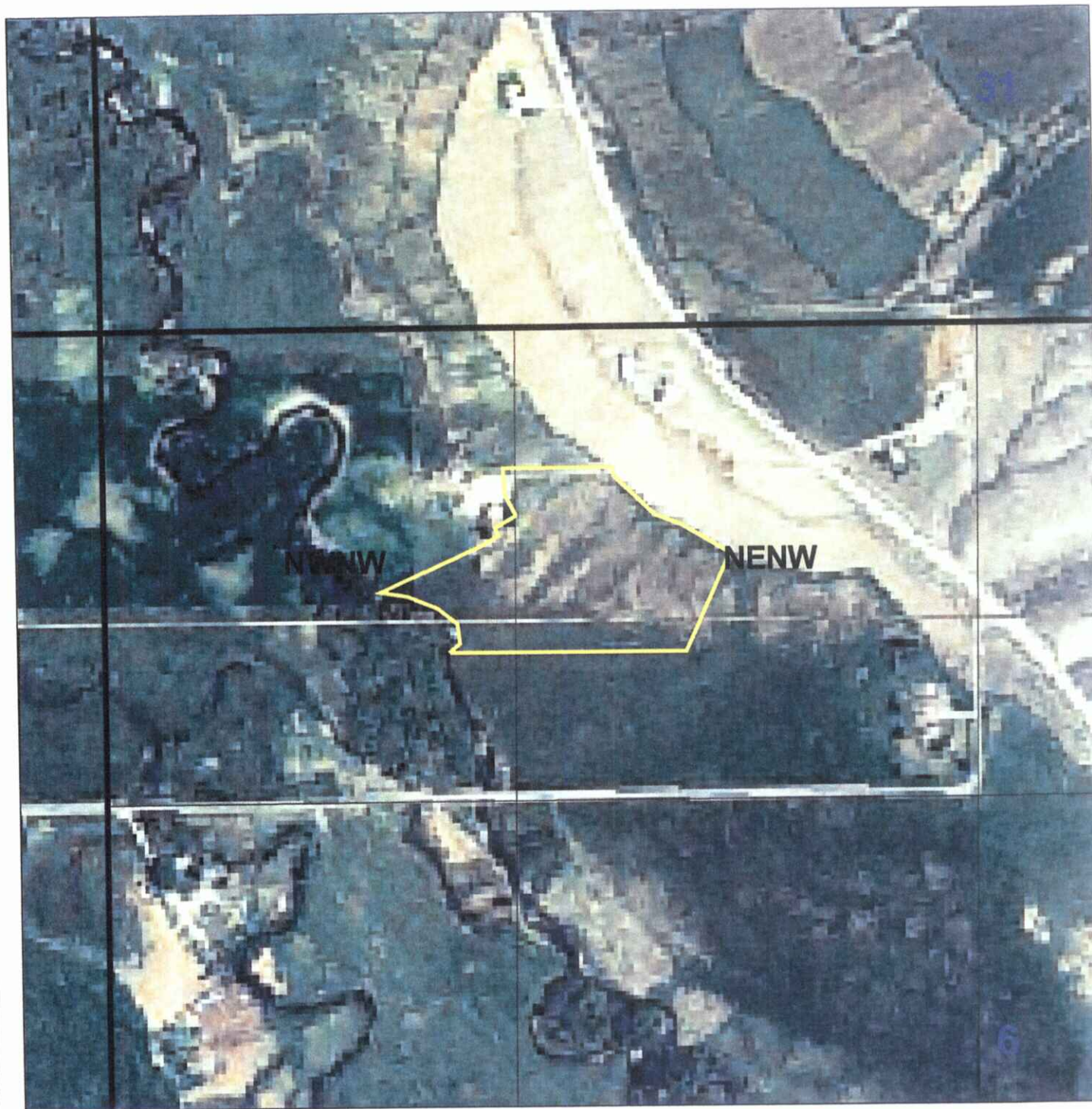
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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: BASIS OF CLAIM - Beneficial Use

73-11971





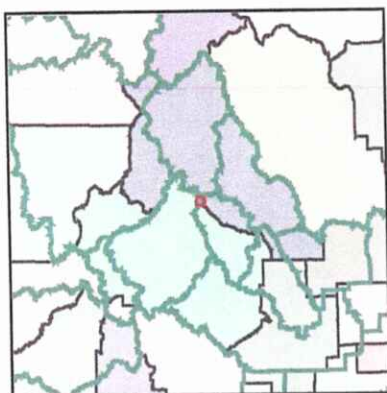
Idaho Department of Water Resources

SRBA Recommendation:

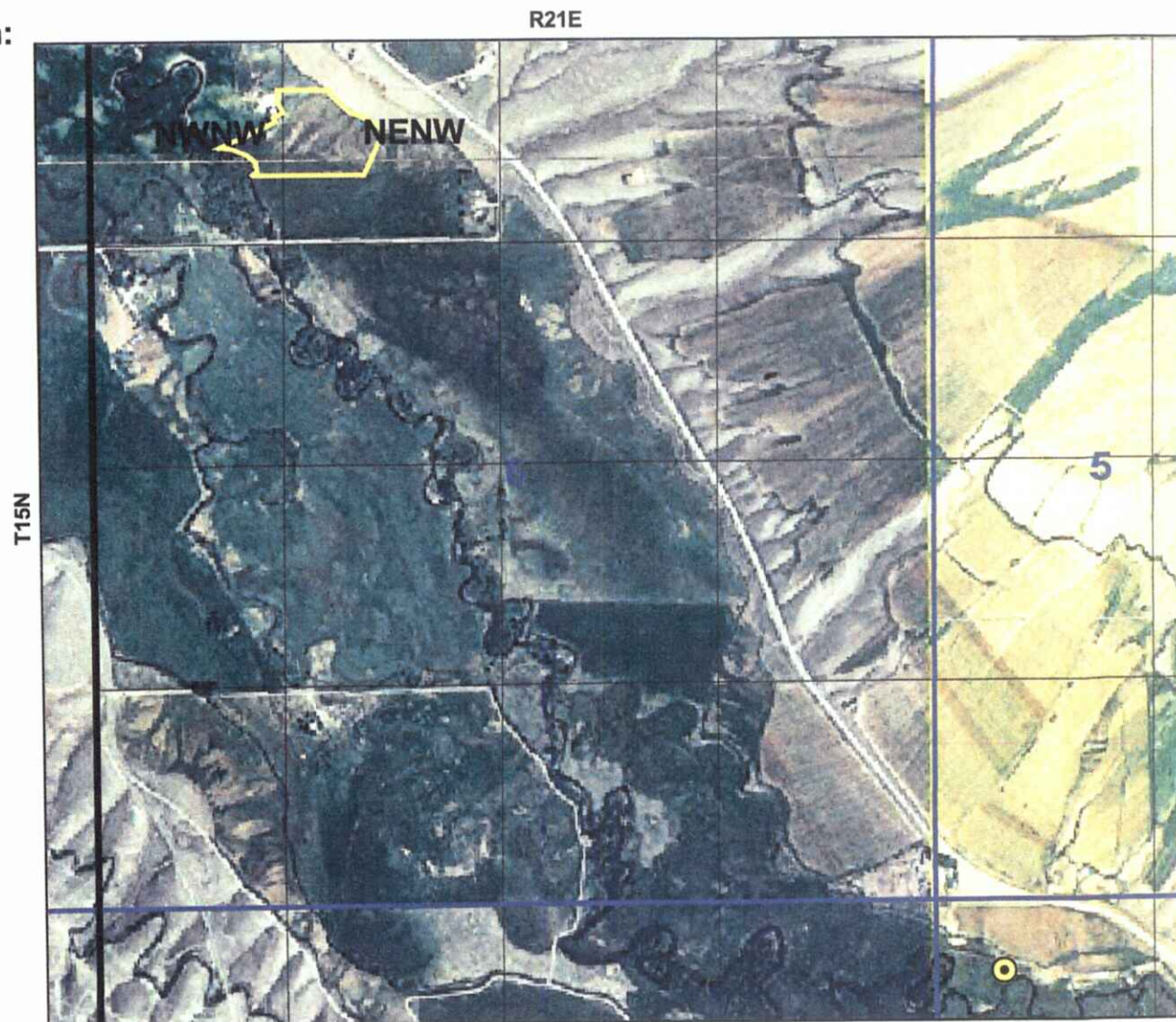
73-11971

Legend

- Point of Diversion
- Place of Use
- Townships
- PLS Sections
- Quarter Quarters



Lemhi, Custer Counties
IDWR Basin 73



0 0.4 0.8 Miles

A scale bar showing distances of 0, 0.4, and 0.8 miles.

Prepared by D. Favreau
On Friday, May 26, 2006
1987/88 Aerial Photography

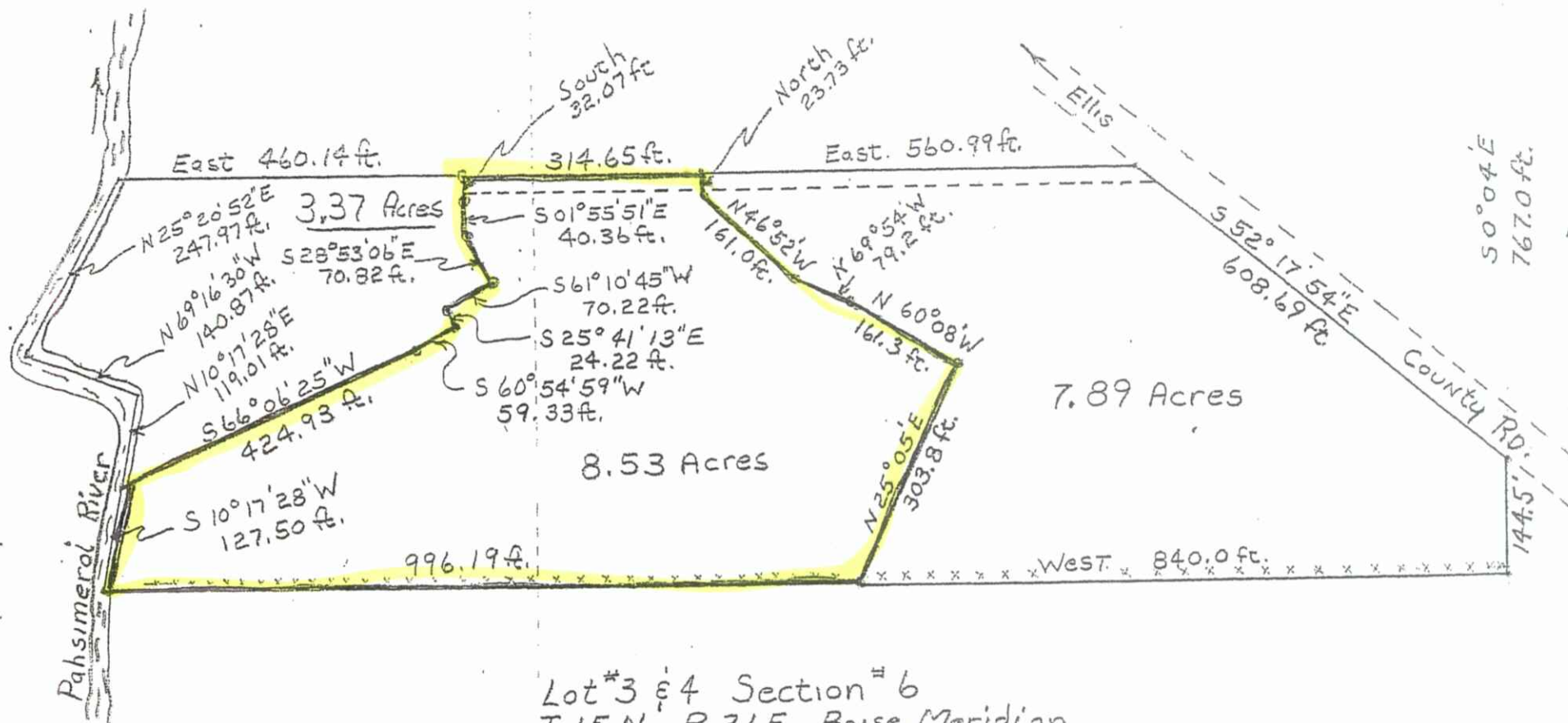
36/31 B.C.
116

Base of Bearing West 2515.37 ft. Meas.

31 1/4
6 0

Lot # 4

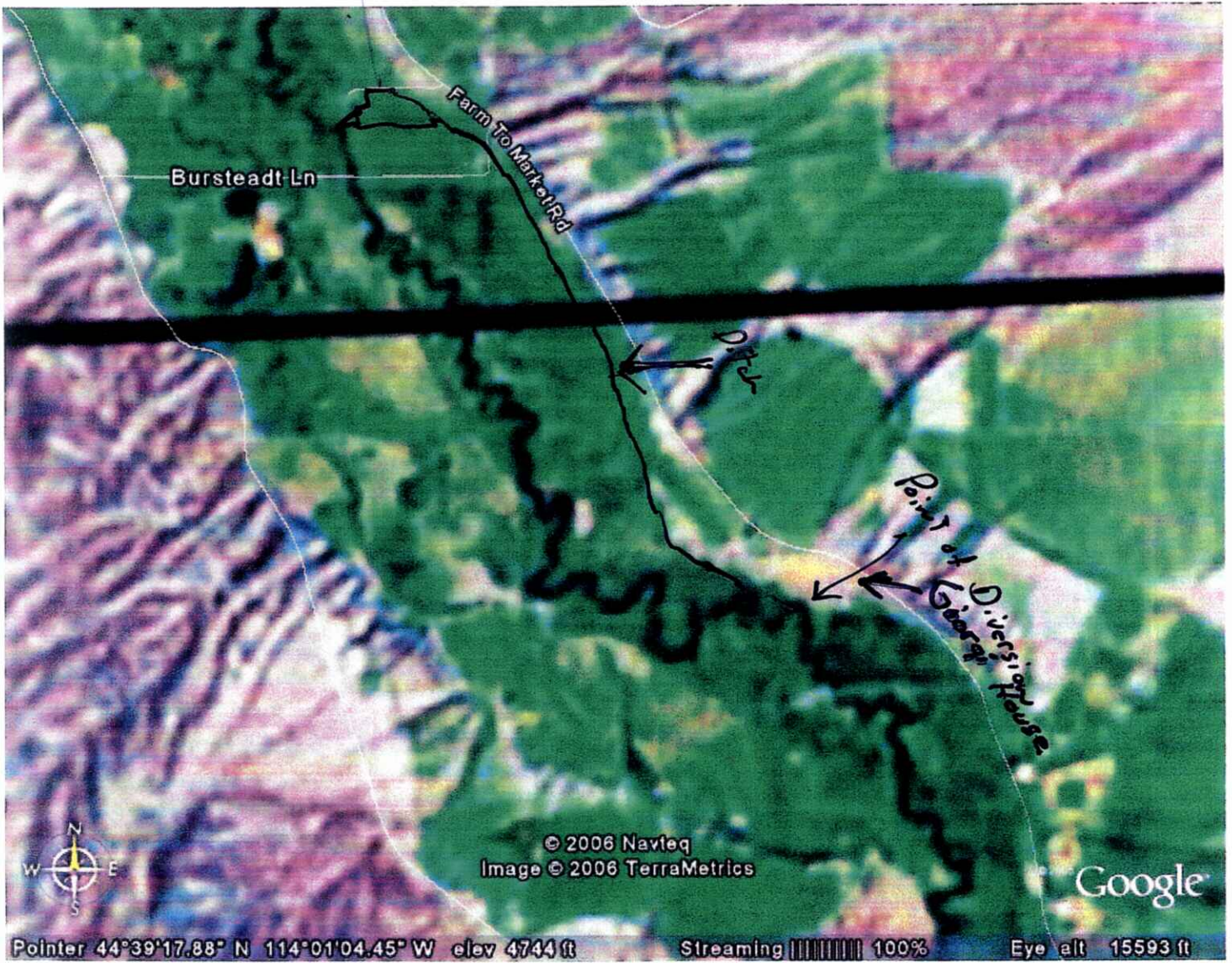
Lot # 3



Lot # 3 & 4 Section # 6
T. 15 N. R. 21 E. Boise Meridian
Lemhi County, Idaho.

TAFT ENGINEER

Place of
use



114°00'00"

52°30"

45'00"

EAST HA (CHALLIS AND LOST RIVER)

R. 21 E.

T. 17 N.

R. 22 E.

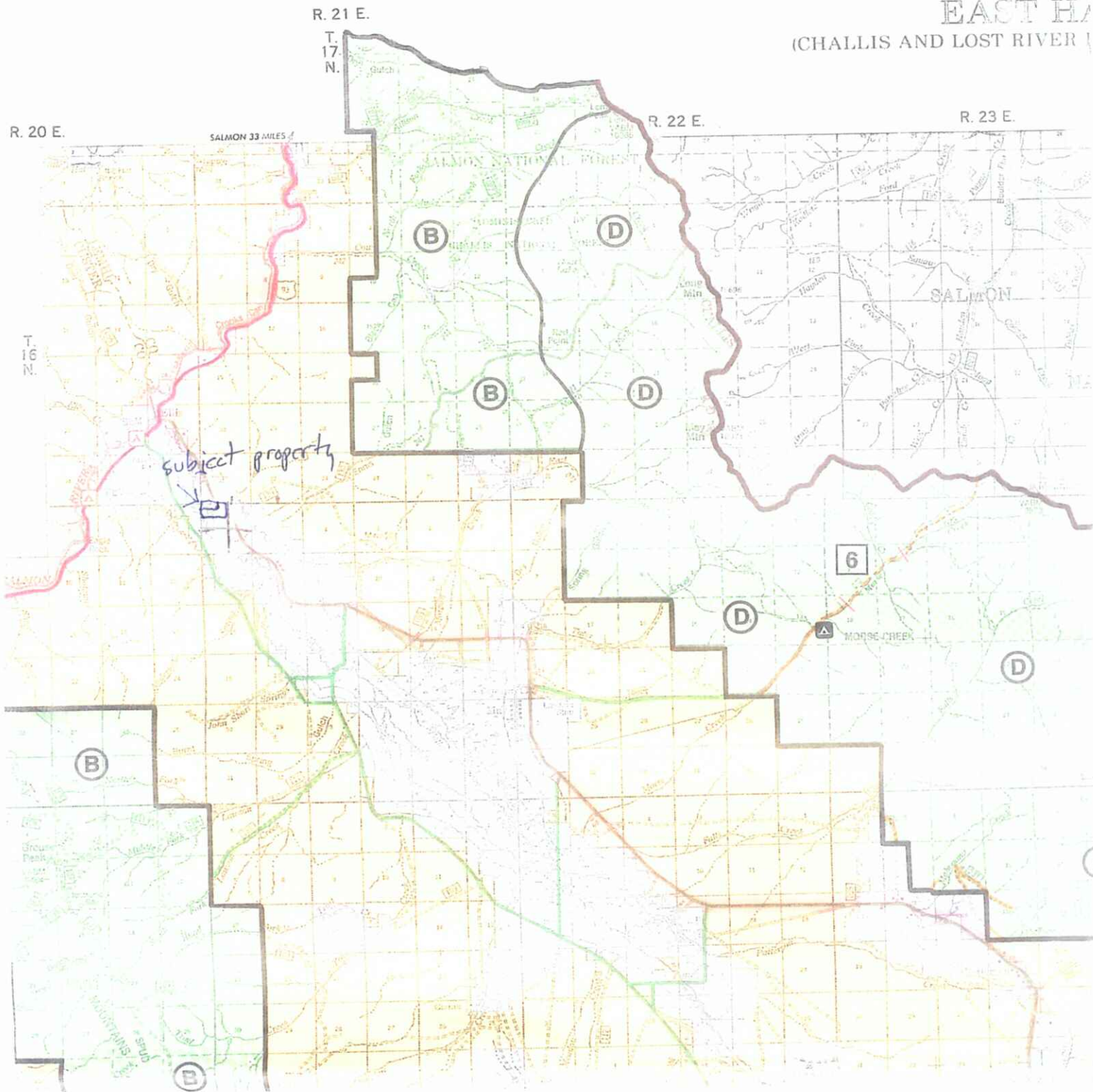
R. 23 E.

R. 20 E.

SALMON 33 MILES

T. 16 N.

subject property



This Indenture, made this 17th day of September in the year of our Lord one thousand nine hundred and one between William H. Haller of Pahrump Valley of the County of Levitt and State of Idaho, the party of the first part, and Benjamin Boyce of the County of Levitt and the State of Idaho

Witnesseth, that the said party of the first part, for and in consideration of the sum of Five DOLLARS, lawful money of the United States of America, in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, GRANTED, SIGNED, SELL by these presents to GRANT, SELL, CONFIRM and CONFIRM unto the said party of the second part, and to his heirs and assigns forever, all

that certain lot, piece or parcel of land situate, lying and being in the County of Levitt and State of Idaho and bounded and described as follows, to-wit: The South East quarter of the North East quarter of Section six in Township fifteen North of Range twenty one East of Boise Meridian, in Idaho, containing forty acres. Also an undivided one third (1/3) interest of one and to that certain water right and irrigation ditch right as located and appropriated by James M. Shoup, Boise, Idaho and William H. Haller said water right being of record for and among the record of water rights in the County of Levitt and for a more perfect description of said water right reference is made to said record as hereby made. The intention of this conveyance being to convey the land to own as the Robert Land claim of William H. Haller and the water right as heretofore belonging to and used upon said Robert Land claim to said party of the second part and said water right consisting of a right to the use of the undivided 1/3 of 500 miles of the waters of Pahrump for the purpose of irrigation on said tract of land. There is a small portion of the above described tract of land situate in Levitt County, Idaho.

Together with all and singular the tenements, hereditaments and appurtenances thereto in any wise appertaining, and the same to have and to hold unto the said party of the second part, and to his heirs and assigns forever, unto the said party of the second part, together with the appurtenances, unto the said party of the second part, and to his heirs and assigns forever. And the said party of the first part, and his heirs and assigns, against the said party of the first part and his heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim, the same shall and will warrant and by these presents forever defend.

IN WITNESS WHEREOF, the said party of the first part has hereunto set his hand and seal the day and year first above written.

Signed, sealed and delivered in the presence of

William H. Haller (SEAL)
(SEAL)
(SEAL)

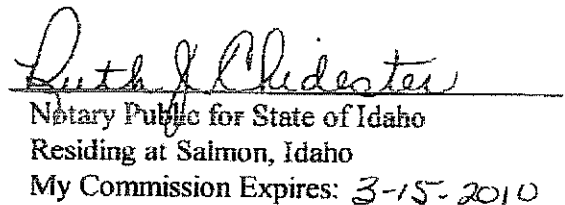
STATE OF IDAHO, } I do hereby certify that:
County of Levitt } On this 17th day of September in the year 1901, before me, Geo. E. Key, a Justice of the Peace in and for said County, personally appeared William H. Haller, and Benjamin Boyce, both of legal age, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that he executed the same, and on this 17th day of September in the year 1901, before me, the officer above described, personally appeared Benjamin Boyce, known to me to be the person whose name is subscribed to the within instrument, described as a married woman, and upon the confirmation without the hearing of her husband, I made her acquainted with the contents of the instrument, and thereupon she acknowledged to me that she executed the same, and that she signs the seal of said County at Levitt, the day and year first above written.

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

Geo. E. Key
Justice of the Peace

Recorded this 17th day of September A. D. 1901
Ex-officio Recorder.
Deputy Recorder.

Recorded at the request of Benjamin Boyce, wife of William H. Haller, in Book of Records Book 1, page 463, County of Levitt, State of Idaho.



September 25, 2006

I, Burl L. Hamilton, of Challis, Idaho , 208-879-2291, do now state that having been born on March 14, 1931 in the Pahsimeroi Valley, Idaho and having spent many years in that valley until my family sold our ranch in 1975 and are now and have been a resident of Challis, Idaho since that time.

That as a child up to the age of 7 years old and before the purchase of our ranch my father and mother rented a ranch now owned by Mr. Giorgi. We lived in a house in the same spot as Mr. Giorgi's house. On the premises of this ranch is located the head of the ditch known now as the Burns ditch (P-6 fish and game fish screen) .

This ditch is used to convey irrigation water to the properties on the east side of the Pahsimeroi River to the south and north of Burstedt Lane. These properties were known to me as a child as part of the Ellis ranch which was located on both sides of the Pahsimeroi all the way down to the Salmon River.

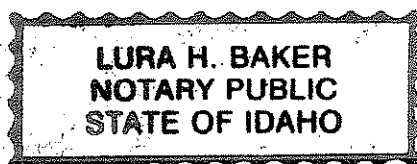
I recall that as a child approximately 6 years old crossing the above named ditch on a foot bridge and being knocked off the bridge by a dog and falling into the water and being rescued by my father. I also recall my uncles coming to visit my father and mother and visiting about the "old timers" constructing this ditch before the turn of the century using teams, plows and slips and what a difficult task this was to complete.

September 25, 2006

Burl L. Hamilton

Burl L. Hamilton

Sworn before me Lura H Baker a Notary Public. Residing at
Challis, Idaho. My commission expires 12-12-09.
Clayton Dated September 25, 2006 .



152501
STATE OF IDAHO)
) ss. AFFIDAVIT RE: WATER RIGHTS PRIORITY
County of Custer)

BOISE H. ELLIS, being first duly sworn, on his oath does
depose and say:

That I am 89 years old, having been born October 30, 1888, on
the old Ellis Ranch in the Pahsimeroi Valley, Custer County, where
I reside at this time;

That my father, George A. Ellis, Sr., owned the North 1/2,
approximately, known as the "Ellis Ranch" and owned in partner-
ship with James M. Shoupe (Jim Shoupe) the remainder or South 1/2,
approximately, known as the "Jim Shoupe Ranch" of the ranch
property described in the attached Exhibit A which is a part of
this Affidavit.

That the described ranch property was occupied by Jim Shoupe
and my father sometime after 1863, the year my father came to
Salmon, Idaho as a 6 year old boy but several years before
Government Patents were issued for the property; that I recall
my father stating the lands were occupied before he was old
enough to file an entry with the government and that it was after
occupying these lands for production of cattle and horse feed
that he married my mother whose name was Mary Ellis, after marriage;
that he also stated to me he had to give a man named Dan Hyer,
a squatter on the Ellis Ranch before Patent was issued, a few
head of stock to move his horses and camp off the land because
he was interfering with the irrigation, raising of crops and
pasturing of cattle and horses; and that it was the hard winter
of 1889 when he lost over 1000 head of cattle;

MICROFILMED
DEC 14 1992

That as a boy under six years old, I saw tall, heavy willows growing along the old Weller-Shoupe-Ellis ditch and other lower ditches as a result of irrigation water flowing each season for delivery to the ranches from the Pahsimeroi river; that these willows were tall enough to completely conceal a rider named Lee Watson as I watched him riding a half-broken horse up the ditch bottom;

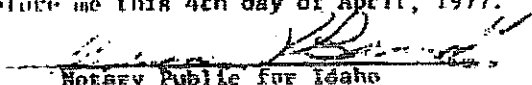
That based on my own observations and the conversations had over a period of many years with my father, George A. Ellis, Sr., I state as a fact that large amounts of water were diverted from the Pahsimeroi River through the Weller-Shoupe-Ellis ditch and other ditches headed below to irrigate the Ellis and Jim Shoupe ranches herein described; and, that such waters were used with never a shortage from the late 1870's, without interruption, to this date; and

That large amounts of water are necessary in order to grow wild grass pasture and grass hay for the Ellis and Jim Shoupe ranches for the reason that they are bottom-type ground which requires large amounts of water on a regular basis to keep from burning.

Dated this 4th day of April, 1977.


B. A. Ellis
Boise H. Ellis

SUBSCRIBED and SWORN To before me this 4th day of April, 1977.


Notary Public for Idaho
Residing at Challis, therein.
My commission expires:
5-1-78

ORIGINAL
EC 14 1992

[illegible]

James M. Shoup on April 19th, 1904, the aforesaid lands, belonging or appertaining to the above mentioned and de-
 TOGETHER With all and singular the tenements, hereditaments, and de-
 thereunto belonging or in anywise appertaining, and the revision and rev-
 and remainders, rents, issues and profits thereof and all estate, right, par-
 in and to the said property, as well in law as in equity of the said par-
 All and singular the above mentioned and de-
 TO HOLD. All and singular the above mentioned and de-
 part.

TO HAVE AND TO HOLD, All and singular the above mentioned and de together with the appurtenances, unto the said party of the second part, and assigns forever. And the said party of the first part, and their heirs, assigns in the quiet and peaceful possession of the said party of the second part, and assigns, against the said parties of the first part, and their heirs, and assigns, against the said party of the first part, and their heirs, and every person or persons whomsoever, lawfully claiming or to claim the same, shall and lawfully will WARRANT and by these presents forever DEFEND.

IN WITNESS WHEREOF, The said parties of the first part have hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered in the Presence of

James M. Shoup
Amelia Shoup

United States) ss
District of Alaska)

District of Alaska)
On this 13 day of May, 1898, before me Albert D. Elliot, Clerk
Court in and for said District, in and for said County, personally app-
known to me to be the person whose name is subscribed to the within in-
known to me that he executed the same. and on this 13 day of May, 189
ledged to me that he executed the same. and on this 13 day of May, 189
Officer above described, personally appeared Amelia Shoup, known to me
whose name is subscribed to the within instrument, described as a mar-
examination without the hearing of her husband, I made her acquainted
the instrument, and thereupon she acknowledged to me that she executed
she does not wish to retract such execution.

In witness whereof, I have hereunto set my hand and affixed my day and year in this certificate first above written.

Albert D. E

Albert D. E.
District Co
Alaska.

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State of Idaho)
County of Custer)

County of Custer)
I, Emmett Donahue, County Recorder of Custer County, Idaho,
the foregoing is a full, true and correct copy of that certain deed
page 117.