

801-209-6245

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

CIVIL CASE NUMBER: 39576

Ident. Number 72-2151
Date Received: 11/14/2005
Receipt No: CO 80381
Received By: *JK*

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

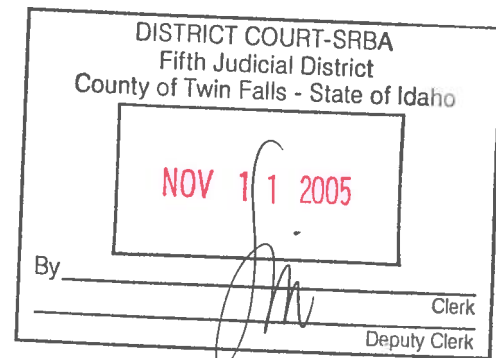
1. Name of Claimant(s)

VERLE L SHUPE Phone: (801)782-9772
246 E ELBERTA DR
NORTH OGDEN UT USA 84414

B.D. MERRILL G SHUPE Phone: (801)292-5715
183 N 1100 W
WEST BOUNTIFUL UT USA 84087

OWEN K SHUPE Phone: (435)752-3973
470 E 750 S
LOGAN UT USA 84321

JAMES L SHUPE Phone: (435)563-5553
296 S 250 EAST
HYDE PARK UT USA 84318



2. Date of Priority: 04/20/1965

3. Source: BIG CASINO CREEK Trib. to: SALMON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
11N	14E	32	NE NW	CUSTER	

5. Description of diverting works:

Headgate; 4 ft wide; 3 1/2 ft high Ditch at bottom 3 1/4 ft wide, 3 5/8 at water line, depth of water 3 ft.

The same headgate and ditch has remained the same since 1957. Annual repair and ditch maintenance has been done yearly from 1957 to 2005.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/01	11/01	1.5	225

7. Total Quantity Appropriated is:
1.5 C.F.S. and/or 225 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
11N	14E	20	SW	SW	IRRIGATION	29
					Section Acres	29
11N	14E	29	NW	NW	IRRIGATION	36
			SW	NW	IRRIGATION	10
					Section Acres	46
					Total Acres	75

11. Place of use in counties: CUSTER

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

15. Basis of Claim: License

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 _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

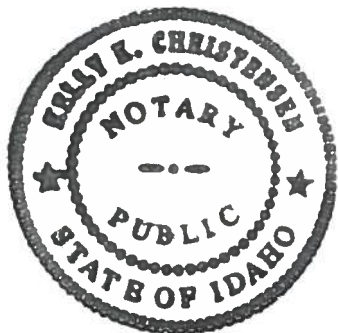
I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Mervin J. Shupe Date: 11/14/05
 _____ Date: _____

State of Idaho)
) SS.
 County of Twin Falls)

Subscribed and sworn (or affirmed) before me this 14th day of Nov 2005

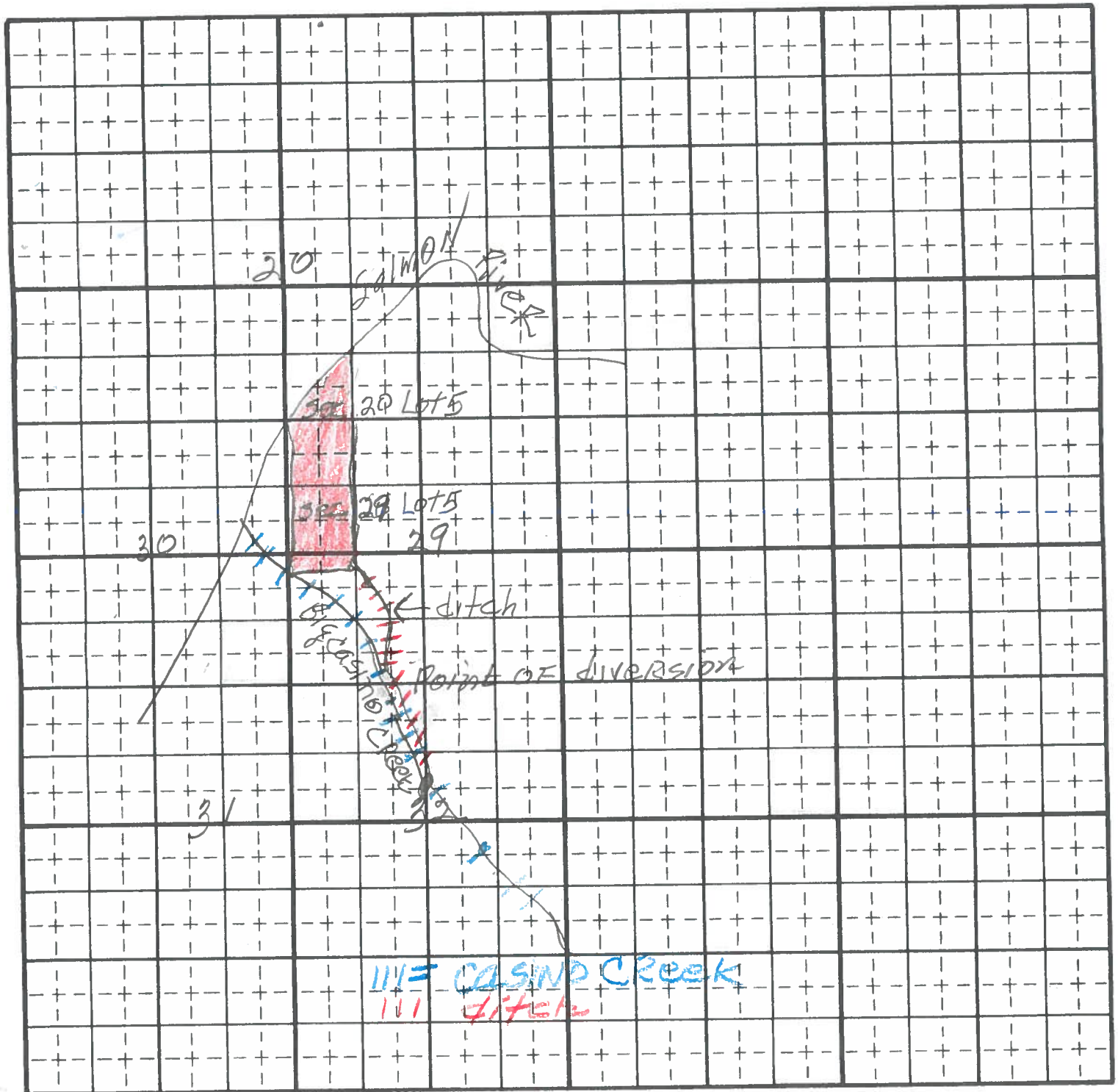
Kelly K. Christensen
 Notary Public



Residing at _____ Twin Falls, ID
 My commission Expires 4-2-2010

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile



Last Name _____

Ident No. _____

Copies: White-State, Yellow-Claimant

SCANNED

FEB 23 2006

RECEIVED
FEB 23 2006
DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
FEB 22 2006	
By _____	Clerk
_____	Deputy Clerk

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	)	Subcase: 72-02151
	)	
Case No. 39576	)	ORDER GRANTING MOTION TO FILE
	)	LATE NOTICE OF CLAIM
_____	)	

On November 11, 2005, Merrill G. Shupe, Verle L. Shupe, James L. Shupe and Owen K. Shupe filed a *Motion to File Late Notice of Claim* for the above-captioned water right. Hearing was held on the *Motion* on February 21, 2006. This *Motion* complied with all procedural requirements under **SRBA Administrative Order 1**, and no objections were made to this late Notice of Claim.

THEREFORE, IT IS ORDERED, that the *Motion to File a Late Notice of Claim* for water right 72-02151 is **granted**.

The original Notice of Claim, as well as any attached filing fees, and a copy of this **Order** will be forwarded to the Idaho Department of Water Resources for further action.

IT IS SO ORDERED.

Dated February 22, 2006.


JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTION TO FILE LATE NOTICE OF CLAIM was mailed on February 22, 2006, with sufficient first-class postage to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

MERRILL G SHUPE
183 N 1100 W
WEST BOUNTIFUL, UT 84087
Phone: 801-292-5715

VERLE L SHUPE
246 E ELBERTA DR
NORTH OGDEN, UT 84414
Phone: 802-782-9772

JAMES L SHUPE
296 2 250 E
HYDE PARK, UT 84318
Phone: 435-563-5553

OWEN K SHUPE
470 E 750 S
LOGAN, UT 84321
Phone: 801-752-3973

IMS
Claim No(s). 72-2151

Claim No(s).

72-2151

[illegible]

06/17/2010

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 72-2151

NAME AND ADDRESS: VERLE L SHUPE
246 E ELBERTA DR
NORTH OGDEN UT 84414

MERRILL G SHUPE
183 N 1100 W
WEST BOUNTIFUL UT 84087

OWEN K SHUPE
470 E 750 S
LOGAN UT 84321

JAMES L SHUPE
296 S 250 EAST
HYDE PARK UT 84318

SOURCE: BIG CASINO CREEK

TRIBUTARY: SALMON RIVER

QUANTITY: 1.500 CFS
51.000 AFY

PRIORITY DATE: 04/20/1965

POINT OF DIVERSION:

T11N R14E S29 SWSESW Within CUSTER County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	1.500 CFS 51.00 AFY

PLACE OF USE: IRRIGATION in CUSTER County

T11N R14E S29	NWNW	7.00	T11N R14E S29	SWNW	10.00
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17 ACRES TOTAL

Place of use does not include federal public lands.

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. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.

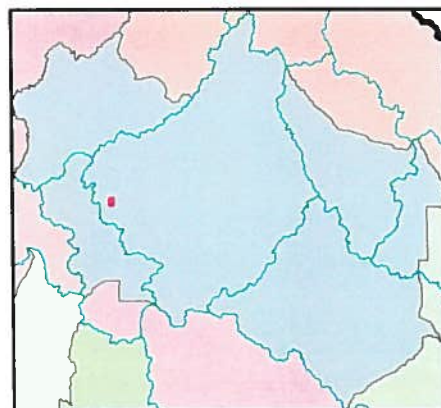


Idaho Department of Water Resources

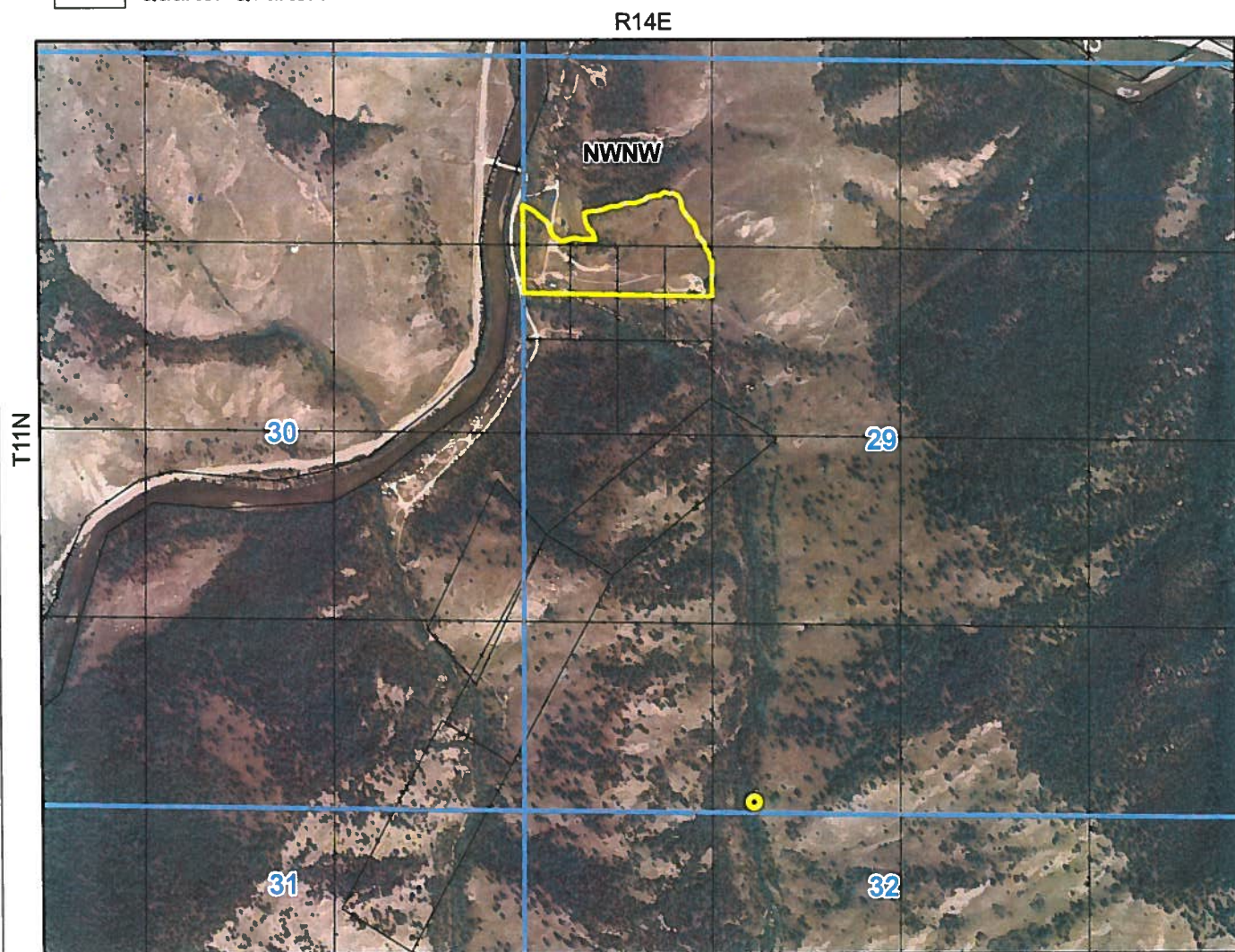
Adjudication Recommendation 72-2151 (IRRIGATION)

Legend

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



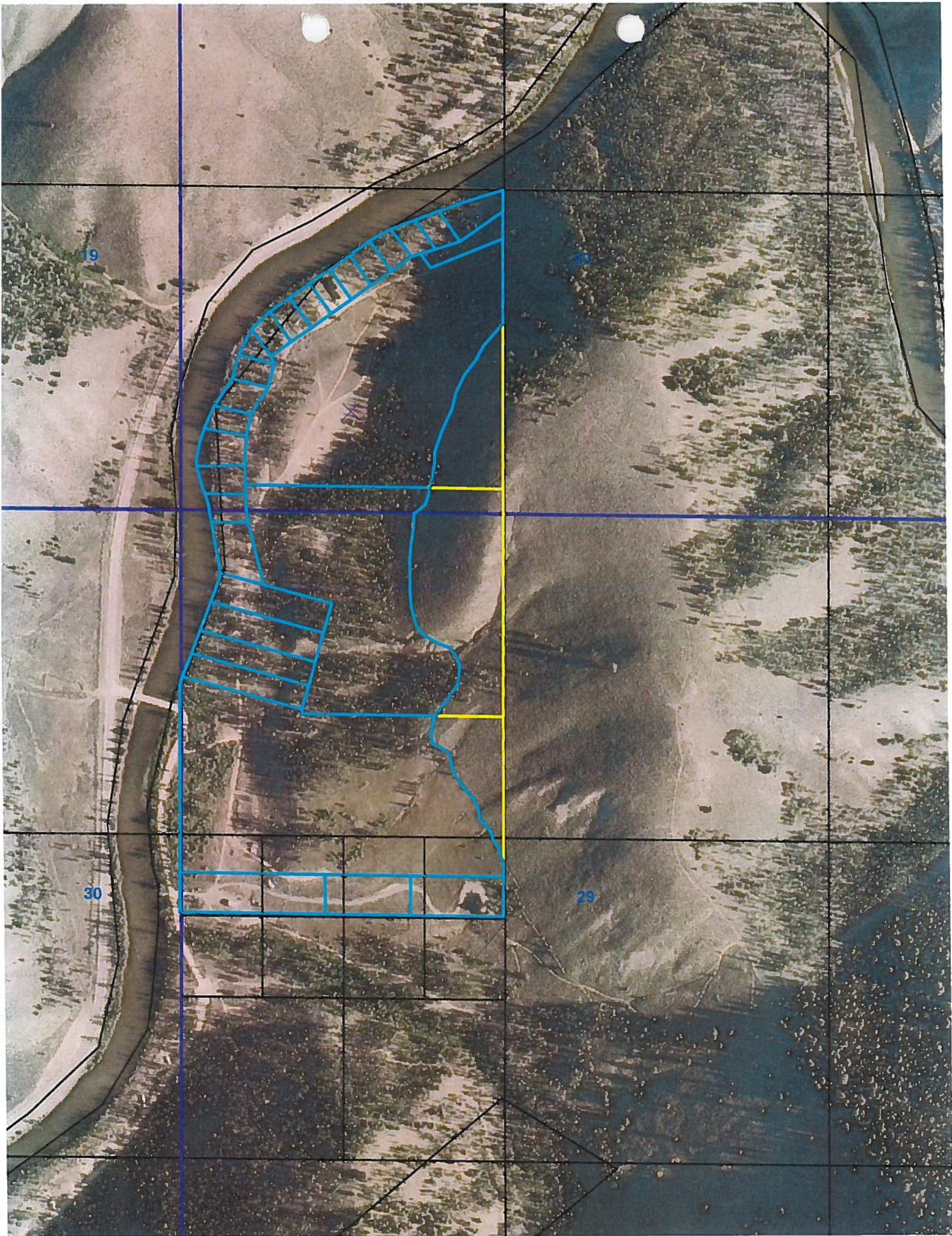
Custer County
IDWR Basin 72

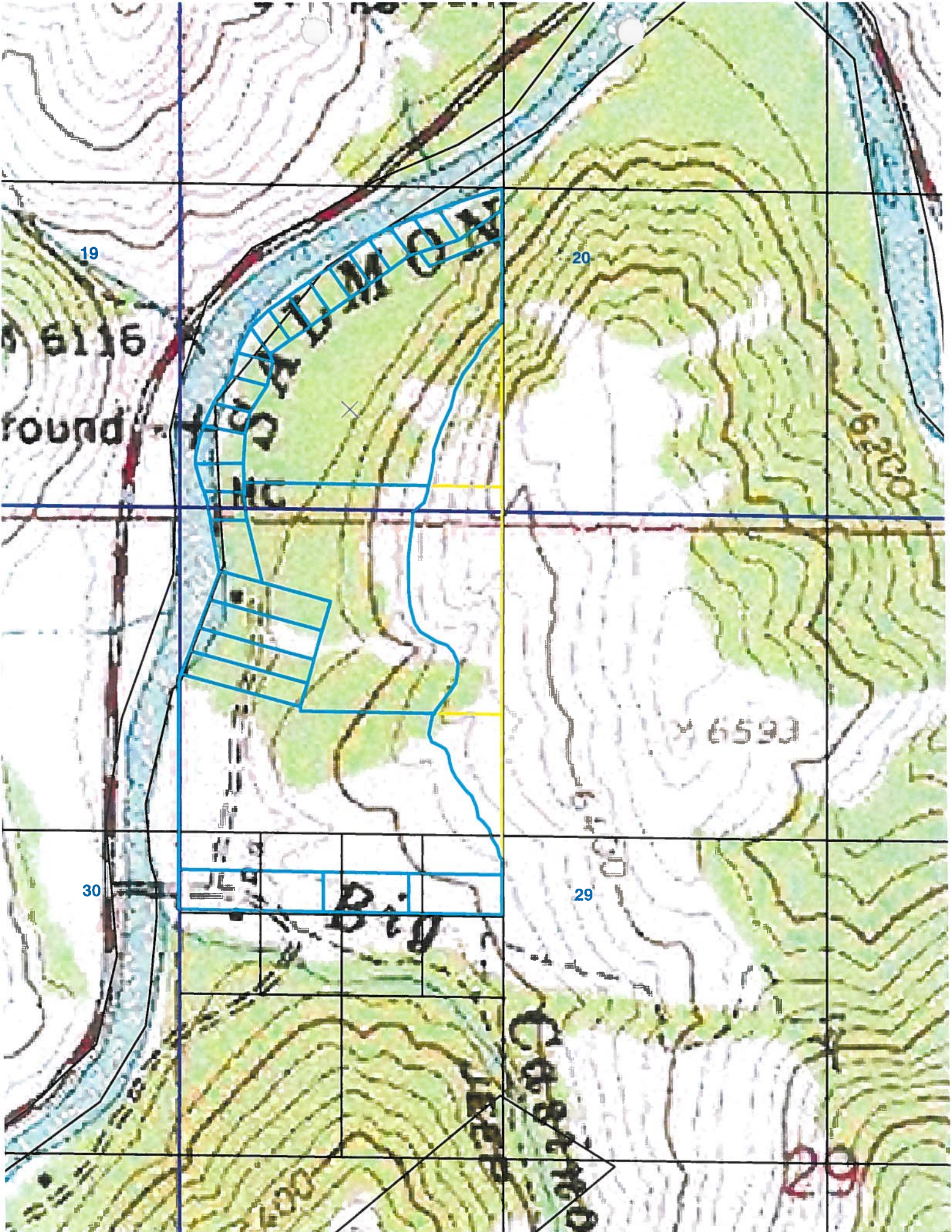


Prepared by Doug Jones
On June 17, 2010
2004 Aerial Photography

0 0.25 0.5 1 Miles







Jones, Doug

From: Brown, Roxanne
Sent: Thursday, April 13, 2006 1:00 PM
To: Jones, Doug
Subject: 72-2151



pic02478.jpg



pic09237.jpg



pic26736.jpg

FYI, here's some information submitted by the USFS relative to this late claim. Don tells me he forwarded the claim to Southern.

-----Original Message-----

From: Graham, Bill
Sent: April 13, 2006 12:27 PM
To: Brown, Roxanne
Cc: Luke, Tim; Case, Morgan
Subject: FW: Big Casino

Hello Roxanne - FYI. Now that the AIP is signed, we should get lots of suggestions from the SNRA!

BG

PS - This appears to be a nasty one based on the following pics. Can we do anything about ditch maintenance? This also appears to be a prime case for an approvable headgate and measuring device.

-----Original Message-----

From: Mark Moulton [mailto:mmoulton@fs.fed.us]
Sent: Wednesday, April 12, 2006 6:14 PM
To: Graham, Bill
Cc: Case, Morgan; John E Wofford; Joe Harper
Subject: Big Casino

Bill,

There is one more on the list of water right situations within the Sawtooth NRA that I should mention now rather than waiting until we get together in May -- it may be ripe for a number of reasons. Bare with me for the background:

Big Casino Creek is a tributary of the Salmon not far below Lower Stanley. It's a moderate sized stream with good flow that contributes rearing habitat for a consistent concentration of chinook spawning in the Salmon River near it's mouth. It is also important to cutthroat, and possibly steelhead and bull trout. It has a couple of conditions that diminish it's aquatic health: 1) an old road, now a trail, that is particularly poorly located (i.e. in the creek) near the mouth, and 2) one irrigation diversion that removes water from Big Casino Creek about 1/2 mile onto public lands. It is a small diversion that is difficult to get water into, and difficult to keep it flowing towards the property across the steep side slopes. There are numerous patched blowouts that have extended all the way down the slope to the creek. Meanwhile, the POU agricultural property has recently been subdivided to include several small cabin lots. Some have been built on in the last few years. It is an "unauthorized" subdivision under the Sawtooth NRA private land regulations, but not one we have the financial or political

capital to condemn right now. Also, we have never authorized the diversion facilities on public land.

We are currently conducting the NEPA analysis necessary to relocate the trail out of the bottom, which will include the rehabilitation of the former route. While considering this trail objective, I recalled having noted in the SRBA partial decree that no water right had been granted for Big Casino Creek, but neither had it been denied -- simply no claim had been filed. Similarly, they had not applied for a ditch bill easement across National Forest. All administrative evidence, as well as the use of the property, suggested they must have abandoned the water use. I concluded to look a little closer since the window of opportunity for rehabilitating the diversion and ditch facilities would close when the old route up the bottom of the drainage was relocated elsewhere.

While reviewing the trail proposal in the field late last fall, I also inspected the diversion. While it still looked "rough", it definitely looked used (photo attached). Early this winter, while still considering our possible responses to the situation, we were notified that a "motion to file a late claim" for this use was to be heard by court in February. I have not heard if the motion was accepted. Our folks seemed to think it would be.

Opportunities (aka ripeness):

- this little diversion carries less than 1 cfs to the property boundary, while diminishing flows and habitat quality downstream.
- the users are undoubtedly, currently, subject to legal expenses for consideration of their late claim by the SRBA court.
- the property and water use is/will soon be changing from irrigation to "streamlets" at every cabin door (although the claim appears to still be retained in the initial owners name).
- the water district will require upgrading the facility with a measuring device and controllable headgate,...in an already "challenging" POD location.
- the facilities are currently unauthorized on National Forest and will undergo a difficult NEPA and ESA analysis for authorization.
- if successfully authorized, an annual fee will be required for the USFS permit.
- proper and necessary rehabilitation of the facilities, should they no longer be needed, would be facilitated with far less unnecessary disturbance if it were completed concurrent with the closure and restoration of the former trail route up the bottom (i.e. while access for equipment remains) -- scheduled for 2007.
- the NEPA analysis for such restoration could easily be tucked into the currently ongoing analysis for the trail reroute.

The former right was recorded as 72-2151, in the name of Merrill Shupe, 801.782.6499 (still the SRBA claimant). There is a large packet of documentation in your database regarding the earlier licensing.

Enough for now. Please let me know if I can clarify my rambling. Again, no expectations, just ripe opportunities. Thanks for all your help. - Mark

Photos: 1) POD, 2) ditch blowout, one of several, this one about 15 years old, 3) ditch line near private land.

(Embedded image moved to file: pic02478.jpg)

(Embedded image moved to file: pic09237.jpg)

(Embedded image moved to file: pic26736.jpg)



72-2151. Conveyance ditch nearing private property.



72-2151. Apparent scarring from ditch blow out



72-2151. Diversion point on Big Casino Cr



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 3, 2006

VERL SHUPE, OWEN SHUPE AND JAMES SHUPE
C/O MERRILL SHUPE
183 N 1100 W
WEST BOUNTIFUL UT 84087

RE: Snake River Basin Adjudication (SRBA)
Late Notice of Claim to a Water Right #72-2151

Dear Claimants:

Your Notice of Claim referenced above was received from the SRBA Court recently. I have enclosed your receipt #C080381 for the filing fees you paid. Please retain the receipt for your records.

This Notice of Claim will be investigated and reported to the Court in a future supplemental Director's Report. Please contact me at 208/287-4921 if you have any questions.

Sincerely,

Donald V. Shaff, MPA
Adjudication Bureau Chief

DVS:ss:region

Enclosure:

Receipt #C080381

SCANNED

MAR - 3 2006