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JUL 29 2016
DEPT. OF WATER RESOURCES

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

In Re CSRBA)

Case No. 49576)

A. Subcase 94-08797
(Insert water right number)

STANDARD FORM 1
OBJECTION

Please **print or type** the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: United States of America acting through the Department of Interior, Bureau of Land Management, Idaho State Office

Address: 1387 South Vinnell Way
Boise, Idaho 83709-1657

Daytime Phone: see below

Name & Address of Attorney, if any:

David L. Negri (208) 334-1936 phone, (208) 334-9375 fax
United States Department of Justice
Environment and Natural Resources Division
Natural Resources Section
550 West Fort Street, MSC 033
Boise, Idaho 83724

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Gordon Canterbury
Address: P.O. Box 967; Wallace, ID 83873
Name: Barbara Canterbury
Address: P.O. Box 967; Wallace, ID 83873
Name:
Address: ;
Name:
Address: ;

D. I object to the following elements or general provision as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**
Should be:
2. ☐ **Source**
Should be:
3. ☐ **Quantity**
Should be:
4. ☐ **Priority Date**
Should be:
5. ☒ **Point(s) of Diversion**
Should be: See attached.
6. ☐ **Instream Flow Beginning and Ending Point**
Should be:
7. ☐ **Purpose(s) of Use**
Should be:
8. ☐ **Period of Year**
Should be:
9. ☒ **Place of Use**
Should be: See attached.
10. ☐ **General Provision** ☐ **Individual Water Right** ☐ **All Water Rights**
☐ Should not be recommended.

☐ This general provision was not recommended but should be recommended as described below.
Should be: _____

☐ General provision was recommended but should be modified as described below.
Should be: _____
11. ☐ **I object because the recommendation contains an accomplished transfer under Idaho Code § 42-1425 resulting in injury to my water right(s) and/or enlargement of the original right.**

12. I object because:

- ☐ This water right should not exist.
- ☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S):

The legal description for element five and nine (POD & POU) above may include Federal land. The description should be specific enough to exclude Federal land.

INSTRUCTIONS FOR MAILING

You must mail the Objection, to the Clerk of the court. **FAX filings will not be accepted.**
You must also send a copy to all the parties listed below in the Certificate of Mailing.

F.

CERTIFICATE OF MAILING

I certify that on July 27, 2016, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Coeur d'Alene-Spokane River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

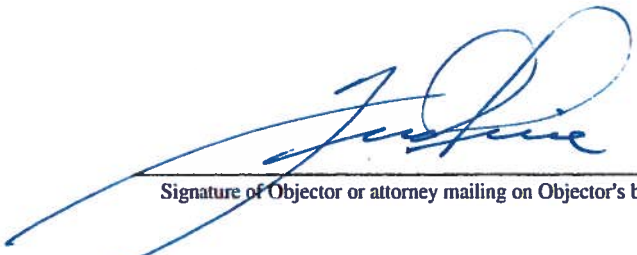
Name: Gordon Canterbury
Address: P.O. Box 967; Wallace, ID 83873
Name: Barbara Canterbury
Address: P.O. Box 967; Wallace, ID 83873
Name:
Address: ;
Name:
Address: ;

3. Copies to:

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 83720
Boise, ID 83720-0010

United States Department of Justice
Environment and Natural Resources Division
Natural Resources Section
550 West Fort Street, MSC 033
Boise, ID 83724



Signature of Objector or attorney mailing on Objector's behalf

02/16/2016

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

RIGHT NUMBER: 94-8797
NAME AND ADDRESS: BARBARA CANTERBURY
PO BOX 967
WALLACE ID 83873

GORDON CANTERBURY
PO BOX 967
WALLACE ID 83873

Mixed ownership issue: POD & POU

- The point of diversion (POD) and place of use (POU) identified below contain both private and public land.
- Clarify the POD & POU such that it is clear only private land is intended.

Incorrect POD & POU

- MTP and historical surveys show that the POD & POU are incorrectly described based on the associated shape
- Correct the POD & POU so that they are described in the correct QQ.

SOURCE: SPRING TRIBUTARY: NINEMILE CREEK

QUANTITY: 0.060 CFS

The quantity of water under Right Nos. 94-8797 and 94-8798 shall not exceed 13,000 gallons per day.

PRIORITY DATE: 01/01/1930

POINT OF
DIVERSION: **NWSE**
T48N R04E S23 ~~SWSE~~ Within SHOSHONE County

The point of diversion resides within Mineral Survey 1961.

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
DOMESTIC	01/01 12/31	0.040 CFS
STOCKWATER	01/01 12/31	0.020 CFS

Domestic use is for 1 home.

PLACE OF USE: STOCKWATER in SHOSHONE County
T48N R04E S23 ~~SWSE~~ **NWSE**
DOMESTIC in SHOSHONE County
T48N R04E S23 ~~SWSE~~ **NWSE**

The place of use is limited to Mineral Survey 1961.

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.

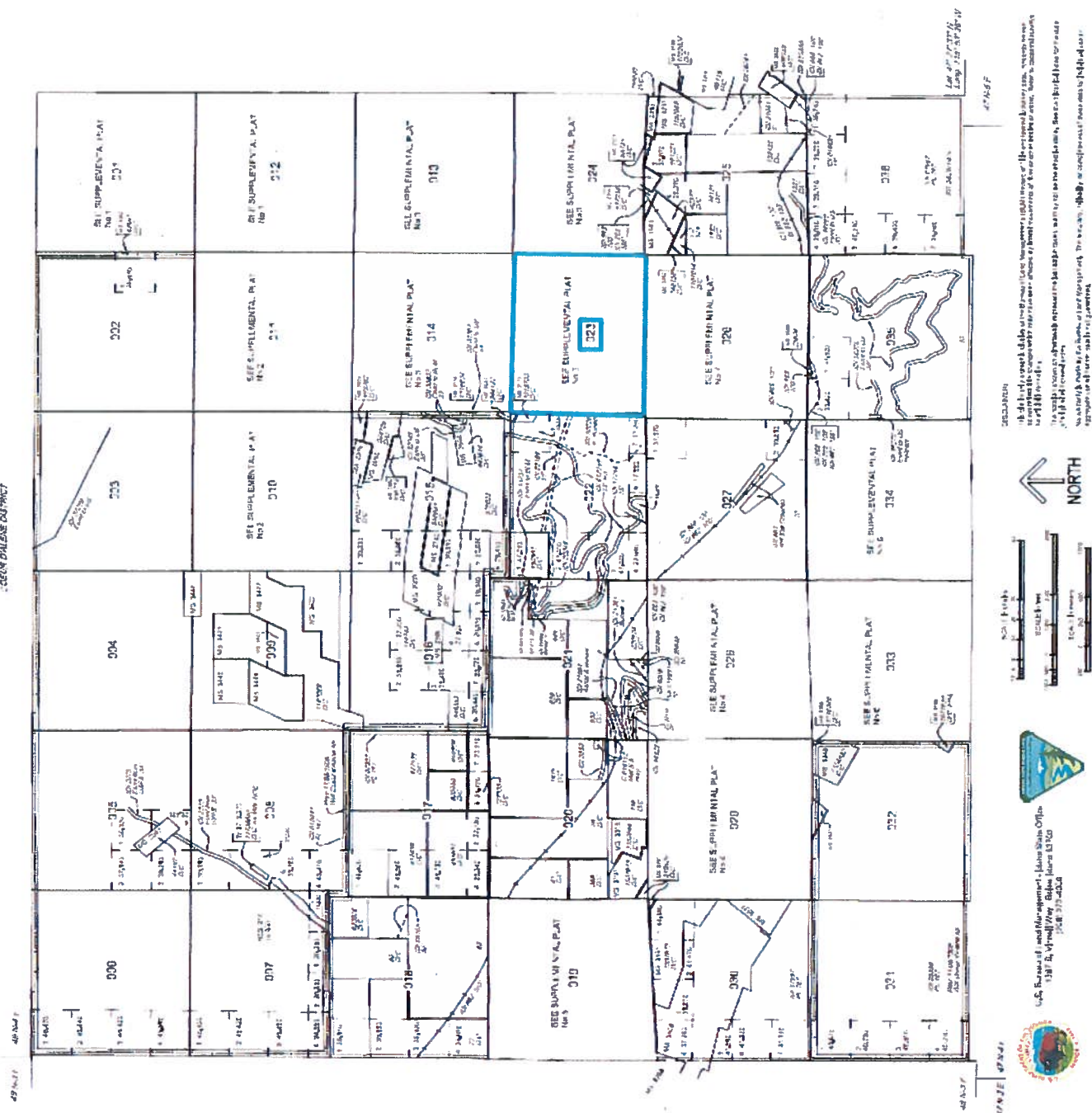
The quantity of water decreed for this water right is not a determination of historical beneficial use.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Parcel Nos. RP48N04E230570 and RP48N04E230590.

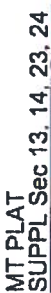
SHOSHONE COUNTY 079
"GEM STATE OF IDAHO"

STATUS OF PUBLIC DOMAIN LAND AND MINERAL TITLES

[illegible][illegible][illegible]

Supplemental Plat #3

No. 7

[illegible][illegible]

ON ONLY USE LITTING POSITIONAL SWAY
INSTRUMENTED AND REFER TO THE FACT
SPEL LAY OUT DOCUMENTS

[illegible]

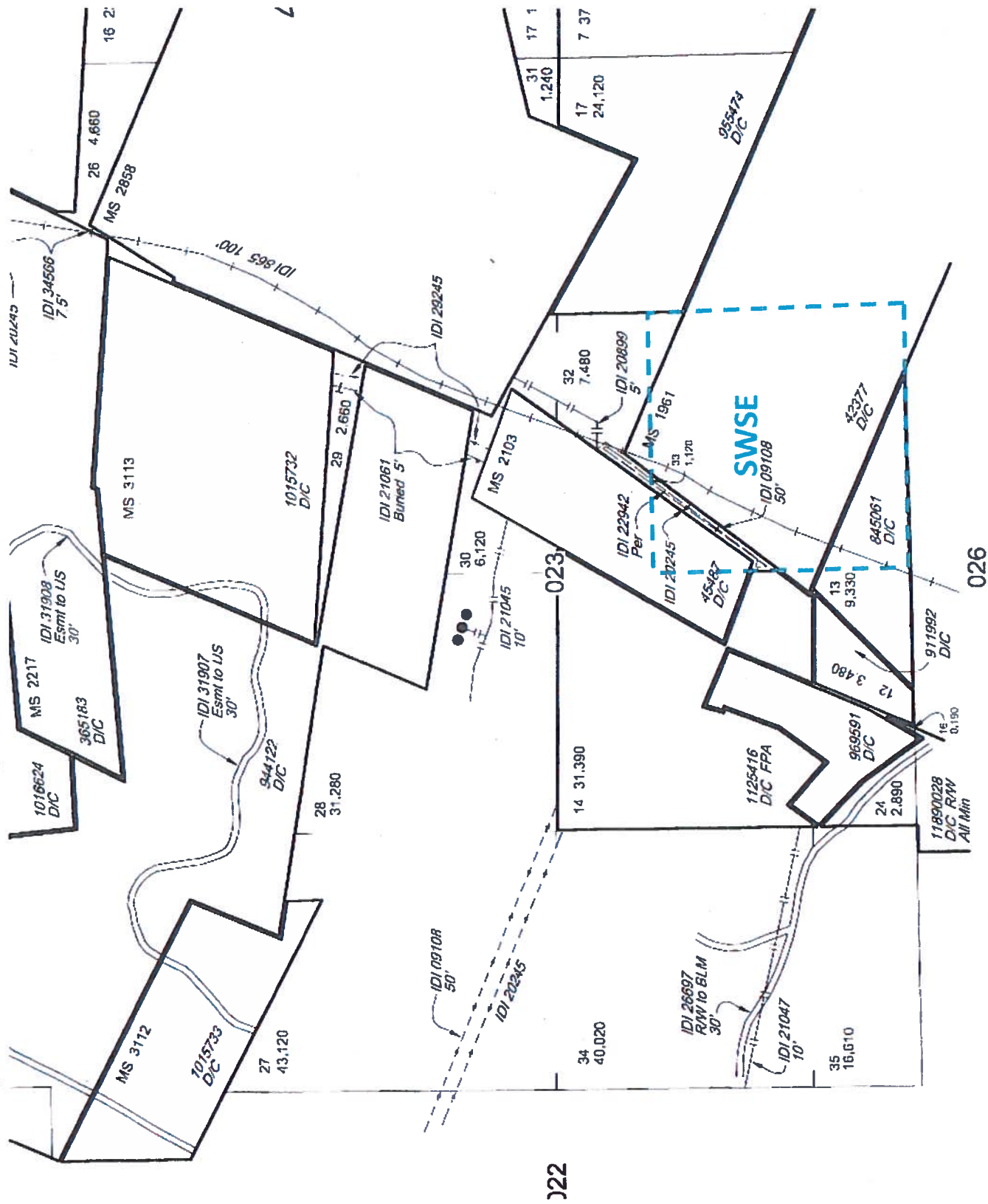
100



INDEPENDENT



- Based on IDWR's bottom-up nominal QQs



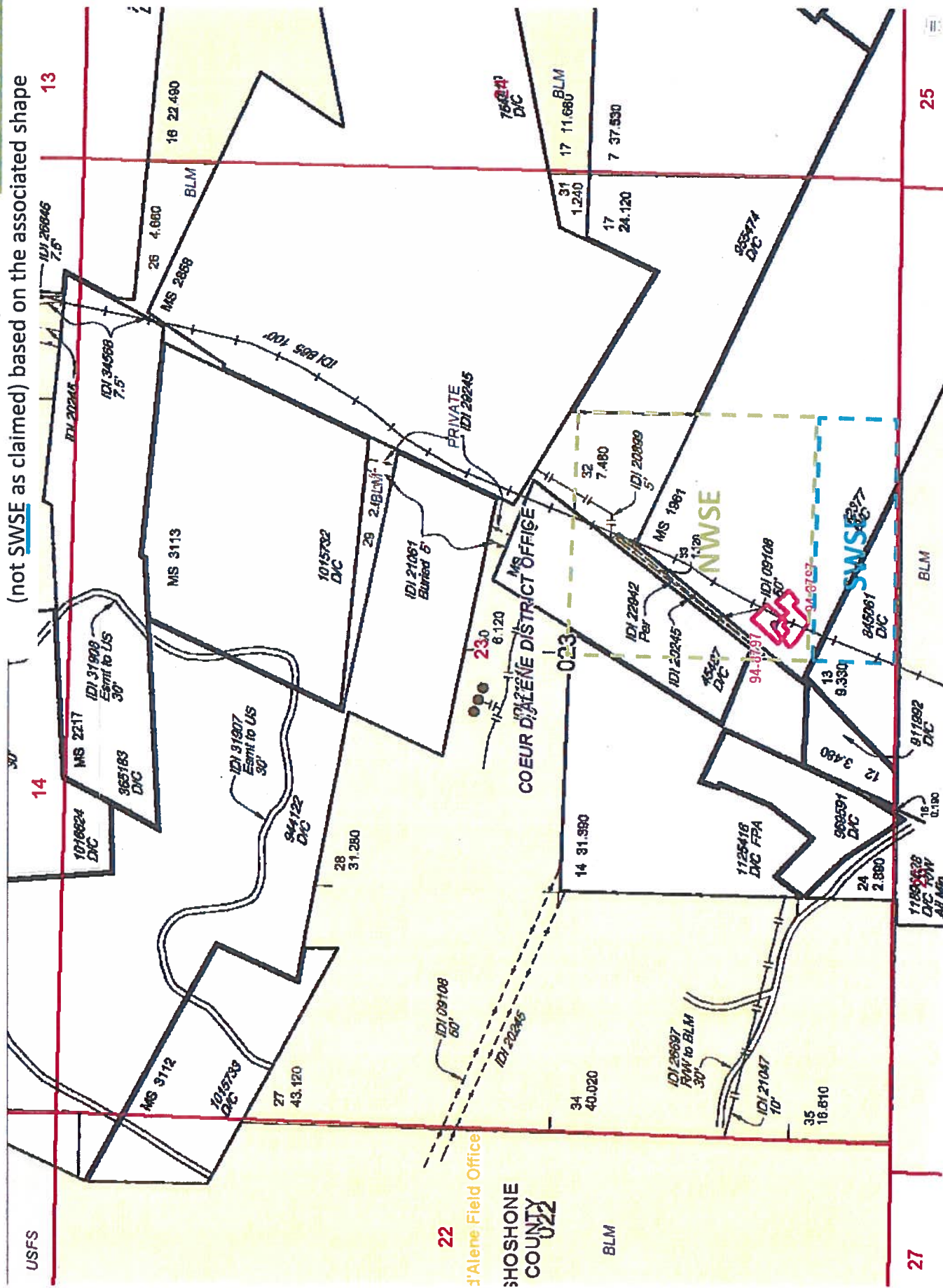
- The described POD & POU contain both private and public
- Need to clarify that POD & POU contain only private land



The POD & POU are actually incorrectly described



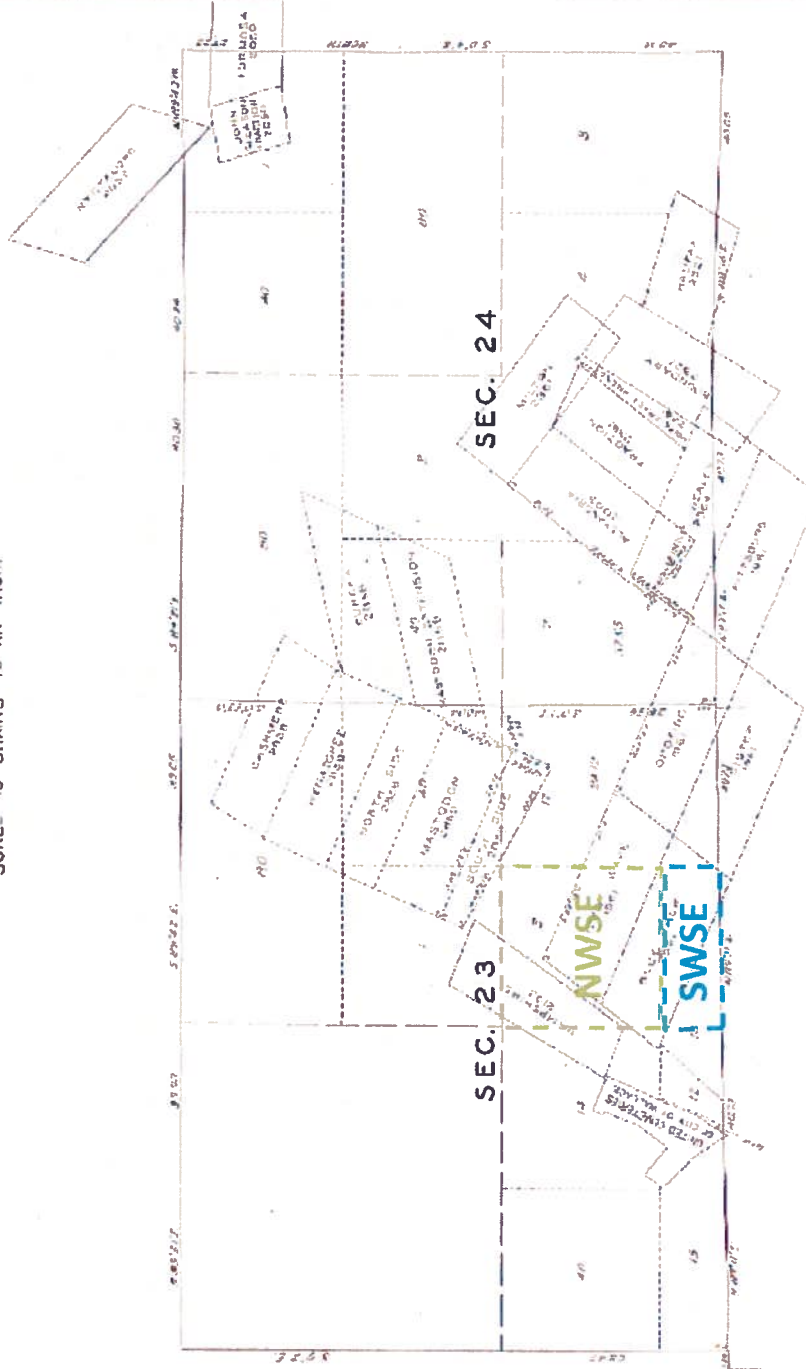
Nominal QQ lines should be constructed from top-down, so the POD and POU are actually located in T48N R04E S23 NWSE (not SWSE as claimed) based on the associated shape



Historical Plat of T48N, R04E, S23 & S24

AMENDED PLAT OF SECTIONS 23 AND 24,
TOWNSHIP NO. 48 NORTH RANGE NO. 4 EAST OF THE BOISE MERIDIAN, IDAHO.

SCALE 10 CHAINS TO AN INCH.



Date: The field notes on the environment of the north lat of the bottom section 24 mrt 1940, 45 K. N. 4 2, all be found in the return of mineral survey No. 258, authorized December 1, 1917.

The exact title of the instrument of the NEPA at the local level, as set forth in section 24, 1/10 south of the intersection corner of section 19, will be found in the return of Mineral Survey No. 286, appended July 9, 1914.

The field notes of the monument of the east side of the north boundary of section 24 are the east half of the north boundary of section 24. It is found in the records of the survey to the monument April 9, 1909.

[illegible][illegible]

U. S. Surveyor General's Office,
Salt Lake, December 2, 1894.

1000-394

Historical surveys show how the section was broken down. The POD & POU should be corrected and changed from T48N R04E S23 SWSE to T48N R04E S23 NWSE.

T48N R04E S23 SWSE
to T48N R04E S23
NWSE.

- The described POD & POU do not match the associated shape
- POD & POU should be described as T48N R04E S23 NWSE, not SWSE



94-08797 Mixed Ownership

- The corrected POD & POU to NWSE would still contain both private and public land
- Need to clarify that POD & POU include only private land

