

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF PROTEST**

RECEIVED
MAR 18 2005
Department of Water Resources
Southern Region

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, 42-222 and 42-224, Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information.

1. Matter being protested:

Application for Transfer No. 71522 of water rights 42-212 and 42-300 where the proposed Point of Diversion is reflected on the Norman E. Dayley's property.

2. Name of protestant:

Norman E. Dayley/Marsh Creek Water District #45F.

3. Protestant's representative for service (If different than protestant):

Gwen Montgomery, Chairman, Marsh Creek Water District # 45F Advisory Bd..

4. Service mailing address:

937 S. 900 E. Albion, Idaho 83311.

5. Service telephone No:

208-673-6644

6. Basis of Protest:

Mr. Mike K. Matthews had not approached Mr. Norman E. Dayley for an easement for the proposed POD and the original POD will not meet his needs. Plus the Watermasters investigation shows that possible Mr. Matthews is on the wrong creek.

7. What would resolve your protest:

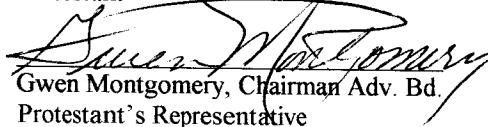
The Rights and original POD (NESWSE, Sec.9 Twp 12S Range 25E Cassia County) reflects Summit Creek vs. Howell Creek. The Ground (NWSE), basically has no water right off of Howell Creek, it was dry farmed. In the early part of the 1980's when Dean Perry and Tom Asher leased the ground and there was some high water they took it off of the Goodman's delivery channel which, the Watermaster has been informed. Therefore, if the investigation is correct we asked that Mr. Matthews take the water off of the right creek and that the new POD for a pump be placed on the correct creek with a lockable head gate and measuring device. See Watermaster's report for more information.

I hereby, acknowledge that if I, or my designated representative, fails 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. Also verify that I have served a copy of this protest upon the applicant.

Signed this 17th day of March, 2005

Marsh Creek Water District #45F

Protestant


Gwen Montgomery, Chairman Adv. Bd.
Protestant's Representative

CC: Mike K. & Denise D. Matthews
✓ State Of Idaho,
Department of Water Resources

Receipt # 50 27776
3/21/05
MB

Norman E. Dayley
1000 S 1300 E
P.O. Box 165
Albion, Id 83311

March 13, 2005

Mr. Don Gunderson
Albion, Idaho 83311

Re: Water Diversion / Mike Matthews

Dear Mr. Gunderson:

In reference to Mr. Matthews request to change the point of diversion on my place. I do not feel it would be satisfactory for him or me.

The point that the former owner. Wendell Bailey, diverted water is high enough that the natural flow will reach Mr. Matthews property better.

Mr. Matthews has not approached me for an easement and since the original point of diversion will meet his needs, I am opposed to the change because it will cause undue hardship on the use of my property.

I am presently out of the state and will return in September. If it is necessary to reach me during those months I can be reached at 1-217-453-2237-extension 14 during the day and in the evenings my number is 1-217-453-6976.

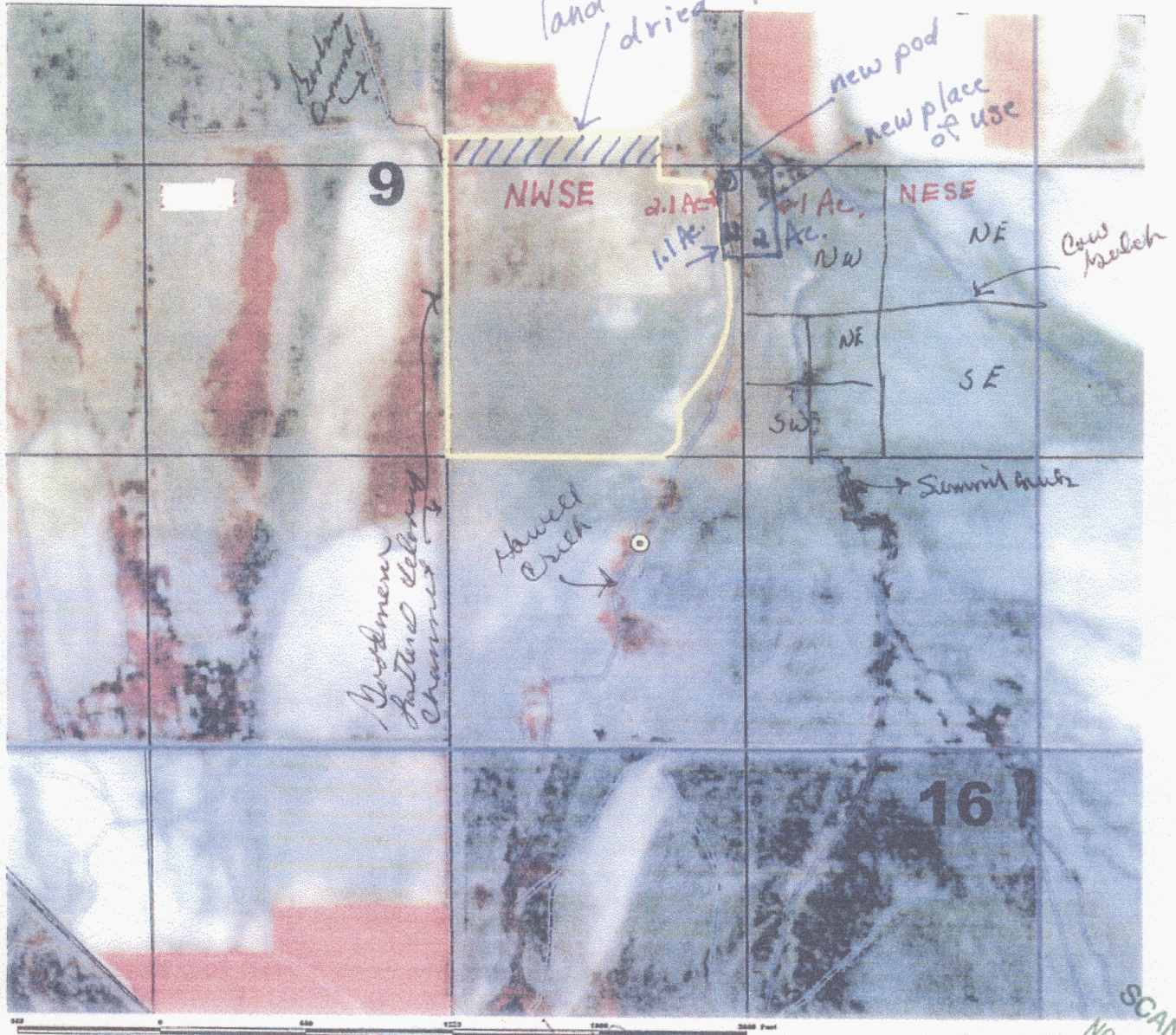
Due to the distance this letter is being faxed to the Albion City Office. Thank you for your consideration of my concerns in this matter of changing the point of diversion of the creek on my property.

Sincerely,


Norman E. Dayley

RECOMMENDED PLACE OF USE FOR 45-212 and 45-300

AMENDED
9cc

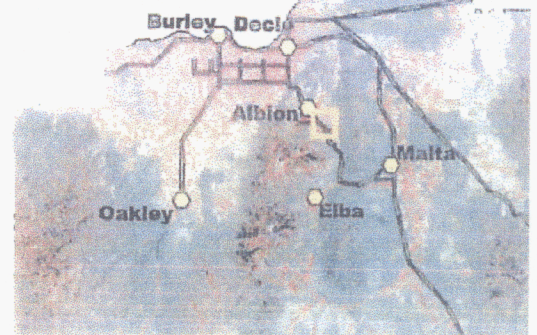


PLACE OF USE
TWP 12S, RNG 25E, SEC 9
Data entry on December 4, 2003

Donna Mathias
9-20-04

SCAN
NOV 19 2003

CASSIA CO



- RECOMMENDED POINT OF DIVERSION
- RECOMMENDED PLACE OF USE
- SECTION LINES
- QUARTER/QUARTER LINES

GIS PLACE OF USE PRESENTATION
1987/1998 NAIP AERIAL PHOTOGRAPHY
DATA ENTRY BY KELLY K CHRISTENSEN

