

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 81280

This is to certify that: NICHOLSON PROPERTIES LP
18106 S CLOVERDALE
KUNA, ID 83634

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
63-7756	WR/DECREED	3/23/1973	7.140 cfs	1800.0 af	N/A	400.0	GROUND WATER

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
63-7756	YES	NO	YES	NO	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
63-7756	63-34339	2.330 cfs	589.5 af	131.0	278.0	63-7756	4.810 cfs	1210.5 af	N/A	269.0
COMBINED TOTALS		2.330 cfs	589.5 af	131.0	278.0		4.810 cfs	1210.5 af	N/A	269.0

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this 10th day of July, 2017.


 Chief, Water Allocation Bureau

SUPPORT DATA

IN FILE # 63-7756

Transfer No. 81280

WATER RIGHT NO. 63-7756
As Modified by Transfer No. 81280

In accordance with the approval of Transfer No. 81280, Water Right No. 63-7756 is now described as follows:

Right Holder: CARL V NICHOLSON
 PO BOX 690
 MERIDIAN, ID 83680

Priority Date: 3/23/1973

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	03/01	to 11/30	4.810 cfs	1210.5 af
			4.810 cfs	1210.5 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NWSESE Sec 10 Twp 01N Rge 01E ADA County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	01E	10												25.0		33.0	34.0	39.0	131.0
01N	01E	11									35.0	35.0	34.0	34.0					138.0

POU Total Acres: 269.0

CONDITIONS OF APPROVAL

- Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 63-34339
As Modified by Transfer No. 81280

In accordance with the approval of Transfer No. 81280, Water Right No. 63-34339 is now described as follows:

Right Holder: NICHOLSON PROPERTIES LP
 18106 S CLOVERDALE
 KUNA, ID 83634

Priority Date: 3/23/1973

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	03/01	to 11/30	2.330 cfs	589.5 af
			2.330 cfs	589.5 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NWSESE Sec 10 Twp 01N Rge 01E ADA County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	01E	14					38.0	40.0											78.0
01N	01E	15	40.0		40.0	40.0									40.0			40.0	200.0

Right Acre Limit: 131.0

POU Total Acres: 278.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of a specific 131.0 acres within the 278.0 acre place of use authorized by this right in a single irrigation season. The specific 131.0 acres to be irrigated by the right holder are shown in the electronic shape file associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 131.0 acres to be irrigated within the 278.0 acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.
2. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
3. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
4. This right does not grant any right-of-way or easement across the land of another.

Transfer No. 81280

WATER RIGHT NO. 63-34339
As Modified by Transfer No. 81280

CONDITIONS OF APPROVAL

5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
6. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
7. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

State of Idaho
Department of Water Resources

Water Right(s): 63-7756 and 63-34339



-

Transfer POD

PPU Boundary - Split Portion

100

POU Boundary - Remaining Portion

Township/Range

11/11/2019

Sections

10

QQ



0.2

0.4

0.8 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

July 10, 2017

NICHOLSON PROPERTIES LP
18106 S CLOVERDALE
KUNA ID 83634

Re: Transfer No: 81280
Water Right No(s): 63-7756

Transfer Approval Notice

Dear Water Right Holder and other Interested Persons:

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208) 334-2190.

Sincerely,

 *Nick Miller*

Nick Miller
Regional Manager

Enclosure

CC:

DANA L HOFSTETTER
HAWLEY TROXELL ENNIS & HAWLEY
877 MAIN ST STE 1000
PO BOX 1617
BOISE ID 83701-1617

CARL V NICHOLSON
PO BOX 690
MERIDIAN ID 83680

CERTIFICATE OF SERVICE

I hereby certify that on July 10, 2017 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Transfer) to the person(s) listed below:

**Re: Transfer No.: 81280
Water Right No(s): 63-7756**

**NICHOLSON PROPERTIES LP
18106 S CLOVERDALE
KUNA ID 83634**

**DANA L HOFSTETTER
HAWLEY TROXELL ENNIS & HAWLEY
877 MAIN ST STE 1000
PO BOX 1617
BOISE ID 83701-1617**

**CARL V NICHOLSON
PO BOX 690
MERIDIAN ID 83680**



**Rachel Neely
Administrative Assistant**

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held.
- ii. The final agency action was taken.
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

LEGAL PROOF OF PUBLICATION

Account #	Ad Number	Identification	PO	Amount	Cols	Lines
263978	0002948325	LEGAL NOTICE The following applications have	H&B Crushing	\$207.20	2	64

Attention: RACHEL NEELYIDAHO DEPT OF WATER RESOURCES / WEST
2735 AIRPORT WAY
BOISE, ID 837055082**RECEIVED****LEGAL NOTICE**

The following applications have been filed to appropriate the public waters of the State of Idaho:

63-34332
H & B CRUSHING LLC
PO BOX 117
KUNA, ID 83634Point of Diversion NENE S15 T02N R01E ADA County Source
GROUND WATER

Use: AESTHETIC STORAGE 01/01 to 12/31 35.2 AF

Total Diversion: 35.2 AF Date Filed: 1/17/2017

Place of Use: AESTHETIC STORAGE

T02N R01E S15 NENE

Water bearing zone to be appropriated is from 0 to 15 feet.

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 81189**CITY OF MERIDIAN, 33 E BROADWAY STE 206, MERIDIAN, ID 83642; has filed Application No. 81189 for changes to the following water rights within ADA County(s): Right No(s). 63-34034; to see a full description of these rights and the proposed transfer, please see www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx. The City of Meridian proposes to change the point of diversion on this water right to allow them to divert water from a new well to be constructed within Storey Park. The water right authorizes the use of water for irrigation and industrial purposes within the park which is located near the intersection of S Main St and E Franklin Rd in Meridian ID.**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 81280**NICHOLSON PROPERTIES LP, 18106 S CLOVERDALE, KUNA, ID 83634; has filed Application No. 81280 for changes to the following water rights within ADA County(s): Right No(s). 63-7756; to see a full description of these rights and the proposed transfer, please see www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx. The applicant proposes to change the place of use for a portion of the water right to reflect the change in property ownership and irrigation practices. The new place of use is located southeast of Kuna ID near the intersection of S Cloverdale RD and Chiefs Farm Ln.Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at 208-334-2190; or for a full description of the right(s) or proposed transfer (s) please see www.idwr.idaho.gov. Protests may be submitted based on the criteria of Idaho Code §§ 42-203A and 42-222. Any protest against the approval of the application(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705 together with a protest fee of \$25.00 for each application on or before 3/20/2017. The protestant must also send a copy of the protest to the applicant.
GARY SPACKMAN, Director

Pub. Mar. 2,9, 2017

0002948325-01

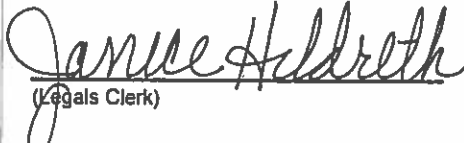
MAR 13 2017**WATER RESOURCES
WESTERN REGION**

✓ OK RN 3/21/17

✓ OK RN 3/21/17

✓ OK RN 3/21/17

JANICE HILDRETH, being duly sworn, deposes and says: That she is the Principal Clerk of The Idaho Statesman, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein, and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto: that said notice was published in The Idaho Statesman, in conformity with Section 60-108, Idaho Code, as amended, for:

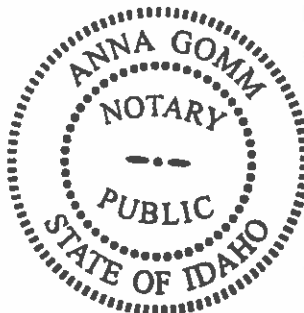
2 InsertionsBeginning issue of: 03/02/2017Ending issue of: 03/09/2017
(Legals Clerk)

STATE OF IDAHO)

.SS

COUNTY OF ADA)

On this 9th day of March in the year of 2017 before me, a Notary Public, personally appeared before me Janice Hildreth known or identified to me to be the person whose name subscribed to the within instrument, and being by first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.


Notary Public FOR Idaho
Residing at: Boise, IdahoMy Commission expires: 08/17/2022

MEMORANDUM

TO: Transfer No. 81280

FROM: Phill Hummer

DATE: 01/31/17

RE: Evaluation of Application

The applicant proposes to change the place of use for a portion of water right no. 63-7756 to reflect a change in property ownership and irrigation practices. The new place of use for the applicant's portion is located southeast of Kuna ID near the intersection of S Cloverdale RD and Chiefs Farm Ln.

The contact person for the applicant is Dana Hofstetter with Hawley, Troxell Ennis & Hawley LLP, she is authorized to submit information in regards the application but not to sign on behalf of the applicant.

Deviations from Transfer Policy Standards

The applicant has checked the box indicating "no representative" but supplied the name of their representative on the following line and the application was submitted with a cover letter from the indicated law firm. Dana Hofstetter is the applicant's representative.

Summary of Information Submitted

Authority to File:

The application was submitted by Nicholson Properties LP and signed by Carl Nicholson. The Secretary of State webpage shows that Carl Nicholson is a member of Four-N Farms which is the General Partner of Nicholson Properties LP.

Water Right Validity:

The partial decree for water right no. 63-7756 was issued on 02/16/07. Landsat imagery from 09/17/16 and 08/23/2015 shows irrigation has occurred within the proposed place of use, this transfer will to correct the water rights to reflect current practices. Landsat imagery shows more irrigation than is evident by the maps submitted with the application. The right is presumed to be valid because water has been applied to beneficial use at the place of use within the last five years.

Injury to Other Water Rights:

The split portion of the water right will be diverted from the same well as the remaining portion. Changing the place of use will not reduce the amount of water available from the source so approval of this transfer should not cause injury to other water right holders.

Enlargement of Use:

The application proposes to split 131 acres (2.33 cfs and 589.5 af) from the water right, 78 acres are associated with physical property in the NENW and NWNW of section 14, township 1N, range 1E. The remaining 53 acres are being transferred because the applicant withheld that

portion of the water right in the sale of the property to ID Solar 1. The remaining portion of water right no. 63-7756 will have a specific place of use that is reduced by 131 acres as described in Part 2 of the transfer application. The applicant has indicated 39 acres in the NESW and 14 acres in the SESW of section 10, township 01N, range 01E will no longer be irrigated. Since the remaining portion is being reduced by the same number of acres authorized in the split portion, approving this transfer will not create an enlargement of use.

Local Public Interest:

The application proposes changes consistent with the local public interest.

Beneficial Use/Conservation of Water Resources:

The application proposes beneficial use consistent with conservation of water resources in Idaho.

The application is consistent with criteria of I. C. § 42-222 and should be processed.

Discussion

Data entry affected the correct record, RightID 561684 for water right no. 63-7756.

Water Right Overlap

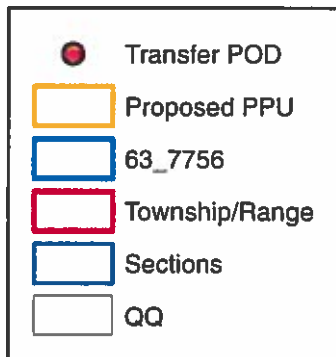
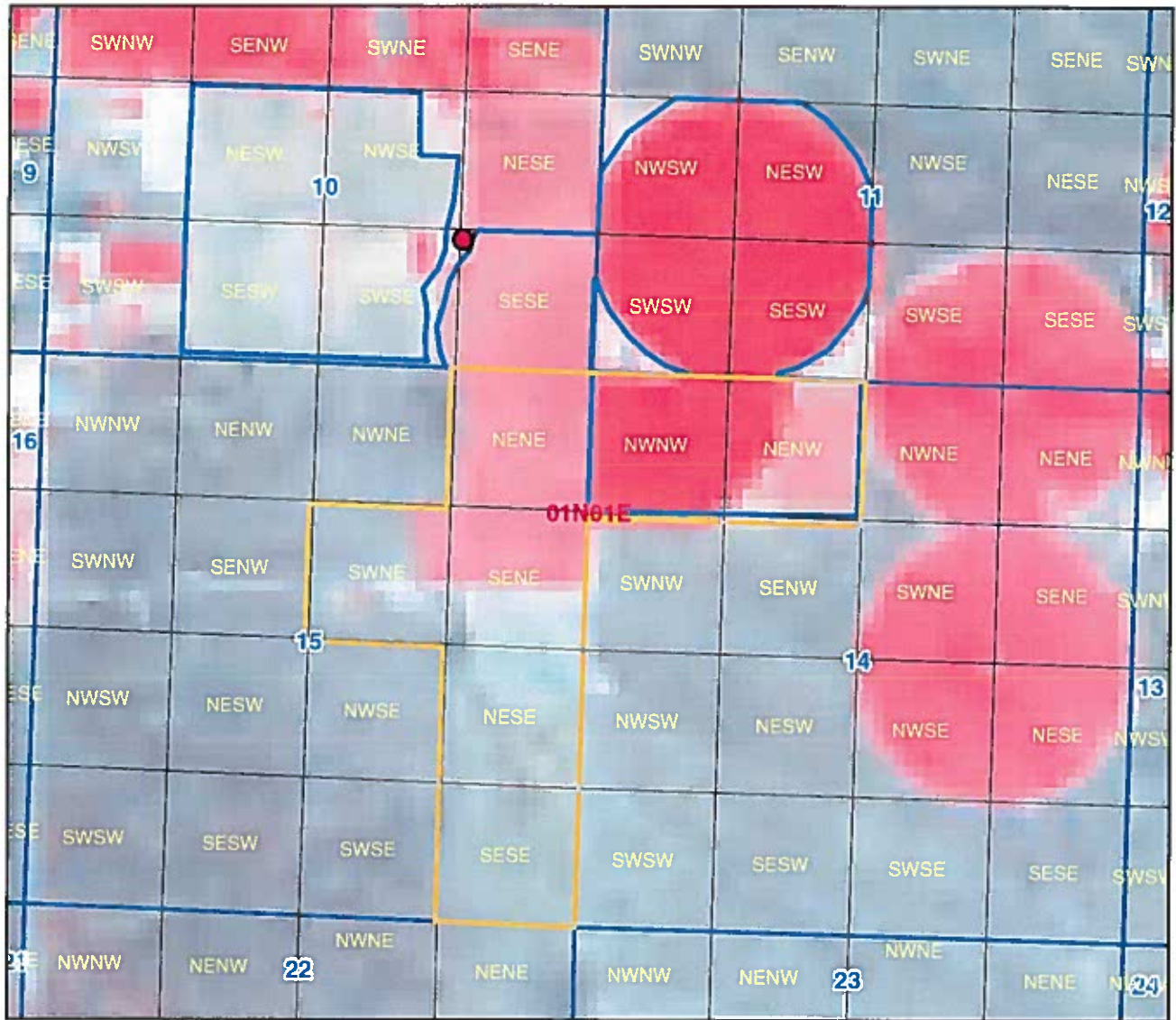
The split portion will become water right no. 63-34339 and will share the same point of diversion as the remaining portion of water right no. 63-7756. There are no other overlap issues.

Condition Notes

The proposed split would create a place of use where the amount of authorized acres compared to the size of the place of use is relatively small. For these reason condition 206 should be added the split portion. Instead of asking the applicant for a map that shows the specific 131.0 acres being irrigated I used a combination of the maps submitted with the application and aerial imagery in ArcMap. The 2015 base layer image in ArcMap shows the irrigated land within the applicant's proposed permissible place of use include: a portion (about 11 acres) of the NENW and the entire NWNW of section 14, the NENE, part of the SWNE, and about half of the SENE of section 15 in township 01N, range 01E. This area totals about 118 acres. The application maps show a similar area of irrigated land except they show the entire NENW of section 14 as being irrigated.

Expanding the irrigated acres to include this entire quarter quarter would bring the total irrigated acres up to about 148 acres. Since the split right will only authorize 131 acres I drew the place of use shape to only include about half of the NENW in section 14. If the acres to be irrigated in a given season differ from the shape the owner will need to submit a map prior to that irrigation season.

p41r30 08/23/2015



0 0.2 0.4 0.8 Miles



