

MEMORANDUM

TO: Water Right Permit File 96-9478 and Water Right File 96-2222

FROM: Daniel A. Nelson

DATE: November 9, 2016

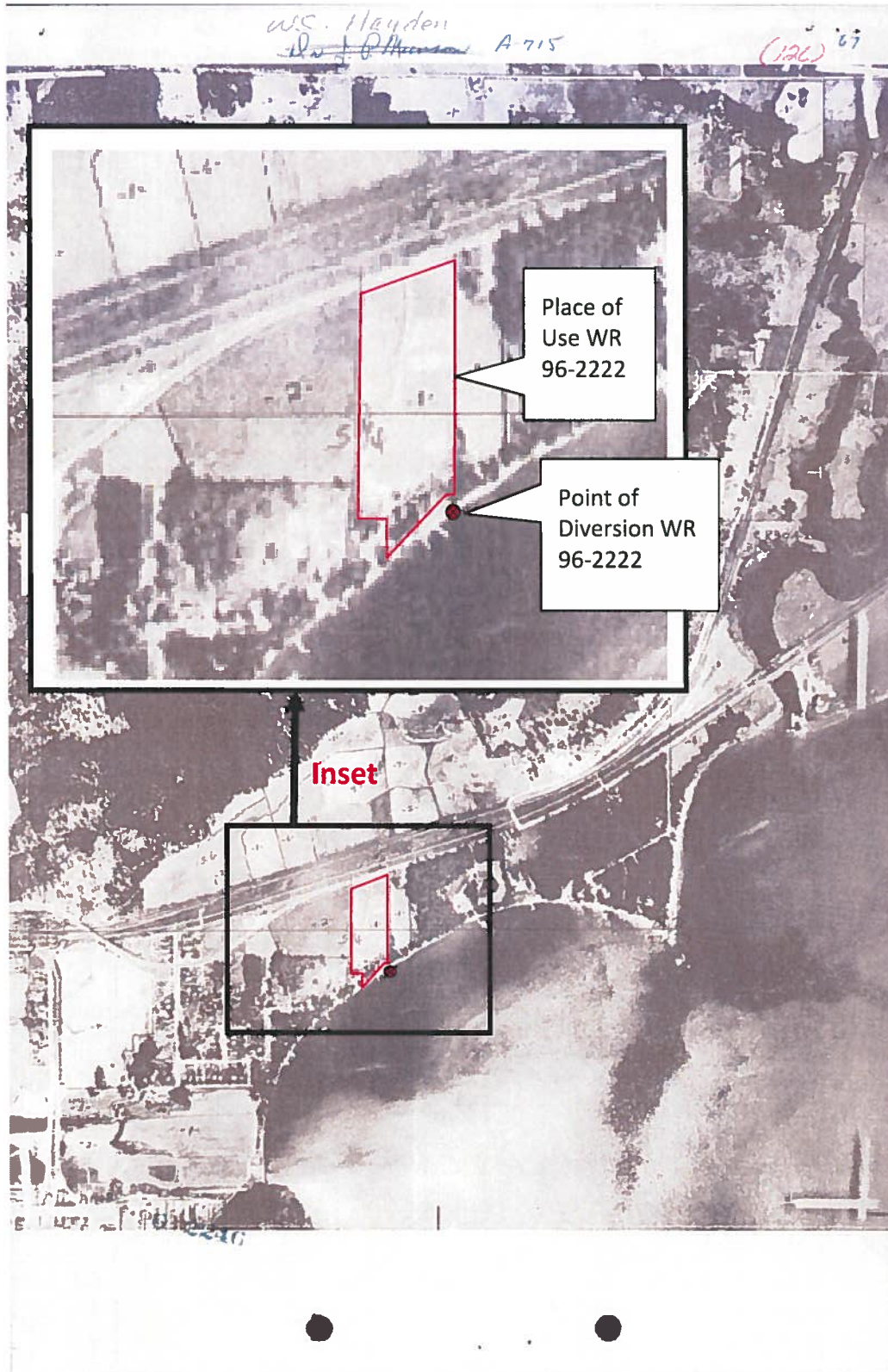
SUBJECT: Water Right Overlap Analysis

Water right permit 96-9478 was filed for an irrigation use on a property located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 29 and Lot 1 (NW $\frac{1}{4}$ of the NE $\frac{1}{4}$) of Section in Township 57 North, Range 2 West. Due to an error in the Federal Public Land Survey lines used in the Department's mapping program, it was discovered that a portion of the property associated with permit 96-9478 was also located in the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 29 in Township 57 North, Range 2 West.

While performing a review of the overlapping water rights for water right permit 96-9478, I discovered that water right 96-2222 overlapped the same property. Water right 96-2222 is an older water right that was filed on February 12, 1953 for the irrigation of 6 acres. Water right 96-2222 was licensed prior to the mapping capabilities the Department currently has available, so the place of use shown in our data base was based on the legal description on the water right license. Using the records from the water right file for 96-2222, I was able to create a border showing the 6 acres irrigated under this water right. The area irrigated by 96-2222 is shown in red on the attached two maps. These maps show that water right 96-2222 directly overlaps water right permit 96-9478.

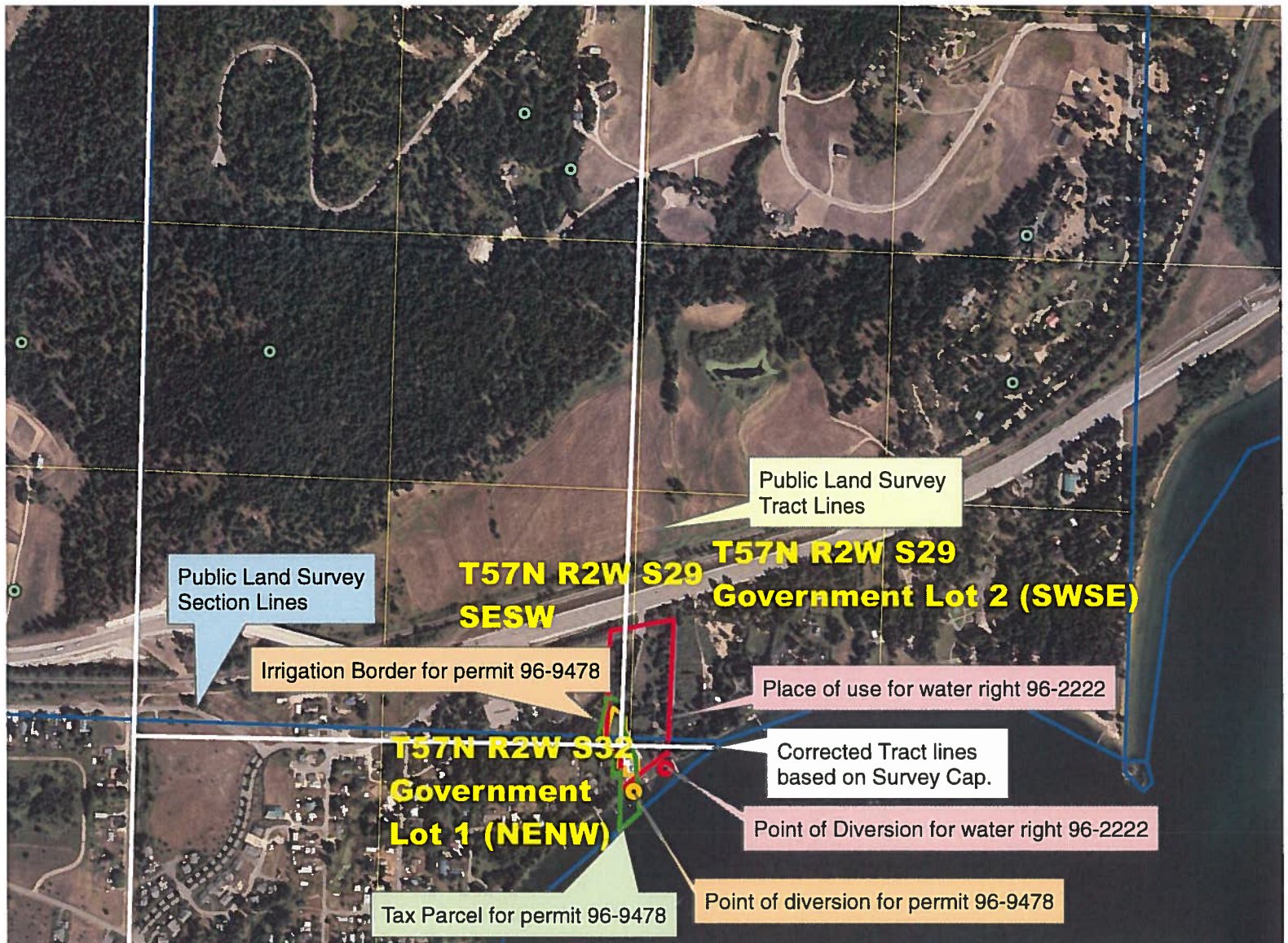
I spoke with the permit holder for water right permit 96-9478, and he informed me in an email dated November 4, 2016 that he purchased the property over 5 years ago, and at that time there was no home or any irrigation being done on the property prior to his purchasing the property. Aerial photos confirm that the home that was on the property now owned by the permit holder and another home north of the permit holder's property were torn down sometime between 2009 and 2011. The place of use for water right 96-2222 is currently split into 7 lots and is owned by 4 separate owners. The location of the point of diversion for 96-2222 is located east of the permit holder's property on Blk. 1, Tax 15, of Lot 6, Dover Tracts 23 of SEC 32, which is owned by Champman Trust. The Champman Trust home appears to have been built in 1994, and is still located on that property.

The records available to the Department suggest that the property was subdivided prior to 1994, when the Champman Trust home was built. I believe that the portion of water right 96-2222 used on the permit holder's property was abandoned or forfeited sometime in the 1990's or earlier when the property was subdivided, since they may not have had access to the point of diversion for water right 96-2222. The permit holder has claimed that his property wasn't being irrigated when he purchased the property over 5 years ago, which confirms that the portion of water right 96-2222 that was on his property was forfeited or abandoned prior to the permit holder purchasing the property. Therefore, we can move forward with licensing of permit 96-9478 with the understanding that the portion of water right 96-2222 that was on the permit holder's property is no longer a valid water right.



Permit 96-9478 –
Field Exam File –

This is a 1967 aerial photo taken from water right 96-2246 of the area associated with permit 96-9478. Water right 96-2246 was for the neighbor's property east of water right 96-2222. I have highlighted the place of use and point of diversion for water right 96-2222, since this is the property and the water right that overlap the place of use for permit 96-9478. It appears this property was subdivided sometime prior to 1998, since the attached 1998 aerial photo shows multiple homes in this same area. Once the property was subdivided, the permit holder no longer had access to the point of diversion, so their portion of water right 96-2222 was abandoned or forfeited prior to 1998.



Permit File 96-9478

This map depicts the overlap of water right 96-2222 and permit 96-9478. The tax parcel originally associated with water right 96-2222 was subdivided some time ago. It appears as though the permit holder no longer has access to the pump that was originally used under 96-92222, since the original point of diversion is 2 parcels east of the permit holder's parcel. It is unclear if the ground has been irrigated from the original point of diversion or if it was irrigated from a separate point of diversion in the past. The permit parcel is now being irrigated from a totally new point of diversion. I emailed the owner, and he said the ground hadn't been irrigated in at least 5 years prior to him purchasing the property, and that there was no sprinkler system on his or his neighbor to the east's property.