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BOISE COUNTY  
PLANNING & ZONING



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May 2, 2022

**SENT VIA FEDEX**

Alex Gross  
Boise County Planning and Zoning Department  
413 Main Street  
Idaho City, Idaho 83631

Re: Crowfoot Range CUP #21-007  
Property: Parcel No. RP06N02F303060  
Applicant: Crowfoot Inc.  
Appellant: Homeowners of Boise County

Dear Alex:

This firm represents several homeowners in Boise County opposed to the Crowfoot Range, Application Number CUP21-007. Each homeowner falls under the definition of "affected person: set forth in Idaho Code §67-6521(1)(a), as they have a bona fide interest in real property which may be adversely affected by the approval of the Crowfoot Gun range CUP at issue; the individuals all reside and have a property interest in real property within a couple of miles of the contemplated Crowfoot Range.

The deficiencies in the Findings of Fact and Conclusions of Law issued by the Boise County Planning and Zoning Commission on April 21, 2022, in relation to Crowfoot Rang, Inc. – CUP #2021-007 include but are not limited to as follows:

**Deficiencies with Conclusions of Law (A)(2)(a) and (2)(c)**

In finding that the proposed use will be harmonious with and in accordance with the objectives of the ADO was incorrect. The ADO section 4-3 sets forth specific requirements for commercial uses, expressly stating that no land shall be used or occupied in any manner creating dangerous, injurious noxious or otherwise objectionable conditions which could adversely affect the surrounding areas. The proposed gun range violates several subsections set forth therein, specifically related to fire hazards and noise, that will be addressed in detail below. Furthermore,

the Planning and Zoning Commission did not have the authority to waive requirements set forth in the ADO, which it did.

ADO section 4.4.XX clearly and unambiguously states that in order to operate a shooting range on the Avimor open space property, the applicant shall obtain written approval from the Federal Bureau of Alcohol, Tobacco and Firearms (ATF). The term “shall” in this specific land use standard provision is not optional, or subject to this Commission’s discretionary interpretation of what is necessary for CUP approval. Crowfoot must acquire this written approval. Without it, the requirements for its use of the property are materially deficient and should have resulted in a denial of the CUP.

ADO section 4.4.XX(c) sets forth requirements for the shooting backstop. It is of note that the requirement set for an outdoor range calls for indoor standards – while this is likely a scrivener’s error, it nonetheless creates an ambiguity in the ADO requirements that remains outstanding. Avimor may have elected to require certain indoor standards for outdoor ranges and this Commission failed to verify the actual requirements and instead, again, improperly exercised its discretion by waiving the requirements set forth in the language. That initial deficiency aside, Crowfoot did not comply with the NRA Range Source Book outdoor backstop requirements either.

The NRA sourcebook, per section 3.01.1.3, sets forth that main backstop for outdoor ranges may be natural hill or man-made earthworks, free of rocks and debris to a depth of 18-24 inches. In areas where removing rocks is impractical steel backstops can be used or material trucked in for backstop construction. But all surface areas where bullets will strike must be rock free soil. This was not established by Crowfoot in their application, it merely stated it would be utilizing the existing hill as the backstop. The requirement that the hill backstop be rock free soil was either assumed or overlooked by this Commission. This is a material deficiency in the findings of fact and conclusion of law, as it is a specific requirement set forth in the ADO and NRA range source book.

#### Deficiencies with Conclusion of Law (A)(3).

##### *Character of the Area*

The Conclusions of Law incorrectly state that the “use will be designed, constructed, operated, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the character of the same area.” This could not be further from reality. Multiple homeowners, Boise County residents and taxpayers, testified that the gun range would drastically change the character of their residential area. Only one person apart from the Applicant testified in favor of the project. The finding that this would not materially impact the character of the area is simply erroneous and the finding must be reversed.

#### Deficiencies with Conclusion of Law (A)(4).

##### *Noise Issues*

In its Conclusions of Law, the Commission found that “applicant must comply with the state uniform noise standard articulated in Idaho Code section 67-9102. Idaho law prohibits the

Commission from imposing a more restrictive standard than the uniform noise standard. The Commission finds that compliance with the uniform noise standards will ensure that the shooting range is not hazardous or disturbing by way of noise production...” This is not a finding that the Applicant actually complied or sufficiently showed it would comply with the noise requirements in any way. The findings issued by the Planning and Zoning Commission do not warrant a CUP approval – Crowfoot Range has failed to establish its proposed range will comply with I.C. §67-9102. The noise test Applicant submitted was performed with an iPhone, measuring the sound of one 9mm handgun and one 30-06 rifle, measuring LAeq and Lmax. This sound test is **not** sufficient or in accordance with the directives set out in I.C. §67-9102. Furthermore, even if their test were sufficient, which it is not, the Applicant failed to meet the statutory noise level of not to exceed 64 dBA. The statute states, “The noise emitted from a state outdoor sport shooting range shall not exceed an Leq(h) of sixty-four (64) dBA.” I.C. §67-9102. The test ran at each location resulted in levels as high as 70.9 dBA, 72.6 DBA, and 76.0 dBA, all in excess of the statutory maximum.

It was improper for this Commission to gloss over the fact that the applicant did not actually show it would be compliant with I.C. §67-9102– it should have required a proper sound test from the Applicant. If the range does not comply with the state sanctioned sound requirements, my clients will have no choice but to bring a nuisance action against the Applicant, and they would be well within their legal rights to do so. This is a deficiency in the Conclusions of Law.

#### *Livestock Issues*

With respect to livestock concerns, the commission stated “Current surrounding uses consists of agricultural and grazing uses. Applicant will construct a livestock fence surrounding the shooting range to prevent livestock form entering the range”. This does not address the concerns regarding livestock and is materially deficient. As pointed out initially, a livestock fence will keep out unwanted cattle (generally). But every Idahoan knows that livestock fences do not keep wildlife out. To the contrary, without specific construction guidelines, livestock fences are actually dangerous to livestock. The Applicant seeks to build a gun range in the middle of a wildlife habitat for mule deer and elk. The Applicant, working in conjunction with Avimor, is well aware of the migration patterns of these large animals, living it every single day. And they are notified when they come to Avimor that there are requirements for living with the wildlife rather than further displacing it. Thus, to suggest that a livestock fence around the proposed gun range will mitigate danger to wildlife is nonsensical. Furthermore, one of my clients testified that he runs his cattle directly adjacent to the proposed gun range and the range would have a detrimental impact on his cattle operations. The Planning and Zoning Commission did nothing to address this issue when granting the CUP.

#### Deficiencies with Conclusions of Law (A)(5).

#### *Fire Issues*

Without question, there is an issue of whether or not fire services can get to the gun range once a fire has started before the fire spreads to my clients’ properties. The Planning and Zoning Commission stated that Eagle Fire department did not object to the proposed use, but that does not in remedy the clear issues present.

Applicant incorrectly stated that water could be at the gun range within “3-5 minutes by helicopter and 9 minutes by truck.” As testified by one of my clients at the hearing, in order for a helicopter to even respond, there must be one available at the National Interagency Fire Center (“NIFC”) or Lucky Peak Reservoir. There are no guarantees that will be the case. Further, it would take 20 minutes alone to get the helicopter authorized, mobilized, and in the air. Then it would take several minutes to reach the pond at Avimor, where it would need to load a water bucket and then travel to the gun range. The minimum amount of time it would take for a helicopter, then, is no sooner than 20 minutes. A fire department response team would be similar – in the letter from the Eagle Fire Marshal, he indicated that the travel time to reach the site would be approximately 16.5 minutes during normal diving conditions. The stronger the wind, the faster the wildfire expands. It is not uncommon for the winds in the area to be in the range of 40-70 mph. In the amount of time for water and fire support to arrive, any wildfire would have already had the opportunity to spread exponentially, undoubtedly reaching surrounding homes, given the terrain, winds, and vegetation.

As stated in previous letters submitted to the Planning and Zoning Commission, this property is very similar to the Boise foothills that saw the 1996 8<sup>th</sup> Street Fire destroy homes, property, and natural vegetation. The fire was devastating and started when a police officer was practicing at a shooting range just off of 8<sup>th</sup> Street. Twenty-five years after the fact, the impacts of that fire are still being felt. My clients are being subjected to a risk that they did not foresee when they built and/or bought their homes in Boise County. They should not bear the burden of the risk for the Applicant’s gun range. Again, one solution that would ease my clients’ concerns and account for the safety of the surrounding areas and residencies, would be to require onsite water for fire mitigation early. Appellants believe failure to require water is a material deficiency in the Conclusions of Law.

#### Deficiencies with Conclusions of Law (A)(6)

The Planning and Zoning Commissioners further failed to address my clients’ concerns that their property values would drop dramatically if the gun range is allowed to be constructed where proposed, with the hours of operation as stated. It is common in the real estate industry, as testified by my clients, that a gun range decreases property values. The Commissioners disregarded this testimony altogether.

We also respectfully disagree that the Crowfoot Range will not create excessive additional requirements at public cost. Presently, there are only three Boise County Sheriff’s deputies on duty at any given time, to cover the entirety of the County. If there is an accident at the gun range, or if there is a fire, the Applicant has not provided an adequate safety plan to take care of any issues that may come up. In fact, the Applicant has not even put together a Plan of Operations to provide to the Planning and Zoning Commission to detail how the facility will operate, and how they would manage the membership’s use of the facility. They would be relying on the Boise County Sheriff’s Department to enforce their membership rules, severely impacting the County’s ability to police the rest of the matters that would arise in Boise County. The Applicant must be required to have people on site during all open hours to monitor their membership, Boise County should not be required to do the same.

### Deficiencies with Conclusions of Law (A)(7) and (8)

If the Crowfoot Gun Range is built as planned, with the parking spaces as planned, it means that the Applicant expects up to 115 cars at any given time at the range, which would operate, generally, twelve hours a day. Assuming this is the case, the gun range could see up to 1,380 cars per day. To suggest that there is no need to study the impact this will have on the existing roads is impractical and frankly inconceivable. The traffic study provided by the Applicant was done for the Avimor development and it indicates that when Phase 3 starts construction, an additional lane will be required at the top of Spring Valley Summit. However, the study does not address whether the additional 1,380 trips per day would also warrant a review of traffic in the area. The Planning and Zoning Commission did not directly address this issue. It discussed increased traffic noise, and the fact that the vehicle approaches are appropriate, but not the larger more pertinent issue. Appellants are not concerned about traffic noise, rather the feasibility and impact of the volume of patrons at the range, in relation to the existing road design. Before granting the CUP, the Planning and Zoning Commission should have required a separate traffic study to assess the potential impacts more accurately, and institute additional requirement if necessary. Failing to do so is a deficiency in the findings.

### Deficiencies with Conclusions of Law (A)(9)

The Planning and Zoning Commission incorrectly held that the location of the gun range, and the positioning of the firing stations, including the long-range rifle stations, would not detrimentally impact the natural, scenic or historic feature of major importance. This Conclusion completely overlooks the fact that Highway 55 is the Payette River Scenic Byway, and the range has long range rifles aiming directly at Highway 55. See Exhibit A attached hereto showing the topography of how a bullet could travel from the range directly too and over Highway 55.

### Additional Deficiencies with Findings of Fact and Conclusions of Law

#### *Power Issue*

The lack of power at the range creates a public health and safety issue that the Planning and Zoning Commission did not even address. Without electricity on site, members of the gun range will not have the capability to use safety equipment designating “cease fire” times and announcement speakers that can notify other range occupants of safety hazards and announcements. The reason the NRA Range Source Book recommends electricity is for the general welfare of the participants at the range. Having adequate safety equipment which is operated by electricity is necessary for the safe operation of the gun range. The Planning and Zoning Commission should have required power be brought to the project as a condition of approval in order to allow the safe operation of the range. The Applicant, who is contemplating a gun range with at least 50 shooting stations and 115 parking spaces needs to be responsible for constructing and maintaining a safe environment for its patrons. According to the Applicant, there are no requirements for membership other than reaching 18 years of age, and they were clear that many boy scout and youth groups may be using the facility. It cannot be assumed that these attendants will be familiar with the safe operation of a gun range. Failing to address the concerns that lack of power creates constitutes a deficiency in the findings.

*Proper Facilities Issues*

The Planning and Zoning Commission failed to address and properly consider the fact that the absence of public bathrooms may have an impact on public health and safety. Regardless of whether the Central District Health (“CDH”) approved the use of portable toilet facilities, it is unfeasible as a permanent option for a long-term gun range the size of Crowfoot. Portable facilities are inadequate for a permanent facility that expects up to 115 cars at any given time. There is simply no guaranty that the portable facilities will be properly maintained year-round. While permanent bathroom facilities are not required by code or ordinance, the Commission can and should have imposed, as a condition of approval, the construction of permanent bathroom facilities as a matter of public health and safety.

Conclusion

Overall, the range, as proposed, will have a prejudicial and detrimental impact to my clients, who are long standing citizens of Boise County. They are concerned about the construction of a gun range so close to their residences. The risks it poses, without the proper precautions taken (such as requirements for water and power, as well as permanent facilities, and noise abatement assurance, etc.) far outweigh the right to construct a gun range so close to so many Boise County residents. The Findings of Fact and Conclusions of Law issued by the Commission do not preserve or protect my clients’ safety or the safety of their property. The Planning & Zoning Commission’s decision was, in relevant part, arbitrary, capricious, and/or an abuse of discretion, and not based on substantial and competent evidence. As such, my clients respectfully and hereby appeal the Planning and Zoning Commission’s decision in granting the Application for Crowfoot Range, Inc. and more thoroughly address and or abate the issues set forth herein.

Sincerely,



Terri Pickens Manweiler

# EXHIBIT A

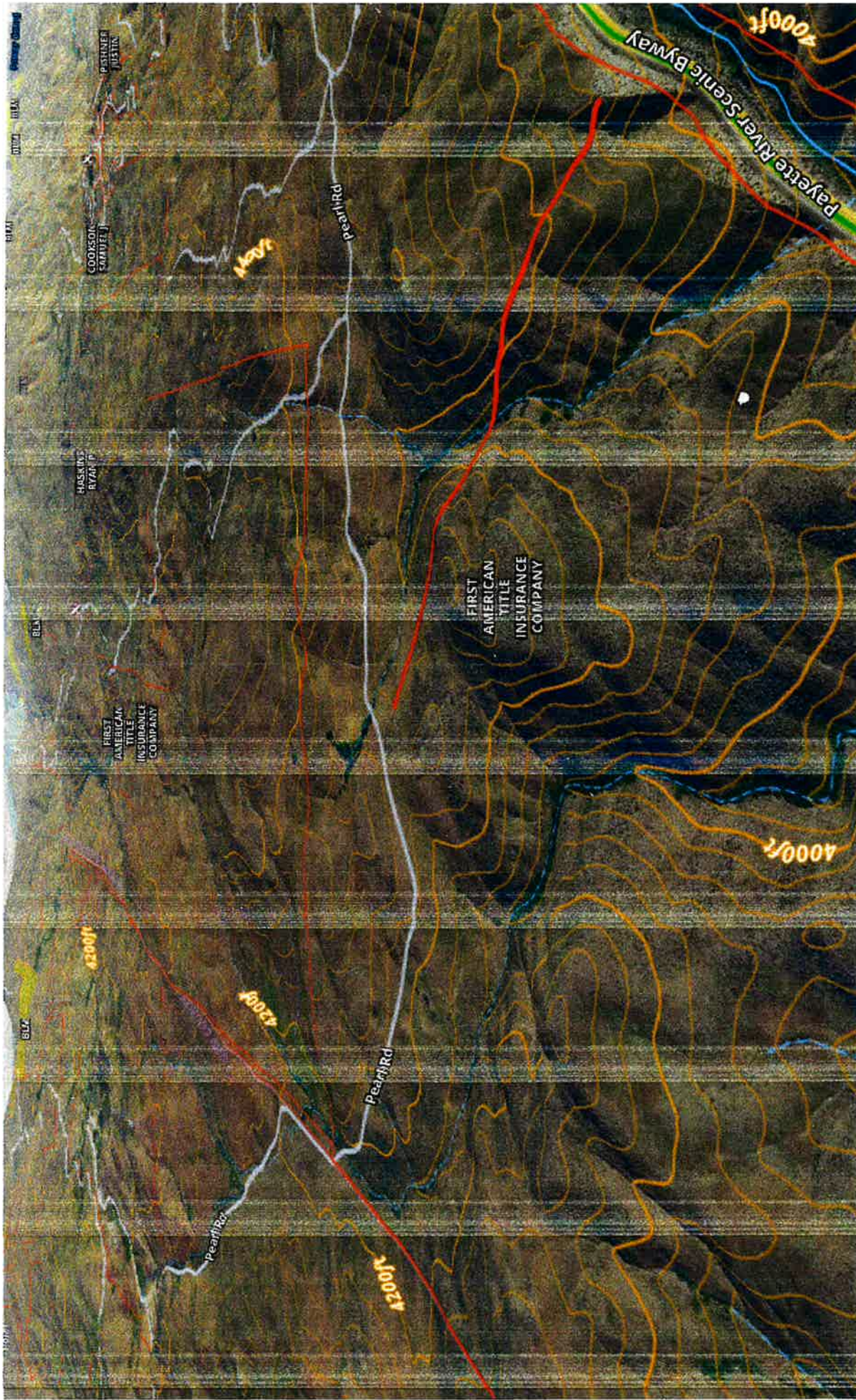
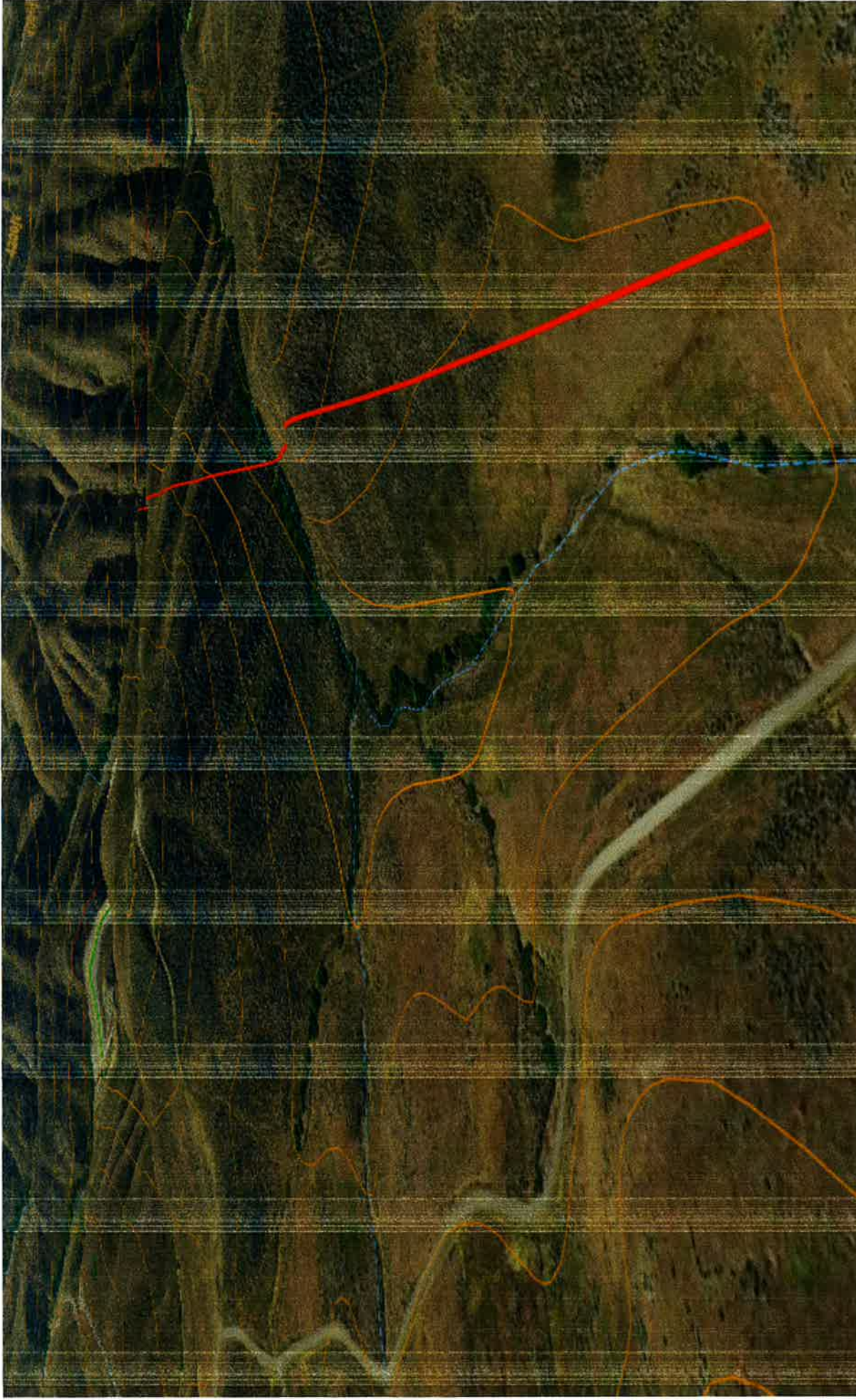


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