

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF)
WATER RIGHT NO.: 29-433 & 29-434)
)
_____)

**ORDER AUTHORIZING
TEMPORARY CHANGE**

TC-29-23

A drought emergency has been declared for Bannock County to allow administrative actions to lessen the severe impacts of the drought conditions in the county; and

Idaho Code §42-222A provides that upon declaration of a drought emergency, the director of the Department of Water Resources is authorized to allow temporary changes in the point of diversion, the place of use, and the purpose of use for valid existing water rights when the director determines that such changes can be accomplished in accordance with the provisions of Idaho Code §42-222A; and

On August 22, 2022, James K. Guthrie, Jr. submitted the attached Temporary Change Application to the Department; and

The Department has reviewed the application and has determined the application can be approved with certain conditions;

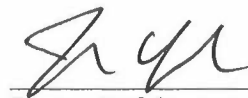
ORDER

IT IS HEREBY ORDERED that the application is APPROVED subject to the following conditions:

1. Diversion and use of the changed portions of Right No(s). 29-433 and 29-434 is authorized only at the point of diversion and place of use described on the application.
2. This temporary change approval does not authorize construction of a new well or diversion works as a new point of diversion.
3. The applicant assumes all risk of curtailment or mitigation should the diversion and use of water under the temporary change approval cause injury to other water rights, constitute an enlargement in use of the original right, be inconsistent with the conservation of water resources within the state of Idaho, or not be in the local public interest.
4. This temporary change approval may only be used to provide a replacement water supply to lands or other uses which normally have a full water supply, except for the drought condition. This temporary change approval may not be used to provide water for new development or to allow expansion of the use of water under existing water rights.

5. Right(s) 29-433 and 29-434 when combined are limited to the irrigation of a total of 98 acres for the remainder of the irrigation season in 2022 at the authorized places of use. The rights cannot be moved back to the place of use under whence they originated for the remainder of this irrigation season.
6. Diversion of water under this temporary change is limited to the lesser of the amount of water available for diversion from Goodenough Creek under rights 29-433 and 29-434 at their decreed point of diversion or the amount of water from Goodenough Creek reaching Marsh Creek.
7. This temporary approval does not authorize the use of diversion works or a delivery system owned by or managed by a corporation or an irrigation district without the consent of such corporation or irrigation district.
8. The applicant agrees to hold the Director and the State of Idaho harmless from all liability on account of the diversion and use of water under this temporary change approval.
9. This temporary change approval does not grant any right-of-way or easement to use the diversion works or conveyance works of another person or entity.
10. The watermaster of Water District No. 29H is authorized to administer the temporary change approval.
11. This temporary change approval expires on October 31, 2022 unless rescinded or extended by the director. Thereafter, the water right shall revert to the point of diversion, place of use and nature of use existing prior to the temporary change approval.

DATED this 26th day of August, 2022.



James Cefalo
Eastern Region Manager

RECEIVED

AUG 22 2022

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESDepartment of Water Resources
Eastern Region

TC-29-23

TEMPORARY CHANGE APPLICATION

(To change point of diversion, place of use, or purpose of use of a water right upon
declaration of a drought emergency in accordance with Section 42-222A, Idaho Code.)Name of Applicant James K Guthrie JrPhone 208.251.9303Mailing Address 320 S Marsh Creek Rd, McCammon, ID 83250Email jim.baltar@hotmail.com

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change purpose of use ☐ Other

2. Describe the proposed change(s) and explain the reason(s) they are needed. _____

Will discontinue irrigation of 50 acres at the current place of use, and move water downstream on Marsh Creek to
be used to finish an alfalfa crop.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
29-433	5/1/1879	1.28 cfs	Irrigation	8/22 to 10/31
29-434	5/1/1901	0.26 cfs	Irrigation	8/22 to 10/31
				to
				to

2. Total amount of water being transferred 1.54 cubic feet per second and/or _____ acre-feet per annum.3. Source of water Goodenough Creek tributary to Marsh Creek

4. Point(s) of diversion:

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag number
8S	36E	3	3		NE	NW	Bannock	Goodenough Creek	

5. Lands irrigated or place of use:

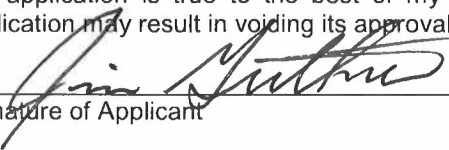
Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
7S	36E	34												23			3.5		26.5
8S	36E	3					21			2.5									23.5
							L3												

Total Acres 50.0

6. General Information:

- a. Who owns the water right to be changed? Applicant
- b. Describe the arrangement allowing use of the right. _____
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
Will not be irrigated for the remainder of the season.
- d. Has the water right sought to be transferred been used this year? ☒ Yes ☐ No If yes, explain. _____
Has been used on 3 way grain.
- e. Absent the changes, how would the right be used for the remainder of the year? _____
To bring back second growth for pasture.
- f. Describe other water rights used for the same purpose. Marsh Cr rights that are no longer in priority.
- g. Remarks: _____

I hereby assume all risk in accordance with Section 42-222A, Idaho Code, and assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in voiding its approval.


Signature of Applicant

8/22/2022

Date

FOR DEPARTMENT USE ONLY

Received by MH Date 8/22/22 \$50 fee received by adh Receipt No. E048442
Recommend: ☐ approve ☐ deny Watermaster recommendation _____

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Temporary Change Application No. _____, and said application is hereby _____, subject to the following limitations and conditions:

See attached order

Temporary Change Expiration Date _____

Signed this _____ day of _____, _____.

For the Director

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

8/22/2022

Water Right 29-433

Owner Type

Current Owner
Current Owner

Name

JAMES K GUTHRIE JR
BARBARA ANN GUTHRIE

Priority Date: 5/1/1879

Basis: Decreed

Status: Active

Source

GOODENOUGH CREEK

Tributary

MARSH CREEK

Beneficial Use

IRRIGATION
STOCKWATER

From

04/01
01/01

To

10/31
12/31

Diversion Rate

2.500 CFS
0.030 CFS
Total Diversion 2.500 CFS

Volume

Source and Point(s) of Diversion:

GOODENOUGH CREEK NENWSW Sec. 15, Twp 09S, Rge 36E, BANNOCK County

Place Of Use:

IRRIGATION within BANNOCK County

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09S	36E	15																37.0 L7	37.0
09S	36E	22	17.0 L6	43.0 L7	1.0 L3														61.0

POU Total Acres: 98.0

STOCKWATER Same as IRRIGATION

Conditions of Approval:

1. E52 USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.00 CFS. COMBINED RIGHT NOS.: 29-00433, 29-00434
2. C03 RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.
3. N05 THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.
4. E56 USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 98 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 29-00433, 29-00434
5. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

8/22/2022

6. N08 EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE
ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO
LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-
1412(6), IDAHO CODE.
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL
BENEFICIAL USE.

Dates and Other Information:

Decreed Date: 3/22/2004
Civil Case Number: 39576
Judicial District: FIFTH
State or Federal: S
Owner Name Connector: AND
Water District Number: 29H
Mitigation Plan: False

Combined Use Limits:

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>	<u>Water Rights</u>
4.100		98.0	29-433 ,29-434

SubCase:

N/A

Water Supply Bank:

N/A

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

8/22/2022

Water Right 29-434

Owner Type

Current Owner
Current Owner

Name

BARBARA ANN GUTHRIE
JAMES K GUTHRIE JR

Priority Date: 5/1/1901

Basis: Decreed

Status: Active

Source

GOODENOUGH CREEK

Tributary

MARSH CREEK

Beneficial Use

IRRIGATION
STOCKWATER

From

04/01
01/01

To

10/31
12/31

Diversion Rate

0.500 CFS
0.030 CFS

Volume

Total Diversion 0.500 CFS

Source and Point(s) of Diversion:

GOODENOUGH CREEK NENWSW Sec. 15, Twp 09S, Rge 36E, BANNOCK County

Place Of Use:

IRRIGATION within BANNOCK County

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09S	36E	15																37.0 L7	37.0
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IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

8/22/2022

6. C18 SHALL NOT EXCEED 13,000 GALLONS PER DAY.
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE
EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE
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<u>Rate</u>	<u>Volume</u>	<u>Acres</u>	<u>Water Rights</u>
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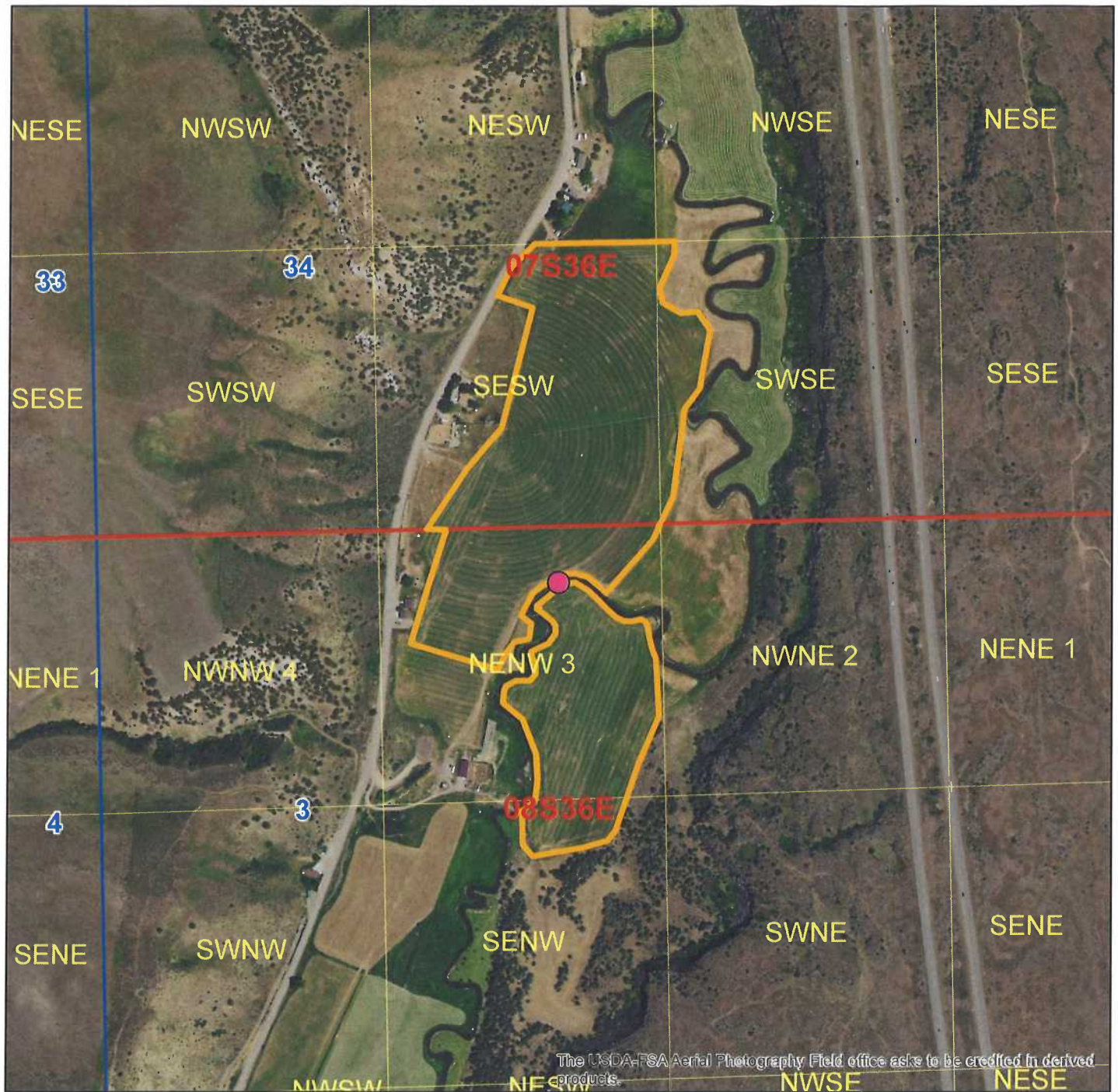
SubCase:

N/A

Water Supply Bank:

N/A

Guthrie Temporary Change



Legend

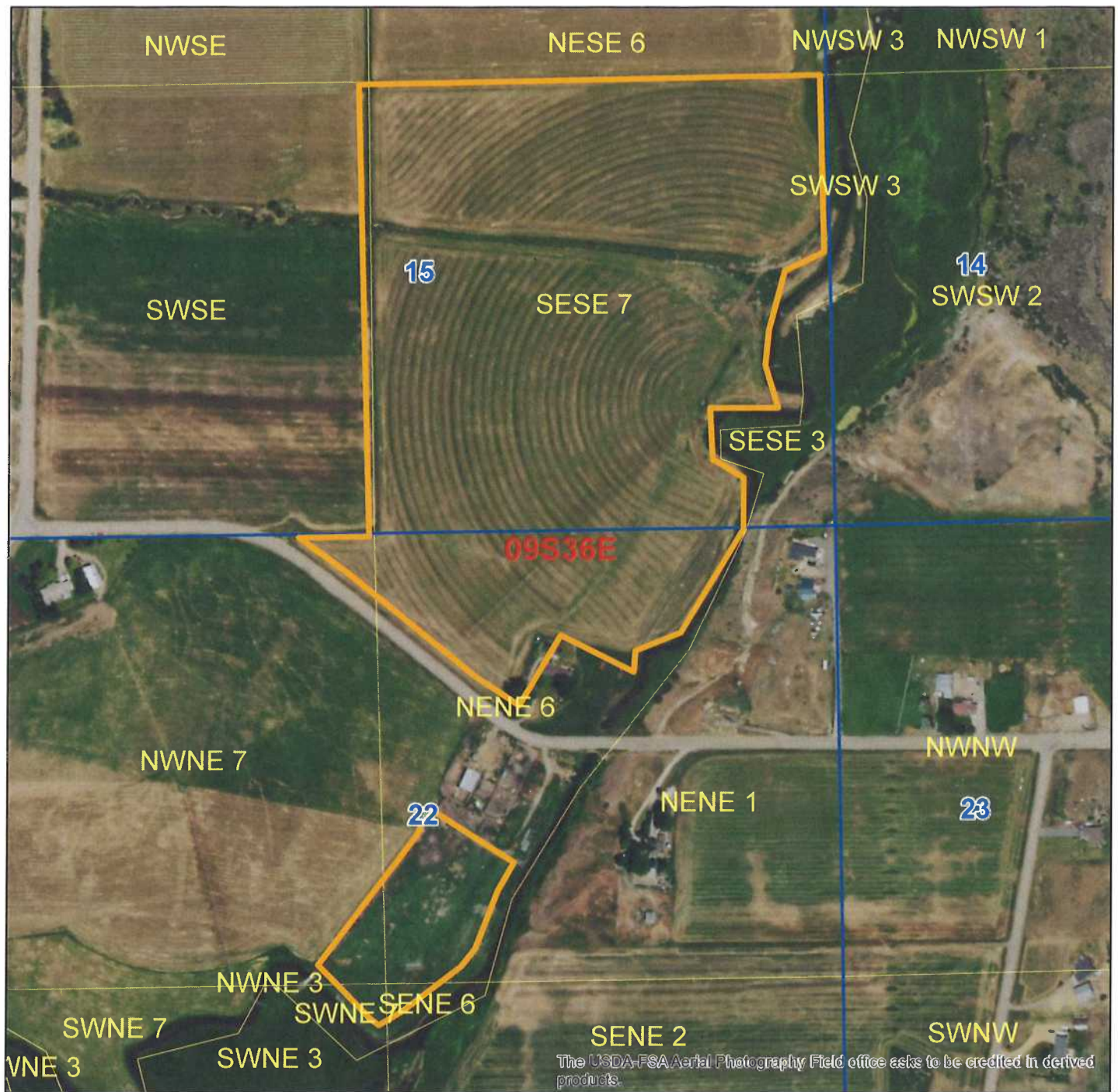
- Proposed POD
- Place of Use
- Township/Range
- Sections
- QQ

0 800 1,600 3,200 Feet



MH

Guthrie Temporary Change



Legend

- Acres to dry up
- Township/Range
- Sections
- QQ

0 500 1,000 2,000 Feet



MH

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECOMMENDATION OF WATERMASTER

Application No. TC-29-23

Applicant's Name: ne: JAMES K. GUTHRIE, JR.

Watermaster's Recommendation.

- a) ☒ I do not oppose approval of this application.
b) ☐ I do not oppose approval of this application if it is conditioned as follows.

- c) ☐ I oppose approval of this application for the following reasons:

- d) ☒ Additional Comment: I do not oppose approval of this application. However, I do not see how water can make it to Marsh Creek when there is no water in Goodenough Creek or at the authorized Point of Diversion. Additionally, there is no way for me to know how much water is available at current Goodenough POD because there is no measuring device present. Also, the 1901 water right is currently not being delivered and is out of priority with the Snake River Curtailment.

Dated this 24th day of August, 2022.

Water District No: 29H

Kristin Evans

Watermaster's Signature

Use reverse side of page if you need more space.