

RECEIVED

DEC 08 2006

DEPARTMENT OF
WATER RESOURCES

11/14/06

NOTICE OF ERROR
REPLY

Water Right number: 67-14790

DAVID F. ROBIDOUX
1827 DEER CREEK RD.
WEISER, ID 83672
Telephone Number: (208) 549-0619

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

- a. Priority Date
- b. Irrigation Beneficial Use
- c. Irrigation Place of Use
- d. Total Acres

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

- a. Priority Date: **From** 11/15/30 **to** 1/27/04
- b. Irrigation Beneficial Use: **From** 0.16 cfs **to** 0.2 cfs
- c. Irrigation Place of Use: **From** T13N, R5W, Sec. 36, SWSE **to** T13N, R5W, Sec. 36, SWSE, and NWSE
- d. Total Acres: **From** 8 acres **to** 10 acres

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

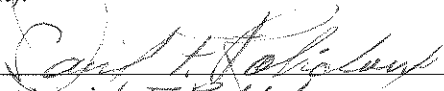
a. Priority Date: My property originally transferred from the United States of America under patent to Henry Evins, on October 1, 1906. According to Jonathan Edwards at Amerititle in Weiser (414-1792), a person with extensive local knowledge and experienced in both title work and irrigation water rights, the property was apparently developed by Evins prior to transfer of ownership under the Homestead Act, an act requiring improvements and use of the land prior to transfer. A home and irrigated agricultural use was the typical development situation to 'prove-up' on a property. A priority date of January 27, 1904 was provided in the original water claim filed by Lester M. and Christine Bagley's on July 22, 1974, the 2nd private owners of the property, who bought the property from Henry Evins in 1913. These dates – the transfer of the property from federal ownership to private ownership and Bagley's priority date claim - are quite consistent. For the current adjudication process, Ken Ebright, the former owner prior to my recent purchase of the property, was only able to provide documentation of water use since the 1930s from elderly local people who were raised on or near the property. It is inappropriate to conclude that this alone should be basis for determination of the first beneficial use of the water and therefore become the priority date. Unfortunately, we could not locate the Bagley's (even if they are alive) to determine the information they had to claim the 1/27/04 date. Nevertheless, nothing in the records of the IDWR web site indicates that IDWR or the public, during public notification period in 1974 when the claim was first made, had any problem with the priority date of 1/27/04. I offer this information to substantiate the earlier priority date.

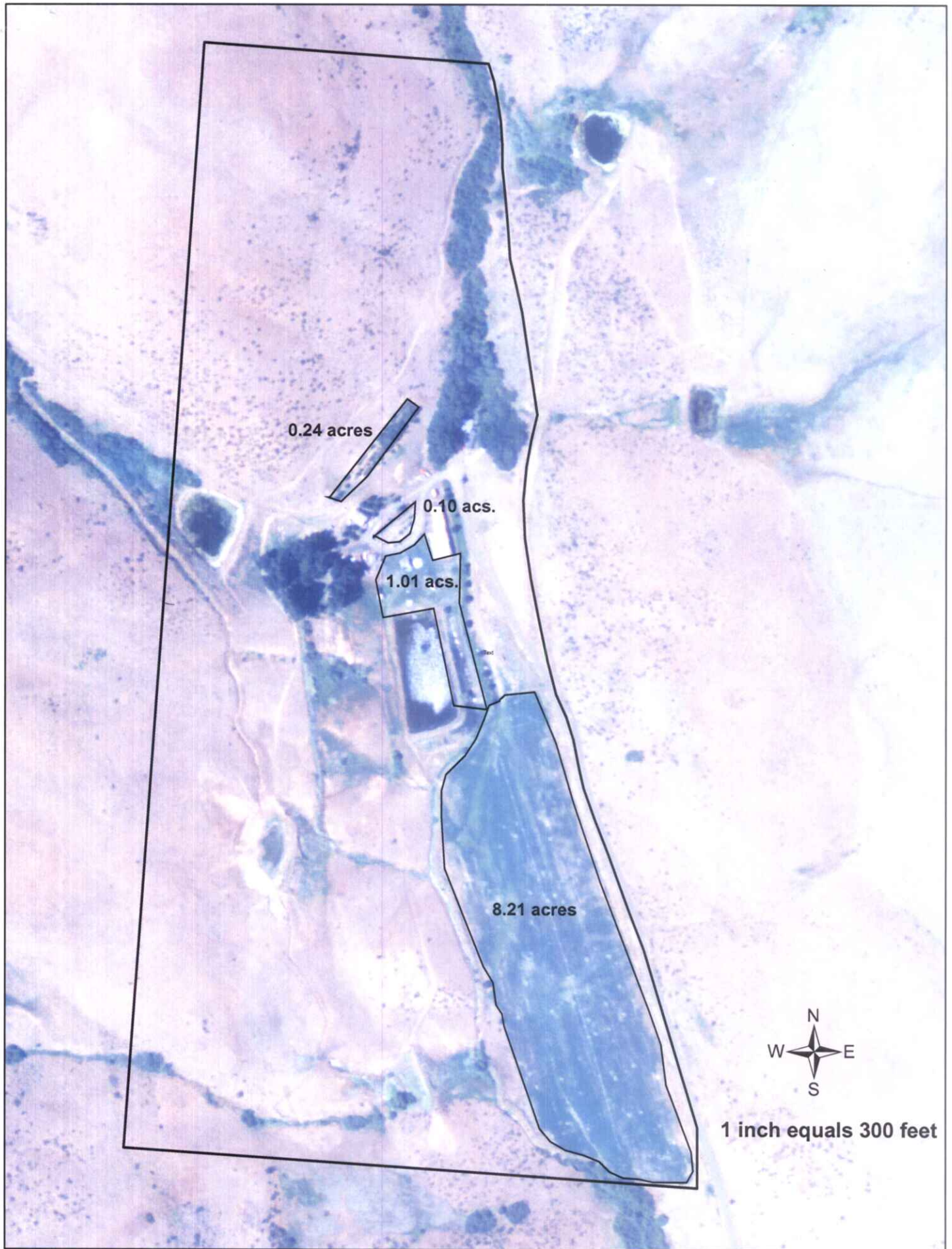
b. Irrigation Beneficial Use: Areas where the irrigation water is used totals 9.56 acres (see attached map). If you are only allocating based on whole acres, this should be rounded up to 10.0 acres. This should be equivalent to a 0.2 cfs for beneficial use.

c. Irrigation Place of Use: While most of the irrigation use is in the SWSE there is a small amount or irrigated land (about 1 acre) being used in the NWSE.

d. Total acres: The amount of acres being irrigated from the Deer Creek diversion is 9.56 acres (see attached map). If allocating on even acres that should be characterized as 10 acres. (Note: the areas were mapped and measured using GIS equipment).

DATE: 12-7-06

SIGNATURE: 
Please print your name: David F. Robidoux



Robidoux Property - Irrigation - Place of Use (9.56 acres total)

T13N, R5W, Sec 36, ptn w1/2SE1/4

Source: 2004 NAIP Image