

IN THE WATER COURT OF THE STATE OF MONTANA
LOWER MISSOURI DIVISION
MUSSELSHELL RIVER ABOVE ROUNDUP BASIN (40A)
PRELIMINARY DECREE

* * * * *

CLAIMANT: RMJ Indreland Trust

CASE 40A-0416-R-2021

40A 19300-00

40A 21446-00

40A 21456-00

NOTICE OF FILING OF MASTER'S REPORT

This Master's Report was filed with the Montana Water Court on the above-stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusions of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must serve a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

MASTER'S REPORT

FINDINGS OF FACT

1. The RMJ Indreland Trust is the record owner of claims 40A 19300-00, 40A 21446-00, and 40A 21456-00.

2. The RMJ Indreland Trust was ordered to meet with a DNRC employee to address the unresolved issue remarks decreed on claims 40A 19300-00, 40A 21446-00, and 40A 21456-00.

3. On November 16, 2021, this Master issued an Order setting a deadline for RMJ Indreland Trust to agree or disagree that certain changes be made to the claims in this Case by January 5, 2022. On January 17, 2021, Richard Indreland contacted the Bozeman DNRC office, the Lewistown DNRC office, and left a message for this Master. It was obvious Mr. Indreland was not finished addressing the issue remarks. Consequently, an Order was issued vacating the November 16, 2021 Order Setting Filing Deadline, and an Order Requesting Assistance was issued on November 17, 2021.

4. On June 2, 2022, DNRC Water Resources Specialist Matt Schmidt filed another Memorandum regarding his review of claims 40A 19300-00, 40A 21446-00, and 40A 21456-00. Mr. Schmidt indicated a field investigation was conducted on May 11, 2022. Mr. Schmidt made recommendations for the disposition of the issue remarks. In his June 2, 2022 Memorandum, Mr. Schmidt mentioned a September 9, 2021 Memorandum, but nothing was filed on or around September 9, 2021 – this Master believes Mr. Schmidt was referring to the November 12, 2021 Memorandum and refers to the November 12, 2021 Memorandum, where appropriate.

5. Claim 40A 19300-00 was decreed with a point of diversion in the SENESW of Section 34, Township 7 North, Range 10 East. A remark was added indicating that DNRC was unable to identify the point of diversion on an aerial photo.

Between August 31, 2021, and the May 11, 2022 field investigation, conflicting information was provided regarding the point of diversion. However, during the May 11, 2022 field investigation, Mr. Schmidt determined the diversion associated with claim 40A 19300-00 is located in the NESESW of Section 34, Township 7 North, Range 10

East. Mr. Schmidt recommended that if the following modification is made to claim 40E 19300-00, the point of diversion issue remark can be removed from the claim:

Point of Diversion and Means of Diversion:						
<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	NESESW	SENESEW	34	7N	10E	MEAGHER
Period of Diversion:		MAY 1 TO SEPTEMBER 30				
Diversion Means:		HEADGATE				

6. Claim 40A 21446-00 was decreed with a point of diversion in the NENWNE of Section 33, Township 7 North, Range 10 East. A remark was added indicating that DNRC was unable to identify the point of diversion.

Between August 31, 2021 and November 12, 2021, conflicting information was provided regarding the point of diversion for claim 40A 21446-00. However, in the June 2, 2022 Memorandum, Mr. Schmidt confirmed the points of diversion as claimed and decreed are correct for claim 40A 21446-00, and the issue remark should be removed with no changes to the claim.

7. Claim 40A 21456-00 was decreed with a remark indicating two sources of water may be involved and another remark suggesting the place of use may be incomplete. According to Mr. Schmidt, regarding the sources:

There may indeed be a spring within the stream channel in the area of the upstream POD as depicted on the March 22, 2016 amendment map, but it appears that the source should remain as surface water out of Dale Creek as currently reflected on claim abstracts. A spring in the stream channel would simply be considered as part of the gaining reach of that stream.

According to the November 12, 2021 Memorandum, the point of diversion for claim 40A 21456-00 should be changed to:

Point of Diversion and Means of Diversion:						
<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SESENEW	34	7N	10E	MEAGHER
Period of Diversion:		JUNE 1 TO AUGUST 31				
Diversion Means:		DITCH				
2	SENESEW	NESESSEW	34	7N	10E	MEAGHER
Period of Diversion:		JUNE 1 TO AUGUST 31				
Diversion Means:		DITCH				

Mr. Schmidt attached an October 25, 2021 Motion to Amend the place of use of claim 40A 21456-00 signed by Richard L. Indreland and Mary J. Indreland. Mr. Schmidt explained that the October 25, 2021 Motion to Amend includes place of use legal land descriptions that appear accurate, but are not precise. Mr. Schmidt recommended the

place of use issue remark be removed from claim 40A 21456-00 if the place of use is changed to:

N2	Sec. 34	7N 10E
SW	Sec. 26	7N 10E
N2N2SW	Sec. 34	7N 10E
S2	Sec. 26	7N 10E

Mr. Schmidt's recommendation differs slightly from the Claimant's proposal, but it is more precise.

In the June 2, 2022 Memorandum, Mr. Schmidt confirmed that his May 11, 2022 field investigation confirmed his recommendations for claim 40A 21446-00 and stated the following changes should be made for claim 40E 21446-00:

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SESENW	34	7N	10E	MEAGHER
Period of Diversion: JUNE 1 TO AUGUST 31						
Diversion Means: DITCH						
2		SESENW NESESW	34	7N	10E	MEAGHER
Period of Diversion: JUNE 1 TO AUGUST 31						
Diversion Means: DITCH						

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1			S2NW	26	7N	10E	MEAGHER
2			SW	26	7N	10E	MEAGHER

Please modify the POU:

S2	26	7N 10E
E2W2	34	7N 10E
NE	34	7N 10E

8. An Order was issued on June 6, 2022, setting a deadline for Claimant RMJ Indreland Trust to agree or disagree with the following recommended changes:

40A 19300-00:

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		NESESW ENESEW	34	7N	10E	MEAGHER
Period of Diversion: MAY 1 TO SEPTEMBER 30						
Diversion Means: HEADGATE						

40A 21446-00:

No changes required.

40A 21456-00:

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SESENW	34	7N	10E	MEAGHER
Period of Diversion: JUNE 1 TO AUGUST 31						
Diversion Means: DITCH						
2		SEENW NESESW	34	7N	10E	MEAGHER
Period of Diversion: JUNE 1 TO AUGUST 31						
Diversion Means: DITCH						

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1			S2NW	28	7N	10E	MEAGHER
2			SW	28	7N	10E	MEAGHER

Please modify the POU:

S2 28 7N 10E

E2W2 34 7N 10E

NE 34 7N 10E

The Order indicated that if nothing were filed by the deadline, a Master's Report would be issued recommending the changes be made. The following language was included in the Order:

Failure to comply with the terms of this Order may result in sanctions, up to and including entry of default and termination of a water right claim or dismissal of objections. Rule 22, W.R.Adj.R.

Nothing was filed by the deadline.

PRINCIPLES AND CONCLUSIONS OF LAW

1. The Water Court must address all issue remarks that appear on a claim. Section 85-2-248, MCA.
2. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. Section 85-2-227, MCA. This prima facie validity may be overcome by evidence showing that one or more elements of the claim are incorrect. This standard of proof applies to objectors or claimants objecting to their own water right claims. Rule 19, W.R.Adj.R., *Nelson v. Brooks*, 2014 MT 120; 375 Mont.86, 95; 329 P.3d 558, 564.
3. Pursuant to Rule 22, W.R.Adj.R., if a claimant, objector, or intervenor fails

to appear at a scheduled conference or hearing or fails to comply with an order issued by the Water Court, the Water Court may issue such orders of sanction with regard thereto as are just.

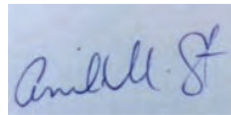
4. The point of diversion remark decreed on claim 40A 21456-00 is a notice-type remark. As no objections were filed, no further proceedings are required.

RECOMMENDATIONS

1. Claims 40A 19300-00, 40A 21446-00, and 40A 21456-00 should be modified as shown in Finding of Fact No. 8.

2. The issue remarks should be removed from the claims in this Case.

Post Decree Abstracts of Water Right Claims are served with the Report for review.



Digitally signed by Anika
Date: 2022.07.28 13:36:05
-06'00'

Anika M. Stern
Senior Water Master

Service via USPS Mail:

RMJ Indreland Trust
Co-Trustees Richard L/Mary J Indreland
8 Spring Creek Rd
Martinsdale, MT 59053

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION

ELECTRONICALLY FILED

40A-0416-R-2021

June 2, 2022

Lewistown Water Resources Regional Office



GREG GIANFORTE, GOVERNOR

Montana Water Court

PHONE: (406) 538-7459

613 NE Main St, Suite E
Lewistown, MT 59457

MEMORANDUM

DATE: May 25, 2022

CASE: 40A-416-R-2021 (Claims 40A 19300-00, 40A 21446-00, 40A 21456-00)

TO: Anika M. Stern
Water Master

FROM: Matt Schmidt
Water Resources Specialist

CLAIMANT(S): RMJ Indreland Trust

INTRODUCTION:

Orders from the Montana Water Court required the Claimants to visit with DNRC to discuss resolution of the issue remarks on the above-listed claims. They also requested the DNRC to provide a memorandum of recommendations based on the results of such discussions. A memorandum was filed with the Court by the DNRC on November 12, 2021. Subsequent orders resulted in this follow-up memorandum.

All findings of the previous DNRC memorandum (dated September 9, 2021) pertaining to this case were disputed by the claimant, which led to the scheduling of a field investigation on May 11, 2022. This field investigation did confirm the findings from the September 9, 2021 memorandum, but some additional details were discovered during the investigation which are discussed below.

MATERIALS REVIEWED:

Abstracts, scanned claim files, aerial photos, claimant-consultant-submitted materials, water resources survey materials, and topographic maps. A field investigation was conducted on May 11, 2022 which produced geotagged photos and recorded GPS tracks.

Claim No. 40A 19300-00; 1904; Irrigation; Dale Creek

Issue Remarks:

P49:

THE CLAIMED POINT OF DIVERSION IS IN QUESTION. THE LOCATION OF THE HEADGATE CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

Discussion:

Statement of claim 40A 19300-00 was filed for adjudication purposes on May 20, 1981, claiming irrigation rights to 64 acres sourced out of Dale Creek with a point of diversion in the **SENESEW of 7N, 10E, S34**. On November 30, 2016, during reexamination, DNRC added the P49 issue remark after being unable to positively identify the point of diversion on a modern aerial photo. No ditch diversions in the claimed POD area are visible on this resource (**See DNRC Map 2**).

On August 31, 2021, claimant Dick Indreland visited the Lewistown DNRC Water Resources Office to discuss the issue remarks on the claims involved in this case. Indreland submitted a clarification document written by consultant Otto Ohlson and dated August 28, 2021. With regard to claim 40A 19300-00, the August 28, 2021 clarification document states the following:

"40A 19300-00: This claim [h]as an issue remark regarding the location of the POD and also has an incorrect POD. The correct POD is: **POD 1 SENESE Section 4 T6N R10E (N46deg 18.772' W 110 deg 8.385"**

On October 25th, 2021, the Claimant submitted a map (aerial photo) that depicts the POD in the same location as was claimed, but no further explanation. There is no explanation as to why this map was submitted or how it relates to the clarification submitted on August 31, 2021.

The September 9, 2021 DNRC memo recommended that the POD be modified to the location described in Ohlson's August 8, 2021 clarification document because this location had a diversion that appeared capable of serving the place of use represented on the 1950 Water Resources Survey. A diversion is visible in this location on two resources available to DNRC; a modern aerial photo and the 1950 Water Resources Survey (**See DNRC Maps 1, 2, and 3**).

During the May 11, 2022 field investigation, the diversion associated with claim 40A 19300-00 was visited in the **NESESEW of Section 34 7N 10E**. It was buried under snow at the time, but the associated ditch was visible where it exited from under the snow, and recent ditch maintenance was also evident (**See DNRC Map 1, DNRC Photos 6 and 7**).

Recommendation:

If the Point of Diversion of claim 40A 19300-00 is modified to: **NESESEW of Section 34 7N 10E** then DNRC recommends removal of the P49 issue remark on the claim.

Claim No. 40A 21446-00; 1902; Irrigation; Spring, Unnamed Tributary of Muddy Creek

Issue Remarks:

P49:

THE CLAIMED POINT OF DIVERSION IS IN QUESTION. THE LOCATION OF THE HEADGATE CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

Discussion:

Statement of claim 40A 21446-00 was filed for adjudication purposes on May 20, 1981, claiming irrigation rights to 18 acres sourced out of "No Name Springs (2)" with a point of diversion in the **NENWNE of T7N, R10E, S33**. During adjudication proceedings the source was clarified as "Spring, Tributary of Muddy Creek" and the source type was clarified as "Groundwater." The source type (groundwater) appears consistent with adjudication guidelines as aerial review shows at least one ditch emanating from a point where water rises to the surface as a spring and is diverted for use.

On February 1, 2016, during reexamination, DNRC added the P49 issue remark after being unable to positively identify at least one of the point(s) of diversion on aerial photos. The spring origin is visible in the claimed POD area on modern aerial photos, and is clearly labelled on the 1950 Water Resources Survey Map (**See DNRC Map 5**), but either one or both ditch diversions were not identified during reexamination on the aerial photo resources used for that review (**See DNRC Map 4**).

On August 31, 2021, claimant Dick Indreland visited the Lewistown DNRC Water Resources Office to discuss the issue remarks on the claims involved in this case. Indreland submitted a clarification document written by consultant Otto Ohlson and dated August 28, 2021. With regard to claim 40A 21446-00, the August 28, 2021 clarification document states the following:

"40A 21446-00: The POD as shown on the abstract is incorrect. There are actually two POD's located a short distance apart, each irrigating on their respective sides of the drainage.

The correct locations for the PODs are:

POD 1 SWSESE Section 28 T7N R10E (N46deg 19.854' W 110 deg 28.512)

POD 2 SWSESE Section 28 T7N R10E (N[4]6deg 19.855' W 110 deg 28.511)

However, during an office visit on August 31, 2021 with the Claimant, Mr. Indreland, he disagreed with the diversion points as identified by Mr. Ohlson in Ohlson's August 28 letter. On October 25, 2021 Mr. Ohlson followed up with a map (See enclosed October 25th clarification) indicating that there are four diversions associated with 40A 21446-00, all located upstream of the two claimed diversions. No explanation (narrative) was supplied with the map, and therefore DNRC was unable to understand why the diversions had been identified in a different location than claimed or previously noted.

The 1950 Meagher County Water Resources Survey (1950 WRS) does, in fact, support two diversions and ditch systems in close proximity to one another and to the claimed spring. The lower diversion is

just downgradient of the upper diversion, or spring origination point, and the 1950 WRS supports a ditch system on the south side of the source. The reason DNRC applied the P49 Issue Remark in 2016 is because the examiner could not observe a ditch system on the south side while observing aerial photos. However, during this post-decree process Mr. Indreland corroborated the diversions as noted in the 1950 WRS. It appears probable that these are the two diversions claimed by Mr. Indreland. The diversions appear to be consistent with the legal land description claimed in the Statement of Claim.

During the May 11, 2022 field investigation, all these findings regarding claim 40A 21446-00 were further confirmed, with the spring and ditch locations visited and documented (**See DNRC Photos 1, 2, 3, 4, 5 and DNRC Map 10**).

Recommendation:

Based on discussions with claimant Dick Indreland and current analysis of modern and historical aerial photo resources and the 1950 Water Resources Survey materials, DNRC recommends removal of the P49 issue remark on claim 40A 21446-00. It appears the two diversions as originally claimed were accurate.

Claim No. 40A 21456-00; 1904; Stock; Dale Creek

Issue Remarks:

P88:

POINT OF DIVERSION WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

PLIS:

THE PLACE OF USE MAY BE INCOMPLETE. THE DITCH APPEARS TO ALSO PASS THROUGH THE E2W2 AND W2NWNE SEC 34 TWP 7N RGE 10E MEAGHER CO.

SNIS:

THIS CLAIM APPEARS TO INVOLVE TWO SOURCES OF WATER: DALE CREEK (POINT OF DIVERSION NO. 2) AND A SPRING OF DALE CREEK (POINT OF DIVERSION NO. 1).

Discussion:

Statement of claim 40A 21456-00 was filed for adjudication purposes on May 20, 1981, claiming stock rights to Dale Creek with points of diversion in **the S2NW and SW of T7N, R10E, S26**. On March 22, 2016, during reexamination, DNRC added the P88 and SNIS issue remarks. The P88 was added after standard reexamination review. According to the Central Water Rights database, there do not appear to be any objections associated with this claim, and the Issue Remark notes the POD, as modified, will remain and the issue will be removed if this issue remains unaddressed. The SNIS issue remark was added with the comment:

“Per face to face meeting w/ Richard Indreland @ LRO on 03/15/2016, upper diversion (POD #1) is a spring (spring box? Pooling water visible on modern photos). Lower diversion (POD #2) is surface water from Dale Creek. Per Mr. Indreland, spring source is groundwater, or so it seems. He would like to GPS the spring + verify the ditch location”.

Following this meeting, an amendment form was received by the DNRC on March 22, 2016, with modifications to the points of diversion, complete with a map depicting the aforementioned “spring source”. The addition of the SNIS remark concerning the potential spring source was concurrent with these two events. There may indeed be a spring within the stream channel in the area of the upstream POD as depicted on the March 22, 2016 amendment map, but it appears that the source should remain as surface water out of Dale Creek as currently reflected on claim abstracts. A spring in the stream channel could simply be considered as part of a gaining reach of that stream. If the diversion was directly from a spring box, or the spring is outside the stream channel so as to be considered a distinct source (as was the case in the preceding discussion of claim 40A 21446-00), then DNRC may consider the source to be groundwater. Again, this appears not to be the case with claim 40A 21456-00.

On August 31, 2021, claimant Dick Indreland visited the Lewistown DNRC Water Resources Office to discuss the issue remarks on the claims involved in this case. Indreland submitted a clarification document written by consultant Otto Ohlson and dated August 28, 2021. This document addresses the two other claims involved in this case, and other claims, but does not address claim 40A 21456-00.

A second clarification document (Verified Motion to Amend Water Right Claim) was received by DNRC on October 25th, 2021, along with a map (aerial photo) displaying the assumed trajectory of the two ditch systems. There is no mention of any spring associated with claim 40A 21456-00 in any of the claimant-submitted materials in the context of the October 8th Order. This later document depicts a potentially amended POU for claim 40A 21456-00 (See **DNRC Map 6**, blue lines are based on Claimant’s Oct. 25th clarification) however parts of the depicted POU do not seem to be topographically possible. DNRC studied the visible ditches on a modern aerial photo and USGS topographic maps to depict a more realistic POU (See **DNRC Maps 6, 7, 8 and 9**, green lines are based on modern aerial photo and topographic map analysis). The October 25, 2021 Verified Motion to Amend document signed by the claimants contains legal land descriptions for places of use that appear to be accurate but not precise (See below for further refined legal land descriptions).

During the May 11, 2022 field investigation, all these findings regarding claim 40A 21446-00 were further confirmed. The places of use associated with claim 40A 21456-00 (as represented by the green lines on **DNRC Maps 6, 7, 8 and 9**) were confirmed to be accurate (See **DNRC Photos 8, 9, 10, 11 and DNRC Map 11**).

Recommendation:

DNRC recommends removal of the P88 and SNIS remarks on claim 40A 21456-00.

If the Court modifies the POU of claim 40A 21456-00 to the October 25, 2021 amended POU of:

N2	Sec. 34	7N 10E
SW	Sec. 26	7N 10E
N2N2SW	Sec. 34	7N 10E
S2	Sec. 26	7N 10E

Then DNRC Recommends removal of the PLIS remark on claim 40A 21456-00.

For better precision, DNRC recommends further refinement of the POU of claim 40A 21456-00 to:

E2W2	Sec. 34	7N 10E
NE	Sec. 34	7N 10E
S2	Sec. 26	7N 10E

If either recommendation to modify the POU is implemented, then DNRC further recommends adding the following geocodes and updating ownership accordingly:

47-1600-26-1-01-01-0000
47-1600-34-1-01-01-0000

Lastly, based on aerial photo observation, DNRC recommends the Points of Diversion be clarified to:

POD 1: SENENW Sec. 34 7N 10E
POD 2: SESENW Sec. 34 7N 10E

Date: June 2, 2022

Written by:



Matt Schmidt, Water Resources Specialist II
Lewistown Water Resources Regional Office

Date: June 2, 2022

Reviewed by:



Steven Hamilton, Deputy Regional Manager
Lewistown Water Resources Regional Office

Enclosures List:

1. DNRC Map 1; Case 40A 0416-R-2021; Claim 40A 19300-00; 1950 WRS Map
2. DNRC Map 2; Case 40A 0416-R-2021; Claim 40A 19300-00; Modern Aerial Photo
3. DNRC Map 3; Case 40A 0416-R-2021; Claim 40A 19300-00; Modern Aerial Photo Detail
4. DNRC Map 4; Case 40A 0416-R-2021; Claim 40A 21446-00; Modern Aerial Photo
5. DNRC Map 5; Case 40A 0416-R-2021; Claim 40A 21446-00; 1950 Water Resources Survey Map
6. DNRC Map 6; Case 40A 0416-R-2021; Claim 40A 21456-00; Oct. 25, 2021 Clarification Map
7. DNRC Map 7; Case 40A 0416-R-2021; Claim 40A 21456-00; Modern Aerial Photo
8. DNRC Map 8; Case 40A 0416-R-2021; Claim 40A 21456-00; USGS Topographic Map
9. DNRC Map 9; Case 40A 0416-R-2021; Claim 40A 21456-00; 1950 Water Resources Survey Map
10. DNRC Map 10; Case 40A 0416-R-2021; Claim 40A 21446-00; Modern Aerial Photo
11. DNRC Map 11; Case 40A 0416-R-2021; Claim 40A 21456-00; Modern Aerial Photo
12. Copy of August 28, 2021 Claimant Clarification
13. Copy of October 25, 2021 Claimant Clarification

Service List:

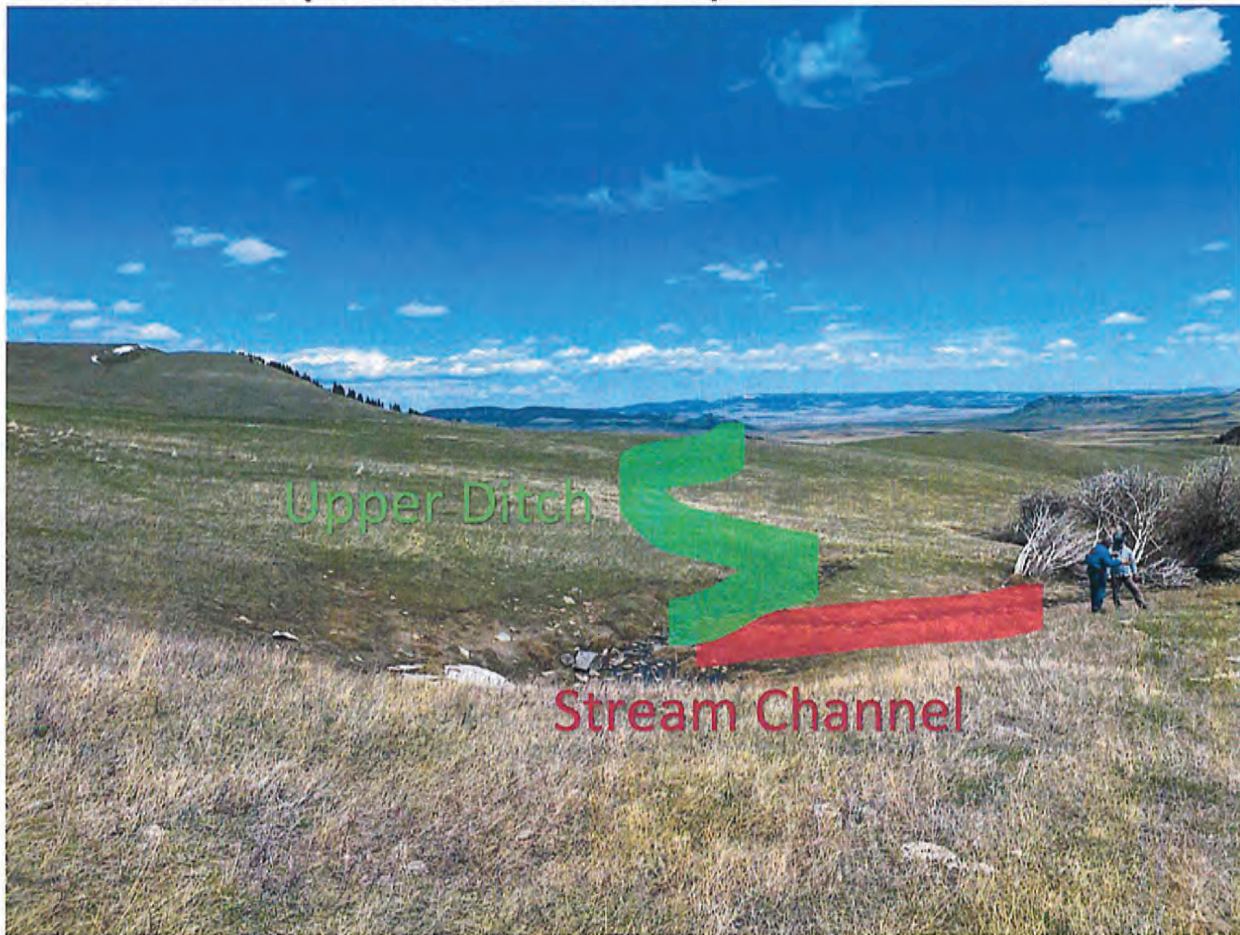
MONTANA WATER COURT
PO BOX 1389
BOZEMAN, MT 59771-1389

RMJ INDRELAND TRUST
CO-TRUSTEES RICHARD L/MARY J
INDRELAND 8 SPRING CREEK RD
MARTINSDALE, MT 59053

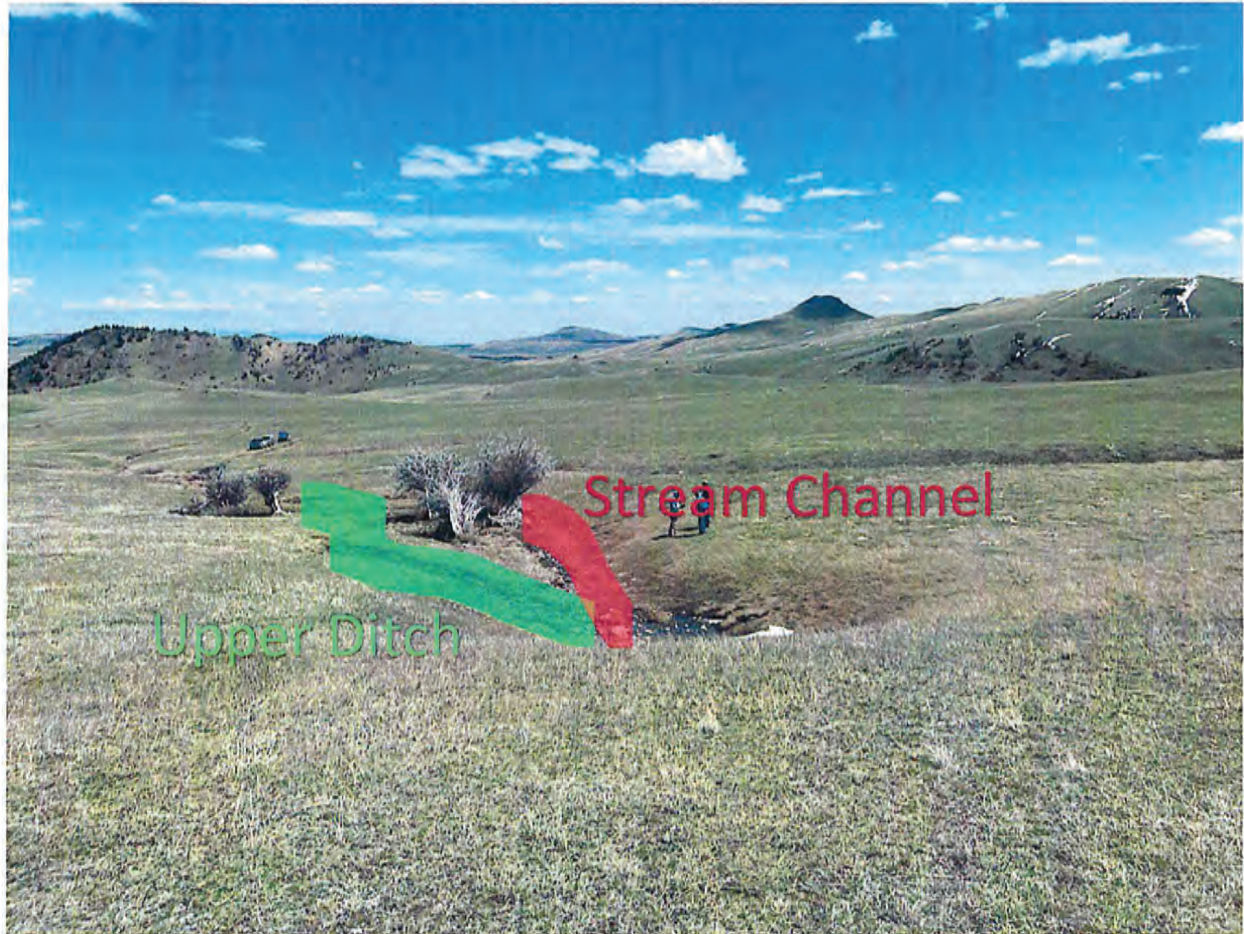
DNRC Photo 1 (40A 21446-00)



DNRC Photo 2 (Claim 40A 21446-00)



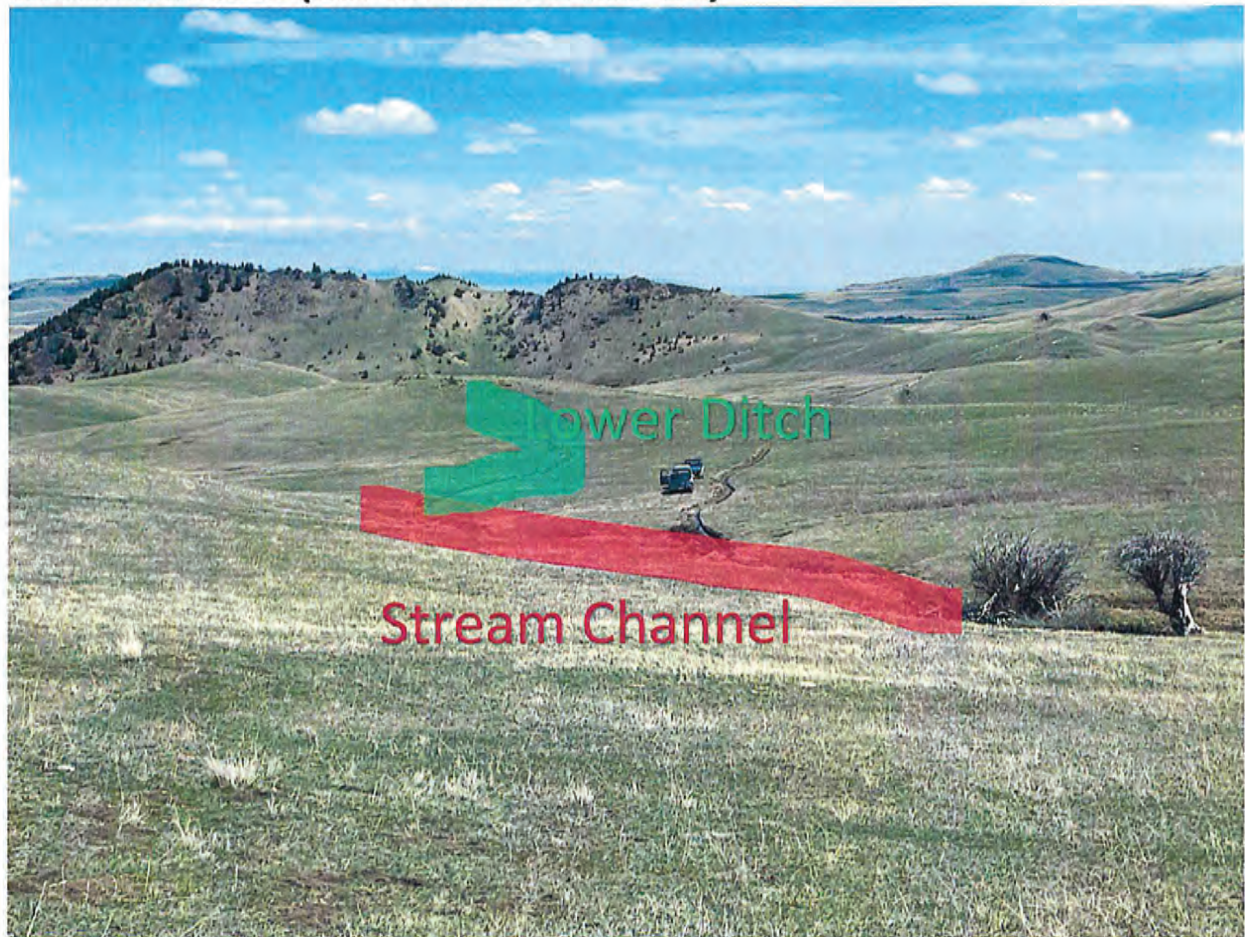
DNRC Photo 3 (Claim 40A 21446-00)



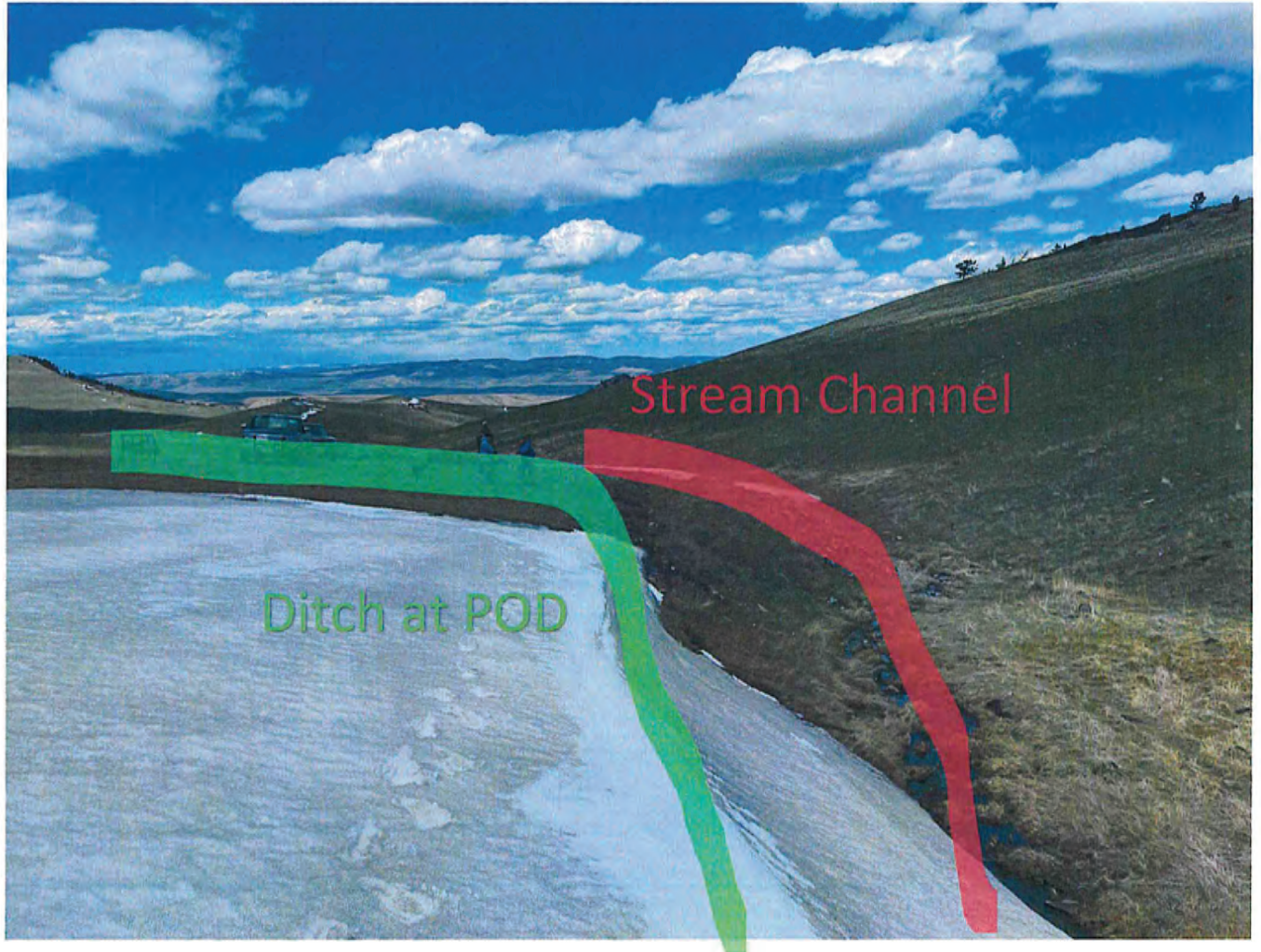
DNRC Photo 4 (Claim 40A 21446-00)



DNRC Photo 5 (Claim 40A 21446-00)



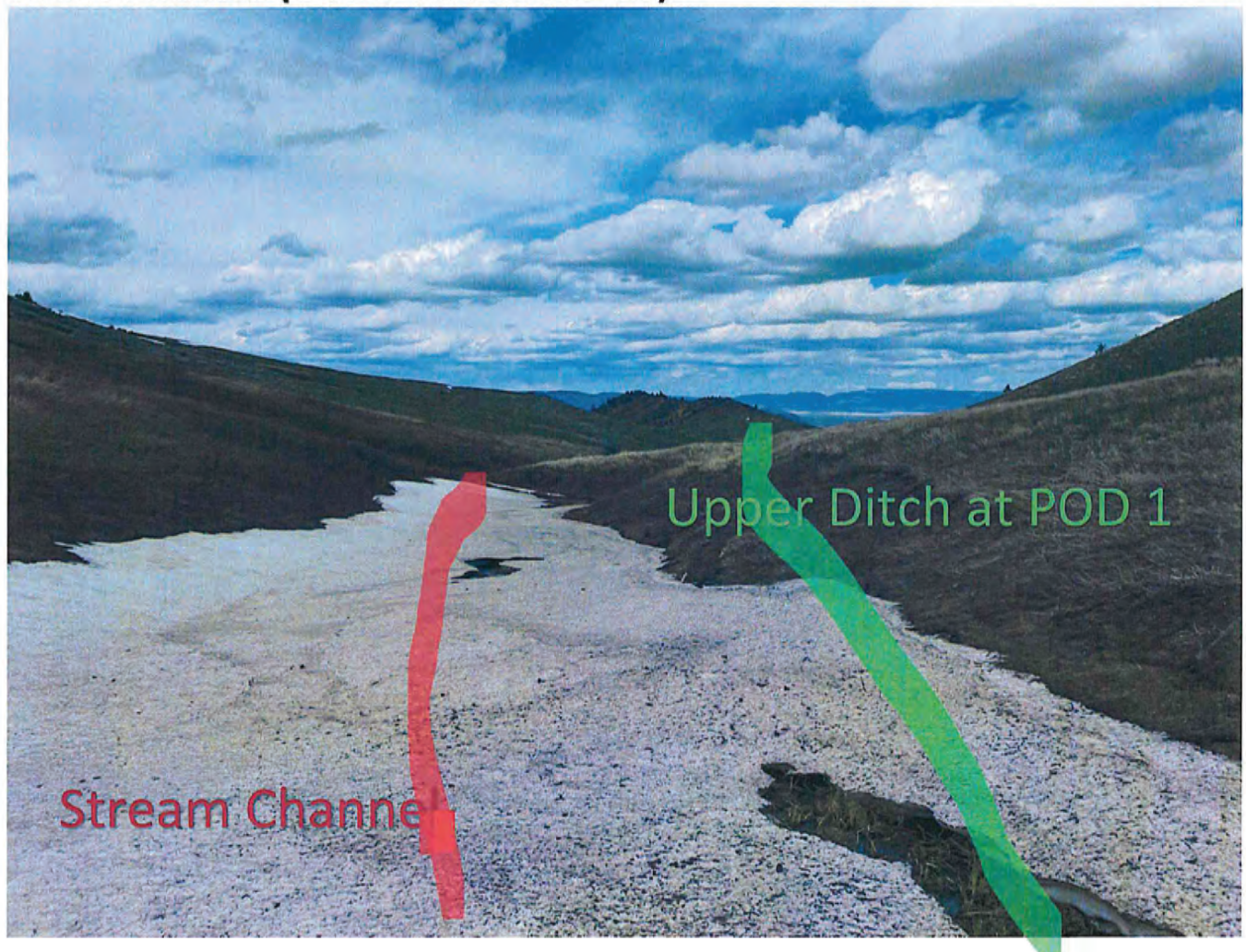
DNRC Photo 6 (Claim 40A 19300-00)



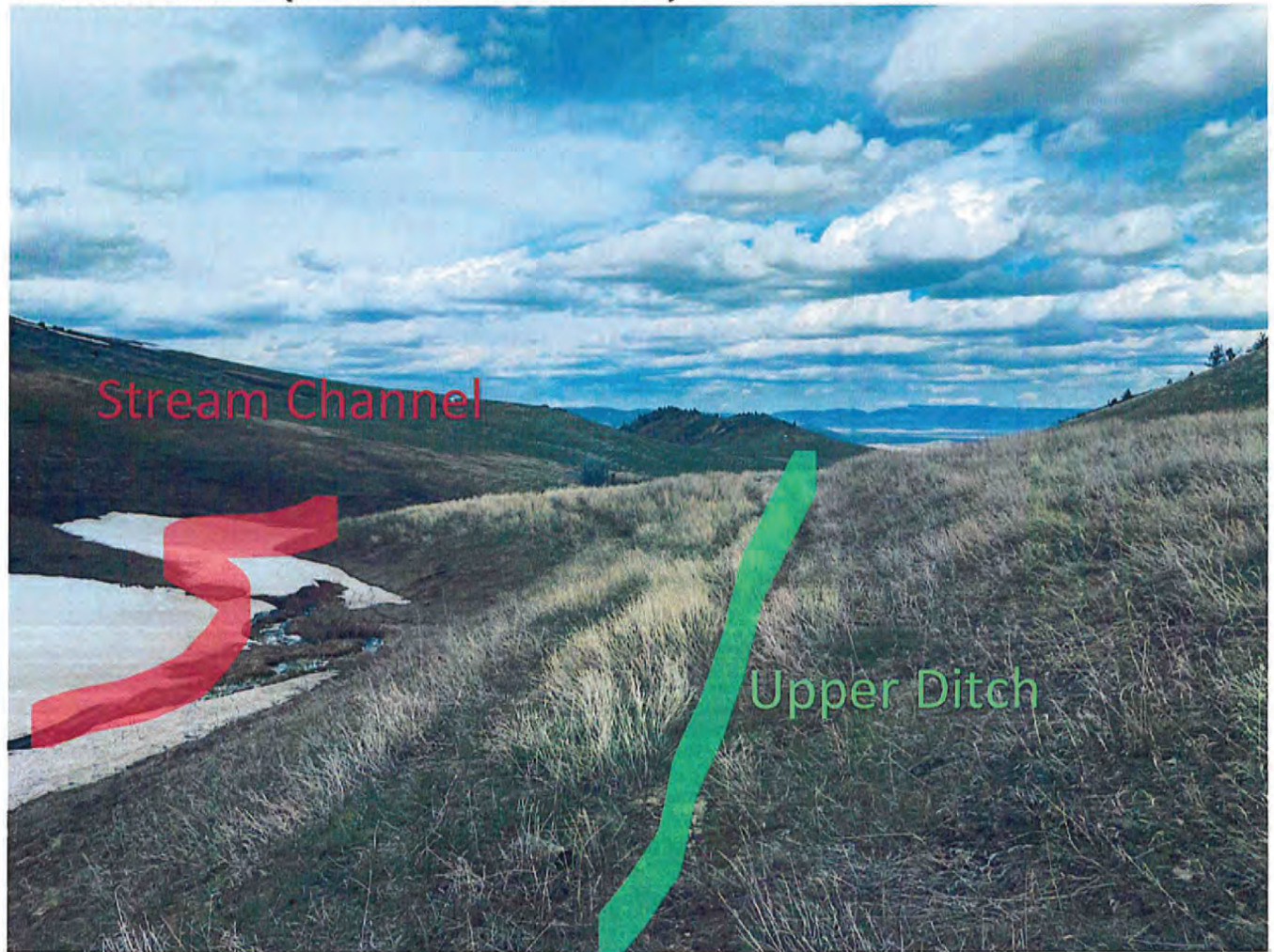
DNRC Photo 7 (Claim 40A 19300-00)



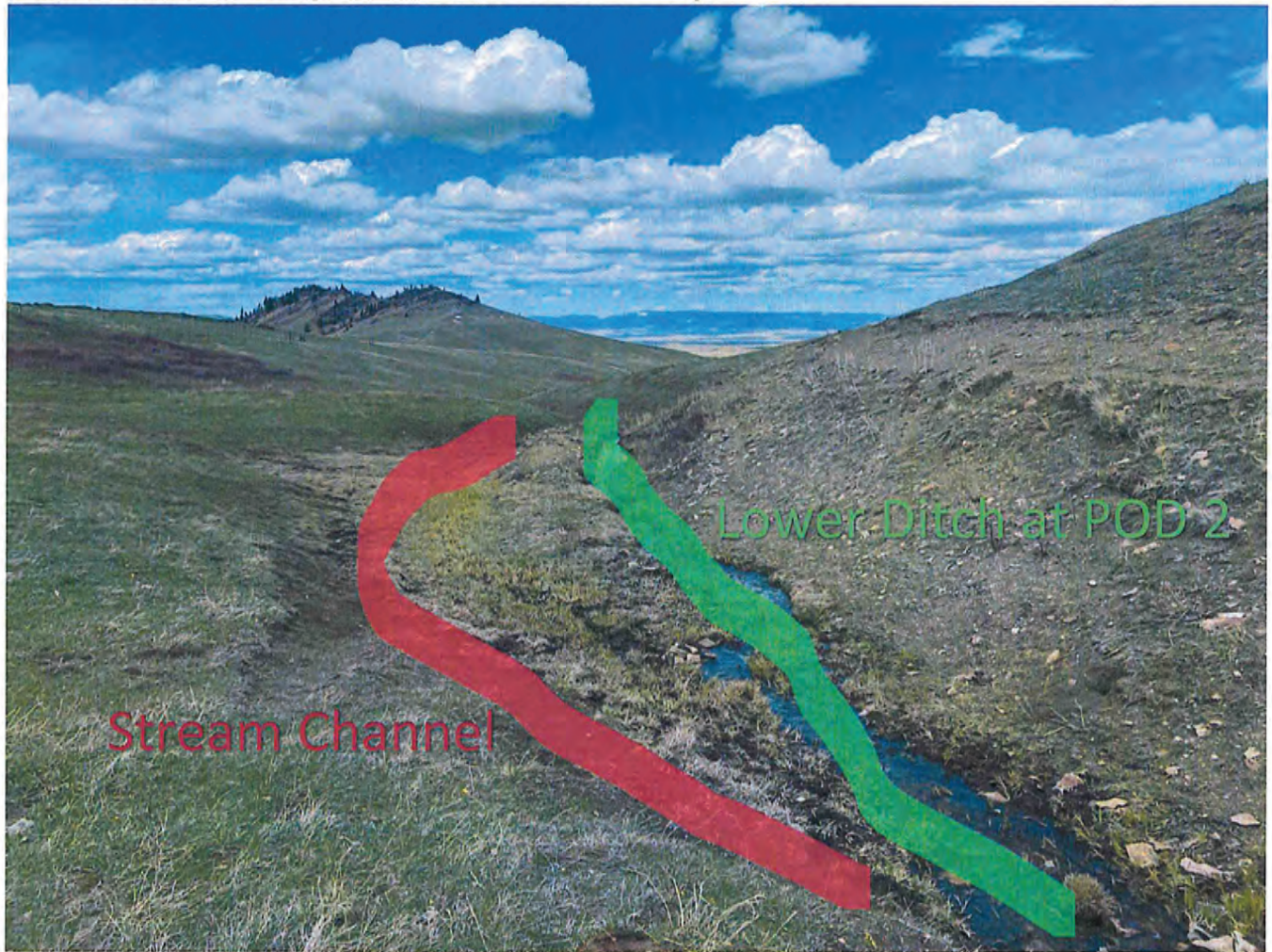
DNRC Photo 8 (Claim 40A 21456-00)



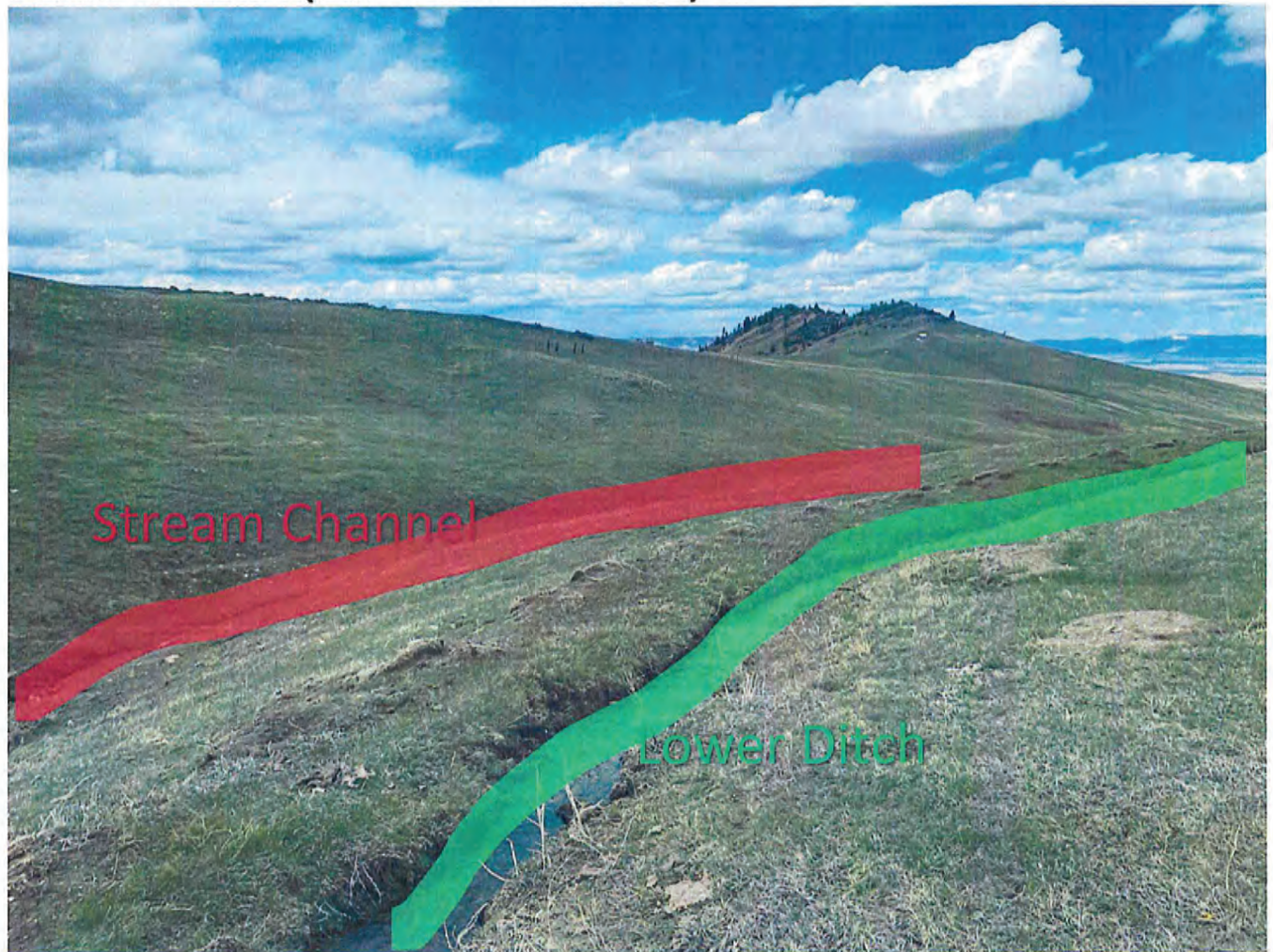
DNRC Photo 9 (Claim 40A 21456-00)



DNRC Photo 10 (Claim 40A 21456-00)



DNRC Photo 11 (Claim 40A 21456-00)



Otto W. Ohlson
P. O. Box 358
White Sulphur Springs, MT 59645

Aug. 28, 2021

Department of Natural Resources and Conservation
613 NE Main St. Suite E
Lewistown, MT 59457-2020

COPY

RE: Water Rights – RMJ Trust

On Aug. 27, I accompanied Dick Indreland to GPS 'Points of Diversions' for several water rights with issue remarks regarding POD's and locations of ditches. All POD's were confirmed utilizing a GPS and computer transferred to aerial photography utilizing a GIS program. The GIS program utilizes USGS quad maps as a base layer from which all section lines were obtained. The aerial photography utilized was USDA 2018.

A bit of a background on my qualifications – I am a retired Agricultural Engineer from USDA, NRCS and am familiar with maps, map reading, GPS's and GIS programs, as well as design and installation of agricultural practices. I have also consulted on water rights for over 40 years and am considered an expert witness by the Montana Water Court.

All GPS located features were able to be confirmed with features identified on the USDA aerial photography.

The POD's are shown with a pin mark and a short section of ditch is also shown.

40A 21446-00:

The POD as shown on the Abstract is incorrect. There are actually two POD's located a short distance apart, each irrigating on their respective sides of the drainage.

The correct locations for the PODs are:

POD 1 SWSESE Sec 28, T7N R10E (N46 deg 19.854' W 110 deg 28.512')

POD 2 SWSESE Sec 28, T7N R10E (N26 deg 19.855' W 110 deg 28.511')

40A 20655-00

The POD identified on the Abstract is incorrect.

The correct POD is:

POD 1 NWSWSW Sec. 34 T7N R 10E (N46 deg 19.158' W 110 deg 8.212')

40A 198411-00

This claim also has one incorrect POD and one POD that is correct as filed on abstract.

The correct POD's are:

POD 1 SENNENW Sec. 34 T7N R10E (N46deg. 19.675' W 110 deg 7.664')

POD 2 SWSENEW Sec 34 T7N R10E (N46 deg 19.432' W 110 deg 27.772')

40A 19300-00

This claim as an issue remark regarding the location of the POD and also has an incorrect POD.

The correct POD is:

POD 1 SENENE Section 4 T6N R10E (N46deg 18.772' W 110 deg 8.385')

2/1/21

40A 21446 00

28

27

T7N R8E

POD 1 46 deg 19.854' W 110 deg 28.512'

POD 2 N46deg 19.855' W 110 deg 28.511'

RMJ Indreland Trust

T7N R10E

33

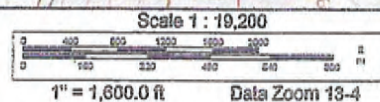
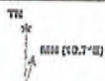
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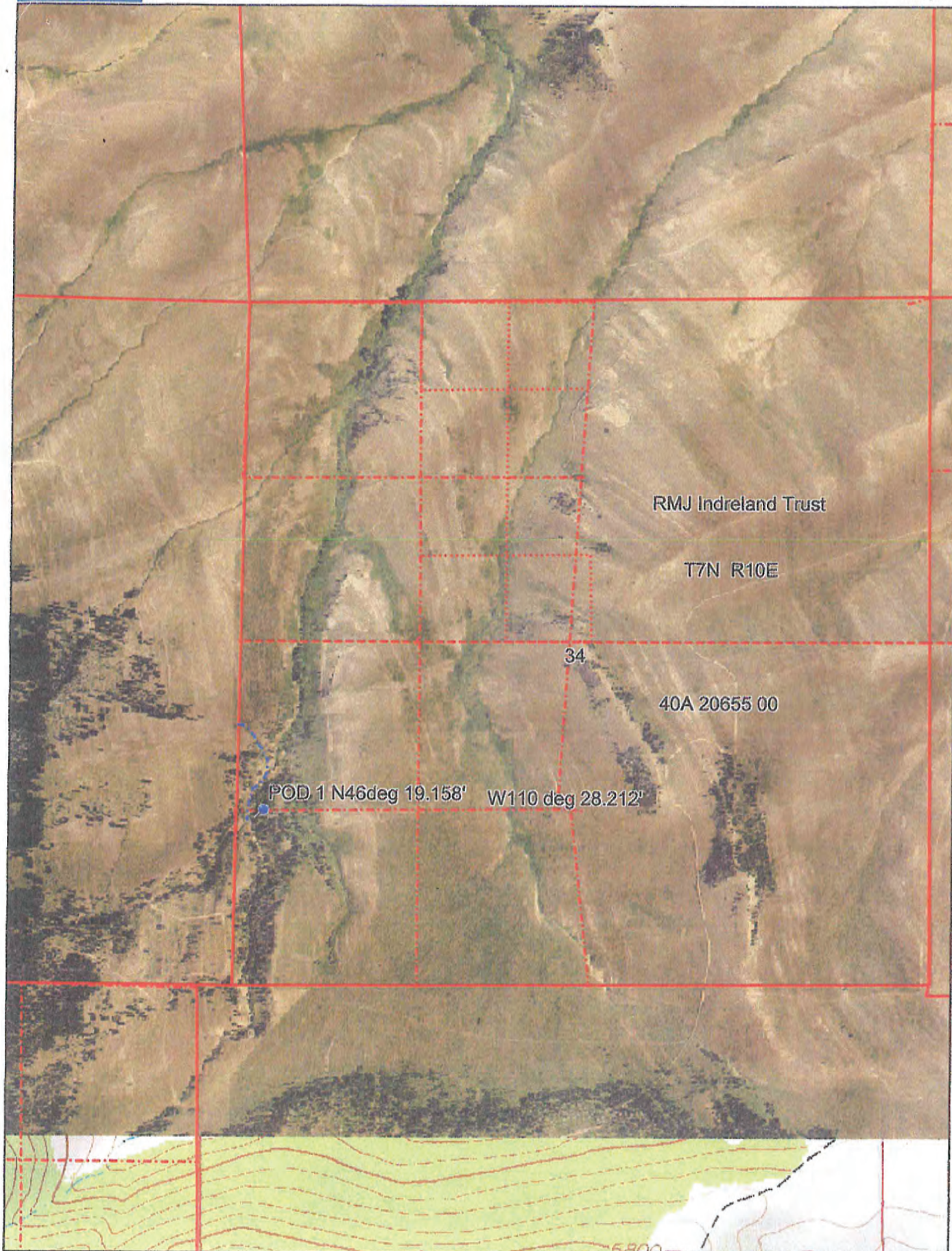
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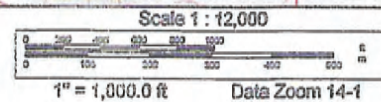
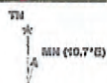


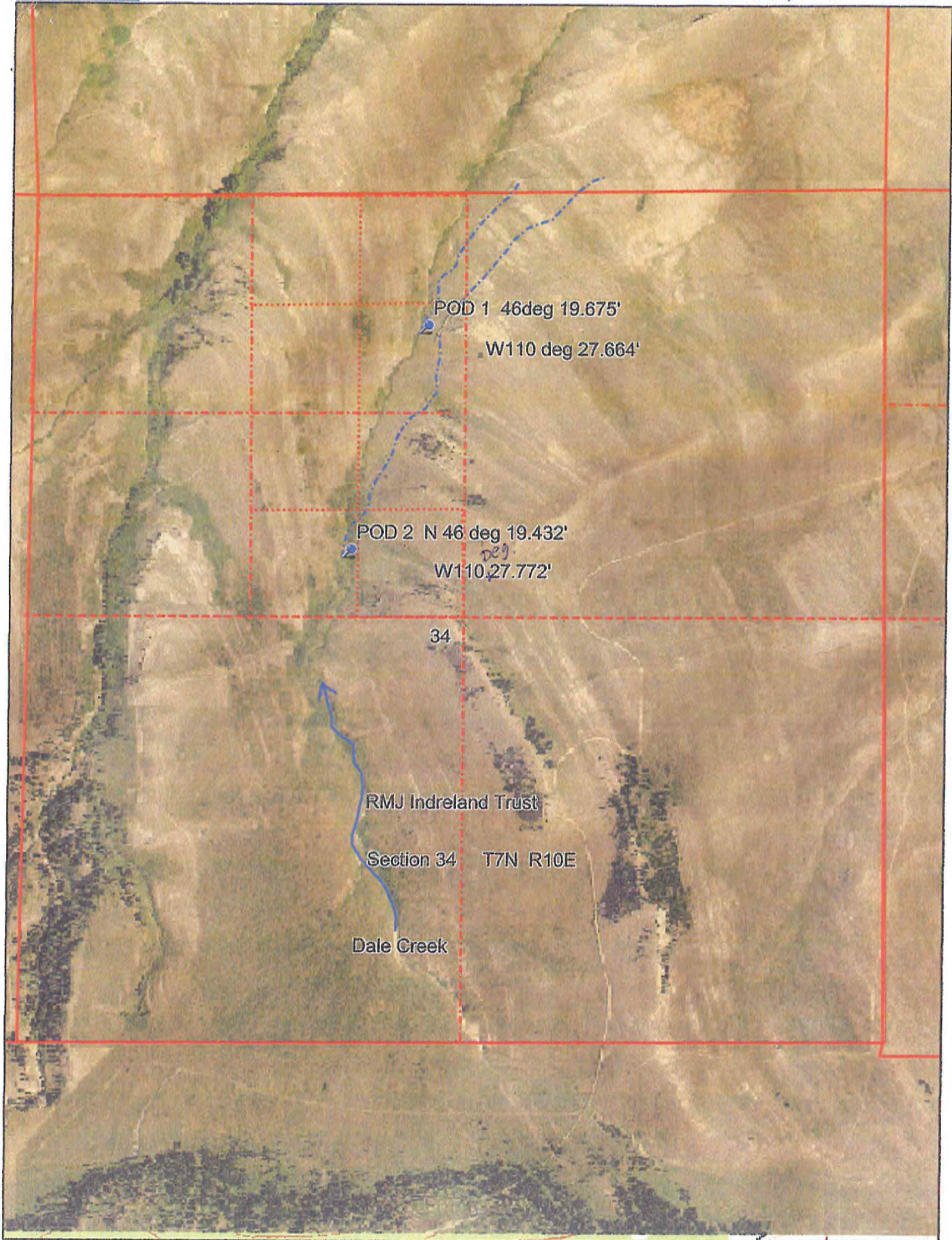


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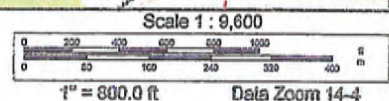
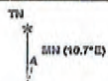




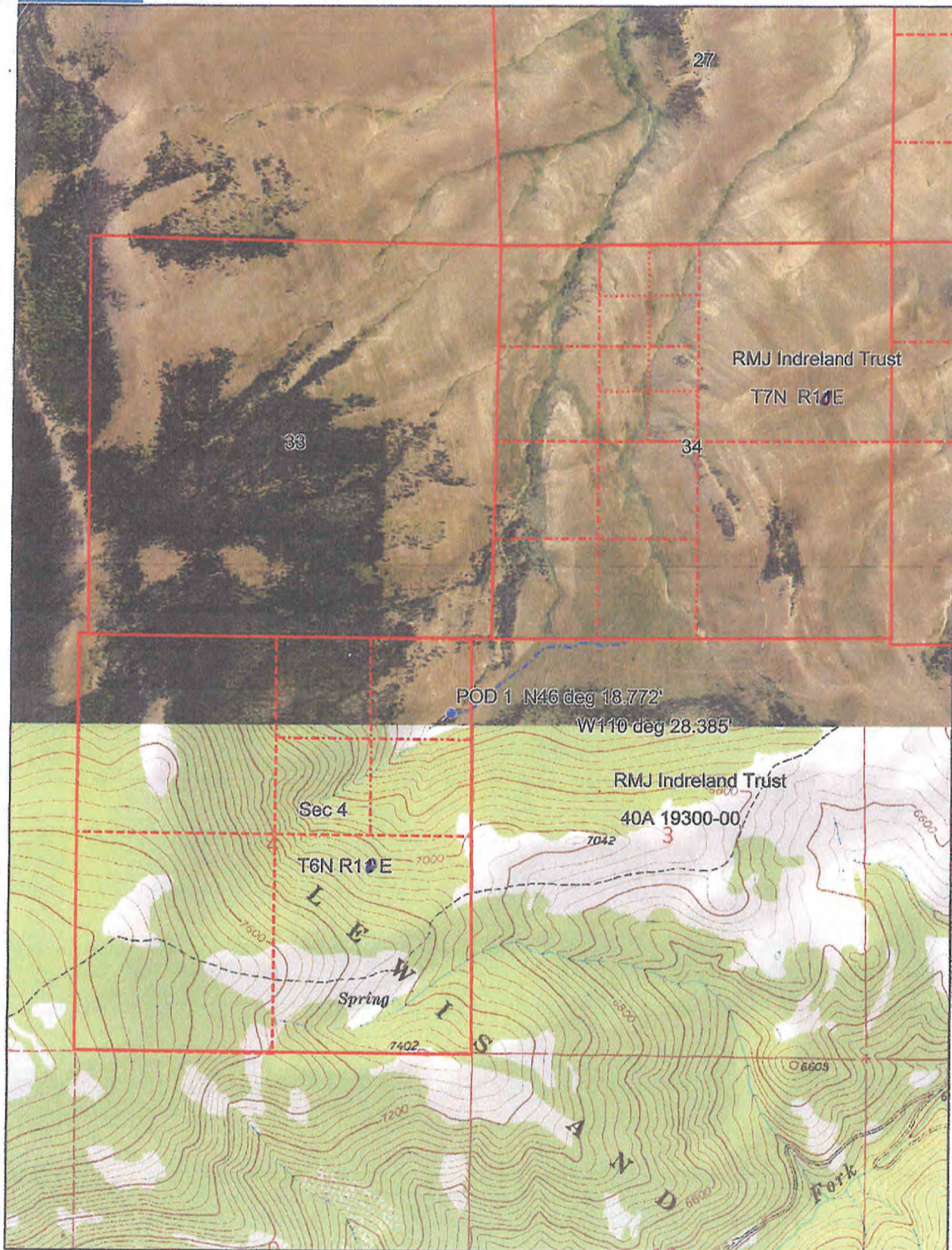
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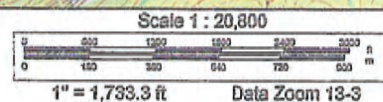
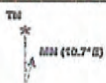
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40A 19300-00



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RMJ Trust

T7N R10E

RMJ Insdrelannd Trust

40A 210712-00

T7N R10E

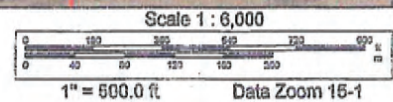
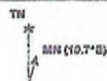
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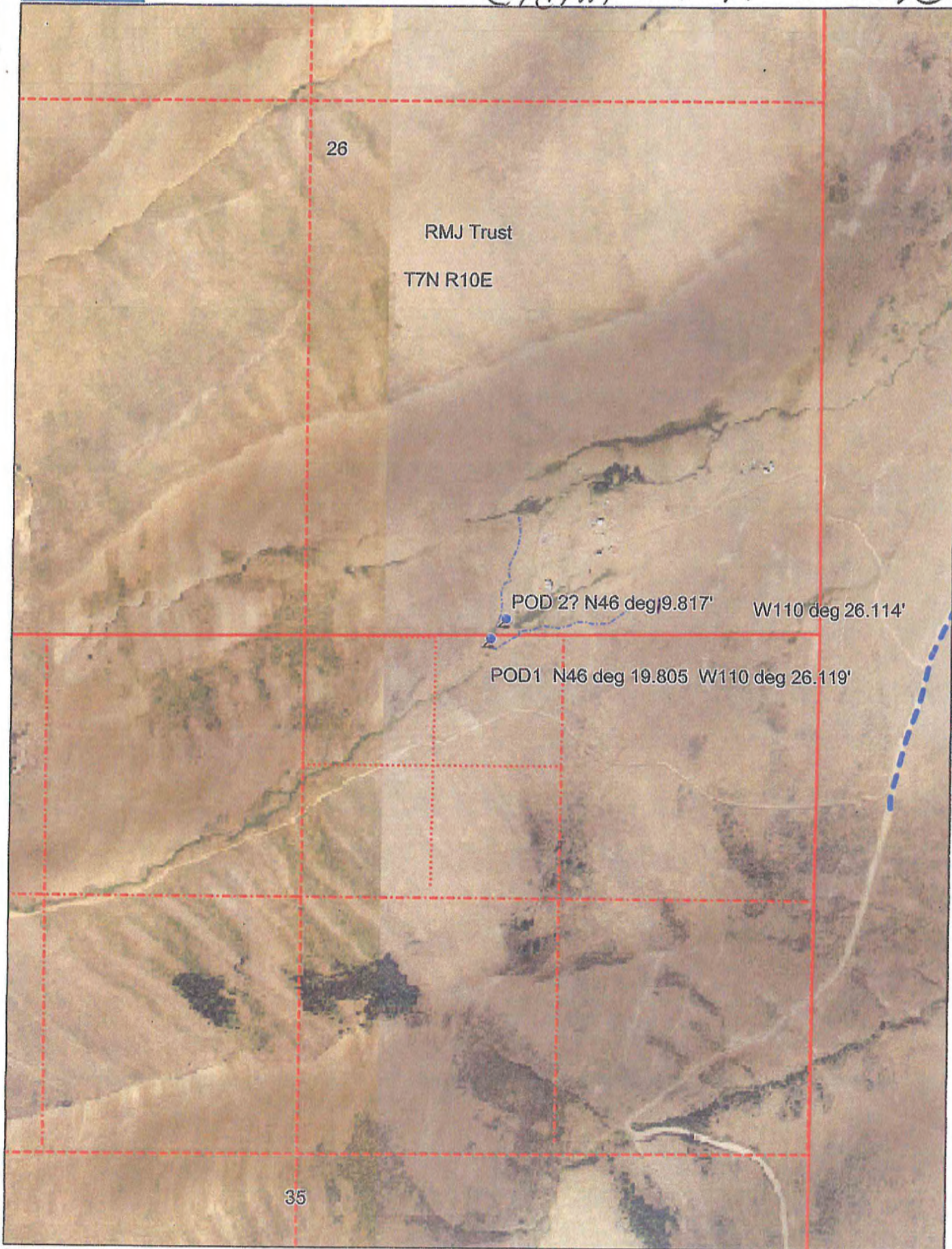
wpt002

POD 1 N46deg 19.908' W 110 deg 26.146'

POD 2 N6 deg 19.898' W 110 deg 26.1757'

N46°

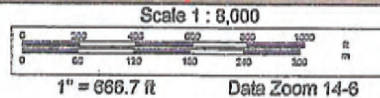
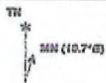




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INDRELAND, RMJ TRUST
STATEMENT OF CLAIM 40A-21456

STATE OF MONTANA)
COUNTY OF MEIGHER) ss.

RECEIVED - DNRC

OCT 25 2021

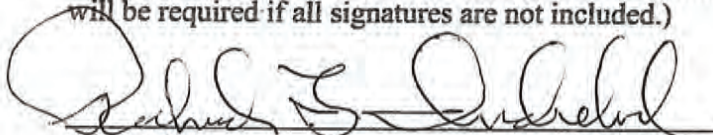
VERIFIED MOTION TO AMEND WATER RIGHT CLAIM

(Describe the proposed amendment, and the historical use of the water right as it relates to the proposed amendment. The following changes should be made to correct the abstract of this claim so it reflects this right as it existed prior to July 1, 1973. If the proposed amendment involves the place of use, acres irrigated, point of diversion, or source of the water right, attach a map showing the proposed amendment.)

CORRECT PLACE OF USE TO:
(PLEASE REFER TO ATTACHED MAP)

ID 1 N 1/2 Sec 34 T 7N R 10E
ID 1 SW 1/4 Sec 26 T 7N R 10E
ID 2 N 1/2, N 1/2 SW 1/4 Sec 34 T 7N R 10E
ID 2 S 1/2 Sec 26 T 7N R 10E

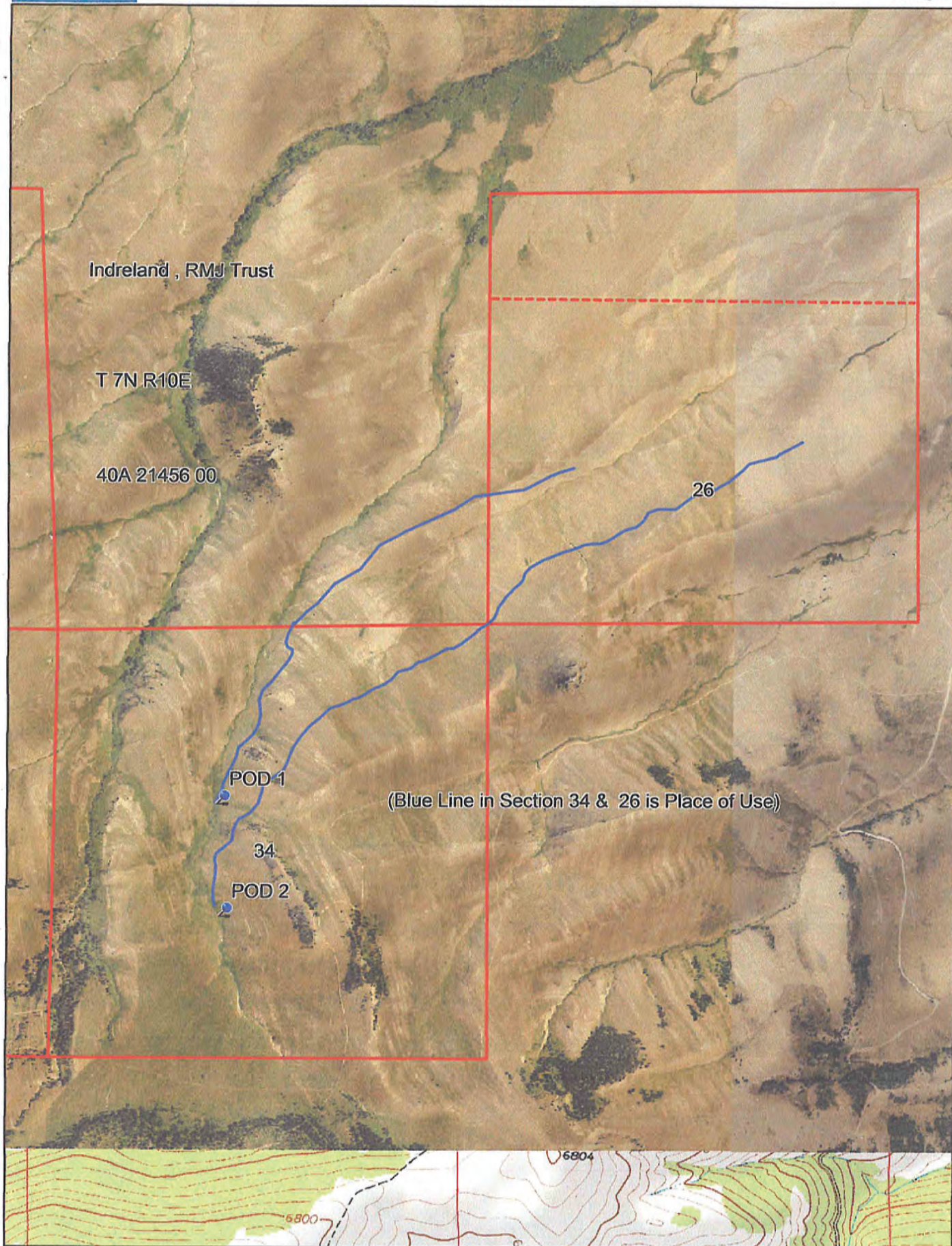
I/We declare under penalty of perjury and under the laws of the state of Montana that the foregoing is true and correct. (Please include signatures of all owners. Additional proceedings will be required if all signatures are not included.)


(Owner)

10/22/21
(Date)


(Owner)

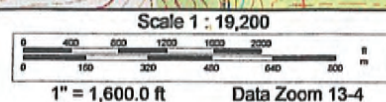
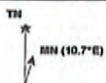
10-22-21
(Date)

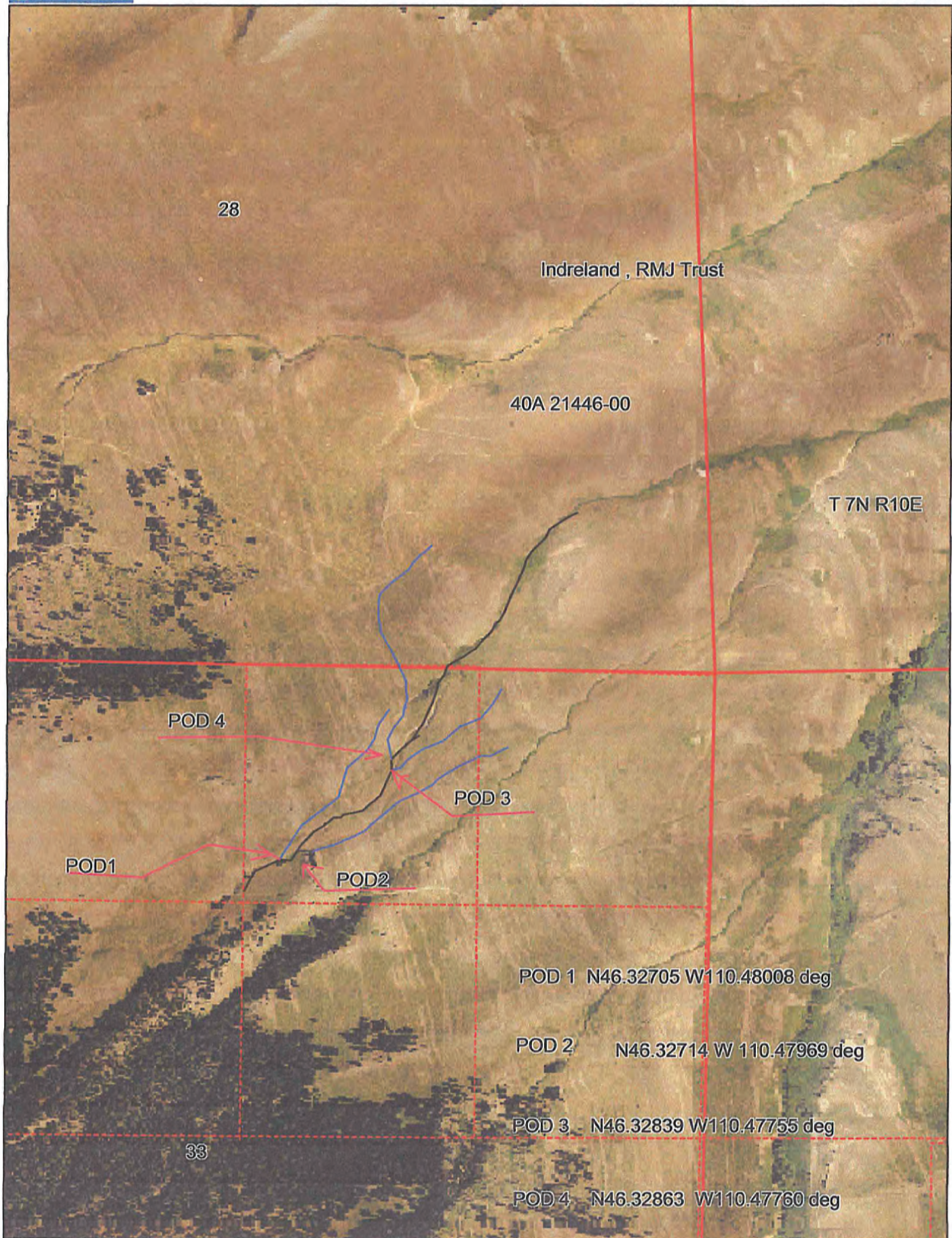


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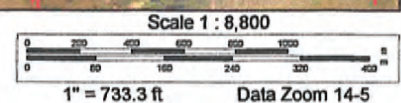
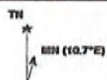


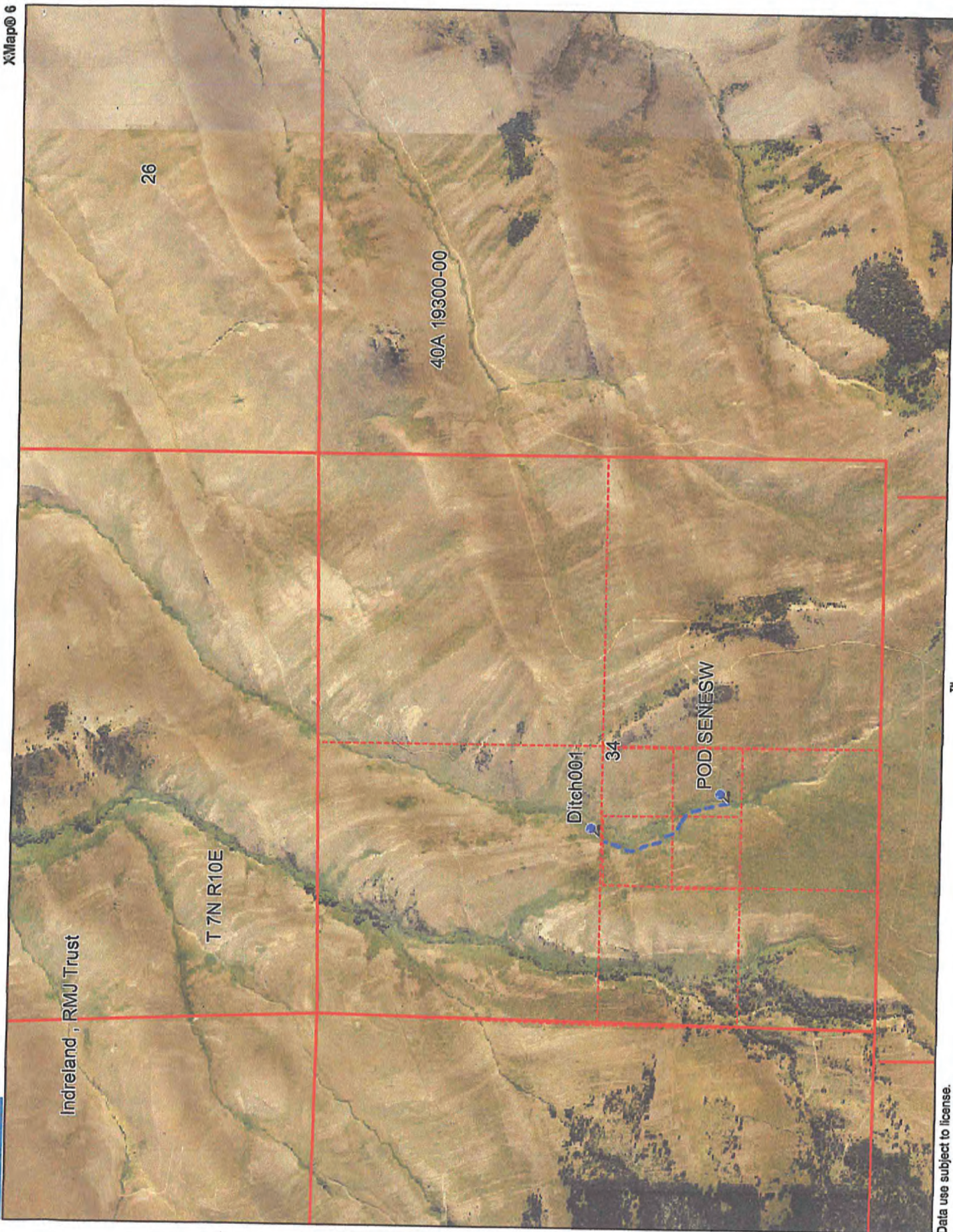


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DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION

Lewistown Water Resources Regional Office



GREG GIANFORTE, GOVERNOR

PHONE: (406) 538-7459

613 NE Main St. Suite E
Lewistown, MT 59457

ELECTRONICALLY FILED

MEMORANDUM

40A-0416-R-2021

November 12, 2021

DATE: November 12, 2021

CASE: 40A-416-R-2021 (Claims 40A 19300-00, 40A 21446-00, 40A 21456-00)

TO: Anika M. Stern
Water Master

Montana Water Court

FROM: Matt Schmidt
Water Resources Specialist

CLAIMANT(S): RMJ Indreland Trust

INTRODUCTION:

The October 8, 2021 Order from the Montana Water Court required the Claimants to visit with DNRC to discuss resolution of the issue remarks on the above-listed claims. It also requested the DNRC to provide a memorandum of recommendations on the results. Claimant Dick Indreland visited the Lewistown DNRC office on October 12, 2021 where a discussion took place and a path to resolving the remarks was initiated.

MATERIALS REVIEWED:

Abstracts, scanned claim files, aerial photos, claimant-consultant-submitted materials, water resources survey materials, and topographic maps. Claimant submitted materials.

Claim No. 40A 19300-00; 1904; Irrigation; Dale Creek

Issue Remarks:

P49:

THE CLAIMED POINT OF DIVERSION IS IN QUESTION. THE LOCATION OF THE HEADGATE CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

Discussion:

Statement of claim 40A 19300-00 was filed for adjudication purposes on May 20, 1981, claiming irrigation rights to 64 acres sourced out of Dale Creek with a point of diversion in the SENESW of T7N, R10E, S34. On November 30, 2016, during reexamination, DNRC added the P49 issue remark after being unable to positively identify the point of diversion on a modern aerial photo. No ditch diversions in the claimed POD area are visible on this resource (See DNRC Map 2).

On August 31, 2021, claimant Dick Indreland visited the Lewistown DNRC Water Resources Office to discuss the issue remarks on the claims involved in this case. Indreland submitted a clarification document written by consultant Otto Ohlson and dated August 28, 2021. With regard to claim 40A 19300-00, the August 28, 2021 clarification document states the following:

"40A 19300-00: This claim [h]as an issue remark regarding the location of the POD and also has an incorrect POD. The correct POD is: POD 1 SENENE Section 4 T6N R10E (N46deg 18.772' W 110 deg 8.385"

On October 25th, 2021, the Claimant submitted a map (aerial photo) that depicts the POD in the same location as was claimed, but no further explanation. There is no explanation as to why this map was submitted or how it relates to the clarification submitted on August 31, 2021.

Assuming that the Claimant wishes to amend its POD to the SENENE Section 4, T6N, R10E, the DNRC is in agreement. A diversion is visible in this location on two resources available to DNRC; a modern aerial photo and the 1949 Water Resources Survey (See DNRC Maps 1, 2, and 3). This diversion appears capable of serving the claimed POU.

Recommendation:

If the Court receives and implements an amendment from the Claimants amending the point of diversion of claim 40A 19300-00 from the SENESW of T7N, R10E, S34 to the SENENE Section 4 T6N R10E, then DNRC recommends removal of the P49 issue remark on the claim.

Claim No. 40A 21446-00; 1902; Irrigation; Spring, Unnamed Tributary of Muddy Creek

Issue Remarks:

P49:

THE CLAIMED POINT OF DIVERSION IS IN QUESTION. THE LOCATION OF THE HEADGATE CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

Discussion:

Statement of claim 40A 21446-00 was filed for adjudication purposes on May 20, 1981, claiming irrigation rights to 18 acres sourced out of "No Name Springs (2)" with a point of diversion in the NENWNE of T7N, R10E, S33. DNRC's present-day interpretation of the claim materials is that the two spring sources are in close proximity to one another. During adjudication proceedings the source was clarified as "Spring, Tributary of Muddy Creek" and the source type was clarified as "Groundwater." The source type (groundwater) appears consistent with adjudication guidelines as aerial review shows at least one ditch emanating from a point where water likely rises to the surface as a spring and is diverted for use.

On February 1, 2016, during reexamination, DNRC added the P49 issue remark after being unable to positively identify at least one of the points of diversion on aerial photos. The spring origin is visible in the claimed POD area on modern aerial photos, and is clearly labelled on the 1949 Water Resources Survey Map (See DNRC Maps 4 and 5), but either one or both ditch diversions were not identified during reexamination on the aerial photo resources (See DNRC Map 4).

On August 31, 2021, claimant Dick Indreland visited the Lewistown DNRC Water Resources Office to discuss the issue remarks on the claims involved in this case. Indreland submitted a clarification document written by consultant Otto Ohlson and dated August 28, 2021. With regard to claim 40A 21446-00, the August 28, 2021 clarification document states the following:

"40A 21446-00: The POD as shown on the abstract is incorrect. There are actually two POD's located a short distance apart, each irrigating on their respective sides of the drainage.

The correct locations for the PODs are:

POD 1 SWSESE Section 28 T7N R10E (N46deg 19.854' W 110 deg 28.512"

POD 2 SWSESE Section 28 T7N R10E (N[4]6deg 19.855' W 110 deg 28.511'"

However, during an office visit on August 31, 2021 with the Claimant, Mr. Indreland, he disagreed with the diversion points as identified by Mr. Ohlson in Ohlson's August 28 letter. On October 25, 2021 Mr. Ohlson followed up with a map (See enclosed October 25th clarification) indicating that there are four diversions associated with 40A 21446, all located upstream of the two claimed diversions. No explanation (narrative) was supplied with the map, and therefore DNRC is unable to understand why the diversions have now been identified in a different location than claimed or previously noted.

The 1950 Meagher County Water Resources Survey (1950 WRS) does, in fact, support two diversions and ditch systems in close proximity to one another and to the claimed spring. The lower diversion is

just downgradient of the upper diversion, or spring origination point, and the 1950 WRS supports a ditch system on the south side of the source. The reason DNRC applied the P49 Issue Remark in 2016 is because the examiner could not observe a ditch system on the south side while observing aerial photos. However, during this post-decree process Mr. Indreland corroborated the diversions as noted in the 1950 WRS. It appears that it is plausible, perhaps likely, these are the two diversions claimed by Mr. Indreland. The diversions appear to be consistent with the legal land description claimed in the Statement of Claim.

Recommendation:

Based on discussions with claimant Dick Indreland and current analysis of modern and historical aerial photo resources and the 1949 Water Resources Survey materials, DNRC recommends removal of the P49 issue remark on claim 40A 21446-00. It appears the two diversions as originally claimed were accurate.

Claim No. 40A 21456-00; 1904; Stock; Dale Creek

Issue Remarks:

P88:

POINT OF DIVERSION WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

PLIS:

THE PLACE OF USE MAY BE INCOMPLETE. THE DITCH APPEARS TO ALSO PASS THROUGH THE E2W2 AND W2NWNE SEC 34 TWP 7N RGE 10E MEAGHER CO.

SNIS:

THIS CLAIM APPEARS TO INVOLVE TWO SOURCES OF WATER: DALE CREEK (POINT OF DIVERSION NO. 2) AND A SPRING OF DALE CREEK (POINT OF DIVERSION NO. 1).

Discussion:

Statement of claim 40A 21456-00 was filed for adjudication purposes on May 20, 1981, claiming stock rights to Dale Creek with points of diversion in the S2NW and SW of T7N, R10E, S26. On March 22, 2016, during reexamination, DNRC added the P88 and SNIS issue remarks. The P88 was added after standard reexamination review. According to the Central Water Rights database, there do not appear to be any objections associated with this claim, and the Issue Remark notes the POD, as modified, will remain and the issue will be removed if this issue remains unaddressed. The SNIS issue remark was added with the comment:

"Per face to face meeting w/ Richard Indreland @ LRO on 03/15/2016, upper diversion (POD #1) is a spring (spring box? Pooling water visible on modern photos). Lower diversion (POD #2) is surface

water from Dale Creek. Per Mr. Indreland, spring source is groundwater, or so it seems. He would like to GPS the spring + verify the ditch location”.

Following this meeting, an amendment form was received by the DNRC on March 22, 2016, with modifications to the points of diversion, complete with a map depicting the aforementioned “spring source”. The addition of the SNIS remark concerning the potential spring source was concurrent with these two events. There may indeed be a spring within the stream channel in the area of the upstream POD as depicted on the March 22, 2016 amendment map, but it appears that the source should remain as surface water out of Dale Creek as currently reflected on claim abstracts. A spring in the stream channel could simply be considered as part of a gaining reach of that stream. If the diversion is directly from a spring box, or the spring is outside the stream channel so as to be considered a distinct source (as was the case in the preceding discussion of claim 40A 21446-00), then DNRC may consider the source to be groundwater. Again, this appears not to be the case with claim 40A 21456-00.

On August 31, 2021, claimant Dick Indreland visited the Lewistown DNRC Water Resources Office to discuss the issue remarks on the claims involved in this case. Indreland submitted a clarification document written by consultant Otto Ohlson and dated August 28, 2021. This document addresses the two other claims involved in this case, and other claims, but does not address claim 40A 21456-00.

A second clarification document (Verified Motion to Amend Water Right Claim) was received by DNRC on October 25th, 2021, along with a map (aerial photo) displaying the assumed trajectory of the two ditch systems. There is no mention of any spring associated with claim 40A 21456-00 in any of the claimant-submitted materials in the context of the October 8th Order. This later document depicts a potentially amended POU for claim 40A 21456-00 (See DNRC Map 6, blue lines are based on Claimant’s Oct. 25th clarification) however parts of the depicted POU do not seem to be topographically possible. DNRC studied the visible ditches on a modern aerial photo and USGS topographic maps to depict a more realistic POU (See DNRC Maps 6, 7, 8 and 9, green lines are based on modern aerial photo and topographic map analysis). The October 25, 2021 Verified Motion to Amend document signed by the claimants contains legal land descriptions for the various POUs that appear to be accurate but not precise.

Recommendation:

DNRC recommends removal of the P88 and SNIS remarks on claim 40A 21456-00.

If the Court modifies the POU of claim 40A 21456-00 to the October 25, 2021 amended POU of:

N2	Sec. 34	7N 10E
SW	Sec. 26	7N 10E
N2N2SW	Sec. 34	7N 10E
S2	Sec. 26	7N 10E

Then DNRC Recommends removal of the PLIS remark on claim 40A 21456-00.

For better precision, DNRC recommends further refinement of the POU of claim 40A 21456-00 to:

E2W2	Sec. 34	7N 10E
NE	Sec. 34	7N 10E
S2	Sec. 26	7N 10E

If either recommendation to modify the POU is implemented, then DNRC further recommends adding the following geocodes and updating ownership accordingly:

47-1600-26-1-01-01-0000
47-1600-34-1-01-01-0000

Lastly, based on aerial photo observation, DNRC recommends the Points of Diversion be clarified to:

POD 1: SENENW Sec. 34 7N 10E
POD 2: SESENW Sec. 34 7N 10E

Date: November 12, 2021

Written by: M. Schmidt
Matt Schmidt, Water Resources Specialist
Lewistown Water Resources Regional Office

Date: November 12, 2021

Reviewed by: Scott Irvin
Scott Irvin, Regional Manager
Lewistown Water Resources Regional Office

Enclosures List:

1. DNRC Map 1; Case 40A 0416-R-2021; Claim 40A 19300-00; 1949 WRS Map
2. DNRC Map 2; Case 40A 0416-R-2021; Claim 40A 19300-00; Modern Aerial Photo
3. DNRC Map 3; Case 40A 0416-R-2021; Claim 40A 19300-00; Modern Aerial Photo Detail
4. DNRC Map 4; Case 40A 0416-R-2021; Claim 40A 21446-00; Modern Aerial Photo
5. DNRC Map 5; Case 40A 0416-R-2021; Claim 40A 21446-00; 1949 Water Resources Survey Map
6. DNRC Map 6; Case 40A 0416-R-2021; Claim 40A 21456-00; Oct. 25, 2021 Clarification Map
7. DNRC Map 7; Case 40A 0416-R-2021; Claim 40A 21456-00; Modern Aerial Photo
8. DNRC Map 8; Case 40A 0416-R-2021; Claim 40A 21456-00; USGS Topographic Map
9. DNRC Map 9; Case 40A 0416-R-2021; Claim 40A 21456-00; 1949 Water Resources Survey Map
10. Copy of August 28, 2021 Claimant Clarification
11. Copy of October 25, 2021 Claimant Clarification

Service List:

MONTANA WATER COURT
PO BOX 1389
BOZEMAN, MT 59771-1389

RMJ INDRELAND TRUST
CO-TRUSTEES RICHARD L/MARY J
INDRELAND 8 SPRING CREEK RD
MARTINSDALE, MT 59053

Otto W. Ohlson
P. O. Box 358
White Sulphur Springs, MT 59645

Aug. 28, 2021

Department of Natural Resources and Conservation
613 NE Main St. Suite E
Lewistown, MT 59457-2020

COPY

RE: Water Rights – RMJ Trust

On Aug. 27, I accompanied Dick Indreland to GPS 'Points of Diversions' for several water rights with issue remarks regarding POD's and locations of ditches. All POD's were confirmed utilizing a GPS and computer transferred to aerial photography utilizing a GIS program. The GIS program utilizes USGS quad maps as a base layer from which all section lines were obtained. The aerial photography utilized was USDA 2018.

A bit of a background on my qualifications – I am a retired Agricultural Engineer from USDA, NRCS and am familiar with maps, map reading, GPS's and GIS programs, as well as design and installation of agricultural practices. I have also consulted on water rights for over 40 years and am considered an expert witness by the Montana Water Court.

All GPS located features were able to be confirmed with features identified on the USDA aerial photography.

The POD's are shown with a pin mark and a short section of ditch is also shown.

40A 21446-00:

The POD as shown on the Abstract is incorrect. There are actually two POD's located a short distance apart, each irrigating on their respective sides of the drainage.

The correct locations for the PODs are:

POD 1 SWSESE Sec 28, T7N R10E (N46 deg 19.854' W 110 deg 28.512')

POD 2 SWSESE Sec 28, T7N R10E (N26 deg 19.855' W 110 deg 28.511')

40A 20655-00

The POD identified on the Abstract is incorrect.

The correct POD is:

POD 1 NWSWSW Sec. 34 T7N R 10E (N46 deg 19.158' W 110 deg 8.212')

40A 198411-00

This claim also has one incorrect POD and one POD that is correct as filed on abstract.

The correct POD's are:

POD 1 SENNENW Sec. 34 T7N R10E (N46deg. 19.675' W 110 deg 7.664')

POD 2 SWSENEW Sec 34 T7N R10E (N46 deg 19.432' W 110 deg 27.772')

40A 19300-00

This claim as an issue remark regarding the location of the POD and also has an incorrect POD.

The correct POD is:

POD 1 SENENE Section 4 T6N R10E (N46deg 18.772' W 110 deg 8.385')

1/1/21

40A 21446 00

28

T7N R8E

27

POD 1 46 deg 19.854' W 110 deg 28.512'

POD 2 N46deg 19.855' W 110 deg 28.511'

RMJ Indreland Trust

T7N R10E

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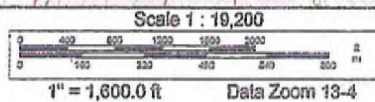
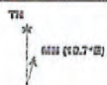
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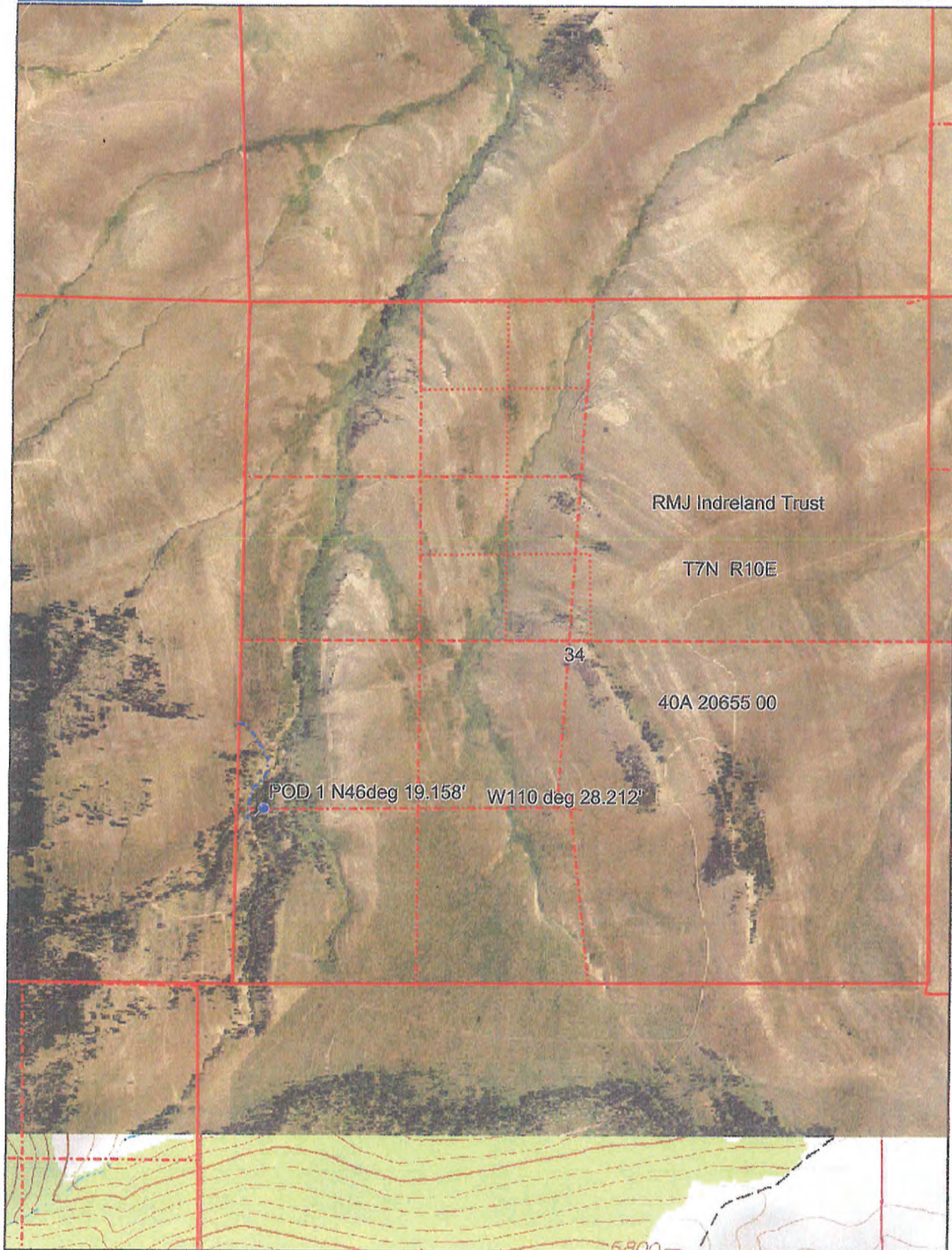
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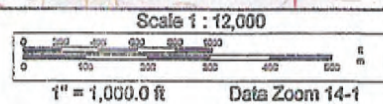
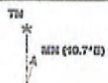




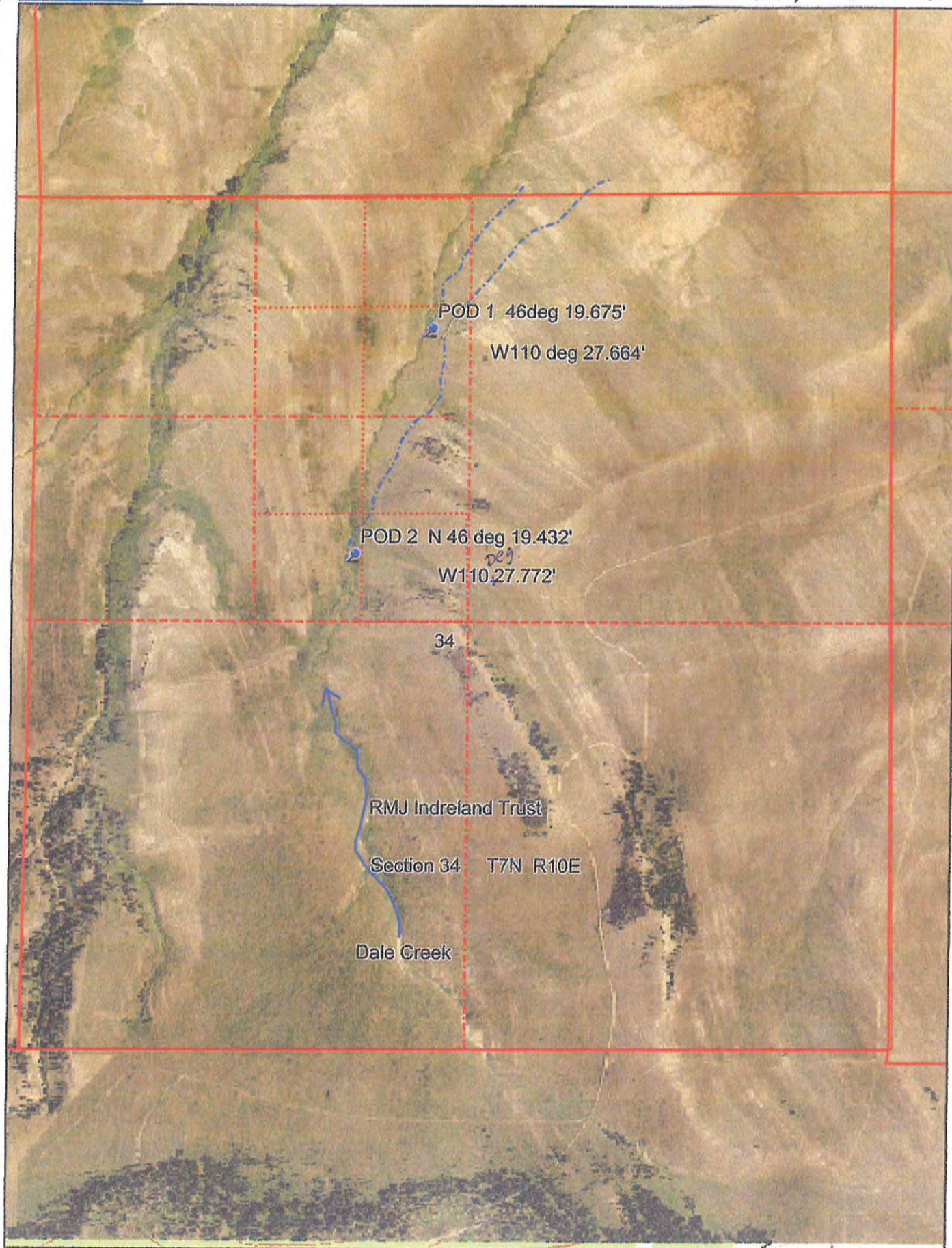
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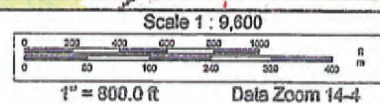
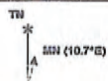
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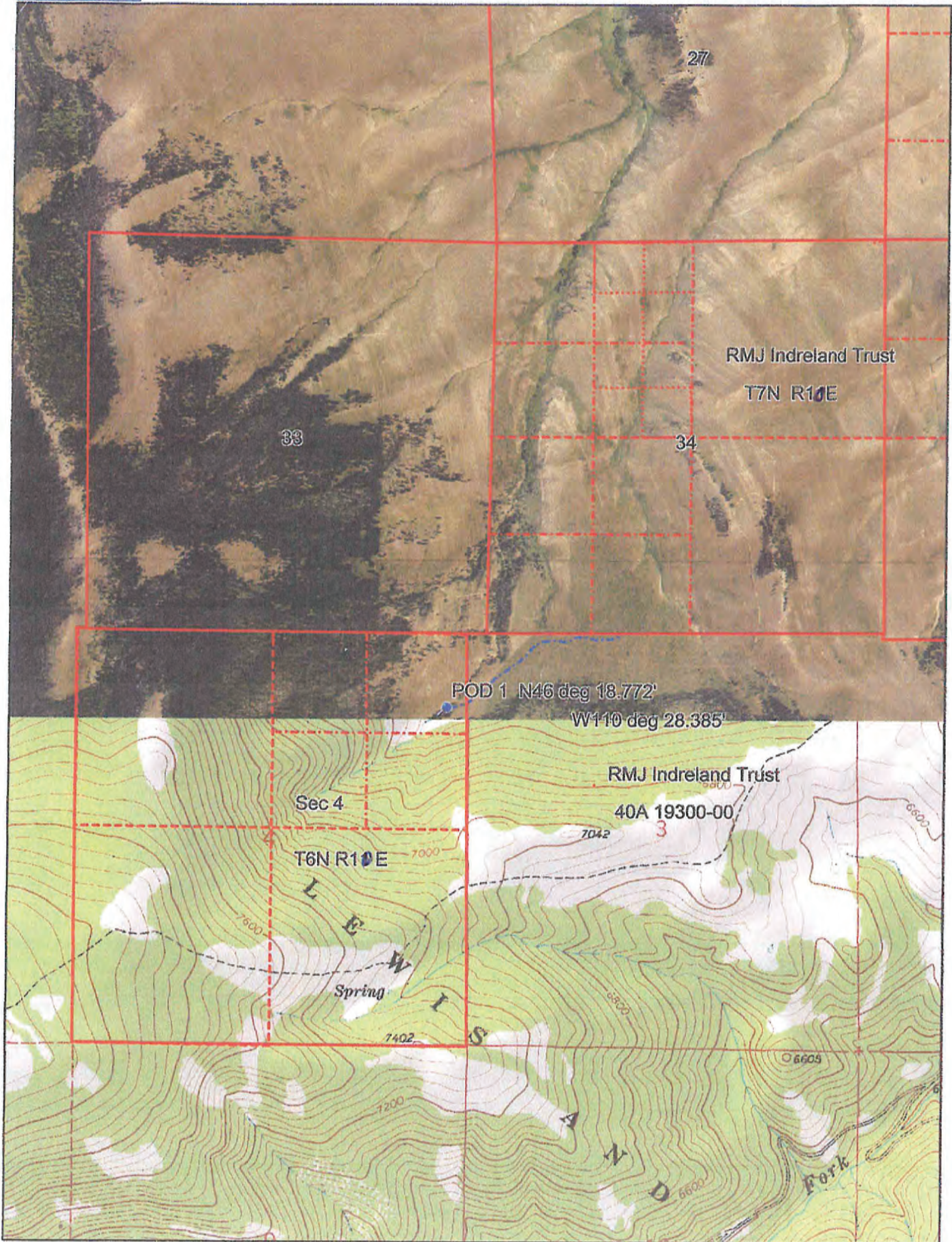
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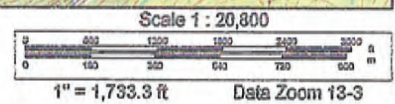
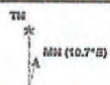
298
40A 19300-00



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Data Zoom 13-3

26

RMJ Trust

T7N R10E

RMJ Insdrelandd Trust

40A 210712-00

T7N R10E

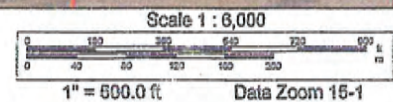
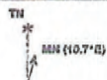
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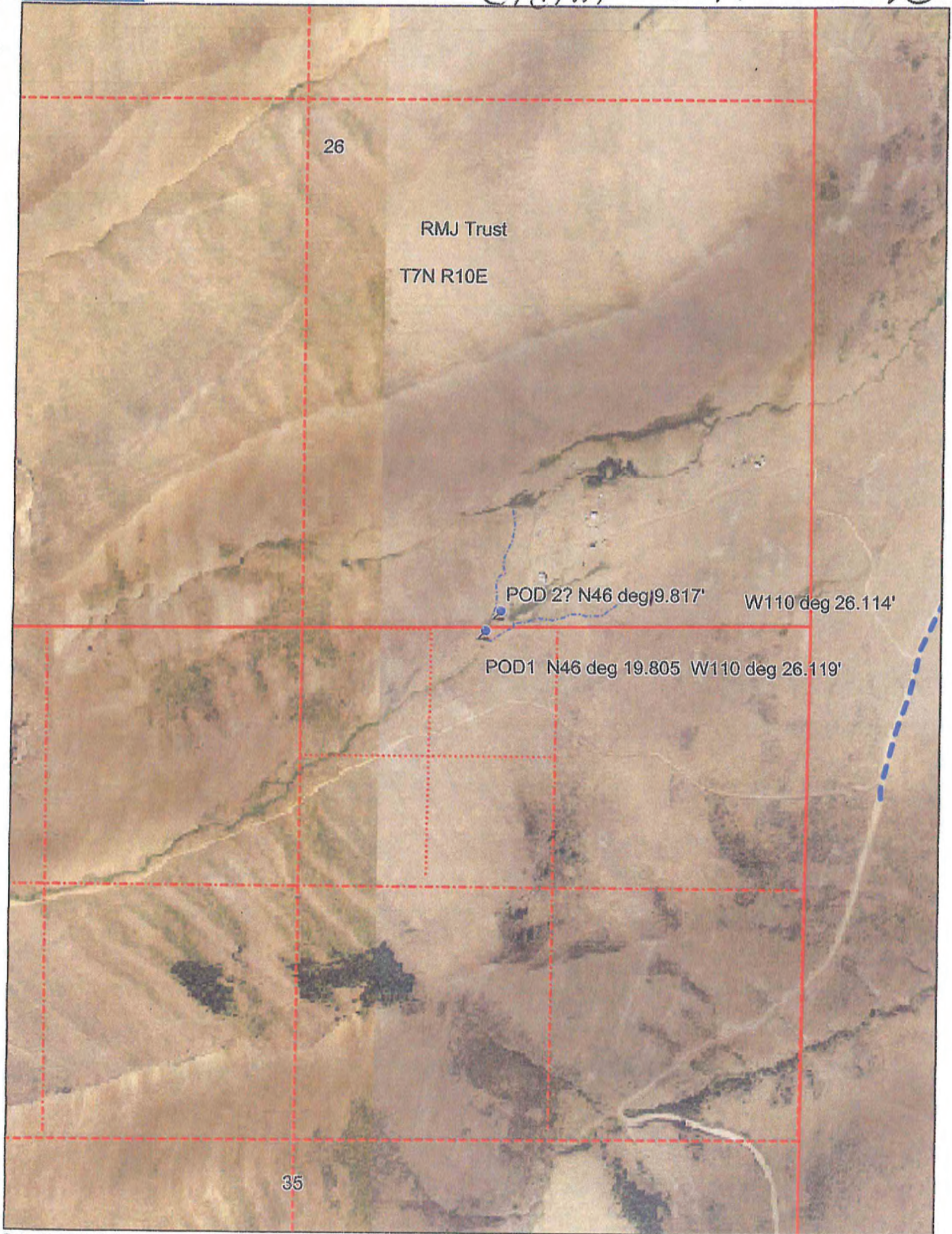
wpt002

POD 1 N46deg 19.908' W 110 deg 26.146'

POD 2 N6 deg 19.898' W 110 deg 26.1757'

N46°

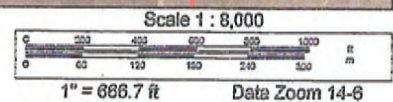
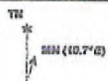




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INDRELAND, RMJ TRUST
STATEMENT OF CLAIM 40A-21456

STATE OF MONTANA

COUNTY OF

MEAGHER

)
) ss.
)

RECEIVED - DNRC

OCT 25 2021

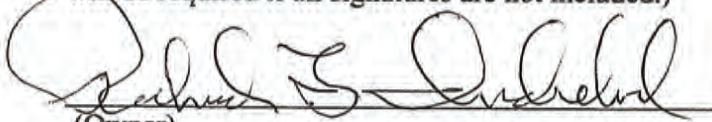
VERIFIED MOTION TO AMEND WATER RIGHT CLAIM

(Describe the proposed amendment, and the historical use of the water right as it relates to the proposed amendment. The following changes should be made to correct the abstract of this claim so it reflects this right as it existed prior to July 1, 1973. If the proposed amendment involves the place of use, acres irrigated, point of diversion, or source of the water right, attach a map showing the proposed amendment.)


CORRECT PLACE OF USE TO:
(PLEASE REFER TO ATTACHED MAP)

ID 1 N¹/₂ Sec 34 T 7N R10E
ID 1 SW¹/₄ Sec 26 T 7N R10E
ID 2 N¹/₂, N¹/₂ SW¹/₄ Sec 34 T 7N R10E
ID 2 S¹/₂ Sec 26 T 7N R10E

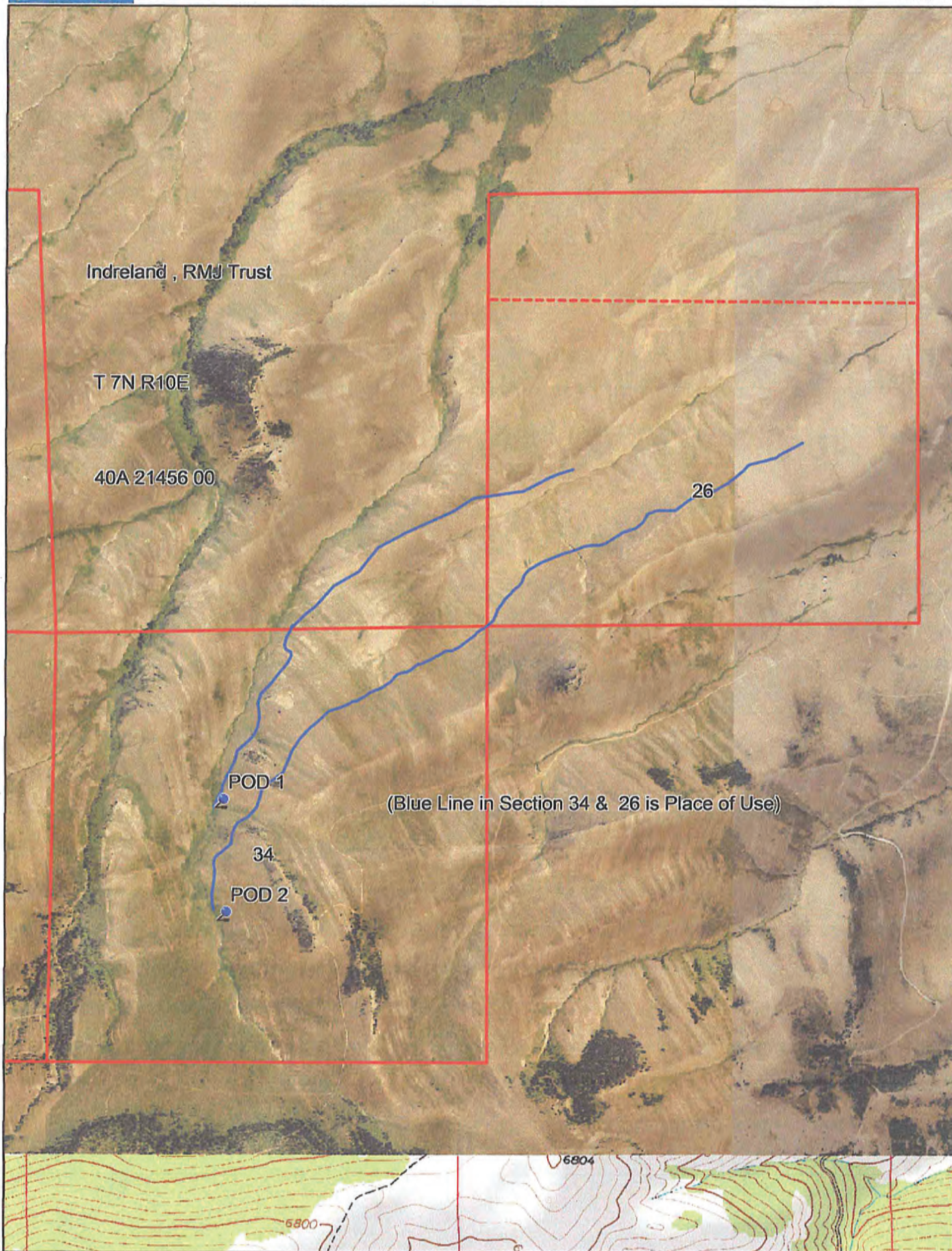
I/We declare under penalty of perjury and under the laws of the state of Montana that the foregoing is true and correct. (Please include signatures of all owners. Additional proceedings will be required if all signatures are not included.)


(Owner)

10/22/21
(Date)


(Owner)

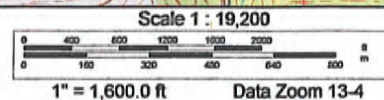
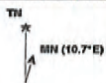
10-22-21
(Date)

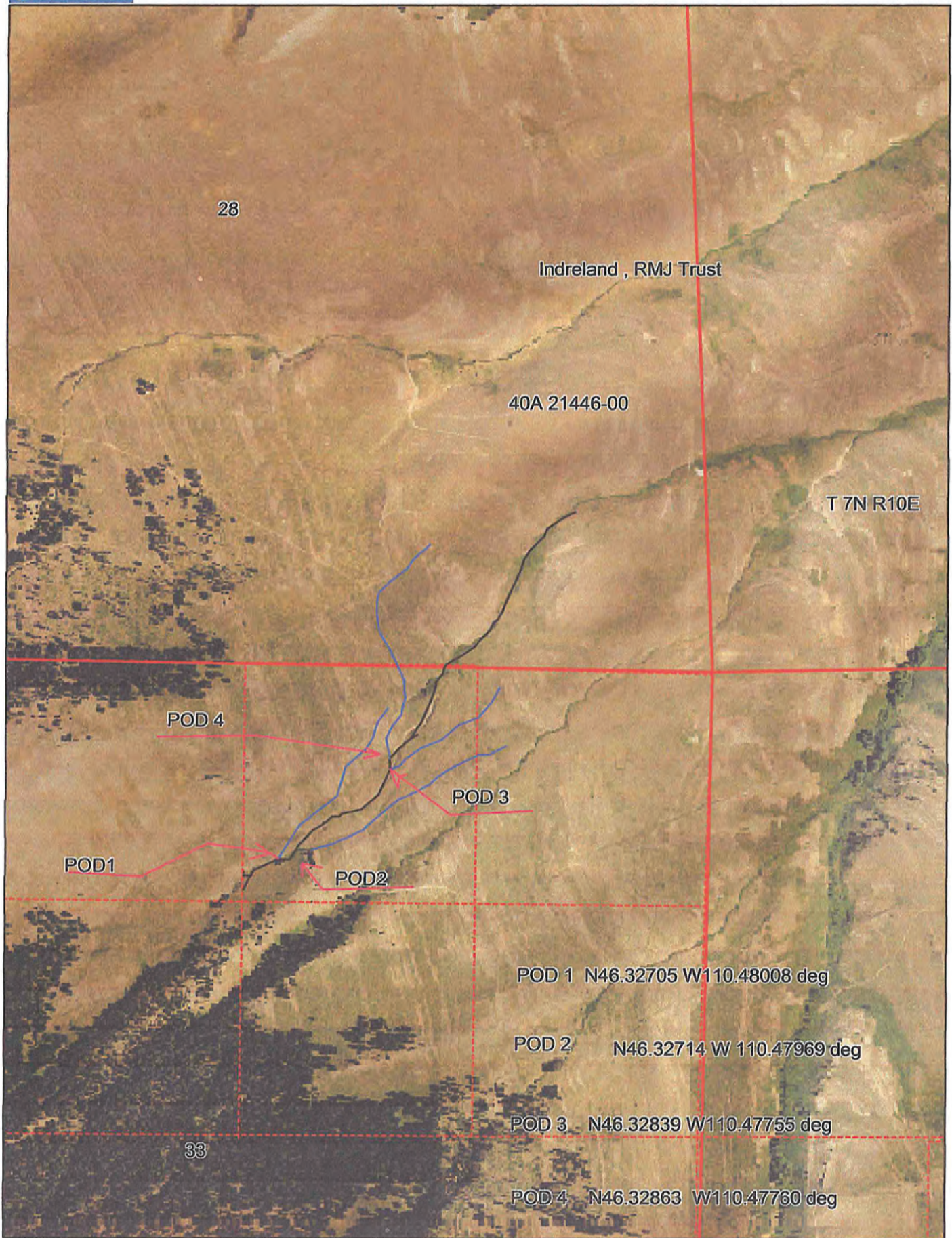


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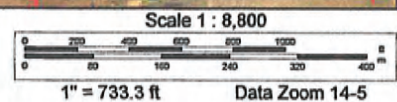
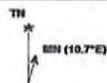


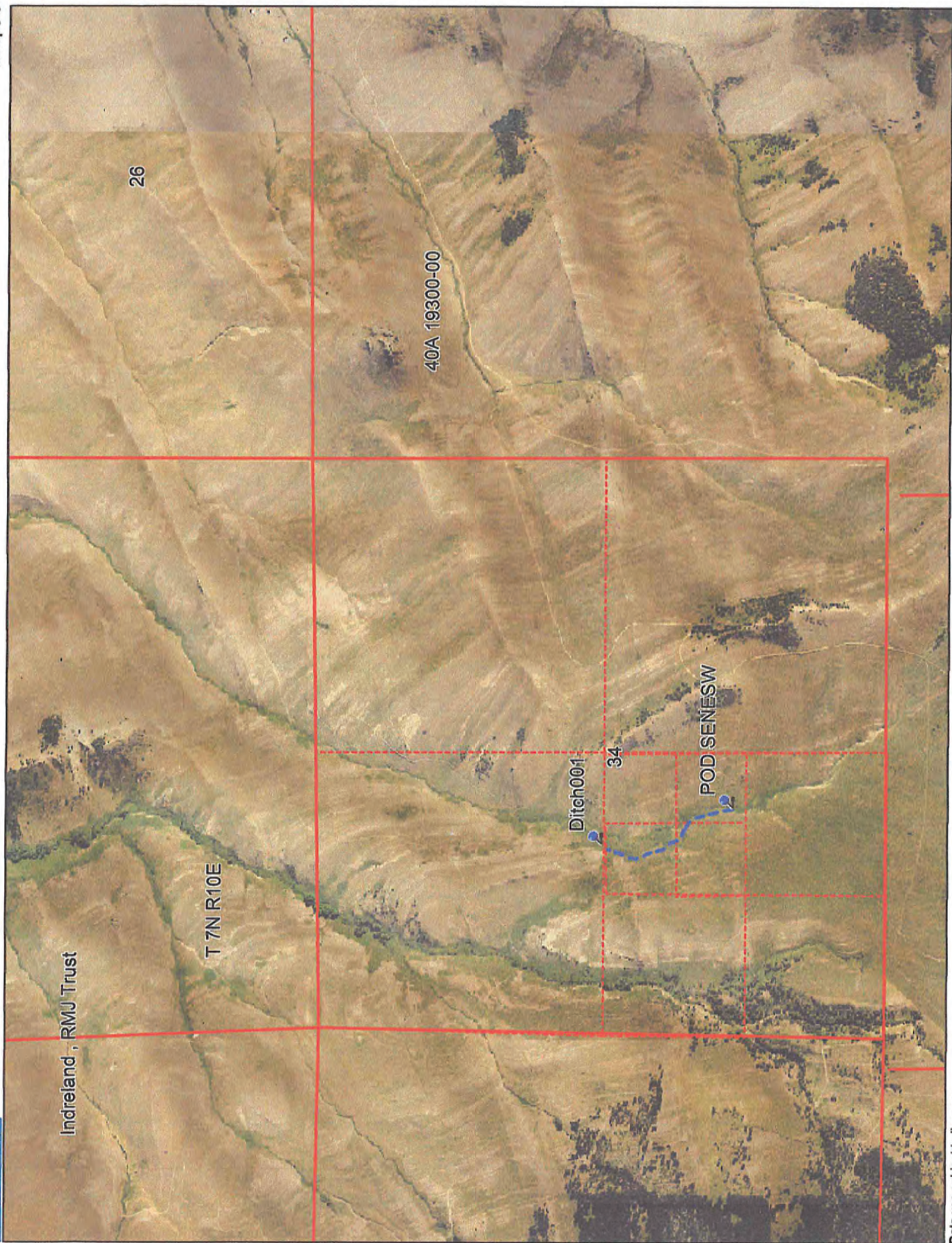


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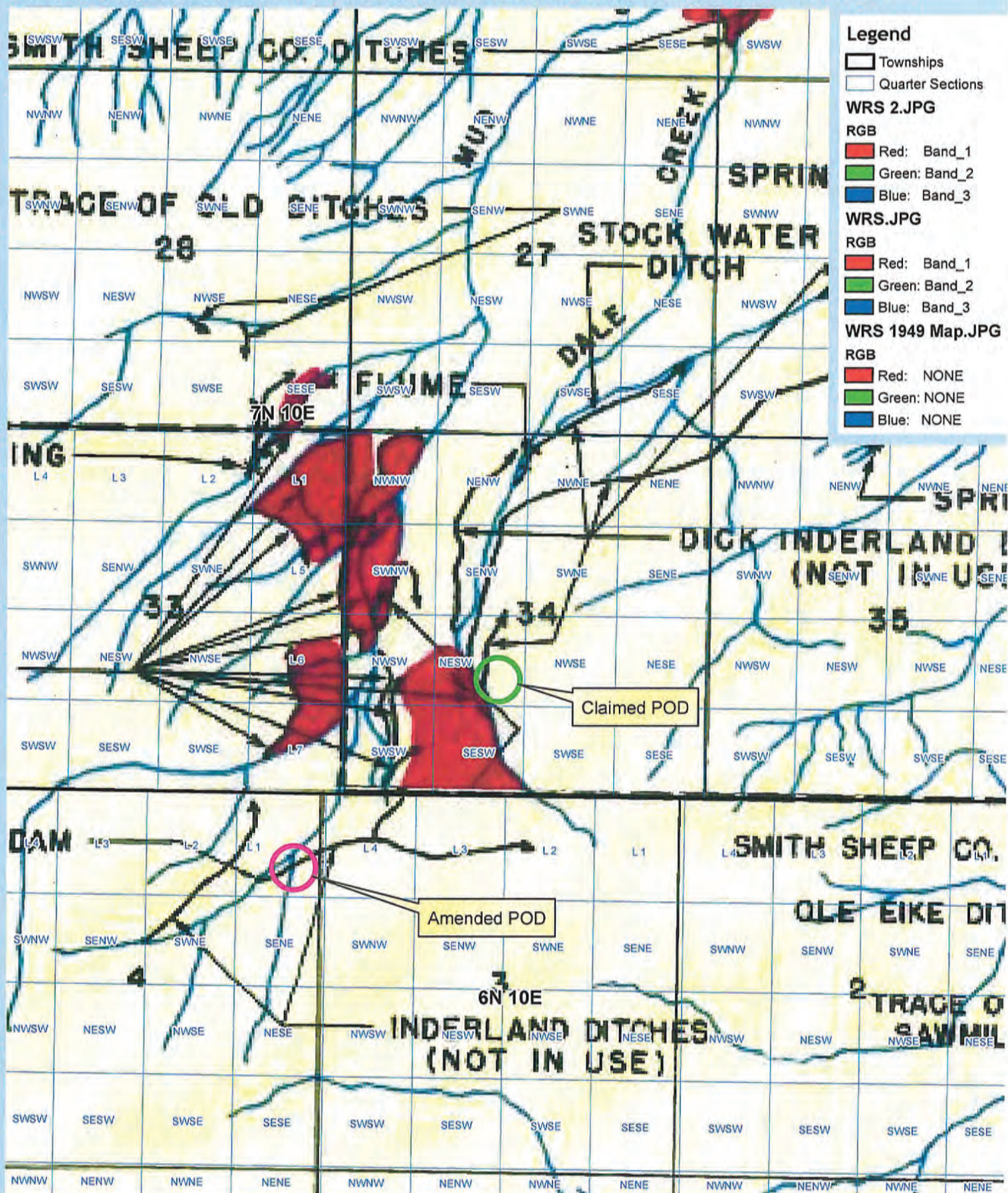
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1" = 1,200.0 ft

Data Zoom 13-7

DNRC Map 1; Case 40A 0416-R-2021; Claim 40A 19300-00; 1949 WRS Map



N 1:22,547

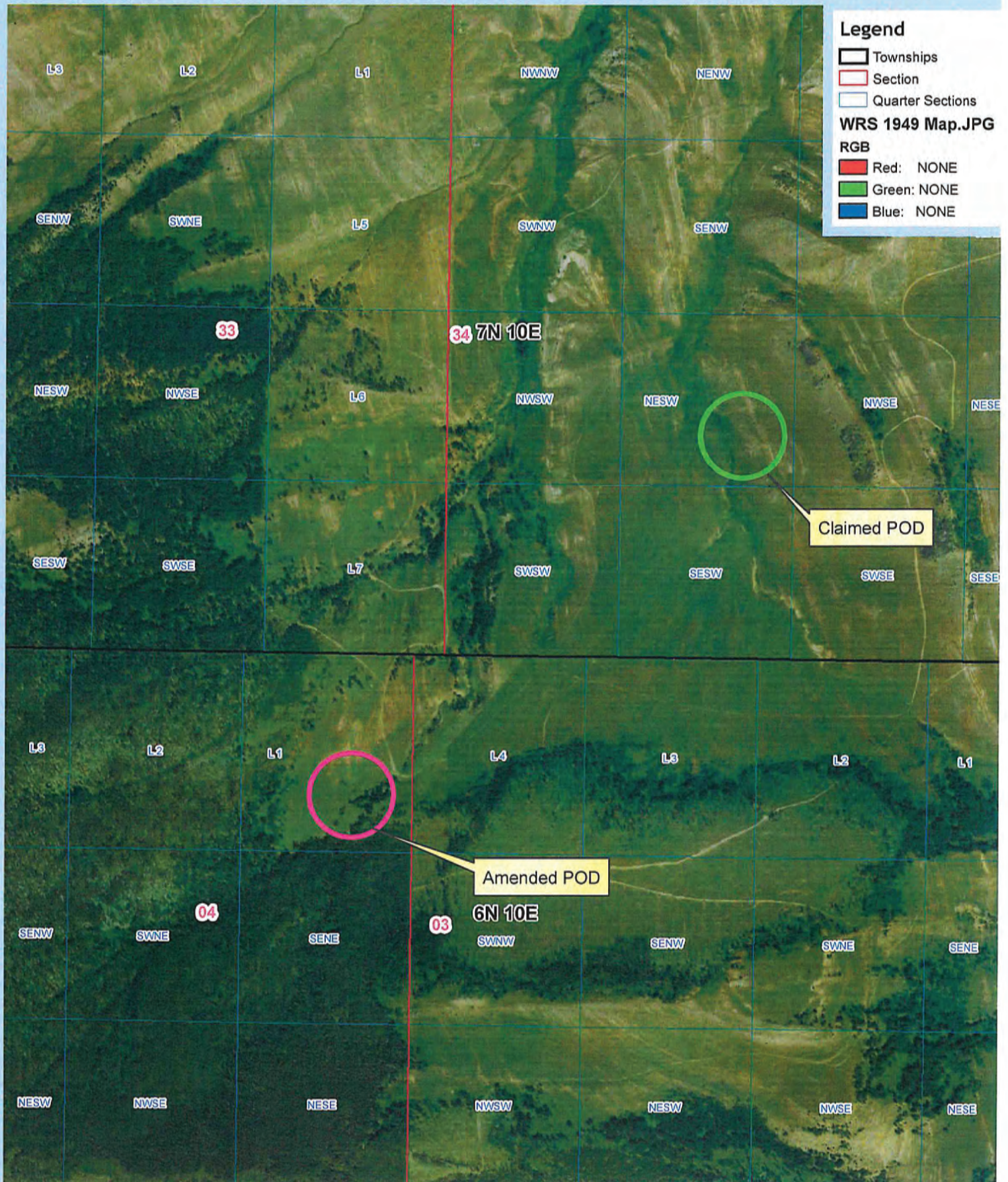
Map Created: 11/9/2021

0 0.125 0.25 0.5 Miles



Service Layer Credits: Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

DNRC Map 2; Case 40A 0416-R-2021; Claim 40A 19300-00; Modern Aerial Photo



DNRC Map 3; Case 40A 0416-R-2021; Claim 40A 19300-00; Modern Aerial Photo Detail



Legend

Townships

Quarter Sections

WRS 1949 Map.JPG

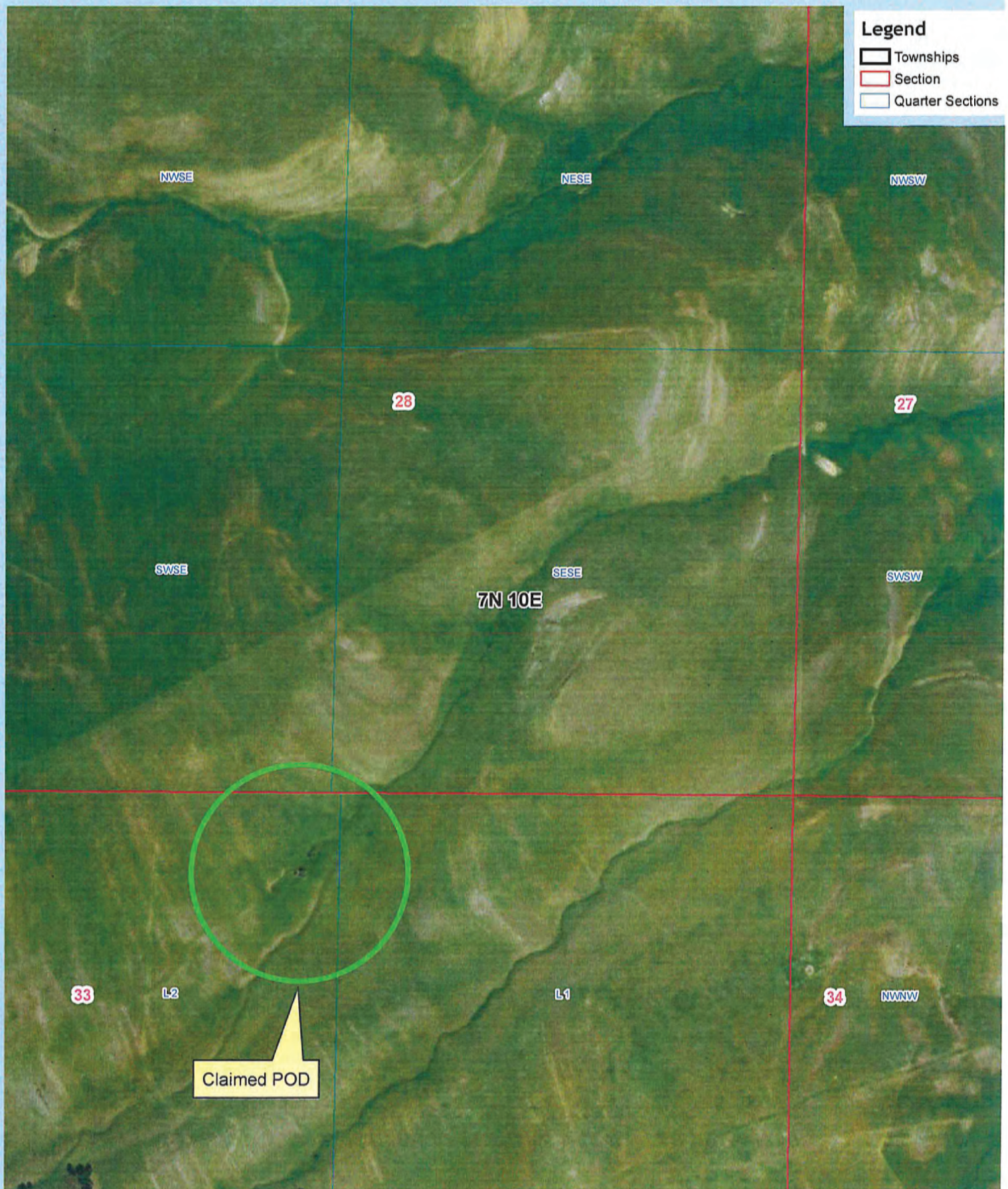
RGB

Red: NONE

Green: NONE

Blue: NONE

DNRC Map 4; Case 40A 0416-R-2021; Claim 40A 21446-00; Modern Aerial Photo



Legend

- Townships
- Section
- Quarter Sections

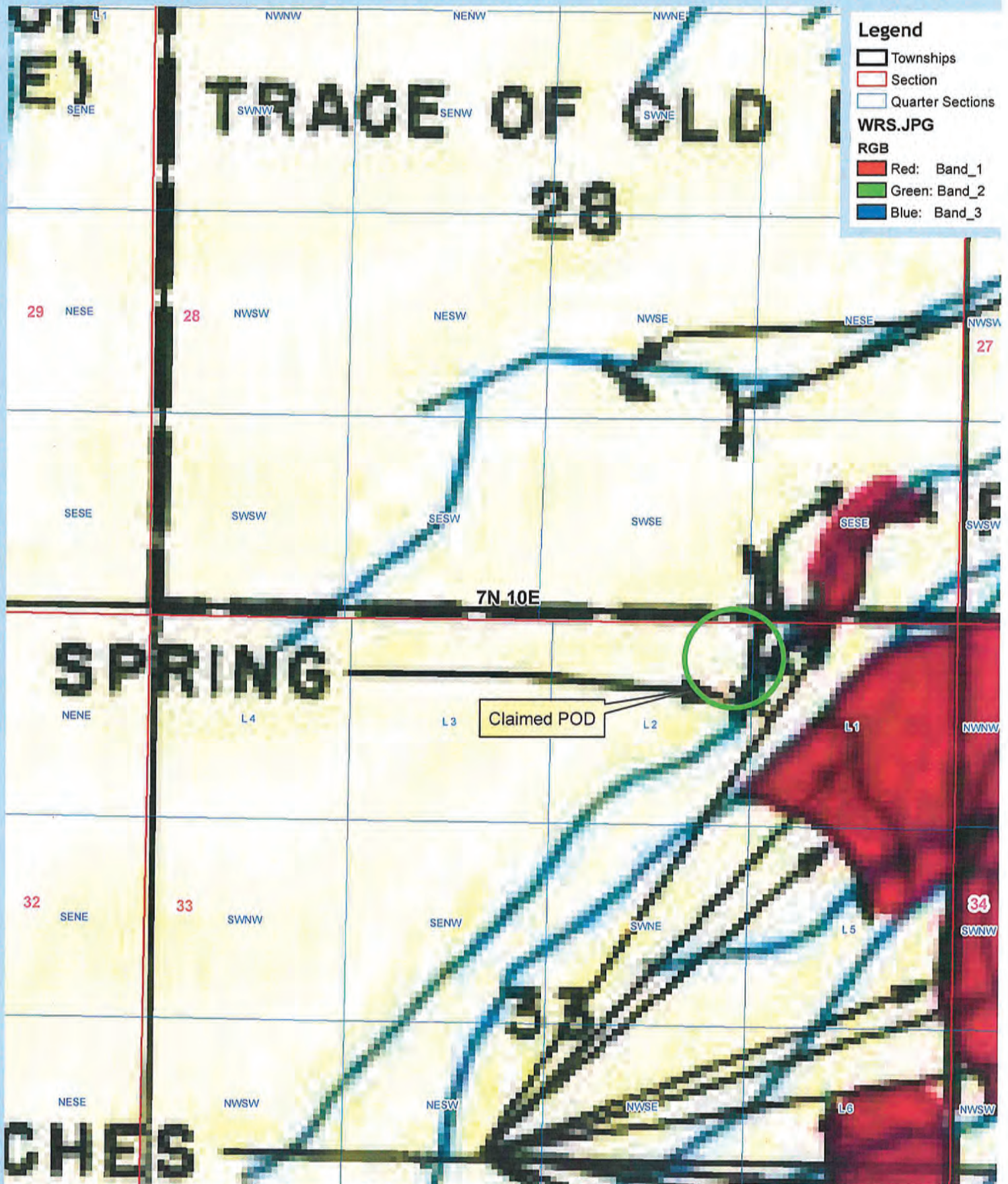
N 1:4,576 Map Created: 11/12/2021

0 0.025 0.05 0.1 Miles



Service Layer Credits: Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

DNRC Map 5; Case 40A 0416-R-2021; Claim 40A 21446-00; 1949 Water Resources Survey Map



DNRC Map 6; Case 40A 0416-R-2021; Claim 40A 21456-00; Oct. 25, 2021 Clarification Map

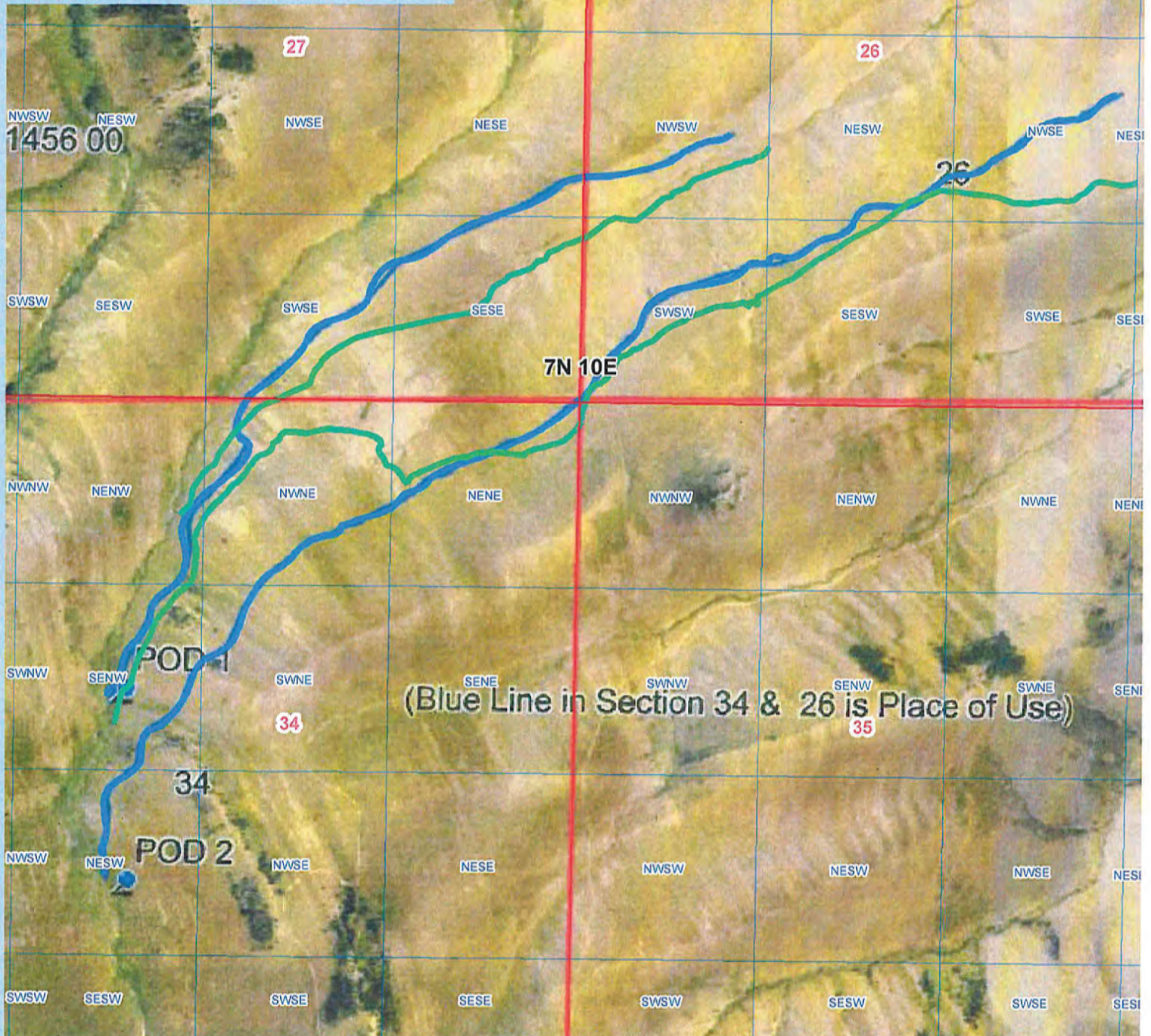
Legend

- Townships
- Section
- Quarter Sections
- DNRC_POU
- Oct_25_2021_POU

Oct. 25 2021 Clarification Map 40A 21456.JPG

RGB

- Red: Band_1
- Green: Band_2
- Blue: Band_3



N 1:12,500
0 0.05 0.1 0.2 Miles

Map Created: 11/12/2021

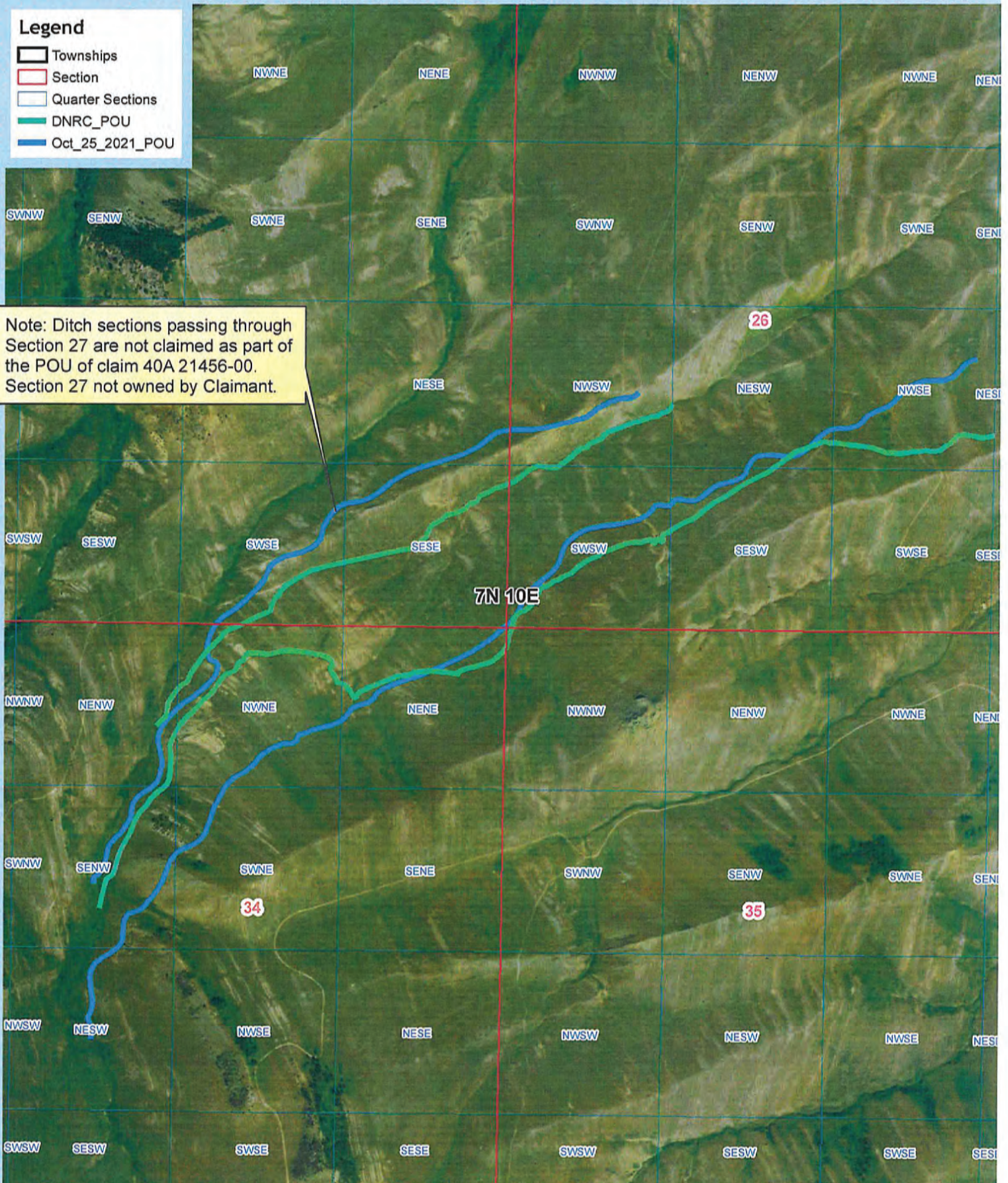


Service Layer Credits: Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

DNRC Map 7; Case 40A 0416-R-2021; Claim 40A 21456-00; Modern Aerial Photo

Legend

- Townships
- Section
- Quarter Sections
- DNRC_POU
- Oct_25_2021_POU



1:12,500

0 0.05 0.1 0.2 Miles

Map Created: 11/12/2021



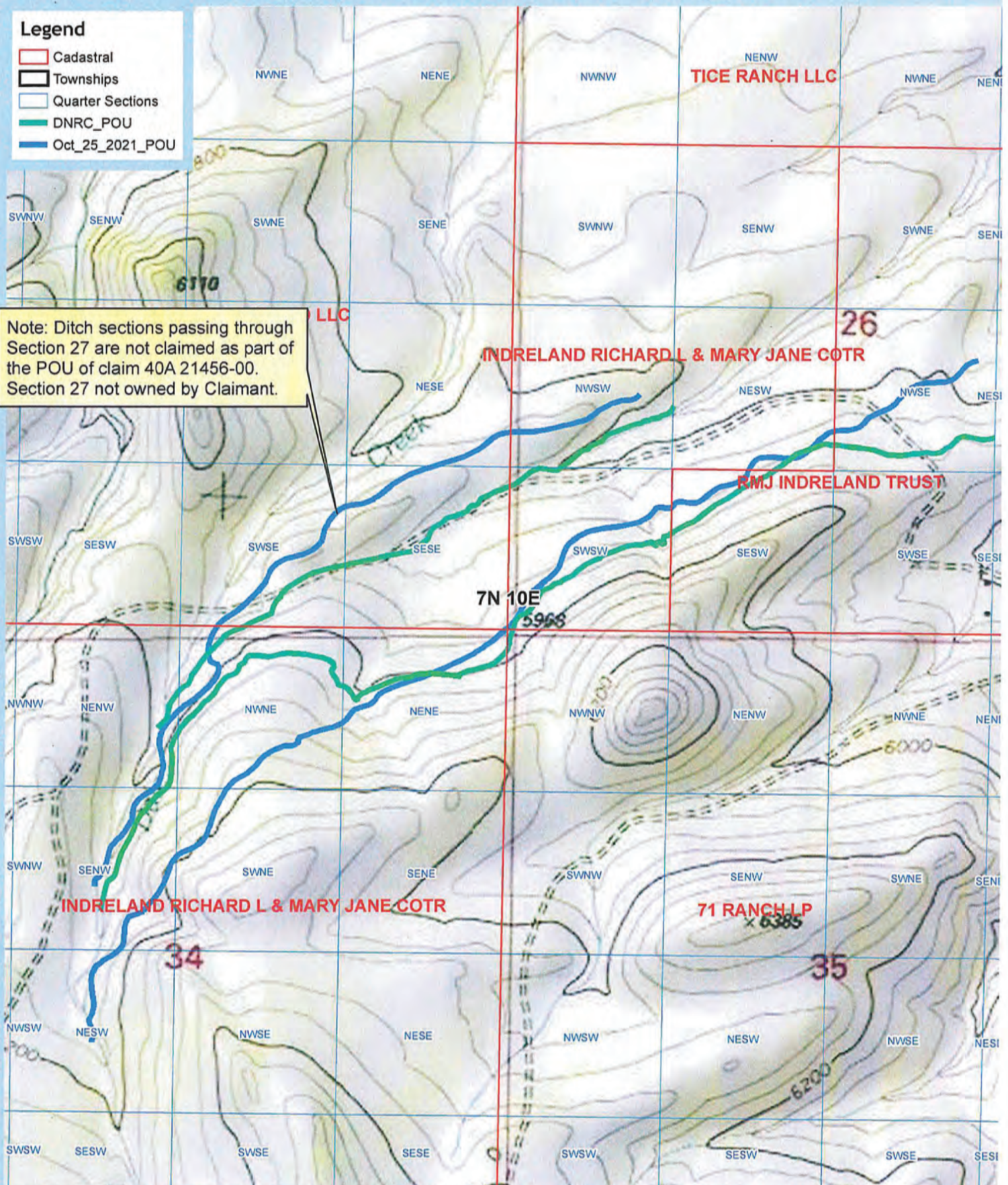
Service Layer Credits: Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

DNRC Map 8; Case 40A 0416-R-2021; Claim 40A 21456-00; USGS Topographic Map

Legend

- Cadastral
- Townships
- Quarter Sections
- DNRC_POU
- Oct_25_2021_POU

Note: Ditch sections passing through Section 27 are not claimed as part of the POU of claim 40A 21456-00. Section 27 not owned by Claimant.



N 1:12,500
0 0.05 0.1 0.2 Miles

Map Created: 11/12/2021



Service Layer Credits: Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community


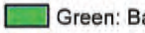

DNRC Map 9; Case 40A 0416-R-2021; Claim 40A 21456-00; 1949 Water Resources Survey Map

Legend

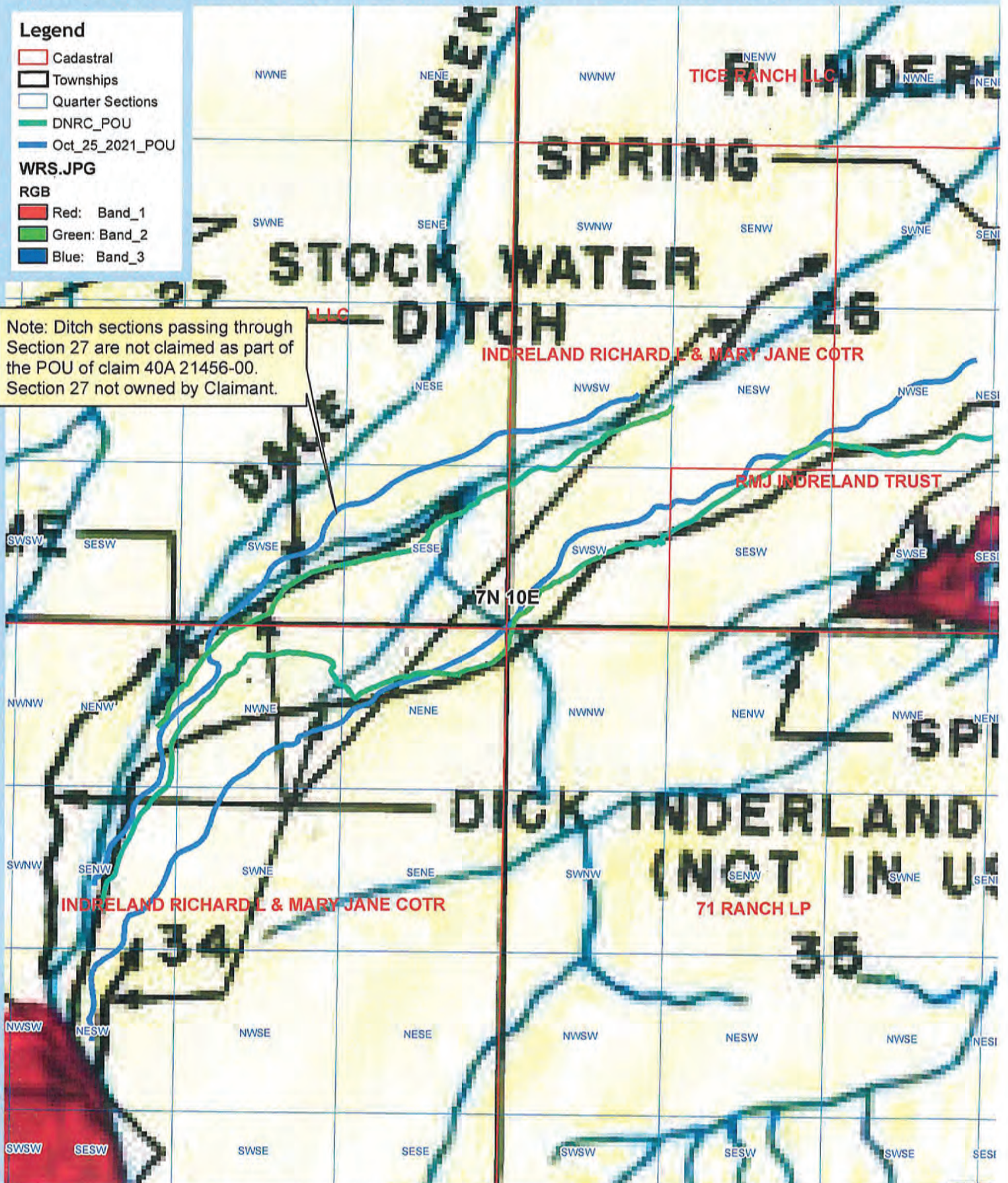
-  Cadastral
-  Townships
-  Quarter Sections
-  DNRC_POU
-  Oct_25_2021_POU

WRS.JPG

RGB

-  Red: Band_1
-  Green: Band_2
-  Blue: Band_3

Note: Ditch sections passing through Section 27 are not claimed as part of the POU of claim 40A 21456-00. Section 27 not owned by Claimant.



N 1:12,500
0 0.05 0.1 0.2 Miles

Map Created: 11/12/2021



Service Layer Credits: Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

WATER COURT
ABSTRACT OF WATER RIGHT CLAIM
MUSSELSHELL RIVER, ABOVE ROUNDUP
BASIN 40A

Water Right Number: 40A 19300-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: INDRELAND, RMJ TRUST
% TRUSTEES
8 SPRING CREEK RD
MARTINSDALE, MT 59053

Priority Date: JULY 8, 1904

Type of Historical Right: FILED

Purpose (use): IRRIGATION
Irrigation Type: FLOOD

***Flow Rate:** 425.00 GPM

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 5 - LOW

***Maximum Acres:** 25.00

Source Name DALE CREEK
Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NESESW	34	7N	10E	MEAGHER
Period of Diversion:	MAY 1 TO SEPTEMBER 30					
Diversion Means:	HEADGATE					
Period of Use:	MAY 1 TO SEPTEMBER 30					

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	10.00		NWSW	34	7N	10E	MEAGHER
2	15.00		NESW	34	7N	10E	MEAGHER
Total:	25.00						

WATER COURT
ABSTRACT OF WATER RIGHT CLAIM
MUSSELSHELL RIVER, ABOVE ROUNDUP
BASIN 40A

Water Right Number: 40A 21446-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: INDRELAND, RMJ TRUST
% TRUSTEES
8 SPRING CREEK RD
MARTINSDALE, MT 59053

Priority Date: SEPTEMBER 20, 1902

Type of Historical Right: FILED

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 305.20 GPM

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 5 - LOW

Maximum Acres: 18.00

Source Name SPRING, UNNAMED TRIBUTARY OF MUDDY CREEK

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NENWNE	33	7N	10E	MEAGHER

Period of Diversion: MAY 1 TO SEPTEMBER 30

Diversion Means: HEADGATE

Period of Use: MAY 1 TO SEPTEMBER 30

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	8.00		S2NESE	28	7N	10E	MEAGHER
2	7.00		SESE	28	7N	10E	MEAGHER
3	2.00		NENE	33	7N	10E	MEAGHER
4	1.00		NWNE	33	7N	10E	MEAGHER
Total:	<u>18.00</u>						

WATER COURT
ABSTRACT OF WATER RIGHT CLAIM
MUSSELSHELL RIVER, ABOVE ROUNDUP
BASIN 40A

Water Right Number: 40A 21456-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: INDRELAND, RMJ TRUST
% TRUSTEES
8 SPRING CREEK RD
MARTINSDALE, MT 59053

Priority Date: SEPTEMBER 28, 1904

Type of Historical Right: FILED

Purpose (use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name DALE CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SESENW	34	7N	10E	MEAGHER

Period of Diversion: JUNE 1 TO AUGUST 31

Diversion Means: DITCH

2		SENENW	34	7N	10E	MEAGHER
---	--	--------	----	----	-----	---------

Period of Diversion: JUNE 1 TO AUGUST 31

Diversion Means: DITCH

Period of Use: JUNE 1 TO AUGUST 31

***Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			S2	26	7N	10E	MEAGHER
2			NE	34	7N	10E	MEAGHER
3			E2W2	34	7N	10E	MEAGHER