

RECEIVED

OCT 19 2017

DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF PROTEST
Transfer No. 81895

RECEIVED

OCT 25 2017

DEPT. OF WATER RESOURCES
SOUTHERN REGION

October 19, 2017

1. Matter being protested

Application for Transfer No. 81895 involving water right nos. 37-08102, 37-08446, and 37-22969; applicant is Peter Trust LP.

2. Name of protestant

United States Department of the Interior
Bureau of Land Management
Idaho State Office
1387 South Vinnell Way
Boise, Idaho 83709-1657

3. Protestant's Representative for service (if different than protestant)

Fredric W. Price (contact person)

4. Service mailing address

same as above

5. Service telephone no.

(208) 373-3831

6. Basis of protest (including statement of facts and law upon which the protest is based).

On 09/05/2017, IDWR received Application for Transfer No. 81895 ("Application"), filed by Brockway Engineering LLC on behalf of Peter Trust LP ("Applicant"). The transfer seeks to describe a new Permissible Place of Use (PPU) and correct an existing Point of Diversion (POD) description under water right 37-08102. The Application lists 0.2 acres of federal land under the PPU (T02N, R18E, S05, NWSE). The Applicant is not authorized to irrigate federal land.

The PPU describing federal lands appears to be listed in error, as none of the water rights involved in this Application include a place of use on federal land. Should this 0.2 acres be added to NESE?

Trespass on federal land is a prohibited act (43 CFR §2808.10(a)). A water right cannot be established in trespass (See e.g., *In RE General Determination of Rights to Use of Surface and Ground Waters of Payette River*, 107 Idaho 221, 687 P.2d 1348, 1353 (1984); citing, *Lemmon v. Hardy*, 95 Idaho 778, 519 P.2d 1168 (1974); *Jones v. McIntire*, 60 Idaho 338, 91 P.2d 373 (1939); *Bachman v. Reynolds Irrigation Dist.*, 56 Idaho 507, 55 P.2d 1314 (1936); *Short v. Praisewater*, 35 Idaho 691, 208 P. 844 (1922); *Rabido v. Furey*, 33 Idaho 56, 190 P. 73 (1920); *Bassett v. Swenson*, 51 Idaho 256, 5 P.2d 722 (1931)).

7. What would resolve your protest?

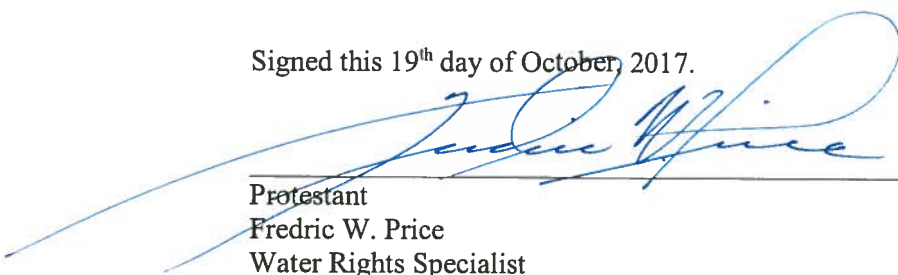
BLM's protest can be resolved by:

1.) Withdrawing the application; or

- 2.) Removing BLM lands (T02N, R18E, S05, NWSE) from the application Place of Use (POU) description and also from the application map (attachment #7A).

I hereby, acknowledge that if I, or my designated representative, fail to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 19th day of October, 2017.


Protestant
Fredric W. Price
Water Rights Specialist

Attachments:

- ◆Maps prepared by BLM for illustrative purposes.
- ◆Master Title Plat: T02N, R18E.

FOR DEPARTMENT USE ONLY

Received by  Date 10/19/2017
Fee Paid \$25.00 ✓ Date 10/19/2017 Received by  Receipt # C104240

CERTIFICATE OF SERVICE

I certify that on October 19, 2017, I served a true and correct copy of the “**Protest of Application for Transfer No. 81895**” with enclosures upon the following individuals by placing the documents in the United States mail in Boise, Idaho, postage paid, and addressed as follows:

Original to:

Jeff Peppersack, Administrator
Idaho Department of Water Resources
Idaho State Office
Water Management Division
P.O. Box 83720
322 East Front Street
Boise, Idaho 83720-0098

Copies to:

Corey Skinner, Regional Manager
Idaho Department of Water Resources
Southern Regional Office
650 Addison Avenue West, Suite 500
Twin Falls, Idaho 83301-5858

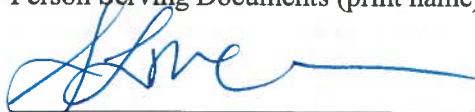
ATTN: Tom Thomas
Peter Trust Limited Partnership
2300 West Sahara Avenue, Suite 530
Las Vegas, Nevada 89102-4368

ATTN: Shannon Stith and Mark Kadell, Managers
Thomas Management LLC
700 East Franklin Road
Meridian, Idaho 83642-7992
-General Partner of Peter Trust Limited Partnership

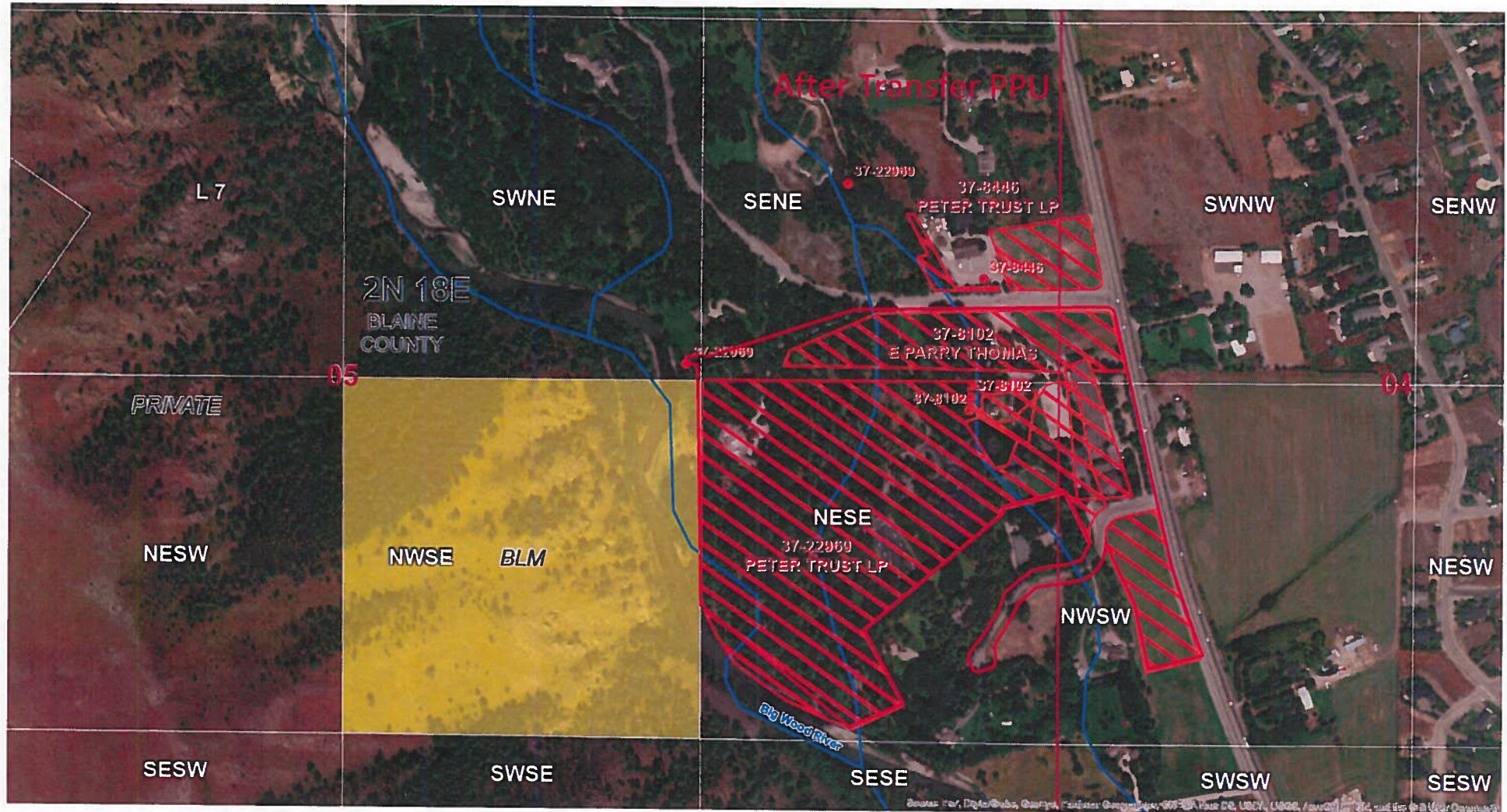
Zach Latham, M.S.
Brockway Engineering PLLC
2016 Washington Street North, Suite 4
Twin Falls, Idaho 83301-3082

Steve Davis – Hydrologist
U.S.D.I., Bureau of Land Management
Burley Field Office
15 East 200 South
Burley, Idaho 83318-5435

SANDRA MCCREA
Person Serving Documents (print name)

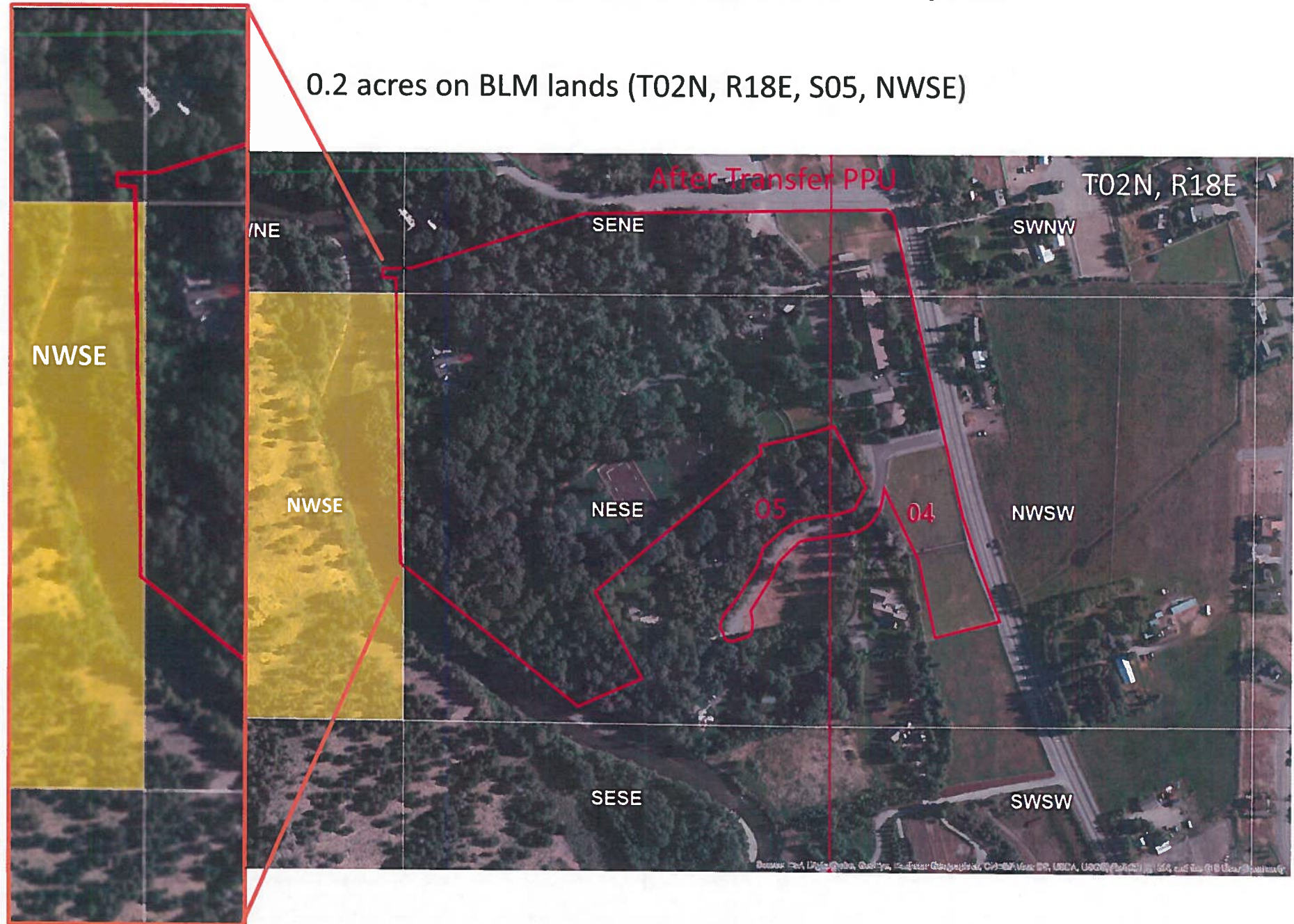

Signature of Person Serving Documents

NWSE entirely describes federal lands; applicant is not authorized to irrigate federal lands.

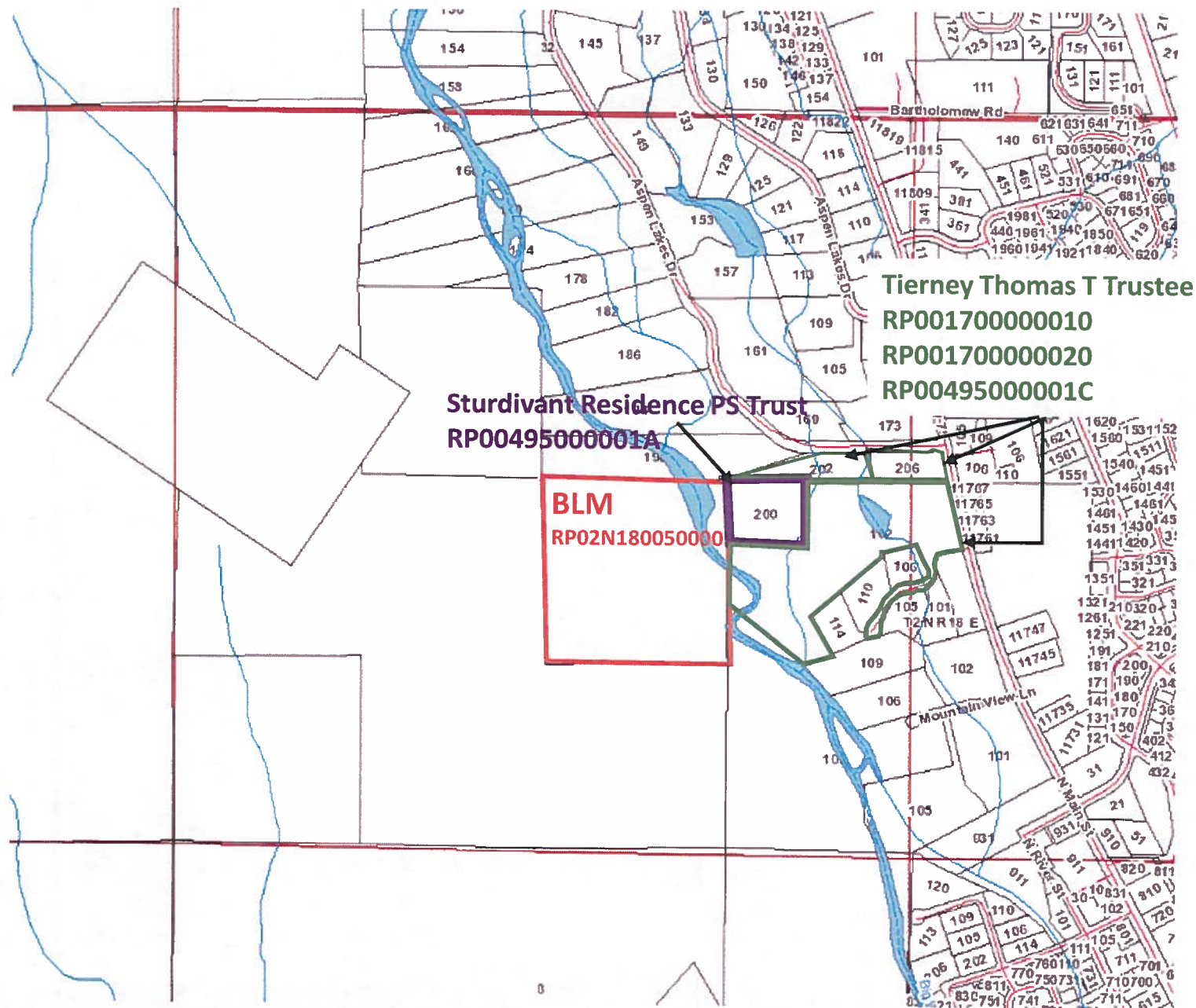


Protest of Transfer 81895 (37-08102, 37-08446, and 37-22969) Peter Trust LP

0.2 acres on BLM lands (T02N, R18E, S05, NWSE)

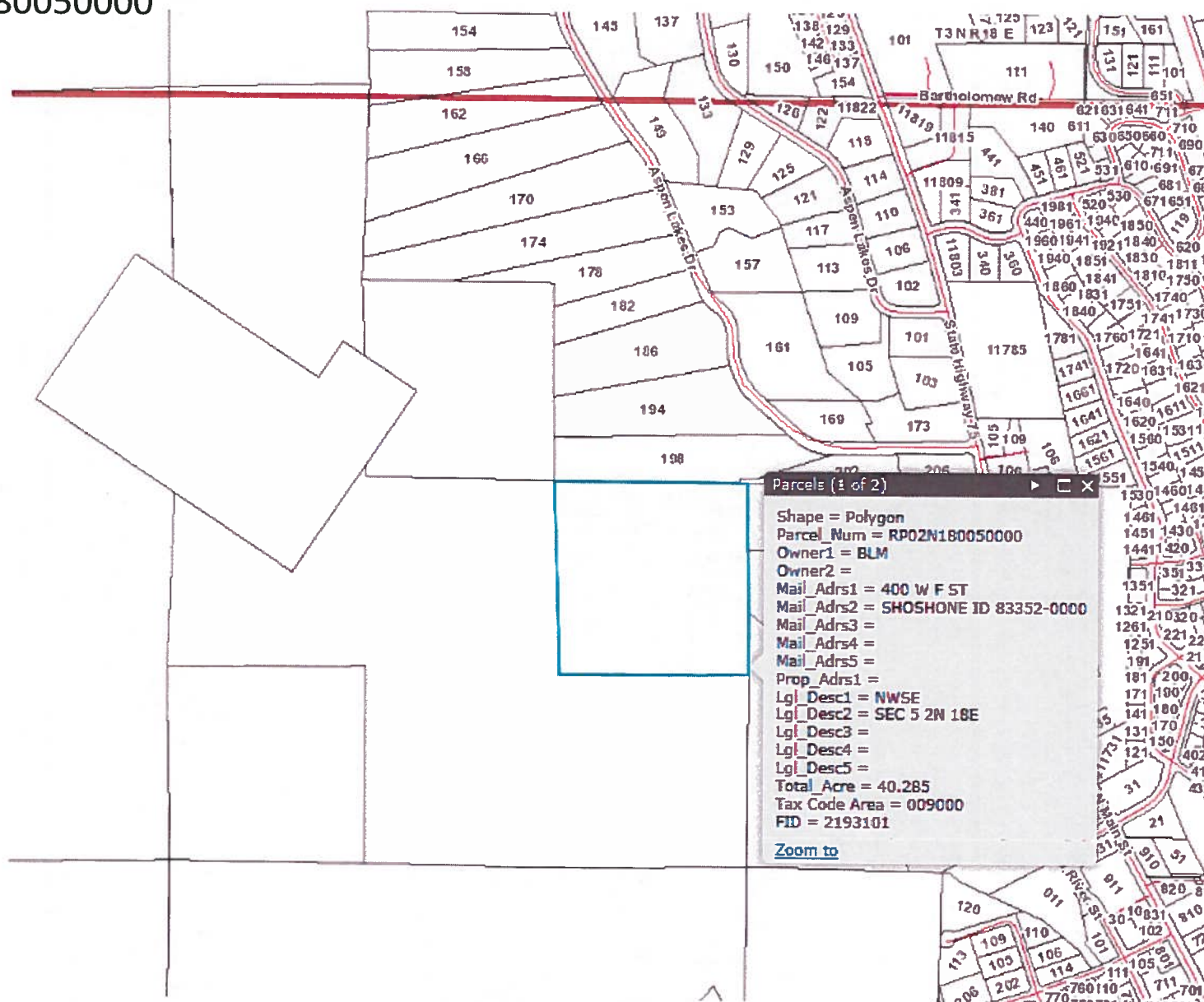


Blaine County Assessor Taxlot Info



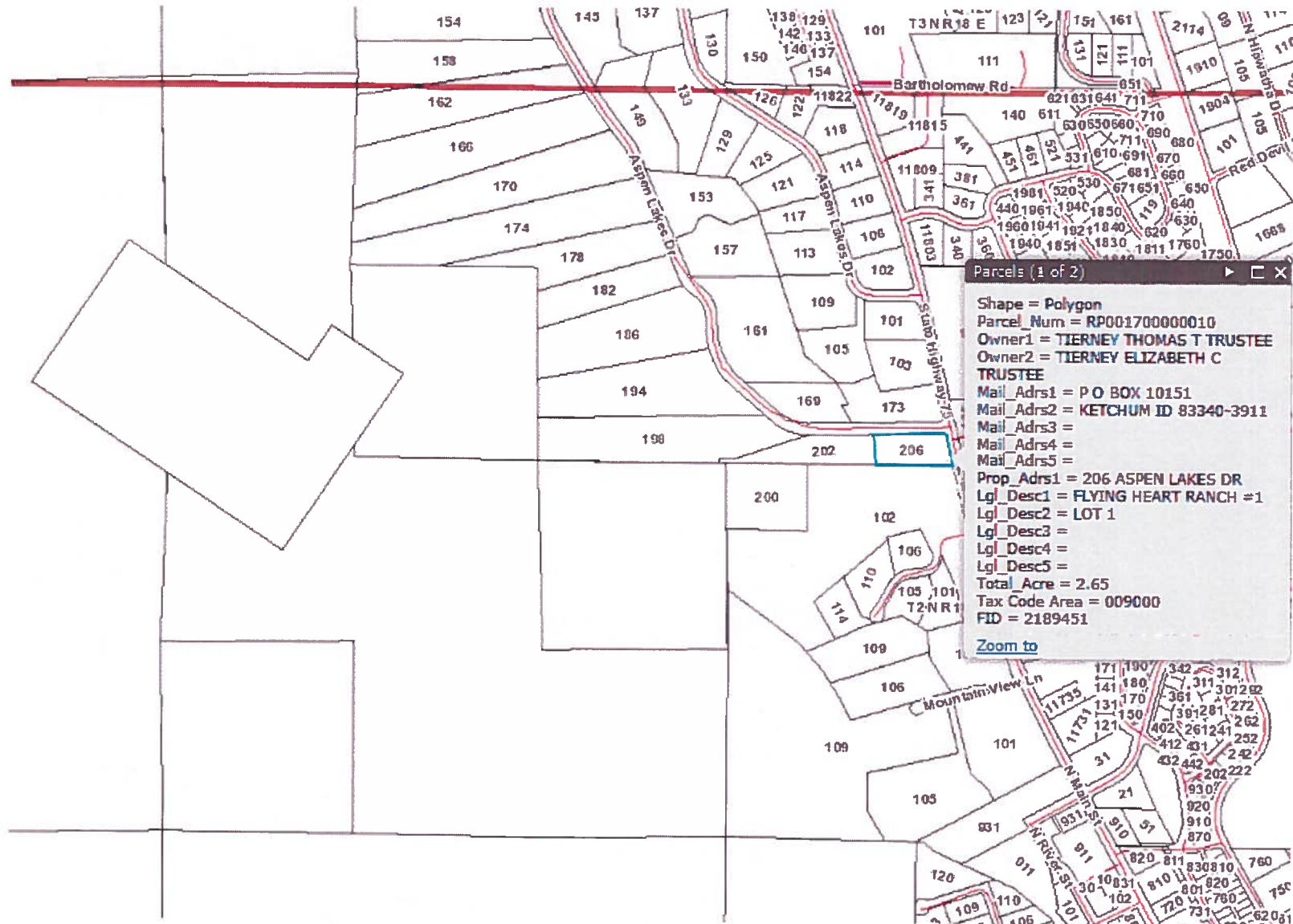
BLM
RP02N180050000

Blaine County Assessor Taxlot Info



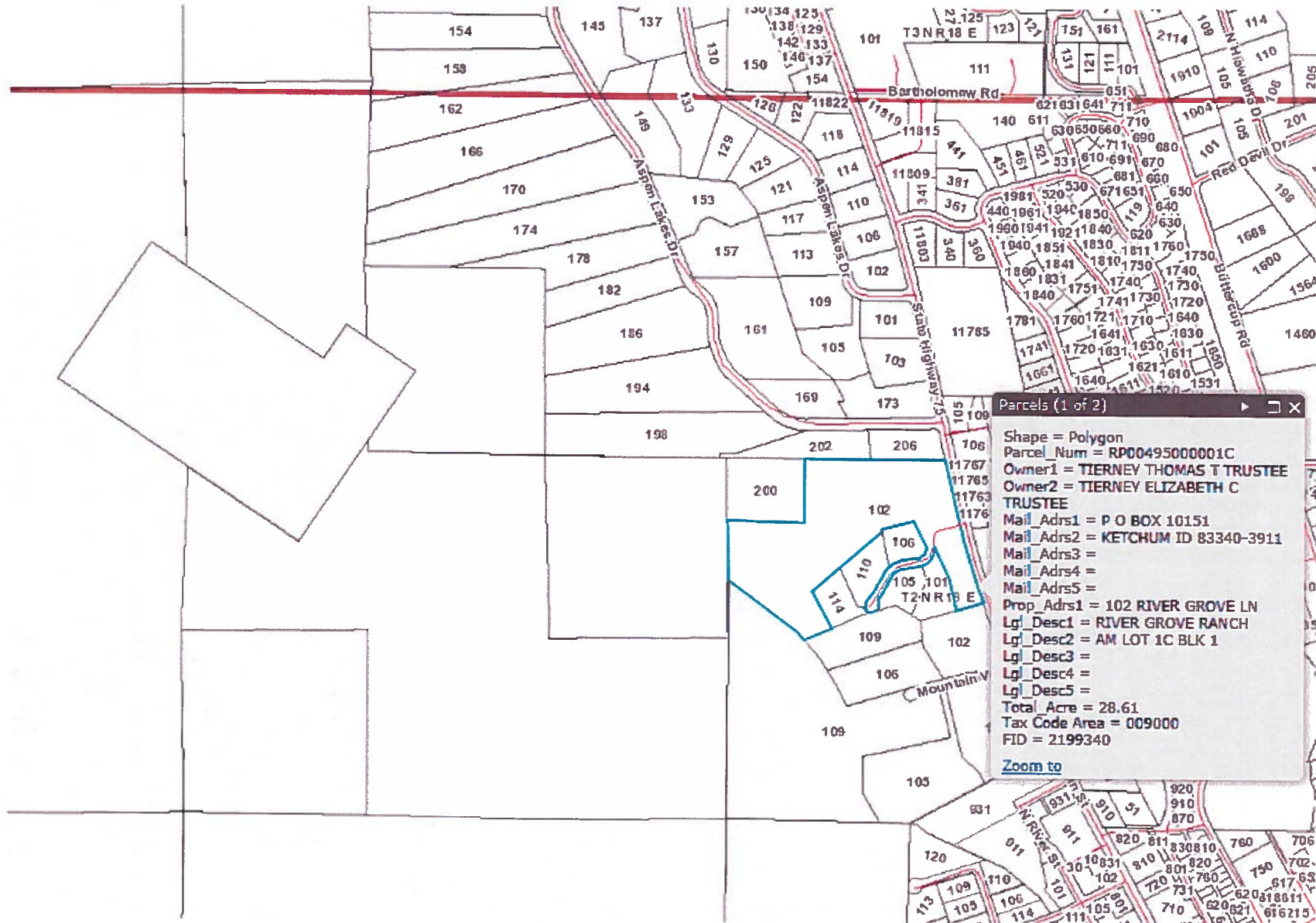
Tierney Thomas T Trustee
RP001700000010

Blaine County Assessor Taxlot Info



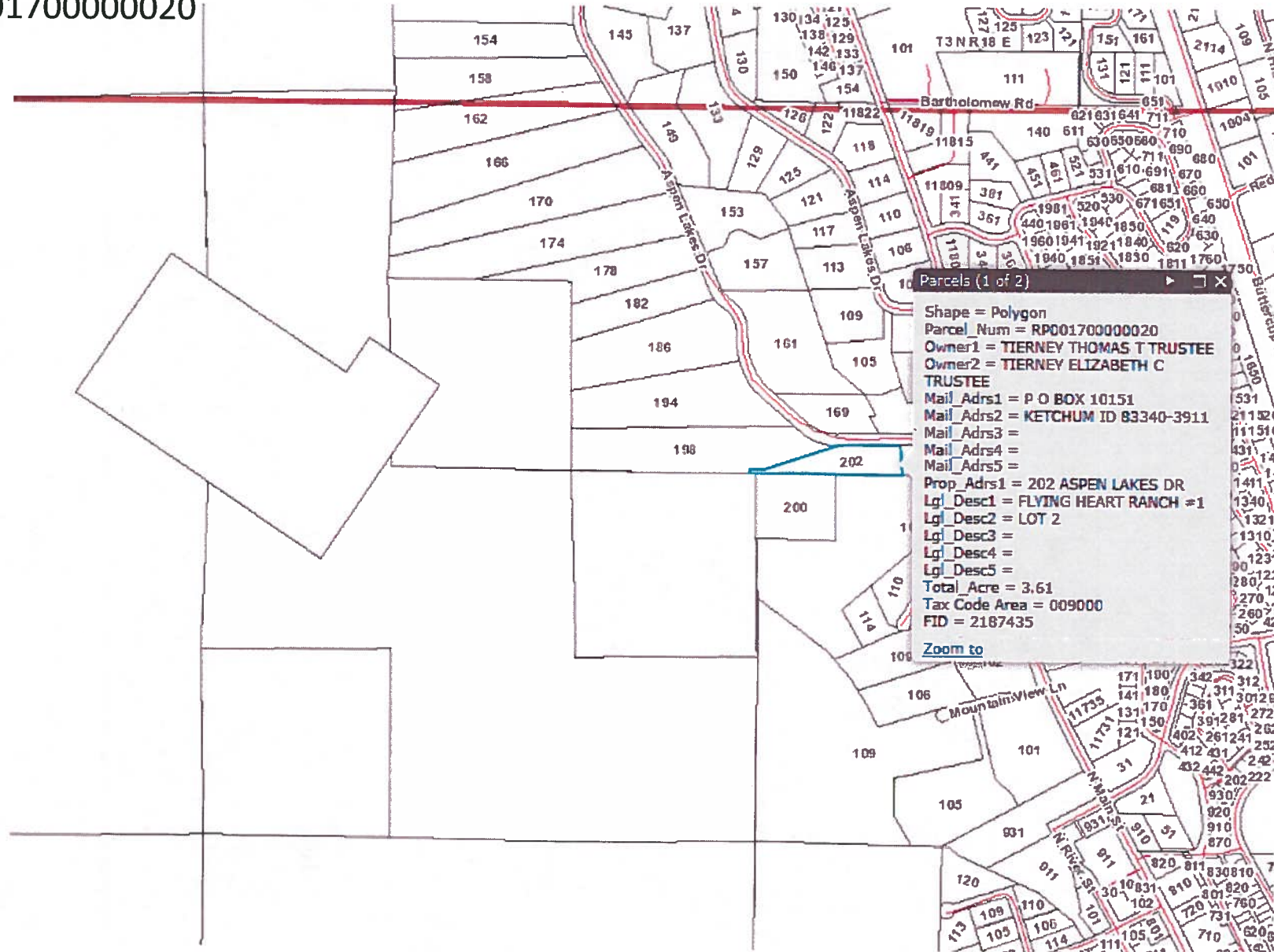
Tierney Thomas T Trustee
RP00495000001C

Blaine County Assessor Taxlot Info



Tierney Thomas T Trustee
RP001700000020

Blaine County Assessor Taxlot Info



Blaine County Assessor Taxlot Info

Sturdivant Residence PS Trust

RP00495000001A

