

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF PROTEST
Application for Permit No. 29-14117

July 23, 2014

RECEIVED
JUL 23 2014
DEPARTMENT OF
WATER RESOURCES

RECEIVED

JUL 28 2014
Department of Water Resources
Eastern Region

1. Matter being protested

Application for Permit No. 29-14117 filed by Erdinch and Valia Tatar.

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).

The application seeks to establish a diversion of water for domestic purposes from spring(s). The only springs in the area reside on federal public land within the SESENE, S10, T07S, R36E.

The applicants are not authorized to disturb federal public land for the purposes stated in their application. Trespass on federal land is a prohibited act (43 CFR §2808.10(a)). A water right also 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)).

The source listed in the application is a spring(s), however the Point of Diversion (POD) is listed on private land within the NWNWSW, S11, T07S, R36E. There are no springs located within the NWNWSW of S11. If the POD location is correctly described, then the POD is a diversion in a natural channel. The proper source description for a diversion in a natural channel would be "Unnamed Stream."

7. What would resolve your protest?

If the application seeks a diversion of water from springs on BLM land without authorization, then BLM's protest would be resolved by withdrawal of the application for permit.

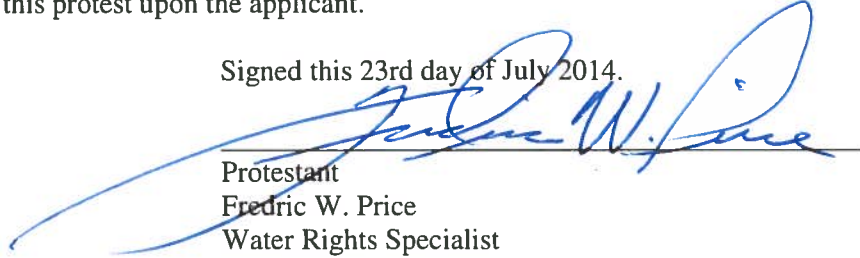
If the application seeks a diversion of water on private land, then BLM's protest could be resolved by amending the application to describe the source as "Unnamed Stream," and by

*Rec'd
#CO9925*

stipulating that the application does not seek to disturb federal public land in order to achieve the proposed use.

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 23rd day of July 2014.


Protestant
Fredric W. Price
Water Rights Specialist

Attachments:

- ♦Map prepared by BLM for illustrative purposes.
- ♦Master Title Plat: T07S, R36E.

FOR DEPARTMENT USE ONLY

Received by  Date 7/23/14
Fee Paid \$25.00 Date 7/23/14 Received by  Receipt # C099225

CERTIFICATE OF SERVICE

I certify that on July 23, 2014, I served a true and correct copy of the **"Protest of Application for Permit No. 29-14117"** 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 (IDWR)
Idaho State Office
Water Management Division,
P.O. Box 83720
322 East Front Street
Boise, Idaho 83720-0098

Copies to:

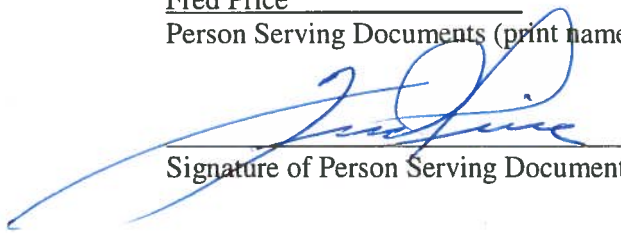
Idaho Department of Water Resources (IDWR)
Eastern Regional Office
900 North Skyline Drive
Idaho Falls, ID 83402-1718

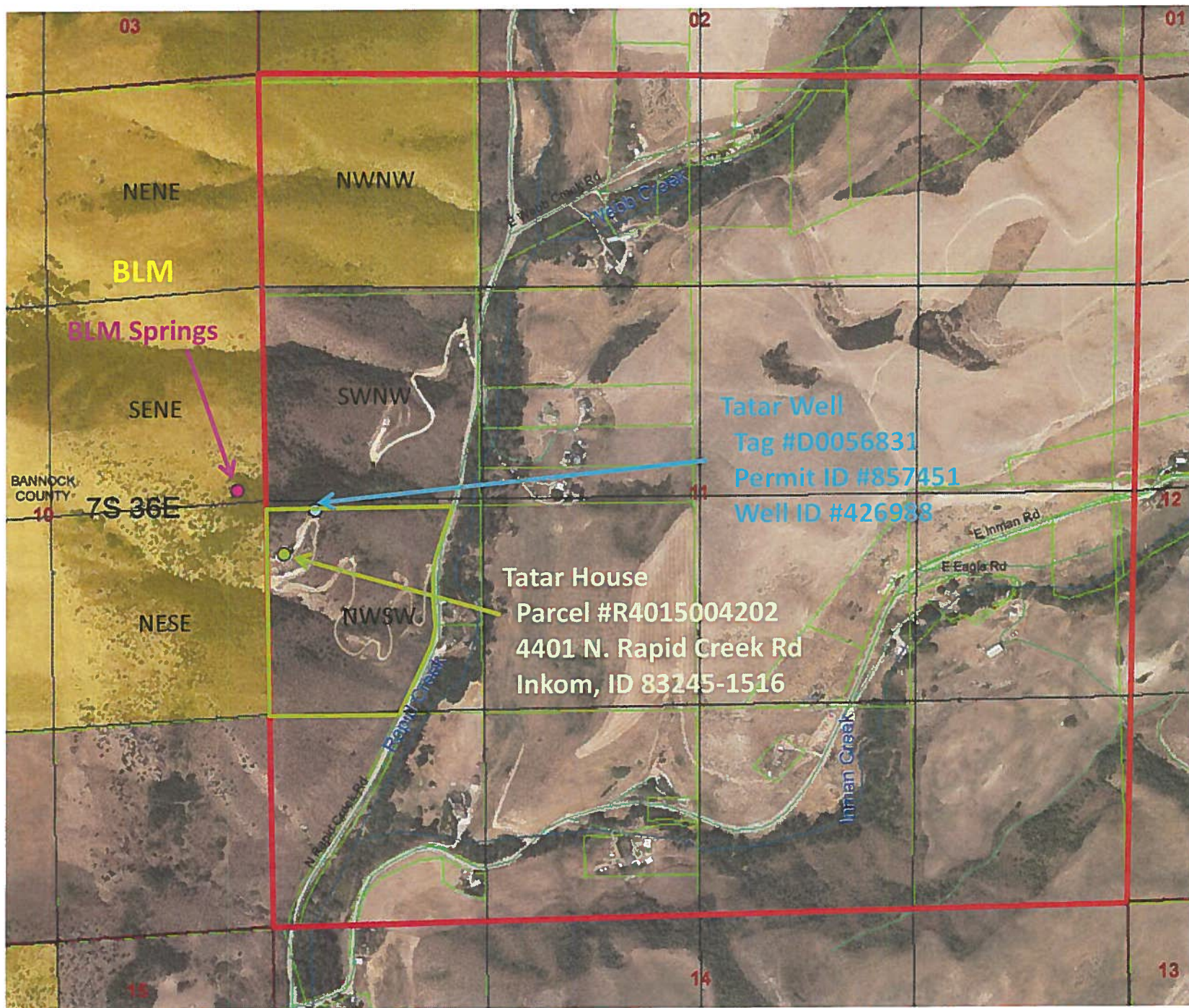
Erdinch & Valia Tatar
P.O. Box 8387
Pocatello, ID 83209

Erdinch & Valia Tatar
4401 N. Rapid Creek Rd.
Inkom, ID 83245-1516

Karen Kraus, Range Technician
U.S.D.I., BLM
Pocatello Field Office
4350 S. Cliffs Drive
Pocatello, ID 83204-2105

Fred Price
Person Serving Documents (print name)


Signature of Person Serving Documents



BLM

BLM Springs

BANNOCK COUNTY

7S 36E

NWNW

NENE

SENE

SWNW

NESE

NWSW

Tatar House
Parcel #R4015004202
4401 N. Rapid Creek Rd
Inkom, ID 83245-1516

Tatar Well
Tag #D0056831
Permit ID #857451
Well ID #426988

Webb Creek Rd

Webb Creek

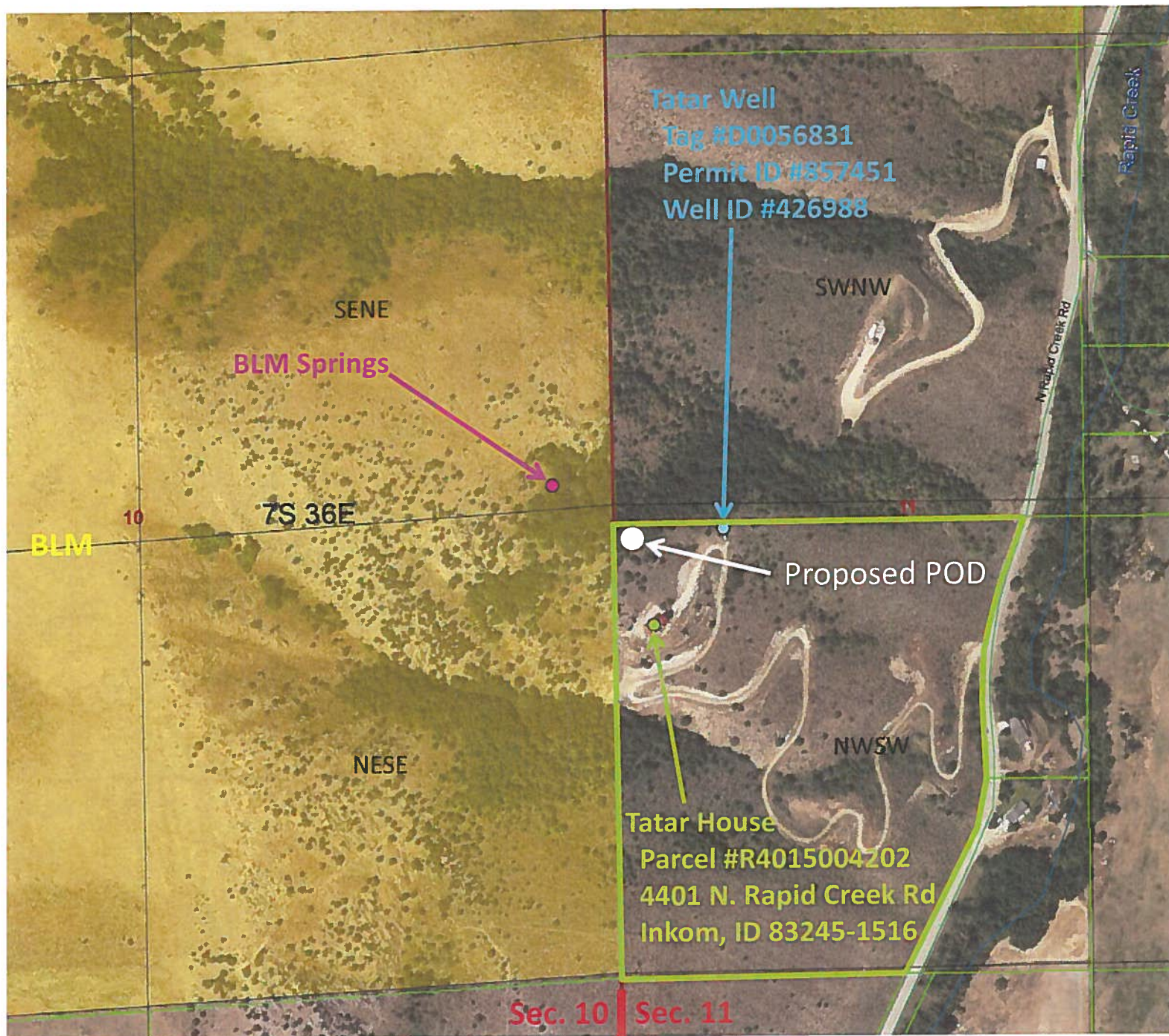
E Inman Rd

E Eagle Rd

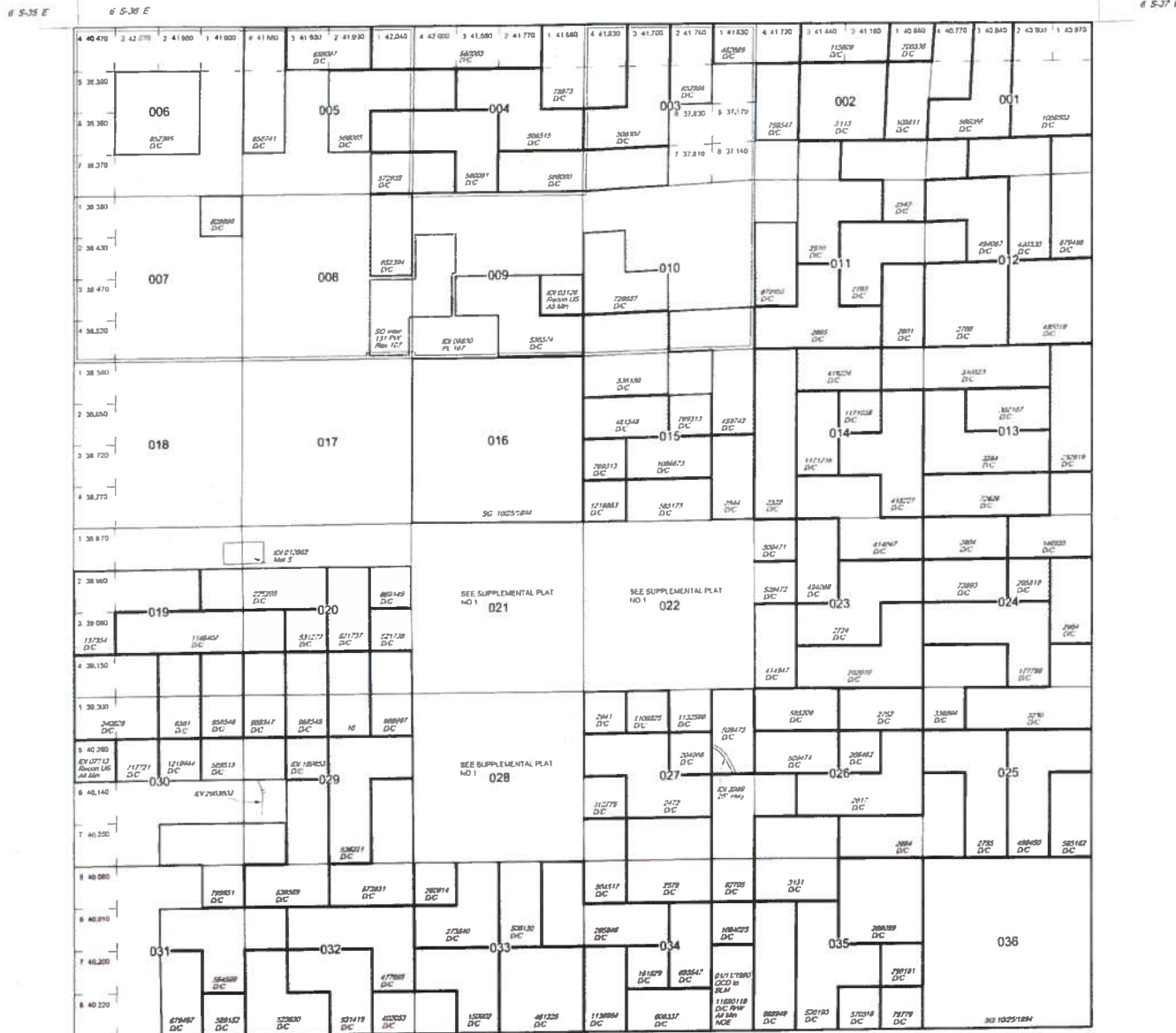
N Rapid Creek Rd

Rapid Creek

Inman Creek



BANNOCK COUNTY 005
IDAHO FALLS DISTRICT SEC 3

MT PLAT[illegible]

DOI 08930 Del PL 167 (Act of Cong 07/23/1955) completed
03/16/1981. All PD surface Monit by BLM

Sec 7, Lot 1, NWNE, NEMW

ID# 19479 Saks Ac 01/07/1982
 Sec 15: NYNE

See Cadastral Plat approved 07/19/2007 for official acres
affecting legal subdivisions.

See Cadastral Plot approved 11/19/2009 for official areas
affecting legal subdivisions.
Secs 29, 30, 31

See Cadastral Plat approved 09/30/2010 for official acres
affecting legal subdivisions.

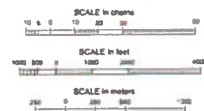
FOR ORDERS EFFECTING DISPOSAL OR USE OF
UNIDENTIFIED LAND REFER TO INDEX OF
MISCELLANEOUS DOCUMENTS

FILE REF: D080270H298064M10000Jung	
COMMENCED TFF: 08/12/2005	BY: PB
LAST UPDATED: 10/22/2010	BY: JCB
QA/QC #1:	QA/QC #2:
POSTED TO PUBLIC RECORDS:	October 25, 2010
BY:	
PUBLIC LAND SURVEY SYSTEM (PLSS)	
BLM GD&B ACQUIRED:	04/26/2005
OTHER:	N/A
PROJECTED COORDINATE SYSTEM: UTM ZONE 12N, NAD 1983	
NOTES:	
USE PLATS:	

Box 14
T. 7 S
R. 36 E



U.S. Bureau of Land Management - Idaho State Office
1367 S. Vinell Way Boise, Idaho 83709
(208) 373-4000



DISCLAIMER

This plot is only a graphic display of the Bureau of Land Management's (BLM) Record of Title and township survey data. Recordation hereon does not reflect title changes which may have been affected by lateral movements of river or other bodies of water. Refer to cadastral surveys for official information.

The notation shown on withdrawals represents the last action taken, but may not be the effective date. See the historical index for the date of account withdrawal action.

No warranty is made by the Bureau of Land Management. The accuracy, reliability, or completeness of these data for individual use or aggregate use with other data is not guaranteed.