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RECEIVED

DEC 29 2017

DEPARTMENT OF
WATER RESOURCES

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December 26, 2017

Jean Hersley
Idaho Department of Water Resources
Technical Records Specialist II
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

**RE: Request to Rescind Approved Notice of Change of Water Right Ownership
Submitted by Robert E. Morton Requesting Split of Water Right Nos. 75-14530,
75-10062Z, Water Right, 75-10061AB, and 75-66.**

Dear Jean:

It appears that in approximately September of this year, you processed a *Notice of Change in Water Right Ownership* submitted by Robert E. Morton for a split of the above-referenced water rights. I left a voicemail with you on this matter, but have not heard back from you. The ownership change request was processed, and four (4) water rights were split off of the above-referenced rights, which were numbered as Water Right Nos. 75-14884, 75-14883, 75-14882, and 75-14881. We have reviewed the chain of title associated with this ownership change request, and based upon our own familiarity of the water rights, and how they were developed and decreed in the Snake River Basin Adjudication, believe the water rights should not have been split as requested.

Enclosed for your reference is a map showing the originally decreed shape file for Linell Bills' Carmen Creek water rights. The shape file did extend onto the Robert Morton property, which, as described below, appears to have been done in error, but nevertheless a decree was entered that cannot now be challenged. The result is a situation where there is different ownership from the underlying property and the water rights authorized to irrigate that property. The chain of title submitted by Mr. Morton does not include a deed that conveys the water rights from Linell Bills to Robert Morton. While his generic deeds may refer to conveyances that convey the land and their appurtenances, the appurtenances language presupposes that there are appurtenances held and owned in the name of the person conveying the property. In situations where there is different ownership of the water right and the underlying property, the appurtenances do not go with the property because the land owner does not have title to the water rights to convey them.

Additionally, Mr. Morton was well aware of this situation. Enclosed for your review is a notarized *Consent* that he signed on September 9, 2013, for this specific Bills water right portion associated with his property. The *Consent* was necessary in order for Linell Bills to file a transfer

Established in 1896

application to move water rights off of the property and move points of diversion. As stated in the notarized *Consent*, Mr. Morton says that “the inclusion of my land as part of the place of use of her water rights appears to have been an error.” Eventually the transfer application was withdrawn because of other proposed changes to Ms. Bills’ water rights that drew a number of objections. We are in the process of determining where to move the water right acres associated with Mr. Morton’s property and intend to file a transfer for that change only (rather than include a point of diversion change). However, for the time being, it is not possible for us to move those water rights off of this property if they have been split off to Mr. Morton, and are listed upon the records of the Department owned by him.

Please verify by letter that the ownership change has been rescinded. Once we receive that notice, we will promptly work to file a transfer application to move the acres off of the property.

If you have any questions or concerns, please do not hesitate to give me a call.

Best regards,



Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

RLH/rew
Enclosures

~~August~~ Sept. 9, 2013

To: Idaho Department of Water Resources

From: Charles R. Morton

Subject: Transfer of Water Rights: Linell Bills

I am the owner of Lemhi County parcel number RP22N22E170001 as shown on Exhibit 1 attached hereto. I understand that a small portion of Linell's Bills combined water rights (Water Right Nos. 75-66, 75-10061AB, and 75-1006Z) is authorized to irrigate a portion of my property as shown on Exhibit 2. The inclusion of my land as part of the place of use of her water rights appears to have been an error. I therefore have no objection to Ms. Bills' application for water rights transfer to remove my property as part of the authorized place of use of her water rights.

Charles R. Morton

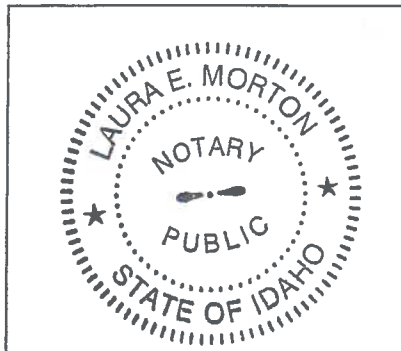
Charles R. Morton

STATE OF IDAHO)
) ss.
COUNTY OF LEMHI)

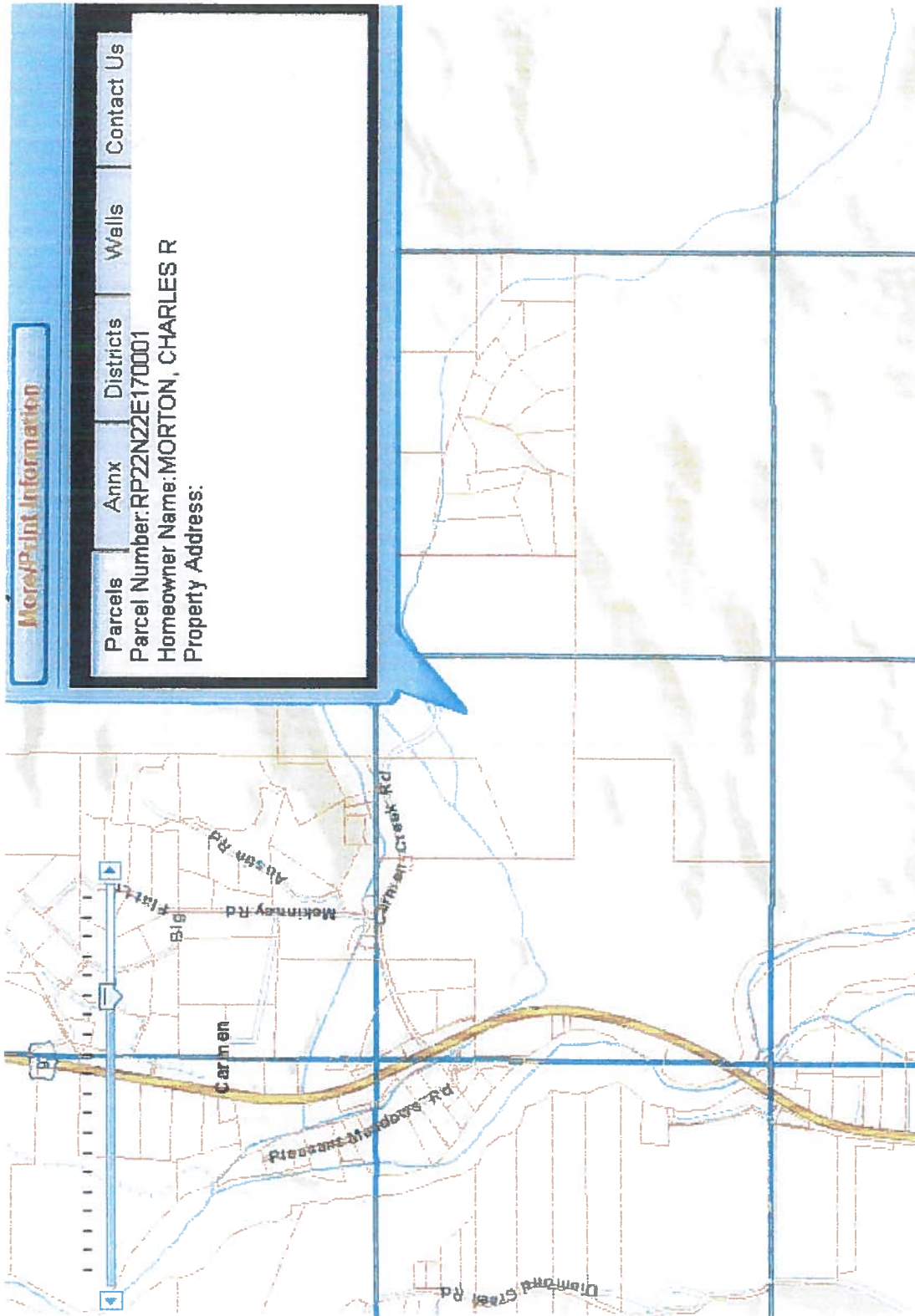
On this 9th day of Sept. 2013, before me, a Notary Public for said County and State, personally appeared Charles R. Morton, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

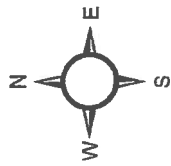
Dated: Sept. 9, 2013



Laura E. Morton
Notary Public
Residing at Carmen
My commission expires 9-7-2018

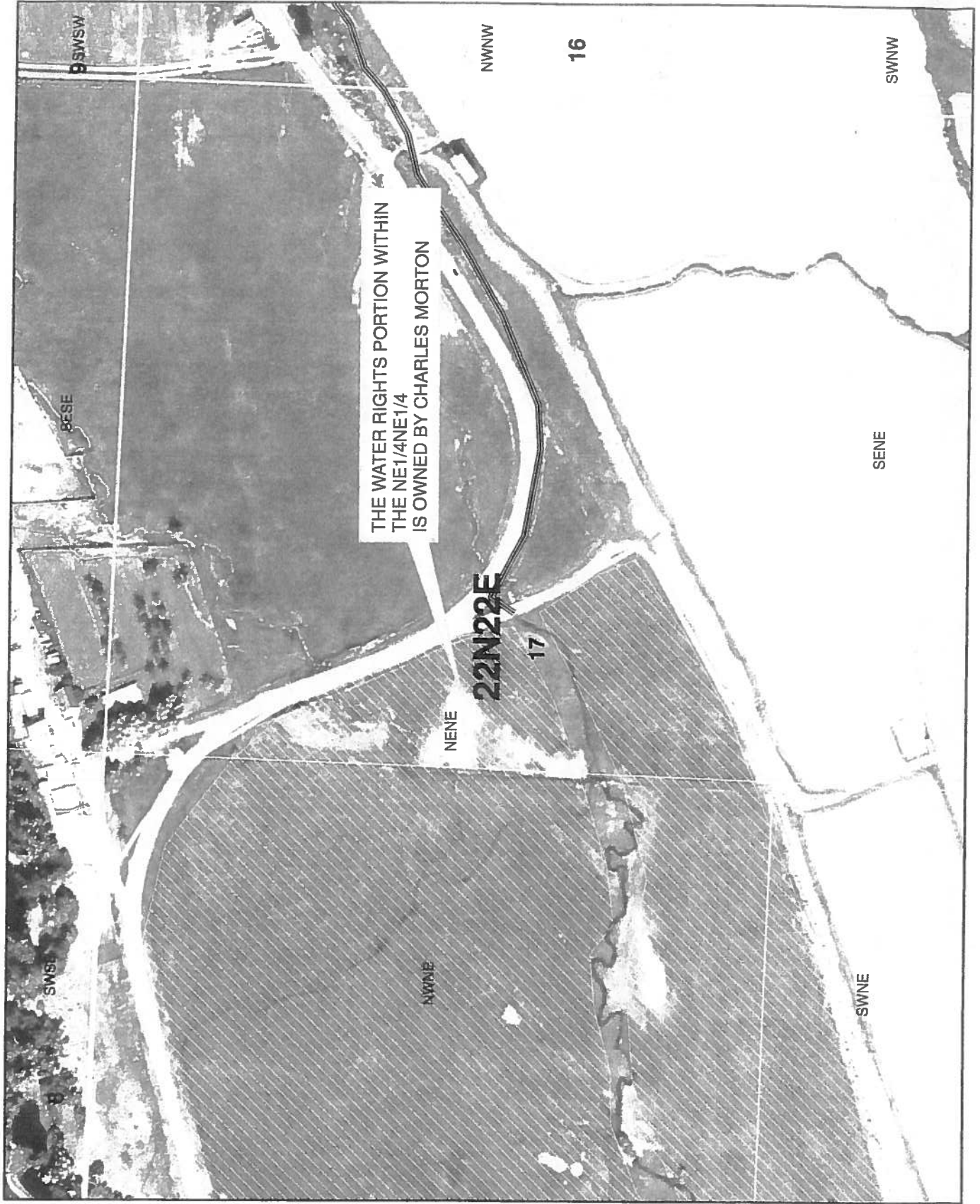


CHARLES MORTON PROPERTY

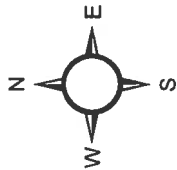


Legend

- Billis.PODs
- ▬ Morton Ditch
- ▬ Billis Ditch
- Property_Line
- Section Lines
- QQ
- TR Lines
- Freeman.Creek.POU
- Carmen.Creek.POU



LINELL BILLS WATER RIGHTS



Legend

- Carmen.Creek.POU
- Property_Line
- Section Lines
- QQ

