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SEP 02 2016

Department of Water Resources
Eastern Region

James Cefalo

IDWR
Eastern District Office
900 N Skyline Dr. Suite A.
Idaho Falls, ID 83402-1718

Admissions

In The Matter of Transfer No. 79943, As Amended in the name of: Albion 12 Investments LLC

Reason for Protest

Water Right #45-12906, is appurtenant to 7.5 acres in the SW 1/4 of the SE 1/4 of sec. 16 with water from Spring Creek and No Name stream, both with priority dates of August 15, 1874. In my view the three points of diversion from wells less than 1 mile south west and uphill will have the potential to reduce or dry up these springs and seeps in Section 16 and 21 that are the water source for my property. See maps BD, ID 1968 aerals with P.O.D.'s.

Please note: My P.O.D. on No Name Stream was rendered unusable when the Merriman's raised the height and length of an impound dam that move the out flow of the pond many feet to the east that produced a diversion to their property that will run 365 days a year or as long as there is waster in No Name channel. No Name channel is diverted into this large pond that has to fill before reaching its outflow. See map #1 D, the enlargement was not done until after 2/28/2005.

Water from Spring Creek channel does not reach my property winter or summer because Water Master said I don't have a measuring device, so we haul stock water even though I have a Stock Water Right.

It's my hope the Merriman's will rectify these issues before moving forward with their utilization of these water sources.

A time table would be appreciated.

Sincerely,



Copies to:

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Christopher King
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Albion, ID 83311

Albion 12 Investments LLC
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Scottsdale, AR 85250

**Brockway Engineering PLLC
C/O Erik Powell
2016 North Washington St. Ste 4
Twin Falls, ID 83301-3082**

**Parsons, Smith & Stone
Attention : William Parsons
PO Box 910
Burley, ID 83318**

**James Cefalo
IDWR
Eastern District Office
900 N Skyline Dr. Suite A
Idaho Falls, ID 83402-1718**

**Earl Warthen
1047 S Hwy 77
Albion, ID 83311**



Map Depicting Warthen/Smyer Places of Use and Points of Diversion
T.12S. R.25E. Sec.16

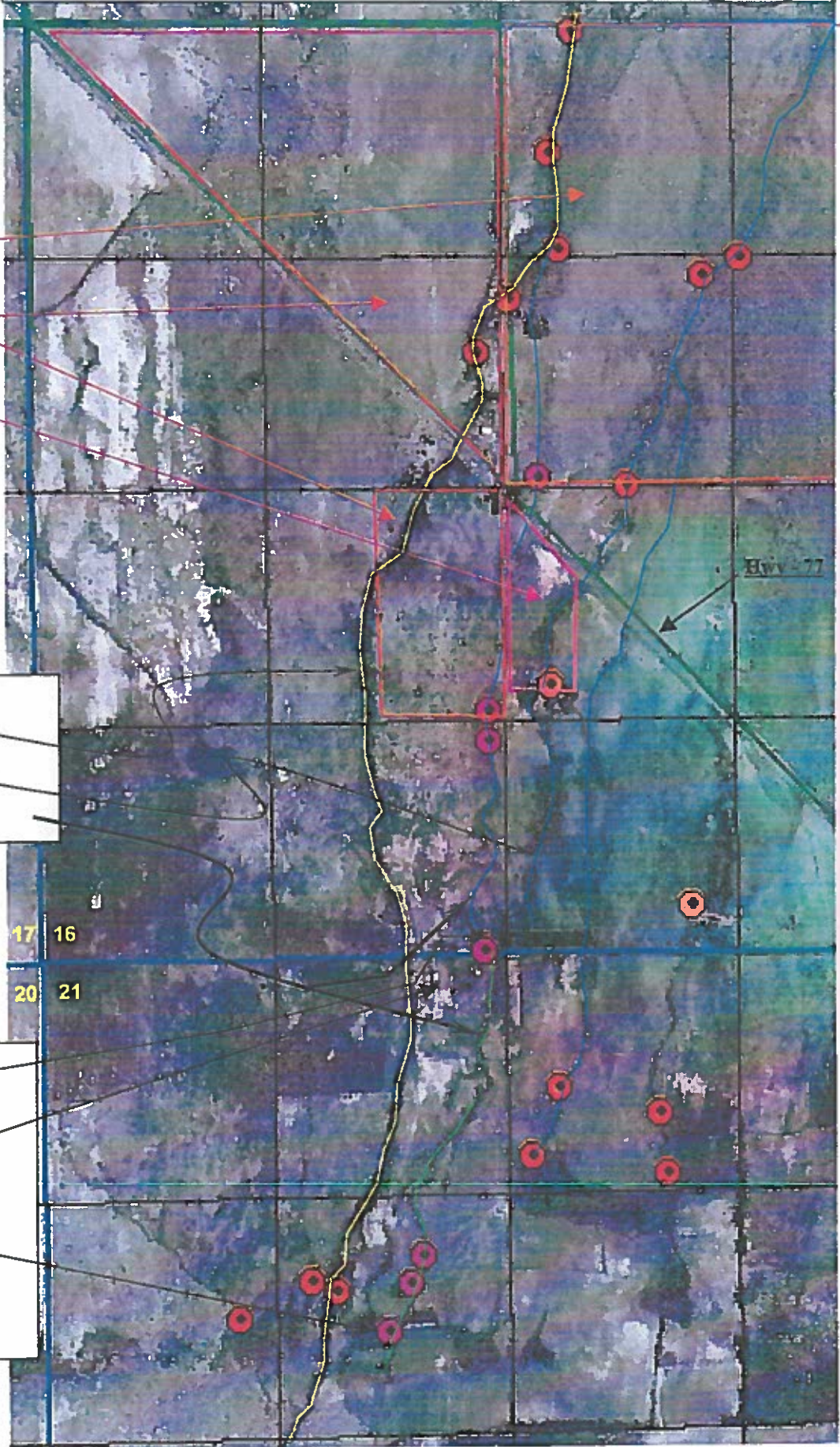
1968 aerial photo

- Kevin Smyer**
45-10480
- 45-10481
- Earl Warthen**
45-10502
- 45-13669
- Norman Smyer**
45-12906

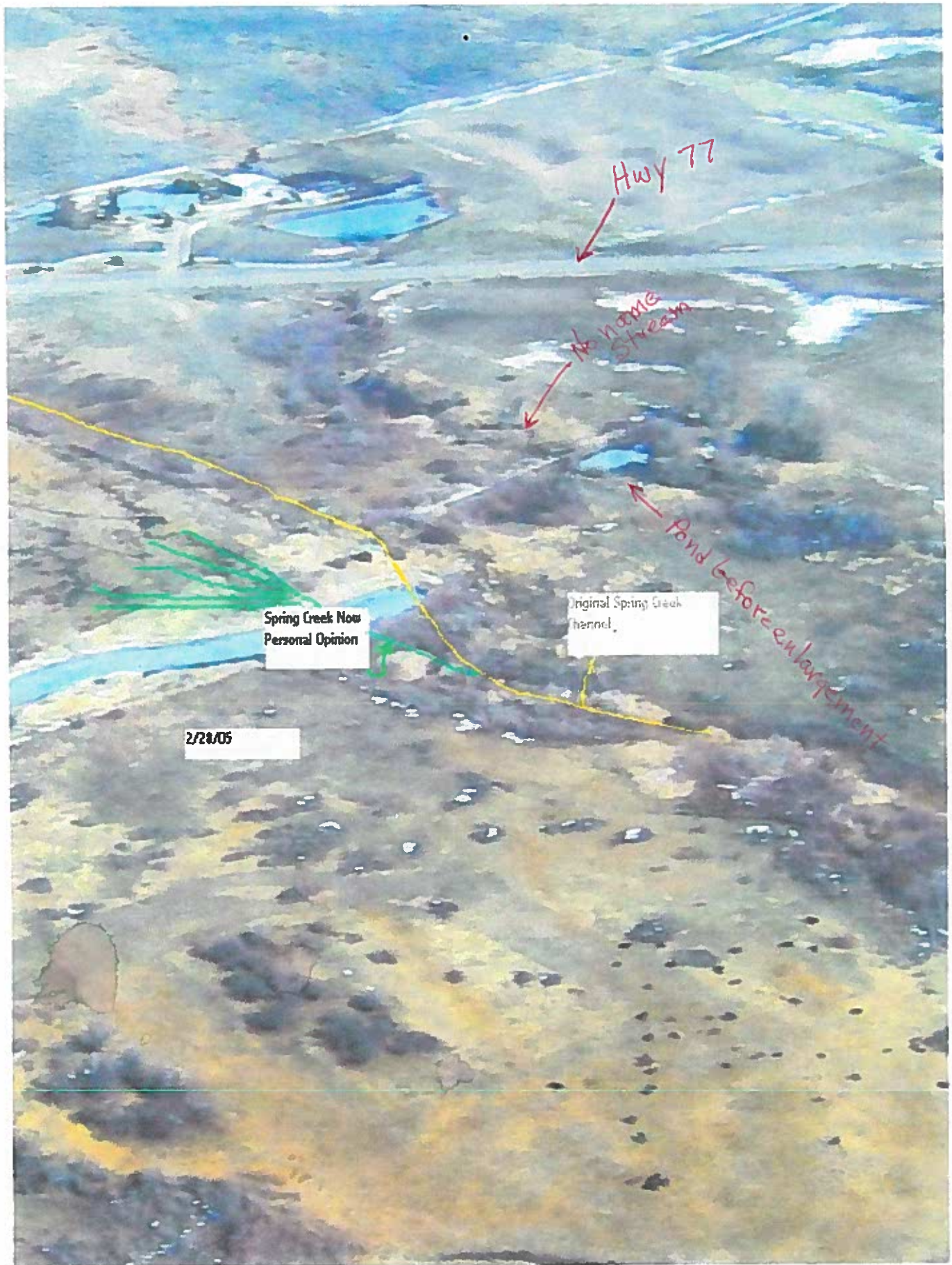
1968
Aerial Photo

- Howell Creek**
- Unnamed Stream**
- Spring Creek**

- Pond North of Anderson Farmstead**
- Anderson Farmstead**
- Anderson/Hawker Spring Creek Recommended P/D**

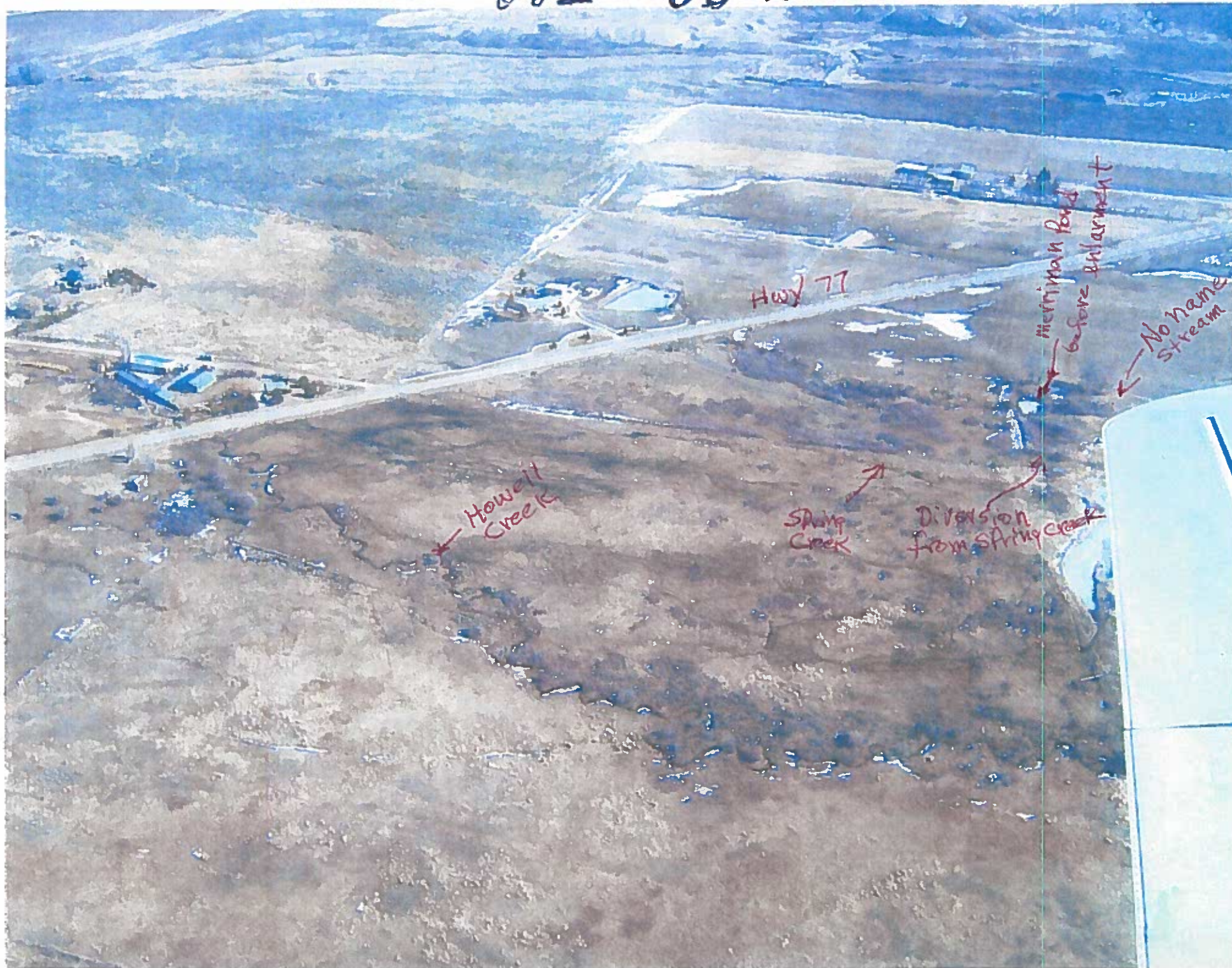


#1D



801 8D E

N 8D



8D2

8DE

Station 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

