

316

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re the General Adjudication
of Rights to the Use of Water
from the Snake River Basin
Water System

The State of Idaho, ex rel.
R. Keith Higginson in his
official capacity as Director
of the Idaho Department of
Water Resources,

Petitioner,

vs.

The United States; the State
of Idaho; and all Claimants to
the use of water from the Snake
River Basin Water System,

Respondents.

Case No. 34-11582
(You must insert the
water right number you
are objecting to)

OBJECTION

RECEIVED

MAR 18 1993

Department of Water Resources
Adjudication Bureau

34-11582 -0001/
93-03-0473

INSTRUCTIONS

This form must be used to file an objection to any water right recommended in the Director's Report. You may object to one water right per objection form. The water right number you are objecting to must be indicated above in the blank space following "Case No." To object to more than one water right, you must file a separate objection form for each. Forms may be obtained from the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form, as long as it is identical to the court's form. You must file your objection by the deadline shown in the notice that IDWR mailed to you. The objection must be received by the court on or before the deadline specified. Instructions for mailing this objection are found at Page 6, and must be strictly followed.

Any party physically filing 25 (twenty-five) or more objections must make an appointment with the Clerk of the Adjudication Court and arrange for an appointment to file multiple objections.

(Over)

By filing an objection form, you are certifying that the objection is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and that it is not filed for any improper purpose, such as to harass, cause unnecessary delay or needless increase in the cost of litigation.

I. GENERAL INFORMATION

Please fill in the following information:

1. Person objecting:

Name:

Wiley F. Smith

Address:

Star Route

Blackfoot, Idaho 83251

Briefly describe your interest in this water right:

Owner of Split Estate range right
and water right use for livestock.

Historical range use has established seniority
over BLM's claim based on Prior Appropriation
Doctrine. Historical water use holds seniority over
BLM claims and are protected by 1886 Water
Protection Act.

2. Owner of the water right:

Name:

US Dept. of Interior BLM

Address:

Idaho State Office 3380 American terrace
Boise, Idaho 83706

3. If this objection is filed by an attorney:

Attorney Name:

Attorney Address:

Attorney Phone No.:

If filed by an attorney, notice of pending court proceedings will be sent to the attorney only.

II. STATEMENT OF THE OBJECTION

Please check each "box" which states your objection to the recommendation in the Director's Report.

1. ☒ Name and Address: I object to the name and/or address of the owner of the water right.
2. ☒ Source: I object to the source of water.
3. ☒ Quantity: I object to:
 - a. ☒ the total quantity of water used in cubic feet per second; or
 - b. ☐ the total quantity of water stored in acre-feet per year; or
 - c. ☒ the total quantity of water reserved for each and every purpose, including all present and future uses.
4. ☒ Priority Date: I object to the priority date.
5. ☒ Points of Diversion: I object to the legal description of the point(s) of diversion.
6. ☐ Instream Flow: I object to the legal description of the beginning and ending points of the instream flow.
7. ☒ Purpose(s) of Use: I object to the purpose(s) of use.
8. ☒ Period of Year: I object to the period of year when water is used or is necessary for the purpose stated.
9. ☒ Place of Use: I object to:
 - a. ☒ the legal description of the place of use; or
 - b. ☐ the number of irrigated acres within each forty (40) acre subdivision.
10. ☐ Consumptive Use: I object to the annual volume of consumptive use.
11. ☒ Remarks: I object to the "remarks" listed with the water right.

(Over)

12. ☒ Water Right Recommendation: I object to:
- a. ☒ this water right being recommended at all; or
- b. ☐ this water right not being recommended.
13. ☐ Description of Reservation: I object to the legal description of the reservation.
14. ☒ Other: I object to: THE inability of the
BLM to correctly match the claim
to the ACTUAL WATER SOURCE

REASONS SUPPORTING EACH BOX CHECKED

In the space following, you must state the reason(s) by number for each box checked. You may use additional pages if necessary.

Idaho WATER LAW provides for the
protection of stockwater and this claim is
UNNECESSARY.

THE ADDITIONAL PAGE ENCLOSED ADDRESSES objection

CHANGES TO THE DIRECTOR'S REPORT

Specifically describe how you want the Director's Report to be changed. You may use additional pages if necessary.

BASED ON THE EXCESSIVE AMOUNT OF ERRORS
WE REQUEST THAT THE COURT DISALLOW THIS
ENTIRE CLAIM

Please note: You should attach copies of documents which support your objection. Note on each document the "box number" it supports.

☒ Check here if you are submitting documents. Please list each document by the title and number of pages. You may use additional pages if necessary.

Request the right to submit additional
documentation and or information pertaining
to this objection at a future date

VERIFICATION (Must be Completed)

State of Idaho

County of CUSTER

Wiley F. Smith, being first duly
(Name of person filing objection)
sworn, upon oath, deposes and says:

That I am the person or entity filing this objection, that I am a water claimant or party in this proceeding, as defined by I.C. § 42-1401A(1) and (7), and that I have read the foregoing objection, know its contents and that the statements contained therein are true to the best of my knowledge and belief.

Wiley F. Smith
Signature of person filing objection

By: _____
(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 15th day of March,
1993.

Rebecca Marie Rouben
Notary Public for Idaho
Residing at: 1111 1/2 N. 1st St.
My Commission expires: 11-28

(Over)

INSTRUCTIONS FOR MAILING

You must mail the objection, including all attachments, to the Clerk of the Court. FAX filings will not be accepted by the Clerk of the Court. You must also send a copy to the owner of the water right, if other than yourself; to the Office of the Attorney General, State of Idaho; and to the United States Department of Justice, as set out below in the Certificate of Mailing. Finally, you must sign the Certificate of Mailing to show that you followed these steps.

CERTIFICATE OF MAILING

I hereby certify that on the 16 day of March, 1993, I mailed the original and copies of the foregoing objection, including all attachments, to the following persons, by mailing the original and/or true and correct copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

2. One copy to the owner of the water right, and you must fill in the following information:

Owner name:

Dept of Interior BLM

Owner's address:

Idaho State Office 3380 Americana terrace
Boise, Idaho 83706

3. One copy to:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

4. One copy to:

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 33
Boise, Idaho 83734

Wiley F. Smith
Signature of Objector or attorney
mailing on Objector's behalf

Box 1. I object to the BLM owning this water.

Box 2. The source should be the point where there is actual water.

Box 3. This quantity is already reserved by Idaho Water Law for Livestock.

Box 4. These priority dates should be verified by documents which originated at the time of the priority date claim and the document should refer to the particular water source on which the claim is filed.

Box 5. The point of diversion should be the point where the water is actually diverted from the natural stream, creek, or spring. The point of diversion should be legally accurate.

Box 7. The BLM or Forest do not own livestock which they claim the water for.

Box 8. The period of year should be the same as the period of year that the livestock use the water.

Box 9. The legal discription errors.

Box 11. The wording is not proper in relation to the use.

Box 12. The Government should not be allowed to claim and own Idaho water and resell it.

Box 14. I object to dual, duplicate, triple or claims with excessive livestock numbers such as 2 claims on 40 acres of bog swamp for 3620 cattle.

Honorable Daniel C. Hurlbutt
District Court
Snake River Basin Adjudication
Twin Falls, Idaho 83303-2707

Dear Honorable Judge Hurlbutt;

After doing some research into the U.S. Forest and BLM Stockwater filings, we have a lot of concerns which we feel need to be checked into much further for accuracy on their part.

Some of our concerns are as follows;

We question if the Department of Interior-BLM and or the Department of Agriculture-Forest Service followed all of the details and requirements of Idaho Water Law Rules and Regulations.

Did these two Agencies provide documentation and proof of their beneficial use in establishing the priority date, their claim to stock numbers, their accuracy of legal descriptions, their points of diversion, place of use, and period of use.

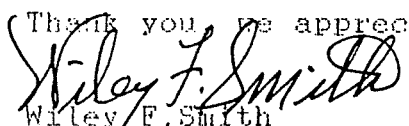
The Government has objected to most of the basin private filings and filed on water with an unusual method. Filing on dry ground where no water exists. They have multiple filings where only one or two springs exist. They call a water trough which is on the end of Thousands of feet of buried pipeline, the point of diversion as well as the place of use. We question their creditability and competence in relation to the Adjudication of Basin 34 Water.

In Township 10N, Range 22 E, we have researched and based on our familiarity on the ground, believe the Government-BLM filings to be in excess of 90% errors on various claims. Some are entirely false.

We therefore feel that there is a strong possibility of excessive errors on their other claims through out Basin 34 and request to court to investigate and hold up the Government filings until on ground inspection, documentation and proof of use is submitted to the court and is verified by Idaho Department of Water Resources.

The Government should not be allowed any special privileges that the water users of Basin 34 were not. We feel that the Federal Government Agencies should all pay the proper appropriated Water Master of Basin 34 Assessments each and every year the same as private water users are required to pay.

Thank you, we appreciate your consideration.


Wiley F. Smith
Star Route
Mackay, Idaho 83251
208-588-2218

AJ5856NP

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: NOV-17-1992
PAGE: A-65

RIGHT
NUMBER

NAME & ADDRESS

PRIORITY
DATE

PURPOSE OF USE
FROM TO

MAXIMUM
QUANTITY

BASIS OF CLAIM

SOURCE: CEDAR CREEK

TRIBUTARY: SINKS

34-11582

UNITED STATES OF AMERICA ACTING THROUGH
USDA FOREST SERVICE
324, 25TH STREET
OGDEN UT 84401-2394

05/01/1876 STOCKWATER

06-01 10-31

.02 CFS

BENEFICIAL USE

TOTAL QUANTITY:

.02 CFS

NON-IRRIGATION-USES:
STOCKWATER, 468 CATTLE
POINT OF DIVERSION:
T09N R22E S13
S11

SWSUSE
SWSMNM

(B) 468
(C)

*How can BLM claim 1876 right on
EVER when not EVEN ONE cow has
EVER BEEN in this creek on their AU*

PLACE OF USE: STOCKWATER

T09N R22E S11

SWMN

NESE

EVER BEEN in this creek on their AU

NESE

NWSE

NWSE

NWSE

NESE

S12

NWSE

NWSE

NESE

S13

NWSE

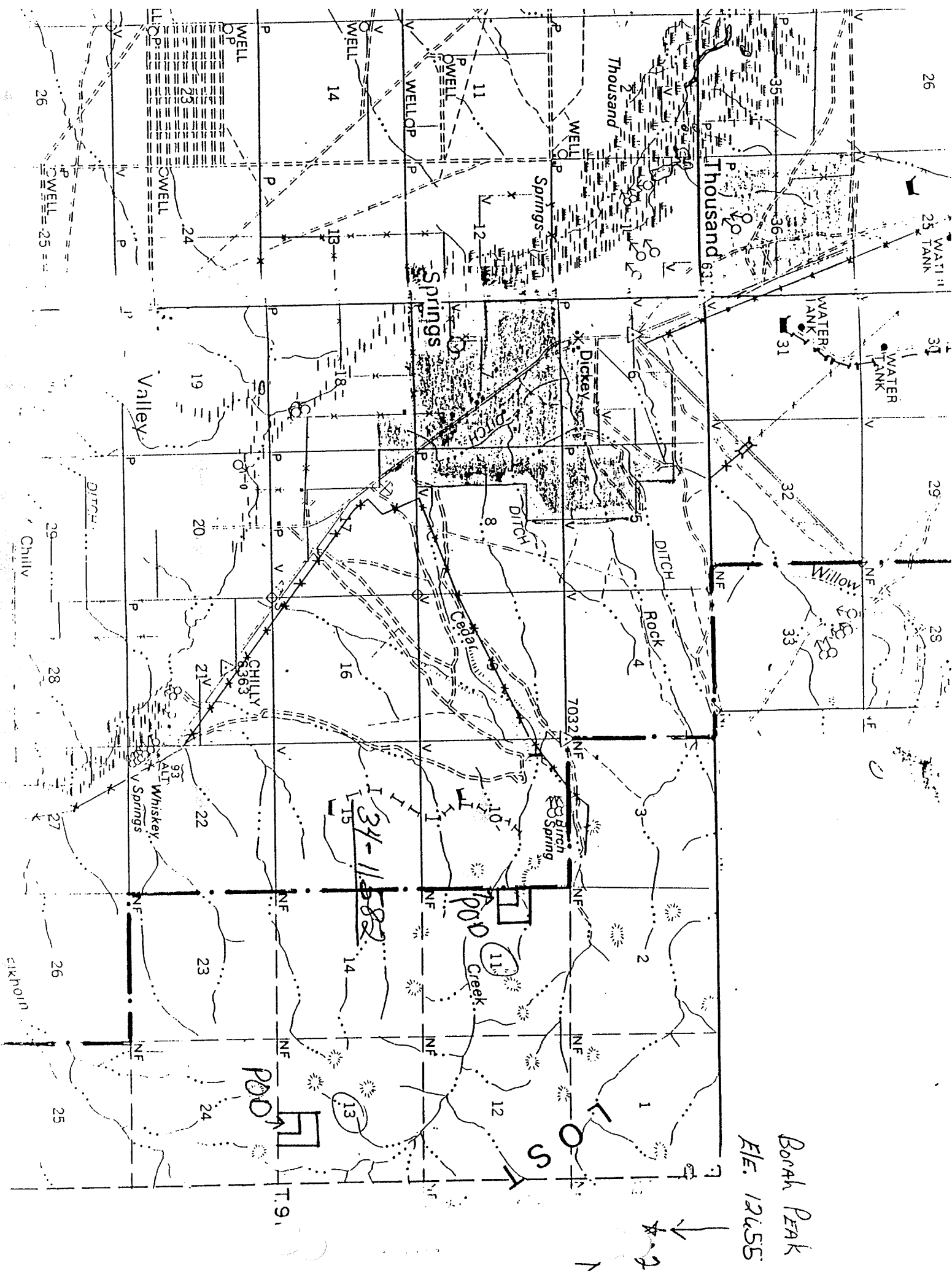
NWSE

NESE

REMARKS:

THIS RIGHT AND OTHER RIGHTS COMMON TO THE SAME GRAZING
ALLOTMENT SHALL BE LIMITED TO THE QUANTITY OF WATER BENEFICIALLY
USED BY THE NUMBER OF STOCK WITHIN THE ALLOTMENT.
FOREST SERVICE RECORD ID = 04061704021815 9991

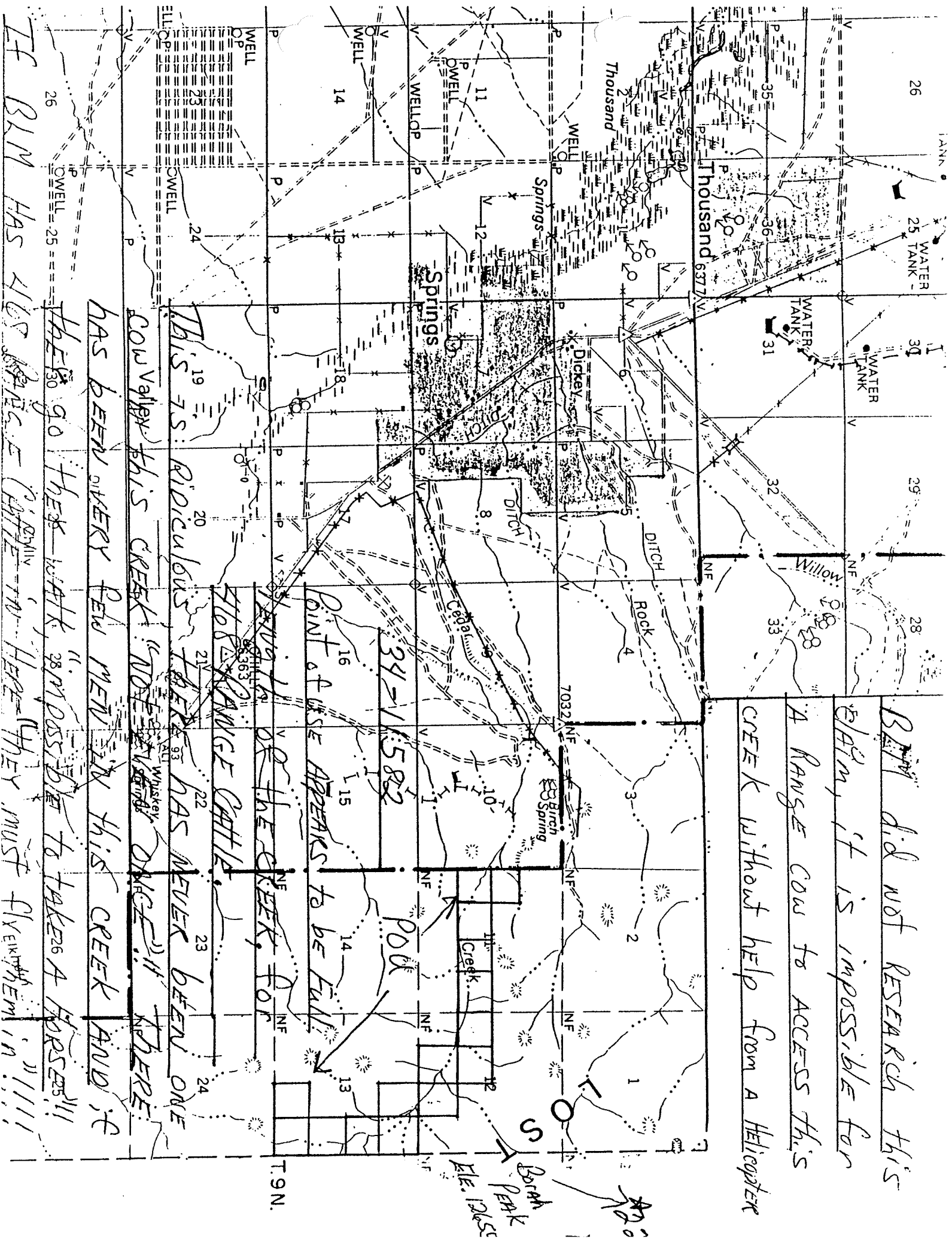
impossible!!



BORAH PEAK
E/E. 12455

N
21

BLM did not RESEARCH this claim, it is impossible for a Range cow to ACCESS this creek without help from a Helicopter



If BLM has 468 acres here they must fence them in

has been every few men in this creek and it
 this is ridiculous
 Cow Valley this creek "not a range cow" there
 has been every few men in this creek and it
 this is ridiculous
 Cow Valley this creek "not a range cow" there

Point of use appears to be full

34-11582

POA

Borah Peak
 Ele. 12655

