

MEMORANDUM

TO: File

FROM: Steve Lester 

DATE: May 25, 2010

RE: 78-7263A -- Place of Use

I met with Ed Raney in New Meadows today. He has been Brundage Water Users Association president for about 50 years.

We discussed attached maps #1 and #2 to determine the POU for this permit. Does the permit expand the POU of senior right 78-2085 or not?

He confirmed the permit does not expand or change the 78-2085 boundary and does not add any additional acres. The permit simply adds more storage water to the same land.

Map #1 should be the POU shape in licensing 78-7263A.

Brundage Water Users Association Digital Boundary

R1E

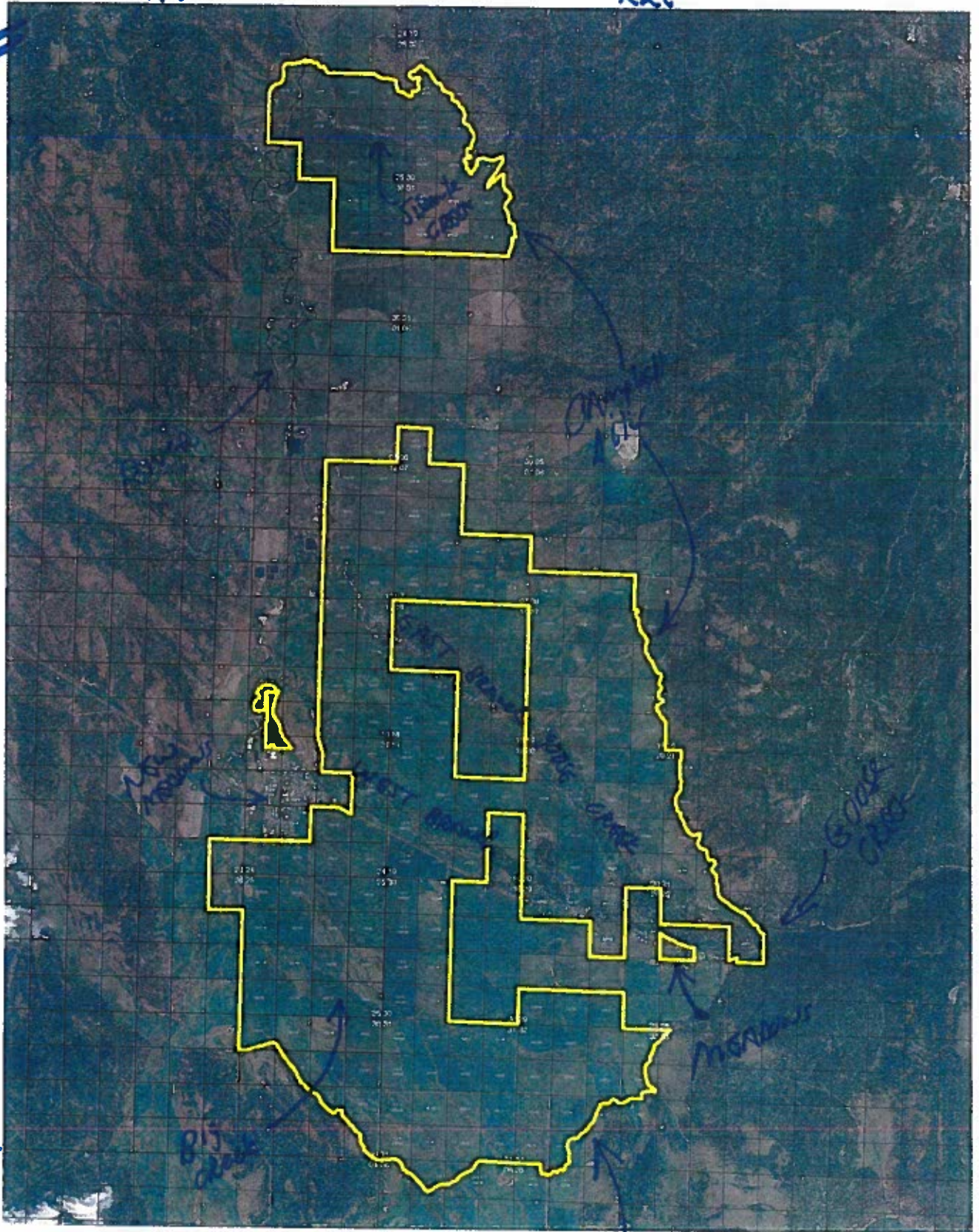
R2E

#1

T20N

T19N

T18N



Map prepared by: Carter Fritschle
Date prepared: 05/30/08
2004 NAIP Photography
Idaho Department of Water Resources

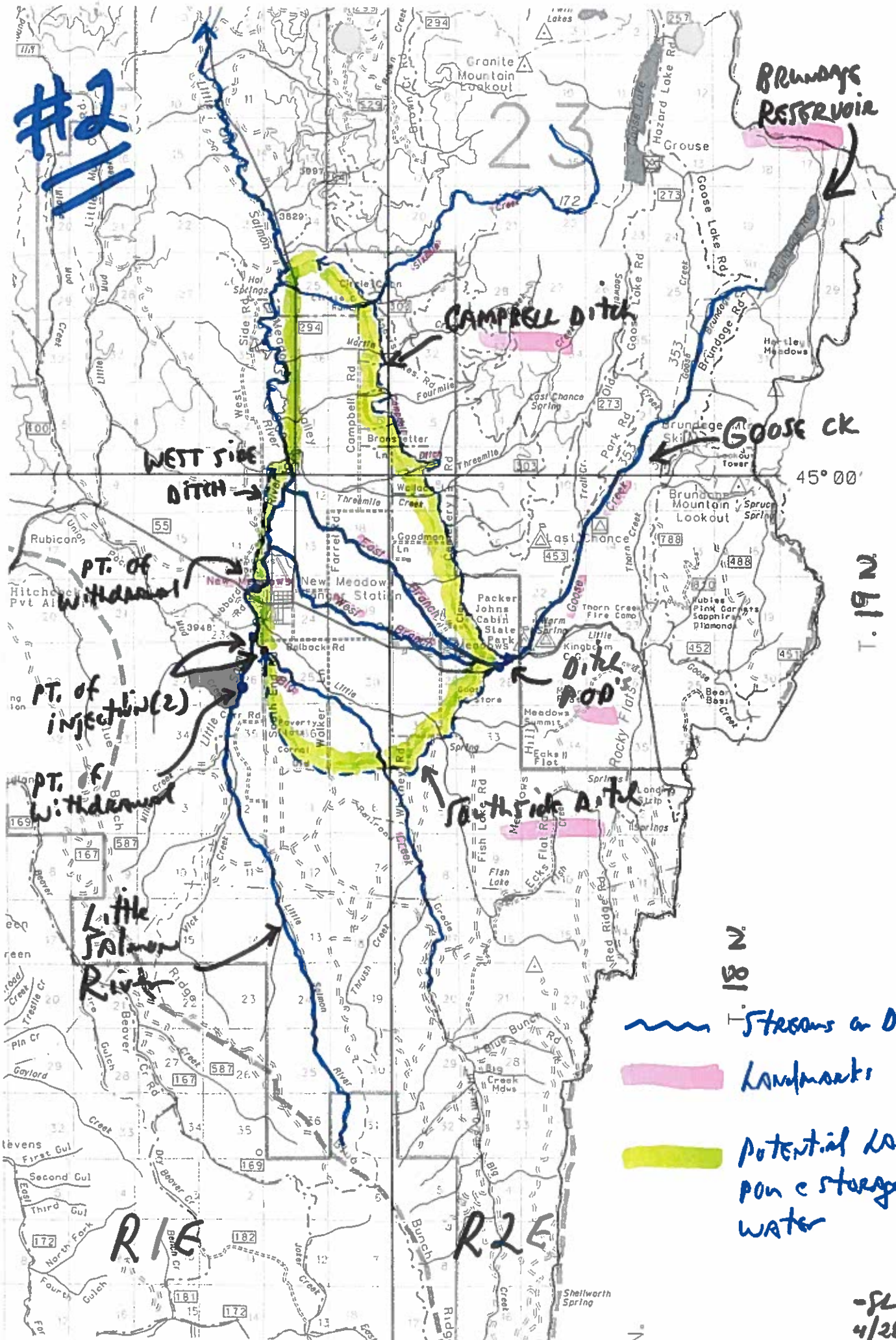
78-2085 POU

Southside
Ditch



-82
4/28/10

#2



T. 20 N.

C O U N T Y

T. 19 N.

181

Streams or Ditches

Landmarks

Potential large pond storage water

-SL
4/28/10

Grouse Cr.
Grouse Spring
Hall Cr.
Hanson Cr.
Hard Rock Gul
Hartley Meado
Heady Cr.
Hell Cr.
Hells Canyon I
Hells Canyon I
Herrington Spi
Hibbie Gulch
Hillman Cr.
Hillsdale Sch
Hitchcock P
Airport
Hitchcock Gul
Holbrook Sadd
Hoo Hoo Gulch
Hornet
Hornet Cr.
Hornet Ridge
Horse Flat
Horse Mtn.
Horse Mtn. Lo
Horse Spring
Huckleberry
Huckleberry Cr
Huntley Gulch
Indian Cr.
Indian Cr.
Indian Hill
Indian Mtn.
Indian Mtn.
Indian Springs
Indian Valley
Indian Valley
Iron Springs
Jackley Mtn.
Jackson Cr.
Jacobs Ladder
Jim Gulch
Joel Gap
Johnson Cr.
Johnson Cr. P
Snowmobile
Joker Cr.
June Cr.
Jungle Cr.
Kerris Rapids
King Hill
King Hill Cr.
Kingbaum CG
Kinney Cr.
Kinney Point
Ladder Cr.
Lafferty Camp
Lake Cr.
Lake Winifred
Lakey Cr.
Landing Strip
Larkspur Gul
Last Chance
Last Chance S
Lester Cr.
Lick Cr.
Limepoint Cr.
Limestone Gul
Little Bear C
Little Cr.
Little Fall C
Little Johnso
Little Mud Cr
Little Salmon
Little Weiser
Little Weiser
Lockwood Cr.
Lockwood Poi
Log Cabin Gul
Lonesome Cr.
Long Gulch
Long Gulch Ri
Lost Basin

Lester, Steve

From: Lester, Steve
Sent: Wednesday, May 12, 2010 4:32 PM
To: Fritschle, Carter
Subject: RE: Brundage Water Users Acreage

Hi Carter:

That's great of you to offer. Let's wait a bit. I'm in process of working with Ed Raney to verify some more details to see exactly what we should do. After that, I will get back to you for some help.

Should be fairly soon.

Steve

From: Fritschle, Carter
Sent: Wednesday, May 12, 2010 3:23 PM
To: Lester, Steve
Subject: Brundage Water Users Acreage

Hi Steve,

Jeff mentioned that you could use some shapes to determine the acres irrigated for Brundage Water Users. I had created a shape with total irrigated acres when I was planning to recommend acres. I did it by piecing together the shapes for all of the water users. Unfortunately, that shape wound up being edited into the digital boundary, but it can be recreated.

How soon would you need it?

Carter

6/1/10 told Carter don't need
extra help, all ok

Lester, Steve

From: Keen, Shelley
Sent: Tuesday, May 04, 2010 1:42 PM
To: Lester, Steve
Subject: Storage for irrigation requires a total acreage determination.docx

Steve,

I added a postscript to your memo on the Brundage Reservoir permit. We agreed with your conclusion. Call me if you want to discuss how we might go about determining total acres.

Shelley



Storage for
irrigation require...

On May 3, 2010, I discussed Steve's dilemma and conclusion with Jeff Peppersack and Garrick Baxter. Our consensus was that the permit should be licensed with a total number of irrigated acres authorized, as Steve concluded. Our determination was based on Idaho Code §§ 42-219(6) and 42-222(1), and Water Appropriation Rule 35.03.biii collectively. Idaho Code § 42-222(1) says:

The transfer of the right to the use of stored water for irrigation purposes shall not constitute an enlargement in use of the original right even though more acres may be irrigated, if no other water rights are injured thereby.

The implication of this statutory language is that a limit on the number of acres is expected. Otherwise, it would be impossible to discern an increase in acreage upon which the evaluation for injury and enlargement could occur.

Note that we did not address whether projects exceeding 25,000 acres must have total acres described. The statutory language in Idaho Code § 42-219(5), which addresses projects of that size, seems less definitive.

Lester, Steve

From: Lester, Steve
Sent: Wednesday, April 28, 2010 4:31 PM
To: Keen, Shelley
Subject: Licensing advice

Hi Shelley:

Have an unusual licensing situation. Can you take a look at the attached notes, maps & email copy and see what you think? Think I'm on the right track but it's odd enough to seek some help.

Thanks –

Steve



78-7263A
BWUA.docx



maps.pdf



email.pdf

Lester, Steve

From: Fritschle, Carter
Sent: Tuesday, April 27, 2010 8:20 AM
To: Lester, Steve
Cc: Shurte, Jan
Subject: RE: 78-2085 total acres

Steve,

There were no total acres because the right is only for storage water. This was done under Dave Tuthill's directive, and was supposed to be consistent with the recommendations for the BOR storage rights on the Boise River.

Carter

From: Lester, Steve
Sent: Friday, April 23, 2010 4:09 PM
To: Fritschle, Carter
Subject: 78-2085 total acres

Hi Carter:

Ran into something odd that maybe you can help clarify. I've had an incomplete exam report for permit 78-7263B, Brundage Water Users Assn. The only thing missing is the boundary and total acres for use of this storage water.

The boundary issue was resolved under decree of 78-2085, older priority for same outfit & same delivery system. However, for whatever reason, 78-2085 does not have a total acre value. I checked & found:

Original license, 4520 acres

SRBA claim, 6043 acres

SRBA recommendation & decree, no acre value.

I discussed it with Jan to see if there might be an adjudication explanation allowing deletion of total acres – maybe because it is storage? But we both could not think of why it would be ok to delete total acres from the right. Maybe it was just a typo in the crush of work to get so many rights decreed?

Any insight you have into this would be a big help. Thanks

Steve

total acre issue

Lester, Steve

From: Lester, Steve
Sent: Friday, April 23, 2010 4:09 PM
To: Fritschle, Carter
Subject: 78-2085 total acres

Hi Carter:

Ran into something odd that maybe you can help clarify. I've had an incomplete exam report for permit 78-7263B, Brundage Water Users Assn. The only thing missing is the boundary and total acres for use of this storage water.

The boundary issue was resolved under decree of 78-2085, older priority for same outfit & same delivery system. However, for whatever reason, 78-2085 does not have a total acre value. I checked & found:

Original license, 4520 acres

SRBA claim, 6043 acres

SRBA recommendation & decree, no acre value.

I discussed it with Jan to see if there might be an adjudication explanation allowing deletion of total acres – maybe because it is storage? But we both could not think of why it would be ok to delete total acres from the right. Maybe it was just a typo in the crush of work to get so many rights decreed?

Any insight you have into this would be a big help. Thanks

Steve



Brundage Water Users Assn Inc

Water Rights: 78-2085

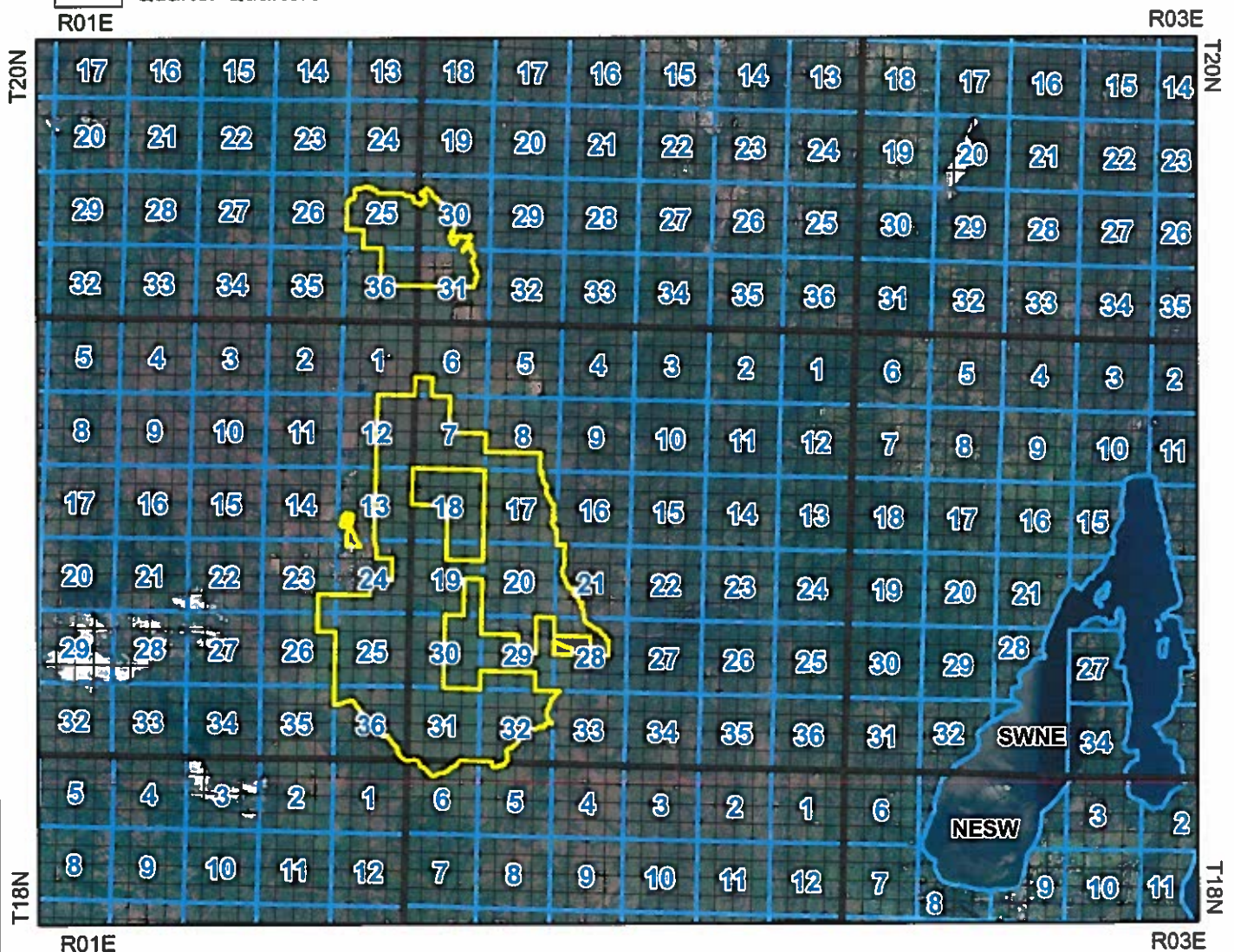
Legend

-  Service Area
-  State Outline
-  Townships
-  PLS Sections
-  Quarter Quarters

Irrigation From Storage Service Area Boundary
GIS Place of Use Illustration



Adams County
IDWR Basin 78



Prepared by Steve Lester
On April 20, 2010
2004 Aerial Photography

0 2.5 5 10 Miles

RECEIVED
JAN - 2 1992

Department of Water Resources
Western Regional Office December 31, 1991

BRUNDAGE WATER USERS ASSN.
P.O. BOX 333
NEW MEADOWS ID 83654

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 78-07263A

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit. Enclosed is an order advancing the priority of the permit since the proof was received after the proof due date. The next step in the process of developing a water right is for the department to conduct a field examination to determine and confirm the use being made of the water.

If you have questions concerning this matter, please feel free to contact the WESTERN Regional Office in Boise at (208)334-2190.

Sincerely,

Karen L. Gustafson
Secretary/Records Manager

c: IDWR - Region

Enclosure



Cecil D. Andrus
Governor

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region

2735 Airport Way
Boise, Idaho 83705
(208) 334-2190

September 10, 1987

Ed Raney, Pres.
Brundage Water Users Assoc.
P.O. Box 333
New Meadows, ID 83654

Dear Mr. Raney:

We received the exam fee information sheet for Permit No. 78-7077 on May 29, 1987. Due to the busy summer season for water resources, I have not been able to write you sooner. Hopefully, this delay has not caused an inconvenience for you.

On this information sheet you stated that the dam is not yet finished. This was also the reason that the application for extension of time was filed in July, 1983. The extension was denied since only one extension can be granted and one had been approved earlier. At that time the proof of beneficial use was submitted to our office in error. A proof of beneficial use form is filed only when the project is completed and you are ready for a field exam to license the permit. Our letter requesting you pay an exam fee and submit the information sheet was generated from the proof of beneficial use being filed.

In checking our records I did find correspondence advising you to file a new application for permit allowing five more years to complete the dam. This application was filed and approved. The permit is now Permit No. 78-7263 and proof is not due on it until November 1, 1990. A copy is enclosed for your review.

In view of your new Permit No. 78-7263 we are requesting that you complete the enclosed relinquishment form for Permit No. 78-7077. If a field exam is conducted, which requires an exam fee, and the project has not been completed, the Dept. would be forced to cancel the permit. To avoid time and paperwork, the enclosed Relinquishment form should be completed and returned.

page 2
Ed Raney, Pres.

If you have any questions concerning the relinquishment of this permit,
please feel free to contact our office.

Sincerely,

A handwritten signature in cursive script that reads "Jan Shurte". The signature is written in dark ink and is positioned above the printed name.

Jan Shurte
Sr. Water Resource Agent

JS:jp

Enclosure