



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

June 11, 2009

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

Jerry A. Kiser
Attorney at Law
Stoppello & Kiser
620 West Hays Street
Boise, ID 83702

COPY

RE: Webster Lane Dam

Dear Mr. Kiser:

Thank you for your letter dated 6/8/09 requesting the Idaho Department of Water Resources (IDWR) complete an investigation of the referenced structure located at 50 Webster Lane, Horseshoe Bend, Idaho pursuant to the provisions of Idaho Code § 42-1709.

On Wednesday, 6/10/09 IDWR personnel visited the site and determined an embankment dam exists across an unnamed tributary of Robbs Creek at the aforementioned address located in Section 9, T6N, R2E, Boise County. IDWR personnel determined that the size of the dam and reservoir, together with the location relative to downstream development, would not significantly threaten life or property in the event the dam failed and suddenly released the contents of its reservoir. Flood waters from a failure of the dam would be contained behind the large road fill located approximately 1/3 mile downstream constructed across the unnamed drainage. Therefore, the existing structure is rated a Low-hazard dam. A Low-hazard rating is the lowest of a three-tier system used to identify dams based on the potential consequences resulting from a catastrophic failure, however unlikely. Please note the hazard classification is not an assessment of the physical condition of the dam.

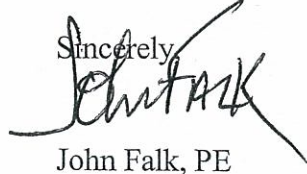
Based on site observation and measurement the height of the dam exceeds 10 feet, and the surface area of the reservoir is less than 1 acre. The maximum quantity of water impounded by the embankment at full pool apparently is less than 10 acre-feet. Consequently, the existing facility as it presently is constructed does not meet Idaho's statutory size requirements for jurisdictional dams and reservoirs as described by Idaho Code §42-1711(b)(2).

While parts of three water rights may be appurtenant to the subject property, none appear to include either the conveyance system or the diversion of water at the location of the small reservoir. An IDWR staff member wrote the property owners on September 18, 2008, noting some uncertainty about the ownership of the three water rights. IDWR has received

no further correspondence or documentation to dispel the uncertainty. In summary, investigation by the IDWR water rights staff for the dam and small reservoir of your concern reveals no water right associated with it.

If you have any questions, please do not hesitate to let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "John Falk", written over the word "Sincerely,".

John Falk, PE
Dam Safety Manager

cc: John Westra – Western Region
Don Schaff - Adjudication
Timothy & Jennifer Swenson
IDWR file

Chuck Galloway
John Falk

RP

RECEIVED

JUN 9 2009

STOPPELLO & KISER
ATTORNEYS AND COUNSELORS AT LAW
620 WEST HAYS STREET
BOISE, IDAHO 83702

DEPARTMENT OF
WATER RESOURCES

FRANK W. STOPPELLO
JERRY A. KISER
F. MATTHEW STOPPELLO

June 8, 2009

TELEPHONE (208) 336-1020
FACSIMILE (208) 336-1027

Mr. David Tuthill
Director
Idaho Department of Water Resources
322 East Front Street
PO Box 83720
Boise, ID 83720-0098

Re: Request for Investigation of Illegal Dam, Diversion
and Use of Water

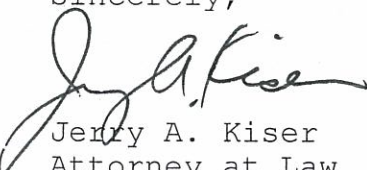
Dear Mr. Tuthill:

I write regarding a dam which has been constructed on Webster Creek, a tributary to the Payette River in Boise County, Idaho. It is my belief this dam is not authorized under Idaho statutes, has not been inspected by the Department and constitutes an illegal diversion and storage of water without any water right for said storage.

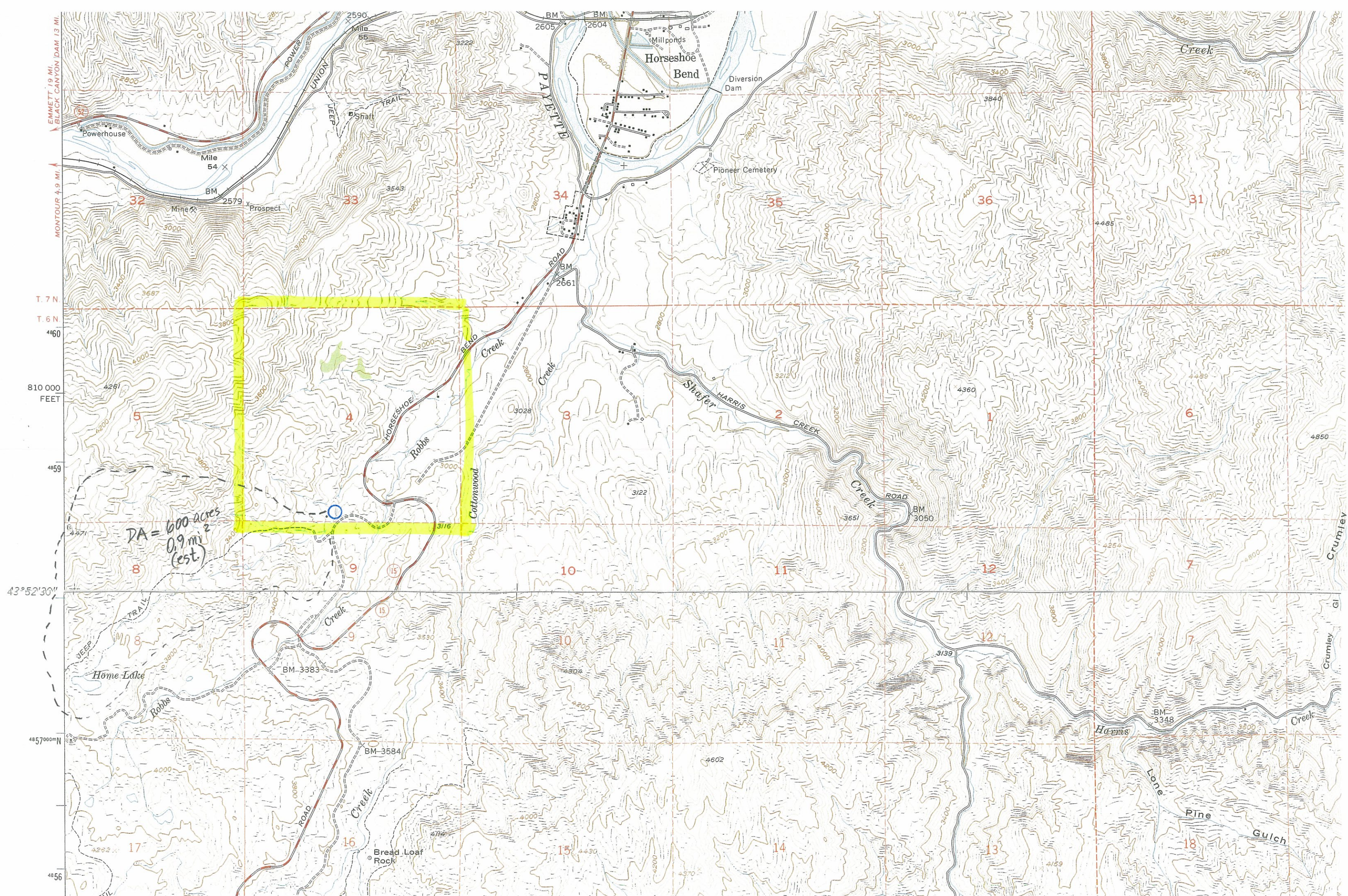
The dam is located near 50 Webster Lane near Horseshoe Bend, Idaho. Webster Lane is a private road which is off of old Highway 55 on the Horseshoe Bend hill. This dam has been constructed across Webster Creek and is approximately 20 feet in height. As I'm sure the Department is aware, the soils on Horseshoe Bend hill are clay soils and are unstable when saturated. It is my belief this dam constitutes a hazard to public health and safety. Additionally, my research of the Department of Water Resources records does not reflect any water right for storage of water at this location, or any water right for aesthetic use which appears to be the use for which the water has been impounded.

This letter is to request that the Department complete an investigation as to whether the dam is authorized, is unsafe or endangers life or property, pursuant to the provisions of Idaho Code § 42-1709. Your investigation into this matter is appreciated. I would also appreciate your advising me of the findings of any inspection and investigation completed by the Department. If you have any questions or need further information, please feel free to contact me.

Sincerely,


Jerry A. Kiser
Attorney at Law

JAK:dc
cc: Sands LLC



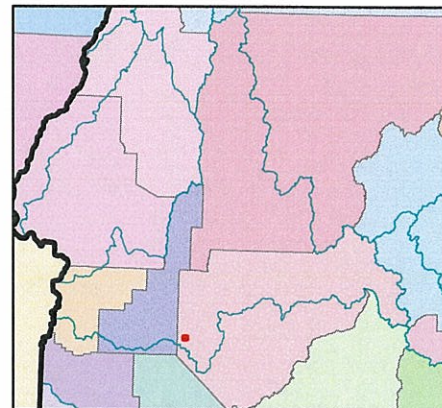


Idaho Department of Water Resources

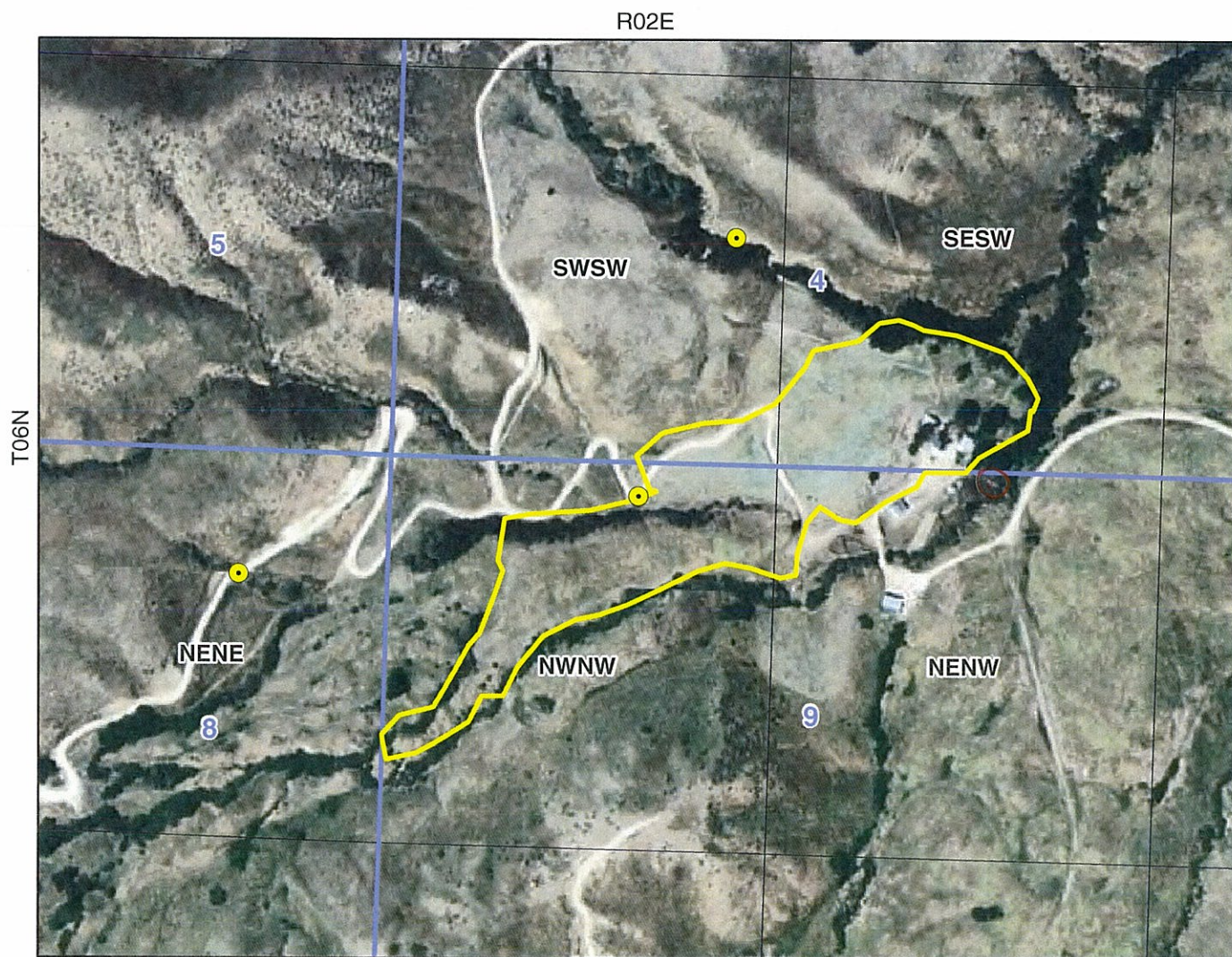
Water Right
65-2035
(IRRIGATION)

Legend

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



Boise County
IDWR Basin 65



Prepared by Don Shaff
On June 10, 2009
2006 Aerial Photography

0 0.125 0.25 0.5 Miles

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)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 65-02035

NAME AND ADDRESS: IVA E WEBSTER
JOE A WEBSTER
PO BOX 37
HORSESHOE BEND, ID 83629

SOURCE: UNNAMED STREAM TRIBUTARY: ROBBS CREEK

QUANTITY: 0.42 CFS

PRIORITY DATE: 09/26/1905

POINT OF DIVERSION: T06N R02E S04 SWSW Within Boise County
S08 NENE
S09 NWNW

PURPOSE AND PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
Irrigation 04-01 TO 11-01 0.42 CFS

PLACE OF USE: Irrigation Within Boise County
T06N R02E S04 SWSW 1.0 SESW 7.0
S09 NENW 3.0 NWNW 10.0
21.0 Acres Total

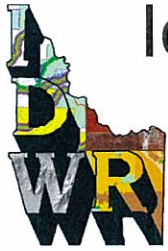
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

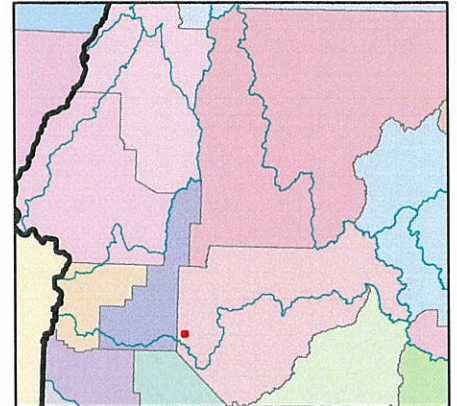


Idaho Department of Water Resources

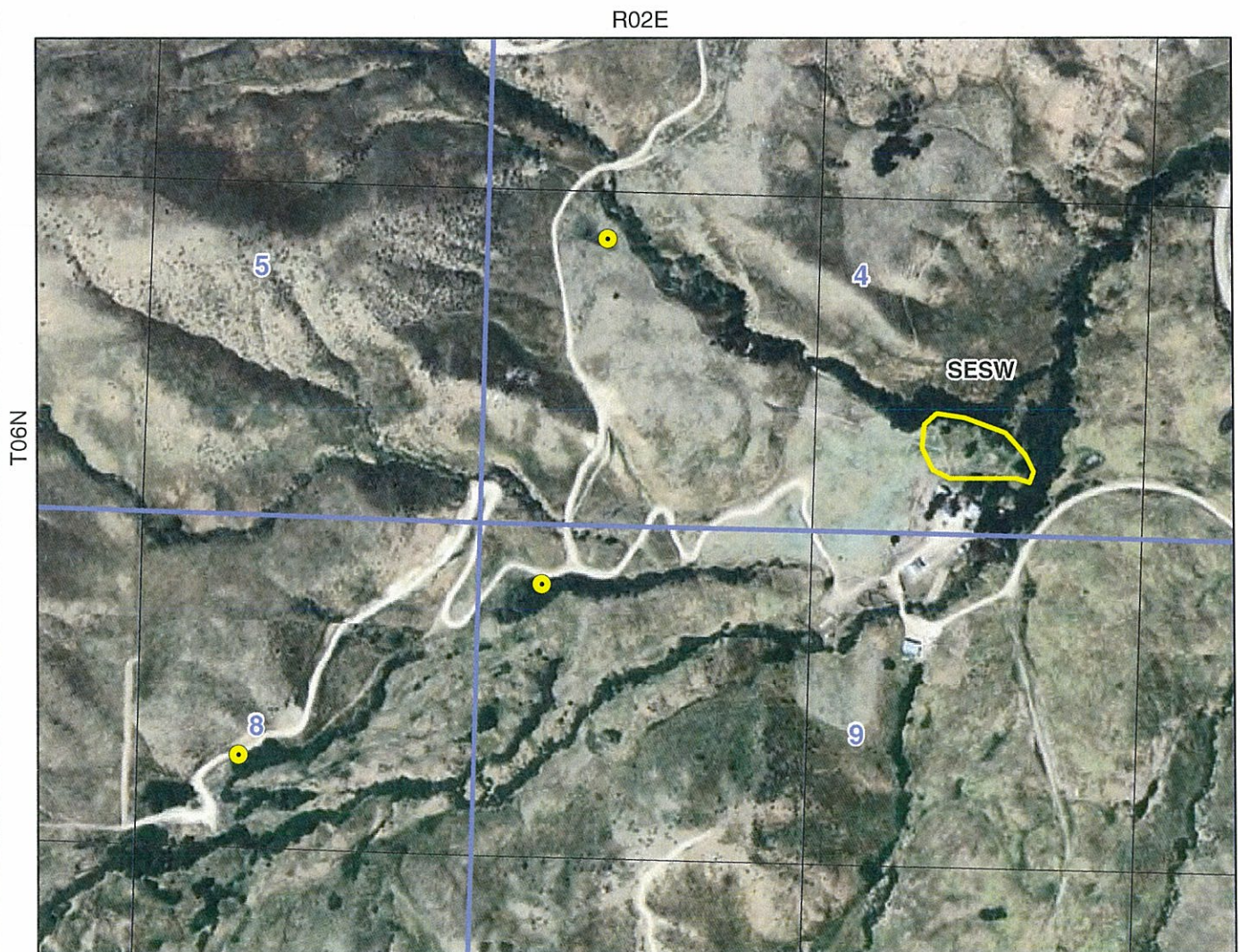
Water Right
65-3504
(IRRIGATION)

Legend

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



Boise County
IDWR Basin 65



Prepared by Don Shaff
On June 10, 2009
2006 Aerial Photography

0 0.125 0.25 0.5 Miles

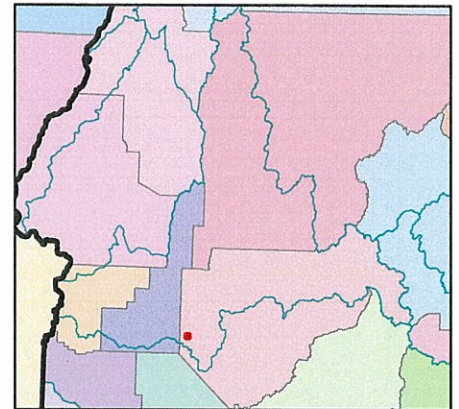


Idaho Department of Water Resources

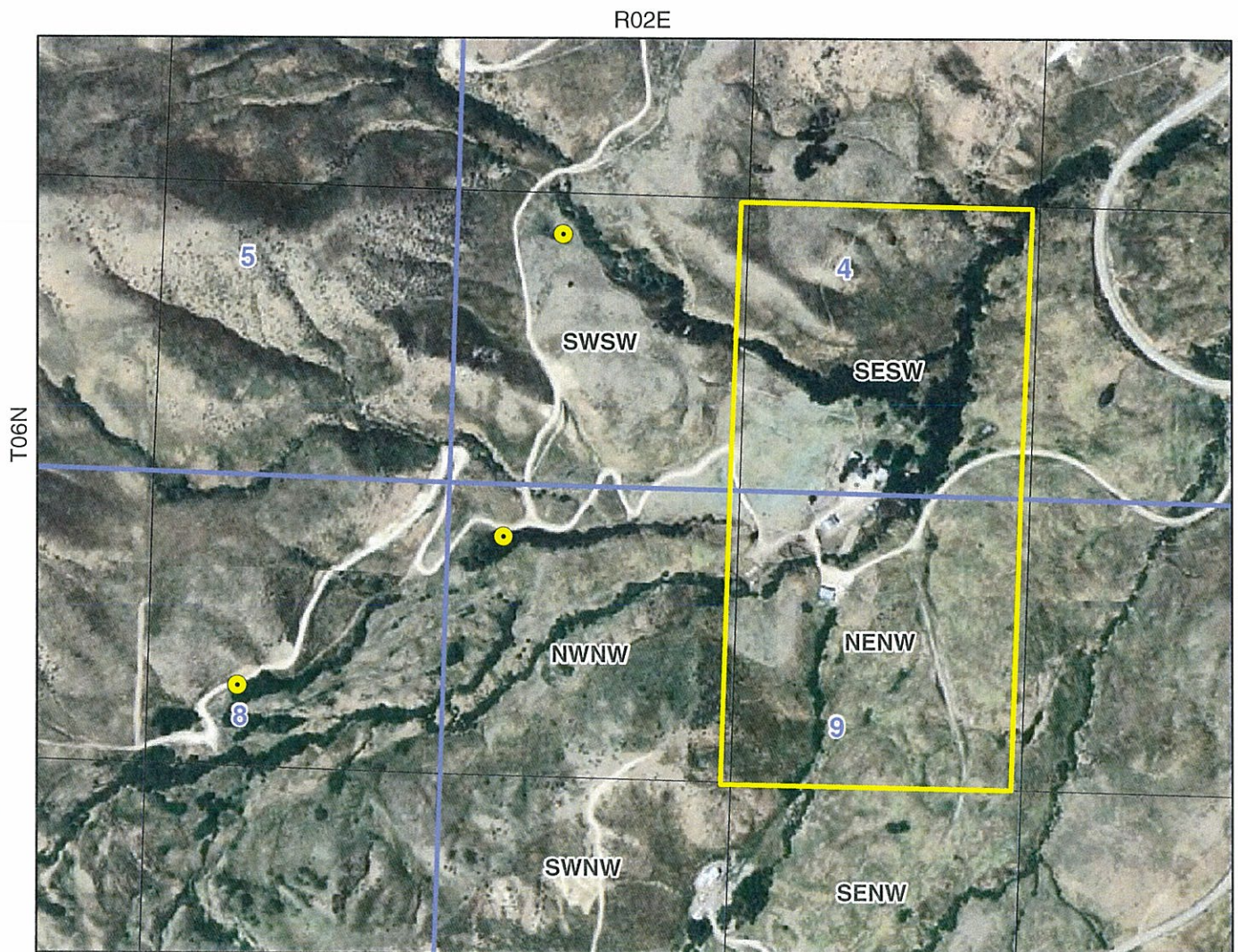
Water Right
65-3504
(DOMESTIC)

Legend

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



Boise County
IDWR Basin 65



Prepared by Don Shaff
On June 10, 2009
2006 Aerial Photography

0 0.15 0.3 0.6 Miles

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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 65-03504

NAME AND ADDRESS: IVA E WEBSTER
JOE A WEBSTER
PO BOX 37
HORSESHOE BEND, ID 83629

SOURCE: SPRINGS TRIBUTARY: ROBBS CREEK

QUANTITY: 0.08 CFS
2.40 AFY

THE QUANTITY OF WATER UNDER THIS RIGHT FOR DOMESTIC AND
STOCKWATER USES SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 04/01/1918

POINT OF DIVERSION: T06N R02E S04 SWSW Within Boise County
S08 NENE
S09 NWNW

TWO POINTS OF DIVERSION LOCATED IN T6N, R3E S4, SWSW.
THREE POINTS OF DIVERSION LOCATED IN T6N, R2E, S8, NENE.

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 11-01	0.02 CFS
			2.40 AFY
	Stockwater	01-01 TO 12-31	0.02 CFS
			0.40 AFY
	Domestic	01-01 TO 12-31	0.04 CFS
			2.40 AFY

PLACE OF USE:	Irrigation		Within Boise County
	T06N R02E S04	SESW 1.0	
	1.0 Acres Total		
	Stockwater		Within Boise County
	Same as Domestic		
	Domestic		Within Boise County
	T06N R02E S04	SESW	
	S09	NENW	

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
DOMESTIC USE AND STOCKWATER USE IS NOT A DETERMINATION OF
HISTORICAL BENEFICIAL USE.

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

Idaho Department of Water Resources



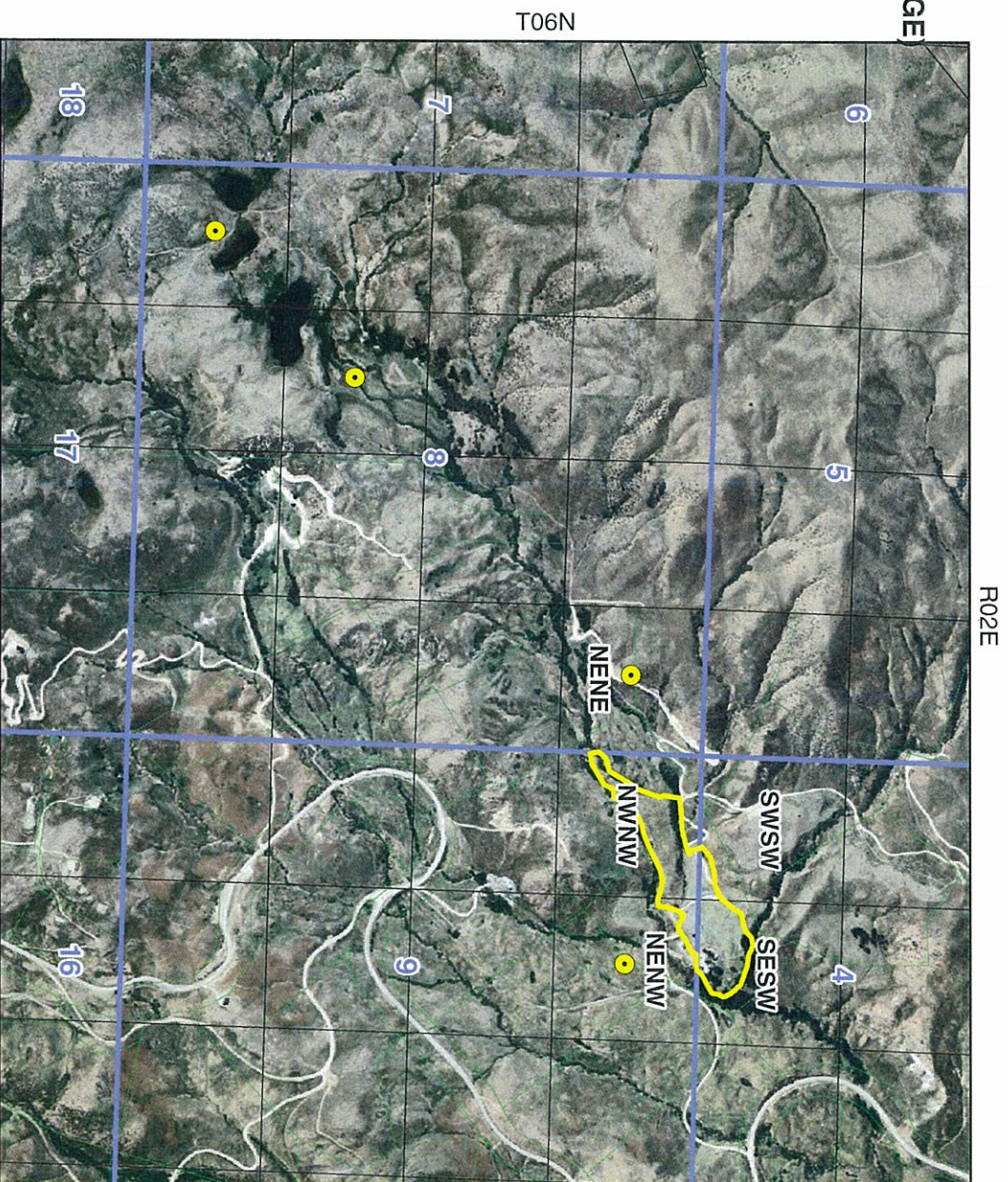
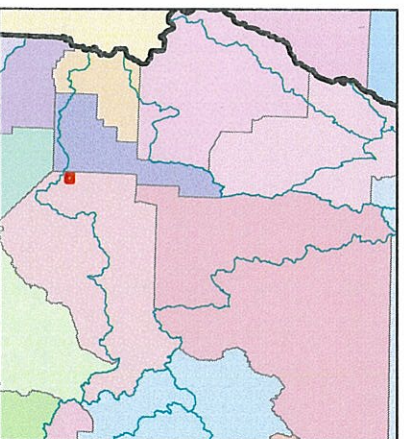
Water Right

65-11141

(IRRIGATION FROM STORAGE)

Legend

- Point of Diversion
- Place of Use
- State Outline
- Townships
- PLS Sections
- Quarter Quarters
- Taxlots



Boise County
IDWR Basin 65

Prepared by Don Shaft
On June 10, 2009
2006 Aerial Photography

Owner: Iva E Webster
NOTE: Only one owner is listed. There may or may not be more than this in the IDWR database.

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

Case No. 39576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54 (b) FOR

Water Right 65-11141

RECEIVED

JUL 19 2002

Department of Water Resources

NAME AND ADDRESS: IVA E WEBSTER
 JOE A WEBSTER
 PO BOX 37
 HORSESHOE BEND, ID 83629

SOURCE:	SIPHON LAKES	TRIBUTARY:	ROBBS CREEK
	HOME LAKE		ROBBS CREEK
QUANTITY:	32.00	AFY	
PRIORITY DATE:	06/01/1896		
POINT OF DIVERSION:	T06N R02E S08	SWSW	Within Boise County
		NESW	
		NENE	(Rediversion)
	S09	NENW	(Rediversion)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation from Storage	04-01 TO 11-01	32.00 AFY

PLACE OF USE:	Irrigation from Storage	Within Boise County
T06N R02E S04	SWSW 1.0	SESW 7.0
S09	NENW 3.0	NWNW 10.0
21.0 Acres Total		

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

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