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OCT 01 2008

DEPARTMENT OF  
WATER RESOURCES

Daniel V. Steenson (ISB # 4332)  
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Attorneys for Claimant Eddie Baker Jr. and Eddie E. Baker

**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 | ) |                                      |
|            | ) | <b>Water Right No. 72-16778</b>      |
|            | ) |                                      |
| Case 38576 | ) | <b>MOTION TO FILE LATE NOTICE OF</b> |
|            | ) | <b>CLAIM</b>                         |
|            | ) |                                      |

---

COME NOW, Eddie Baker Jr. and Eddie E. Baker ("claimants"), by and through their attorneys, Ringert Law, Chartered, and hereby move this court to permit them to file a late notice of claim to a water right in the Snake River Basin Adjudication ("SRBA").

**MOTION**

The SRBA court has issued several partial decrees to the claimants to divert water from the East Fork of the Salmon River ("East Fork") and some of its tributaries to irrigate their private land located along the East Fork for pasture and to cut hay for their cattle rearing operation. Big Boulder Creek is one of the tributaries from which the claimants divert water to irrigate their private land pursuant to decreed water rights.

The claimants also utilize a field located on federal land for pasture pursuant to a permit issued by the Bureau of Land Management ("BLM"). The claimants irrigate this field (the "BLM

COPY

field") with water diverted from Big Boulder Creek.

The BLM included a condition in the claimants' current permit for the BLM field, issued July 31, 2008, requiring claimants to obtain a water right to irrigate the field. Until BLM imposed this condition, the claimants were unaware that it was necessary for them to obtain a water right for this field. In order to comply with the condition, the claimants contacted counsel to file this late claim.

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

I am the attorney representing the claimants. My address is: RINGERT LAW, CHARTERED, P.O. Box 2773, Boise, Idaho 83701, and my phone number is: (208) 342-4591.

Submitted herewith are: a Late Notice of Claim; supporting Affidavits, and a check in the amount of \$114.00 to pay filing fees (\$50.00 flat fee, \$14.00 variable fee, \$50.00 late filing fee).

#### VERIFICATION

State of Idaho       )  
                                  )  
County of Ada       )

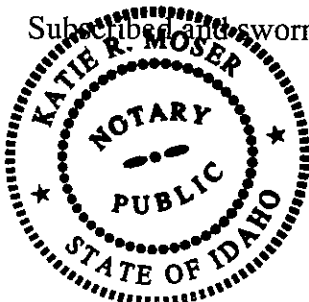
Daniel V. Steenson, being first duly sworn, upon oath, deposes and says:

That I am the attorney for the claimant filing this Late Notice of Claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.



Daniel V. Steenson

Subscribed and sworn to before me on September 30, 2008.



Notary Public for Idaho

Residing at: Oasis, ID

My Commission expires: 2/20/2014

### CERTIFICATE OF MAILING

I certify that on September 30, 2008, I served the original and copies of this document, including all attachments, to the following persons as follows:

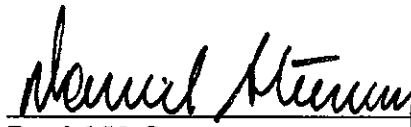
1. Original mailed to:

Clerk of the District Court  
Snake River Basin Adjudication  
253 Third Avenue North  
PO Box 2707  
Twin Falls, ID 83303-2707

2. Copies mailed 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



Daniel V. Steenson

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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

Indent. Number 72-16778

Date Received \_\_\_\_\_

Receipt Number \_\_\_\_\_

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

Please type or print clearly

1. Name of Claimant(s) Eddie Baker Jr., Eddie E. Baker Phone (208) 838-2318

Mailing Address HC 68 Box 375, Clayton, Idaho Zip 83227

2. Date of Priority only (1) per claim) April 1, 1948

3. Source of water supply (a) Big Boulder Creek

which is tributary to (b) Salmon River East Fork

4. a. Location of existing point of diversion is: Township 09N Range 17E Section 15,  
NW  $\frac{1}{4}$  of NE  $\frac{1}{4}$  of NE  $\frac{1}{4}$ , Govt. Lot, 1 B.M., County of Custer (aka BBC-1)

Additional points of diversion if any: \_\_\_\_\_

b. If instream flow, beginning point of claimed instream flow is:

Township \_\_\_\_\_ Range \_\_\_\_\_ Section \_\_\_\_\_, \_\_\_\_\_  $\frac{1}{4}$  of \_\_\_\_\_  $\frac{1}{4}$  of \_\_\_\_\_  $\frac{1}{4}$ ,

Govt. Lot \_\_\_\_\_ B.M., County of \_\_\_\_\_

ending point is: Township \_\_\_\_\_ Range \_\_\_\_\_ Section \_\_\_\_\_, \_\_\_\_\_  $\frac{1}{4}$  of \_\_\_\_\_  $\frac{1}{4}$  of

\_\_\_\_\_  $\frac{1}{4}$ , Govt. Lot \_\_\_\_\_ B.M., County of \_\_\_\_\_

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, etc.). Including the dates of any changes or enlargement in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. The BBC-1 diversion has a headgate in Big Boulder Creek. BBC-1 diverts water into a ditch that has a fish screen installed by the Idaho Department of Fish and Game. The BBC-1 diversion is described in greater detail in the Affidavit of Edwin E. Baker Jr. in Support of Motion to File Late Notices of Claims.

6. Water is claimed for the following purposes:

|                       |                          | (both dates are inclusive) | (cfs)             | (acre feet) |
|-----------------------|--------------------------|----------------------------|-------------------|-------------|
| For <u>Irrigation</u> | purposes from <u>4/1</u> | to <u>10/31</u>            | amount <u>.42</u> | or _____    |
| For _____             | purposes from _____      | to _____                   | amount _____      | or _____    |
| For _____             | purposes from _____      | to _____                   | amount _____      | or _____    |

Last Name Baker Ident. Number 72-16778

Form No. 42-1409 (2) a 9/88 (Internet)

7. Total quantity claimed (a) .42 (cfs) and/or (b) \_\_\_\_\_ (acre feet)
8. Total consumptive use claimed is N/A acre fee per annum.
9. Non-Irrigation uses; describe fully (e.g. Domestic: Give number of households served; Stockwater Type and number of livestock etc.) \_\_\_\_\_
10. Description of place of use:  
 a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.  
 b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

| Twp. | Rge. | Sec. | NE 1/4 |    |    |    | NW 1/4 |    |    |    | SW 1/4 |    |    |    | SE 1/4 |    |    |      | Total |
|------|------|------|--------|----|----|----|--------|----|----|----|--------|----|----|----|--------|----|----|------|-------|
|      |      |      | NE     | NW | SW | SE | NE     | NW | SW | SE | NE     | NW | SW | SE | NE     | NW | SW | SE   |       |
| D9N  | 17E  | 10   |        |    |    |    |        |    |    |    |        |    |    |    | S      |    |    | 7.86 | 13.86 |
|      |      |      |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |      |       |
|      |      |      |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |      |       |
|      |      |      |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |      |       |
|      |      |      |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |      |       |

Total number of acres irrigated 13.86

11. In which county(ies) are lands listed above as place of use located? Custer
12. Do you own the property listed above as place of use? Yes \_\_\_\_\_ No X
13. Describe any other water rights used a the same place and for the same purposes as described above.  
 \_\_\_\_\_ or None ( )
14. Remarks:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Last Name Baker Ident. Number 72-16778

SCALE: 2 inches equal 1 mile. Draw plan in ink. **SEE ATTACHMENT A.**

Decree \_\_\_\_

If applicable provide IDWR Water Right Number \_\_\_\_\_  
Court \_\_\_\_\_ Case Number \_\_\_\_\_ Decree Date \_\_\_\_\_  
Plaintiff vs Defendant \_\_\_\_\_

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 ☒ X wish to receive and pay a small annual fee for monthly copies of the docket sheet.  
Number of attachments 1 (3 PAGES)

**For Individuals:** I do solemnly swear or affirm that the statements contained in the foregoing documents are true and correct.

Signature or Claimant (s) \_\_\_\_\_ Date \_\_\_\_\_  
\_\_\_\_\_ Date \_\_\_\_\_

**For Organizations:** I do solemnly swear or affirm that I am \_\_\_\_\_

of \_\_\_\_\_, that I have signed the foregoing  
Title  
Organization  
document in the space below as \_\_\_\_\_ of \_\_\_\_\_  
Title organization  
and that the statements contained in the foregoing document are true and correct.

Signed of Authorized Agent \_\_\_\_\_

Title and Organization \_\_\_\_\_ Date \_\_\_\_\_

State of Idaho/or \_\_\_\_\_ )  
County of \_\_\_\_\_ ) SS.  
\_\_\_\_\_ )

Subscribed and sworn (or affirmed) before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

Notary Public \_\_\_\_\_

SEAL

Residing at \_\_\_\_\_

My Commission Expires \_\_\_\_\_

16. Notice of Appearance:

Notice is hereby given that I, Daniel V. Steenson will be acting as attorney at law on behalf of the claimant signing above, and all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature \_\_\_\_\_

Address P.O. Box 2773, Boise, Idaho 83701

Date \_\_\_\_\_

Last Name Baker Ident. Number 72-16778

Decree \_\_\_\_

If applicable provide IDWR Water Right Number \_\_\_\_\_  
Court \_\_\_\_\_ Case Number \_\_\_\_\_ Decree Date \_\_\_\_\_  
Plaintiff vs Defendant \_\_\_\_\_

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 X wish to receive and pay a small annual fee for monthly copies of the docket sheet.  
Number of attachments 1 (3 PAGES)

**For Individuals:** I do solemnly swear or affirm that the statements contained in the foregoing documents are true and correct.

Signature or Claimant (s) Eddie E. Baker Date 9-15-08  
Eddie Baker Jr. Date 9-15-08

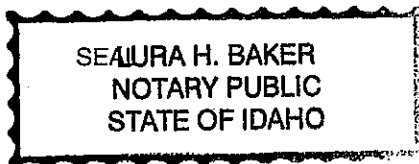
**For Organizations:** I do solemnly swear or affirm that I am \_\_\_\_\_

of \_\_\_\_\_, Title \_\_\_\_\_, that I have signed the foregoing document in the space below as \_\_\_\_\_ of \_\_\_\_\_ organization and that the statements contained in the foregoing document are true and correct.

Signed of Authorized Agent \_\_\_\_\_  
Title and Organization \_\_\_\_\_ Date \_\_\_\_\_

State of Idaho/or \_\_\_\_\_ }  
County of Custer } ss.

Subscribed and sworn (or affirmed) before me this 15th day of September 2008



Notary Public Sean H. Baker

Residing at Clayton, Idaho

My Commission Expires 12-12-09

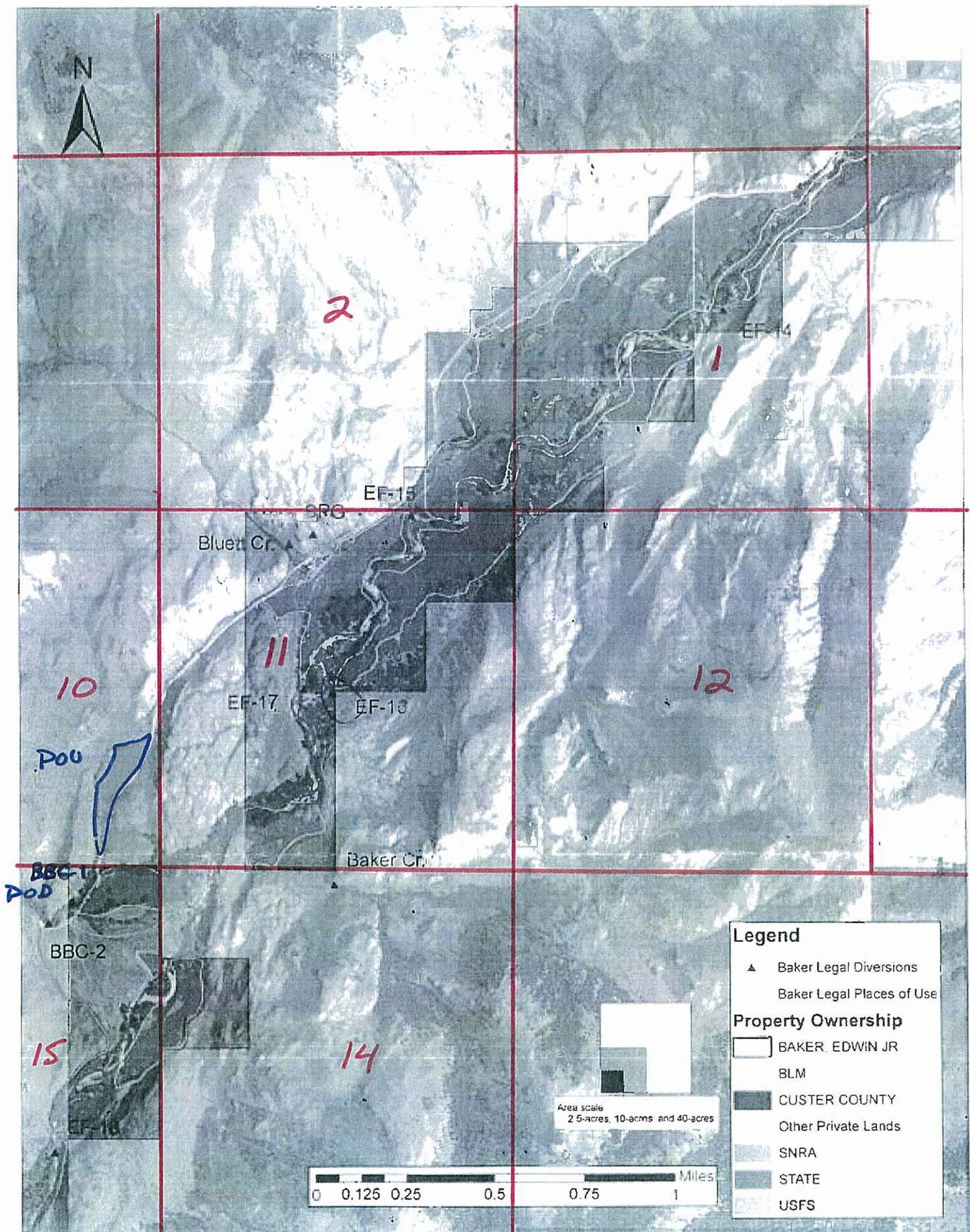
16. Notice of Appearance:  
Notice is hereby given that I, Daniel V. Steenson will be acting as attorney at law on behalf of the claimant signing above, and all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature Daniel Steenson

Address P.O. Box 2773, Boise, Idaho 83701

Date 9-30-08

Last Name Baker Ident. Number 72-16778



Attachment A

3

2

10

11

15

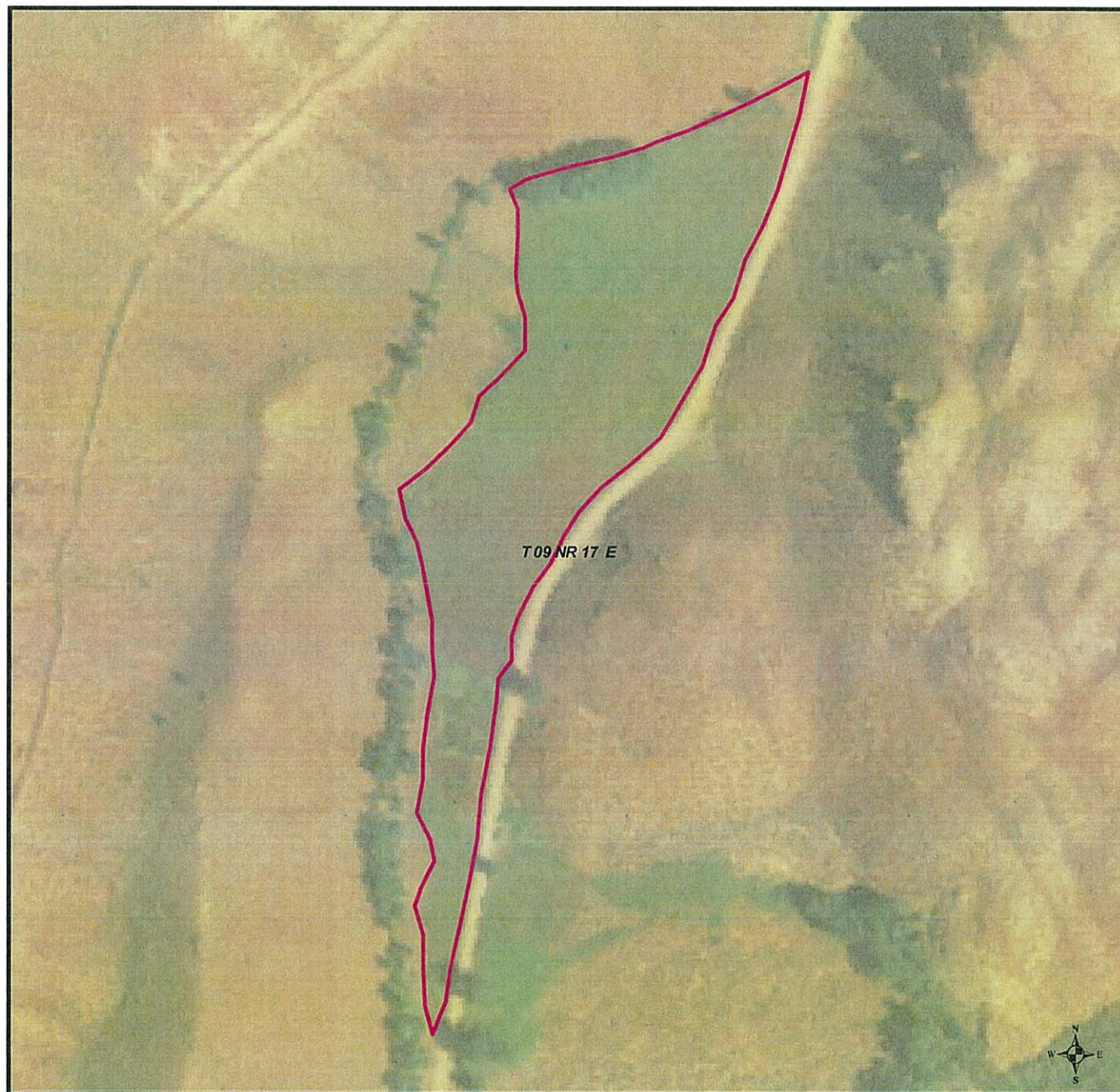
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**Exhibit A**  
**Eddie Baker Jr., Land Use Permit**  
**IDI-25476**  
**B.M., T, 9 N., R. 17 E., sec. 10, lot 6**



**Legend**

- PRIVATE
- BLM
- USFS
- STATE

This map represents.... agricultural harvest, vicinity  
Boulder Creek within the Challis Field Office,  
Idaho BLM.

The sources of the data are from Idaho-  
BLM Corporate Data, and the USGS.

No warranty is made by the Bureau of Land  
Management (BLM). The accuracy, reliability,  
or completeness of these data for individual  
use or aggregate use with other data is  
not guaranteed.

