



STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL  
LAWRENCE G. WASDEN

March 11, 2010

Randy Budge  
Racine Olson Nye Budge & Bailey, Chtd.  
201 E. Center St.  
P.O. Box 1391  
Pocatello, ID 83204-1391

Re: Alma Hubbard 27-76 & 27-11317

Dear Randy,

As we discussed briefly on Friday, March 5, 2010, James Cefalo recently brought to my attention some errors in the current recommendations for these two subcases. Specifically, he noted problems with the description of the Point of Diversion ("POD"), Source, Place of Use ("POU"), and Quantity elements. Michael Holliday reviewed the files and maps, and he concurs.

James has visited both the site of the POD as currently recommended for 27-11317 and the actual POD. The proper description of the POD location should be T05S R42E Sec 11 SWNESW, instead of T05S R42E Sec 11 SESWNW.

The description of the sources serving 27-11317 is incorrect. Both Jarvis Spring and Willow Spring are tributary to Meadow Creek, not to sinks.

The POU description is also in error. James has walked the area and reviewed the POU on a topographic map. The land northeast of the ditch is higher in elevation and thus cannot receive benefits of any seepage from the ditch. Accordingly, the POU should be reduced to reflect the topography. Using the 1987 imagery, Michael calculated that the proper POU should be 117 acres. Attached for your reference is the proposed shape shown on 1987 imagery. Also attached is a topographic map showing the elevation lines for the proposed 117 acre shape and surrounding area. Because 27-76 and 27-11317 share the same irrigated POU, both would need to be revised to reflect the new acreage. The combined acre remark in the POU of both rights would need also to be revised to reflect the 117 acre POU. Additionally, the POU description for the stockwater purpose of use on 27-11317 should be the same as the irrigated place of use.

And finally, because of the revised acreage, the quantity needs to be correspondingly reduced. For 117 acres at the standard inch to an acre, the quantity

should be 2.34 cfs for irrigation on both rights. The quantity associated with the stockwater and domestic purposes of 27-11317 would remain unchanged.

Because both of these subcases are part of the ongoing Tribal volumetric objection, we have the opportunity to make these changes. For subcase no. 27-76, an Amended Director's Report was filed on February 27, 2009. For this right, I propose we make the changes via an SF5 when the Tribal objection is resolved as the only current parties to this subcase are the Tribe and your client. For subcase no. 27-11317, there is a stipulation on file resolving all but the Tribal volumetric objection. I propose we make the changes through an amended stipulation and circulate it for signatures amongst all parties to that subcase. Please notify me after you have had a chance to discuss the matters with your client. If he agrees to make these changes via the proposed procedure, I will prepare the amended stipulation for 27-11317 and make the appropriate notes in the file for 27-76.

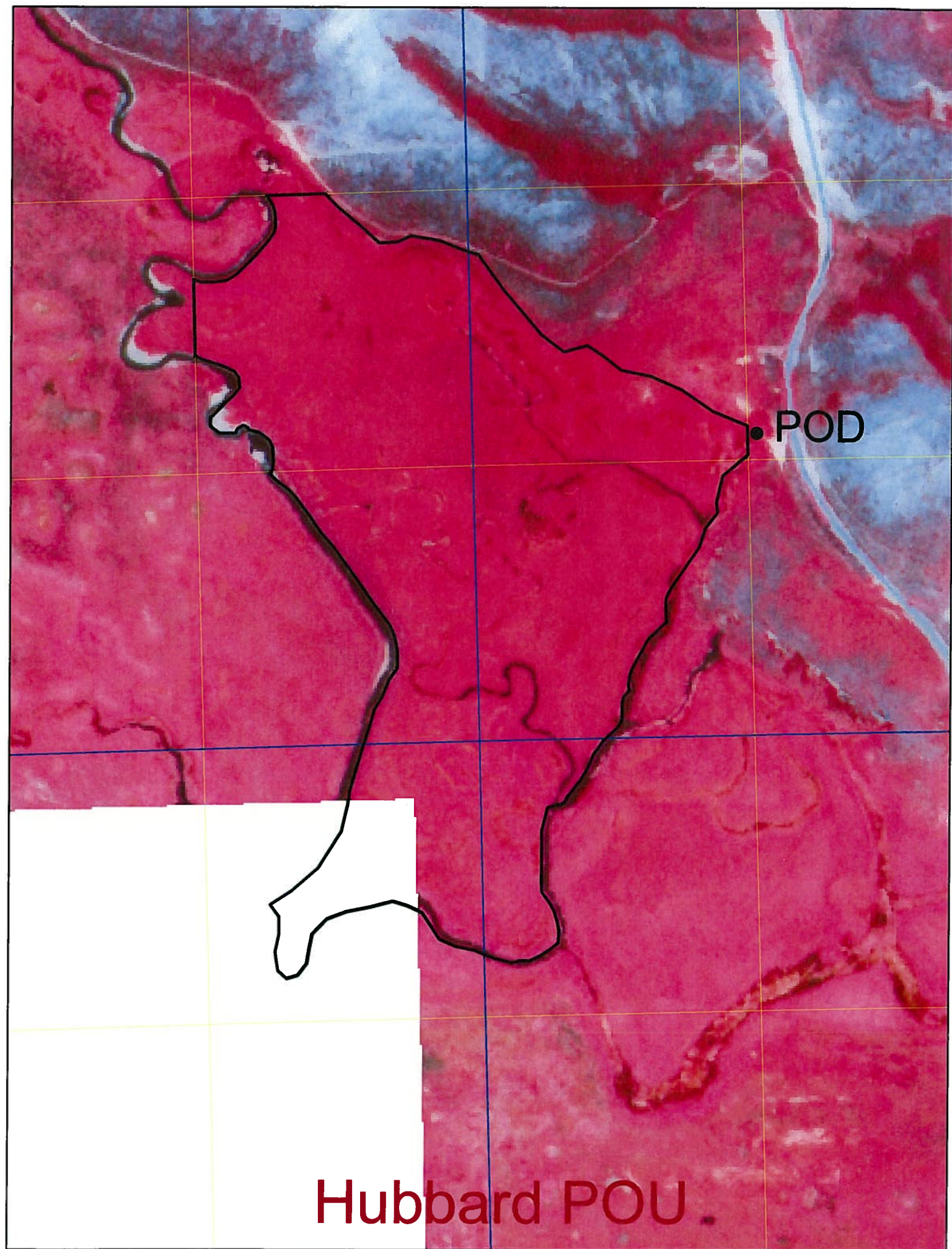
If you have questions about this matter, please contact me at (208) 287-4810.

Sincerely,

  
Andrea L. Courtney

Encs.

cc: Michael Holliday  
James Cefalo



• POD

Hubbard POU

