State of Idaho
Department of Water Resources
Transfer of Water Right(s)
RECOMMENDATION FORM

RECEIVED
FEB 08 2016
DEPT OF WATER RESOURCES
SOUTHERN REGION

Transfer Application No.: 80620 **Water Right No(s):** 45-256B, 45-284A, 45-286A

Transfer Applicant's Name: FRED HAWKER
361 W 400 S
BURLEY, ID 83318

Water Master'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) X I oppose approval of this application for the following reasons:
Injury to the Downstream user's.

d) X Additional comments:
See attached cover Letter to IDWR.

Dated this 6th day of February, 2016

Water District No. 45F

Water Master's Signature

Don G. Gunderson

Printed Name

RECEIVED
FEB 08 2016
DEPT OF WATER RESOURCES
SOUTHERN REGION

Marsh Creek Water District 45F
1047 E 1000 S
Albion, Idaho 83311

February 6, 2016

State of Idaho
Department of Water Resources
Attn: Denise Maline
Administrative Assistant
Southern Region
650 Addison Ave W. Suite 500
Twin Falls, Idaho 83301-5858

Re: Transfer No. 80620, Water Right No(s). 45-284A, 45-256B & 45-286A

Dear Denise,

I have reviewed the documentation pertaining to the above reference transfer(s) 80620 dealing with water Right's 45-284A, 256B, 286A. As I have indicated on the Recommendation Form, I am confused as to what Mr. Fred Hawker is trying to do with the proposed POD off of Howell Creek. There has been call's made to Mr. Hawker at both his home phone and Cell phone over the last week and a half leaving messages on his service with no reply's returned. The calls pertained to try and get some answers on what his intentions are.

As long as I have been the Watermaster of Water District 45F, and along with my predecessors before me, have never delivered Antone and Pine Creek water to Mr. Hawker or Mr. Grant Clark from Howell Creek.

- Therefore, I have to oppose the approval of this transfer due to injury to the downstream Users and the following.

After all the years, since Mr. Hawker had his water rights, is now asking for a new POD which includes Antone-Pine to be delivered from Howell Creek! I noticed that the Topographic Map which is done by Brockway Engineering Nov. 25, 2015, is incomplete in section 32, 33, 34.

If they showed the complete section(s) it would show the current creek(s) two legs of what they call Pine dropping north below Howell Canyon Hwy down to the 1st POD which will continue on down towards Hawker.

- Note: I try and show in Topo #2, 3A, 3B on the delivery of said current waters called Antone – Pine Creeks that have been delivered and where they flow.
- It also heads East at that current POD along the Ole Howell Canyon (dirt) Road heading East to meet up with Antone Creek (2 legs) under the same Howell Canyon Hwy headed North (both sides of the 1st Cattle Guard) which proceeds to meet up with the Pine Creek leg when Grant Clark is using the water right on rotation.
- It will be noted that in section 33 there are springs on both sides of Howell Canyon Hwy that feed into the lateral of Pine Creek headed east to meet up with Antone.
- It will also be noted that both Antone/Pine are on a Rotation between both parties. Mr. Clark has 15 days and Mr. Hawker has 5 days creating a 20 day rotation of the water.
- It will also be noted that the current POD's dealing with Anton/Pine are not in compliance as defined by the State Laws requiring a Head-gate, weir & staff gage in all cases.
    - My annual Watermaster's report's, over the years has indicated they needed to get in compliance. They both have accepted my measuring and billing procedures.

Summary:

I have included some seven (7) topographic charts showing the direction flow of the two creeks (Antone/Pine) merging into Summit Creek at Bennie Smyer's after leaving the lower pond. Bennie Smyer has three ponds and the reservoir which Summit Creek can either bypass or enter the reservoir by way of a Head-gate. (See Topo #4/4A)

The final outcome of where Summit Creek, joins up with Howell Creek is in (Sec 9 Twp12S Rge 25E) at 900 South 1320 East (south of the road) just above the Chatburn's Diversion. That is where Cow Gulch also merges into Howell Creek. (See Topo #5)

Second of all, the current POD's that he shows for Antone/Pine Creeks are not in compliance with a Head Gate, Weir and Staff Gage in some diversions. I have made entries in my Watermasters Annual Report each year stating that both Mr. Fred Hawker and Mr. Grant Clark had to get in compliance with the State laws on delivering water. It is also noted that Antone/Pine are 1892 water rights that should be returned to Howell Creek by way of Summit Creek to Howell Creek, at said-point (Sec 9 Twp12S Rge 25E). Just south of 900 S 1325 E. above Jeff Chatburn's POD.

Respectively submitted,

Don G. Gunderson

Donald G. Gunderson, Water Master 45F
Marsh Creek Water District 45F
gundy@safelink.net

Enclosure(s):
- *Topographic (7)*
- *Water Right disclosures 80620*
- *Attached PDF File (emailed)*

State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858
Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

January 13, 2016

Saturday Mail
Rec'd 1/16/2016
Dear -
Keep the existing
Jane
Greg Sanner

DONALD GUNDERSON
WATER DISTRICT #45-F
1047 E 1000 S
ALBION, ID 83311

RE: Transfer No. 80620
Water Right No(s). 45-256B, 45-284A, 45-286A

RECEIVED
FEB 08 2016
DEPT OF WATER RESOURCES
SOUTHERN REGION

Dear Don:

A copy of the above referenced application is enclosed. Please review the application, then complete the enclosed recommendation form as necessary, and return it to this office within 21 days of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the watermaster, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR's regional offices can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Sincerely,

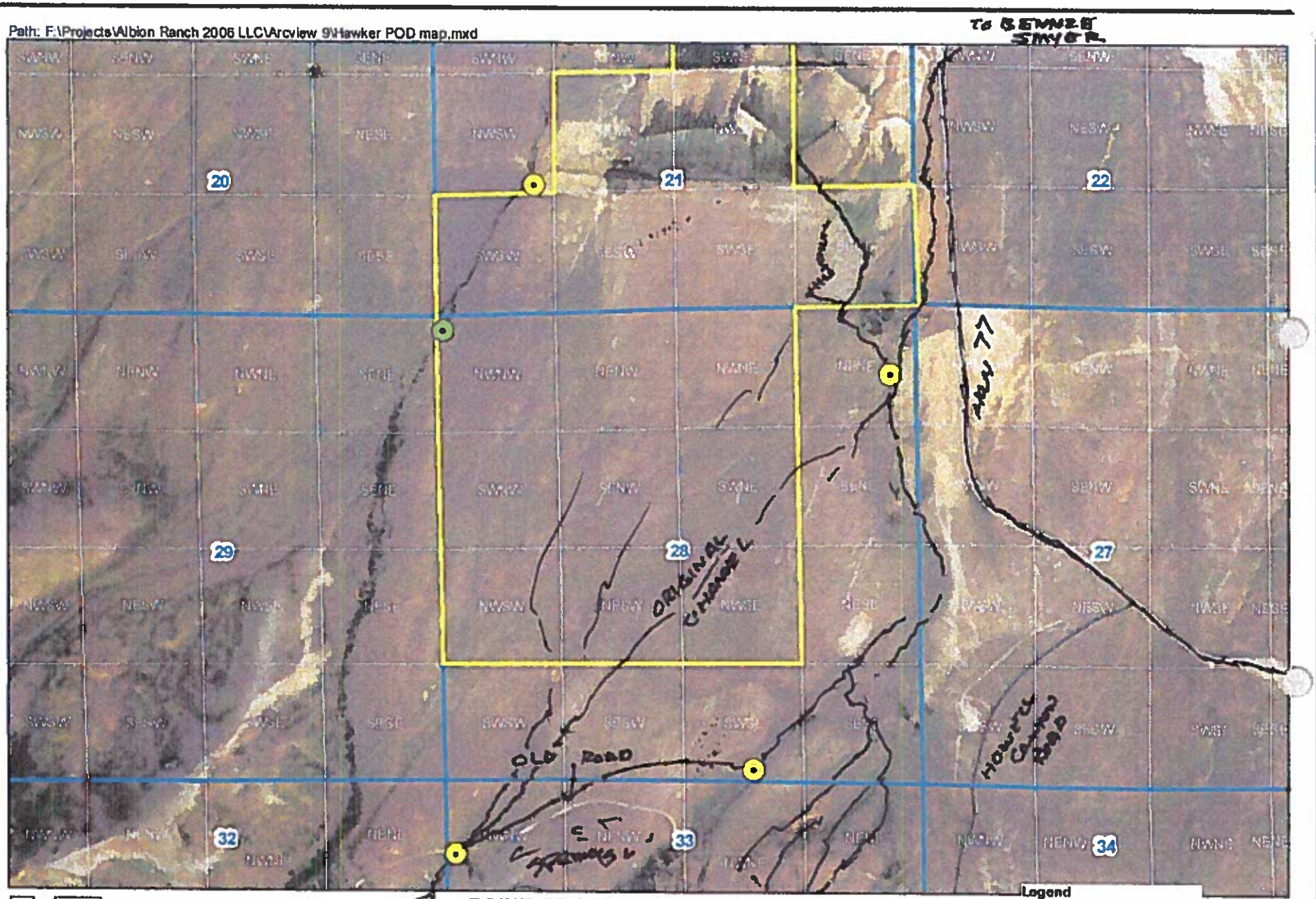
Denise Maline

Denise Maline
Administrative Assistant

Enclosure(s)

Attachments to Recommendation of Water Master received 2/8/2016

Path: F:\Projects\Albion Ranch 2006 LLC\Arcview 9\Hawker POD map.mxd



TRANSFER 80620

POINT OF DIVERSION TRANSFER MAP
FRED HAWKER
T12S R25E, CASSIA COUNTY, IDAHO
NAIP 2013 AERIAL

BROCKWAY ENGINEERING, PLLC
GEP - NOVEMBER 25, 2015

Attachments to Recommendation of Water Master received 2/8/2016

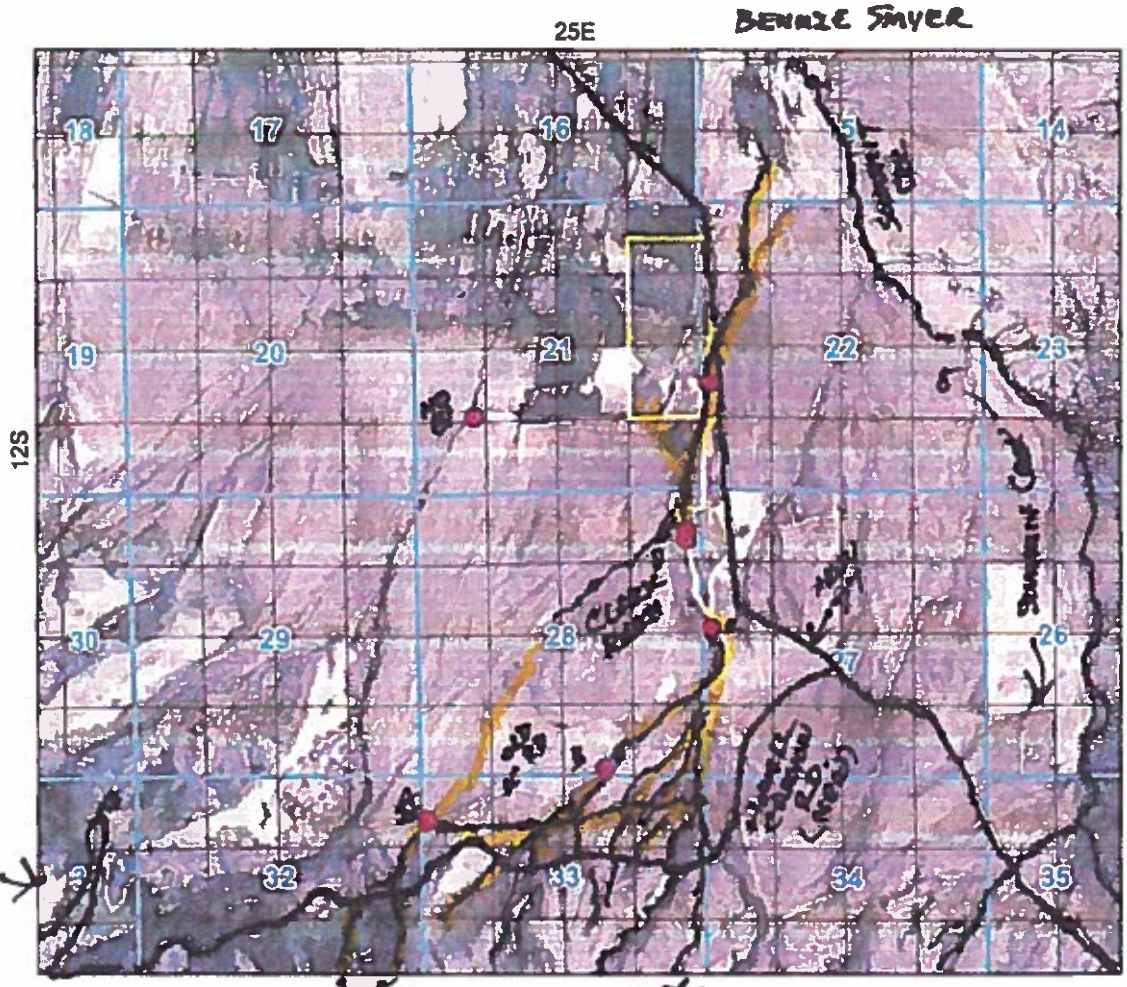
#2

State of Idaho
Department of Water Resources

Attachment To Transfer No. 78891

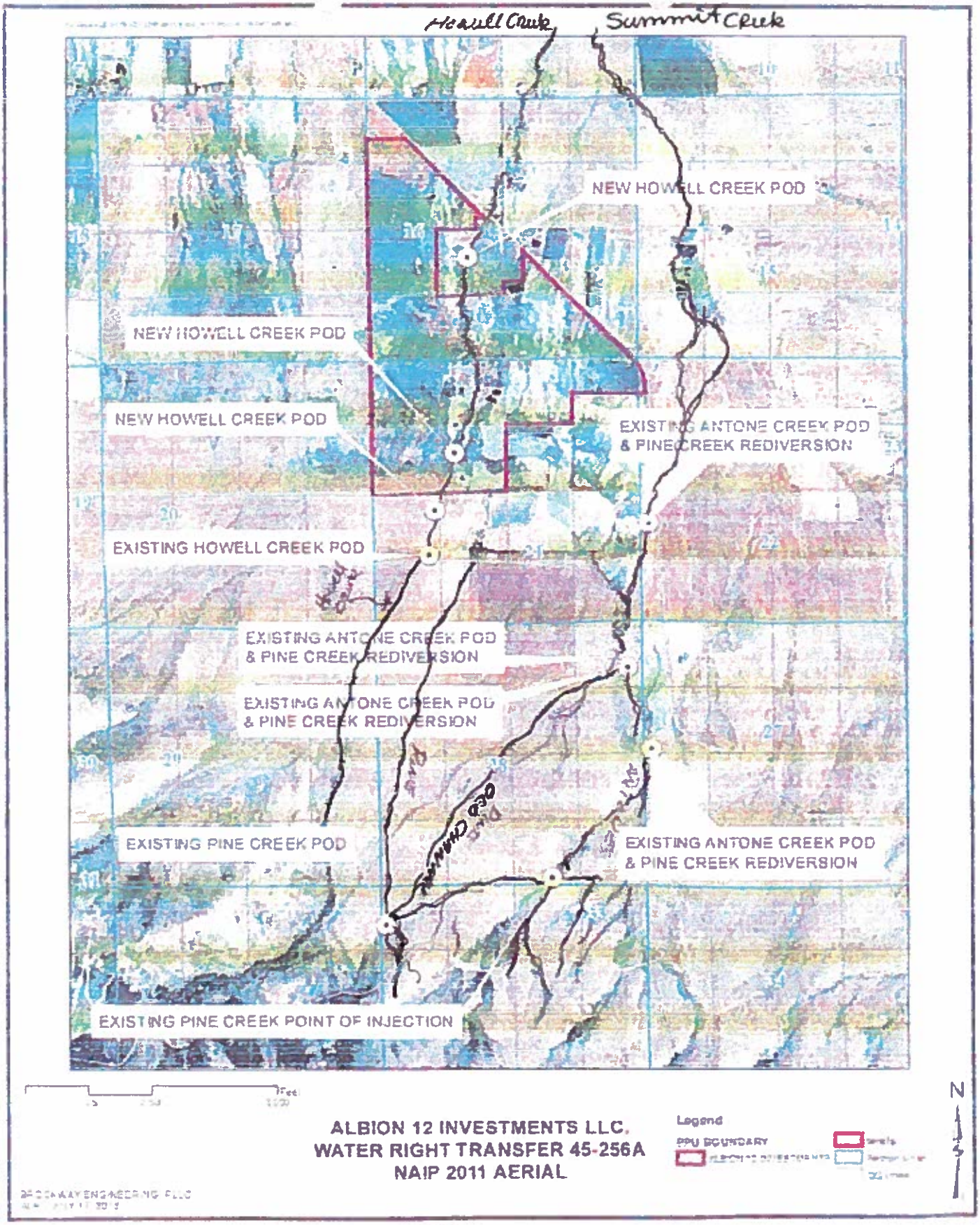
Right: 45-256A

This map depicts the IRRIGATION place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes



Note: SPRINGS ON BOTH SIDES of HOWELL CANYON HWY, IN Section 33 Feeding Into Lateral off 2nd PINE

#3A



TRANSFER 78891

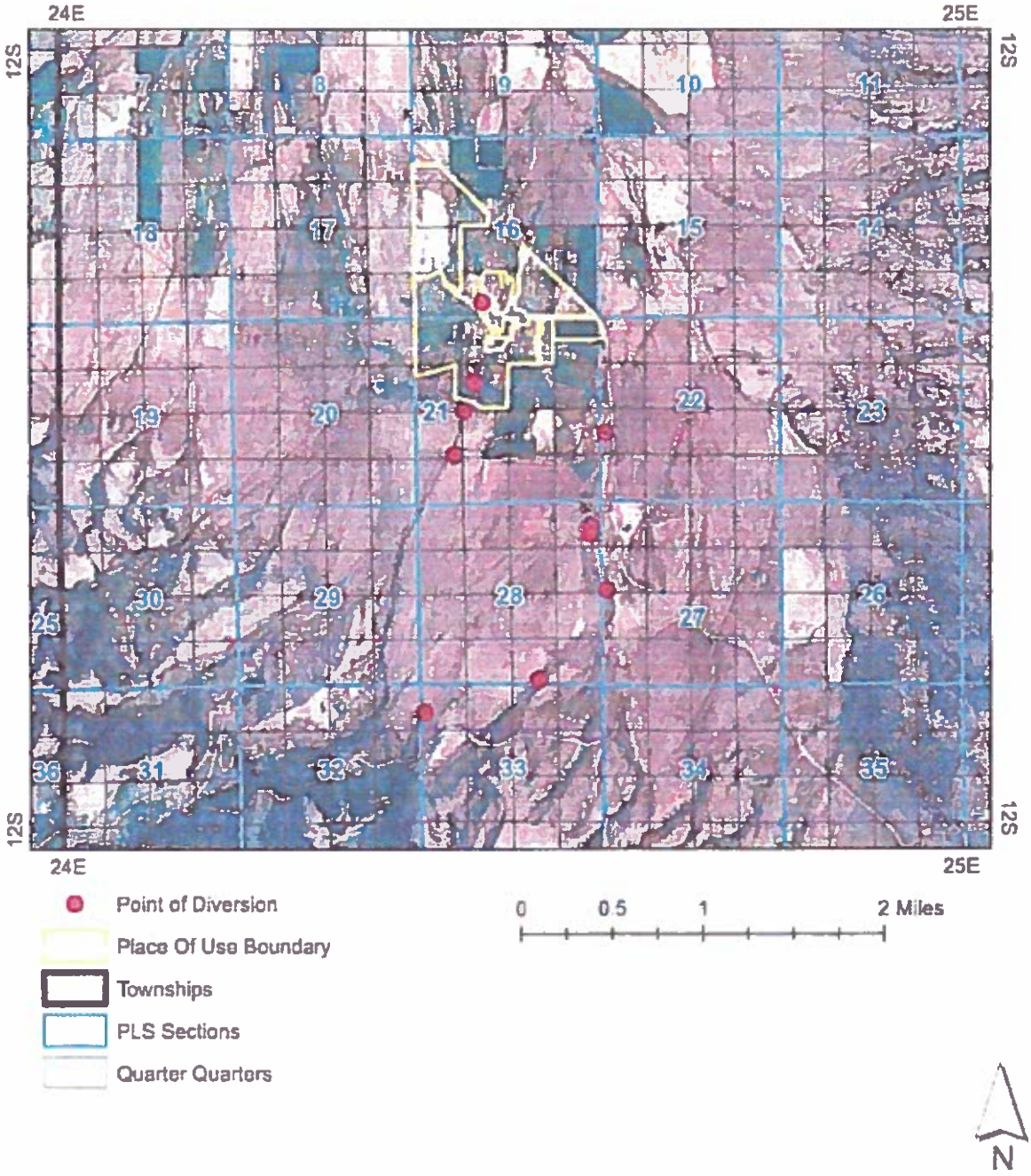
3b

State of Idaho
Department of Water Resources

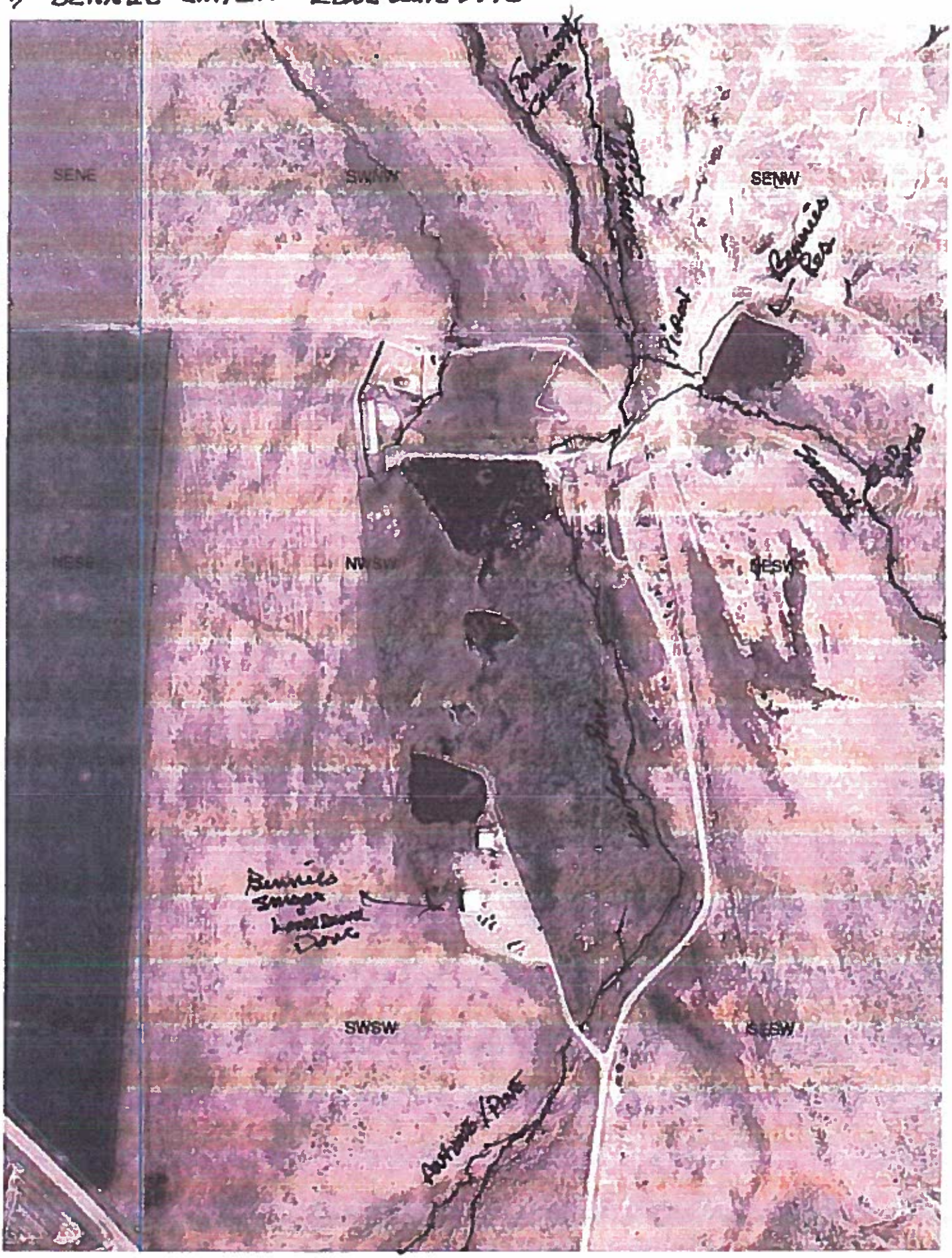
Attachment To Transfer No. 78891

Right: 45-14452

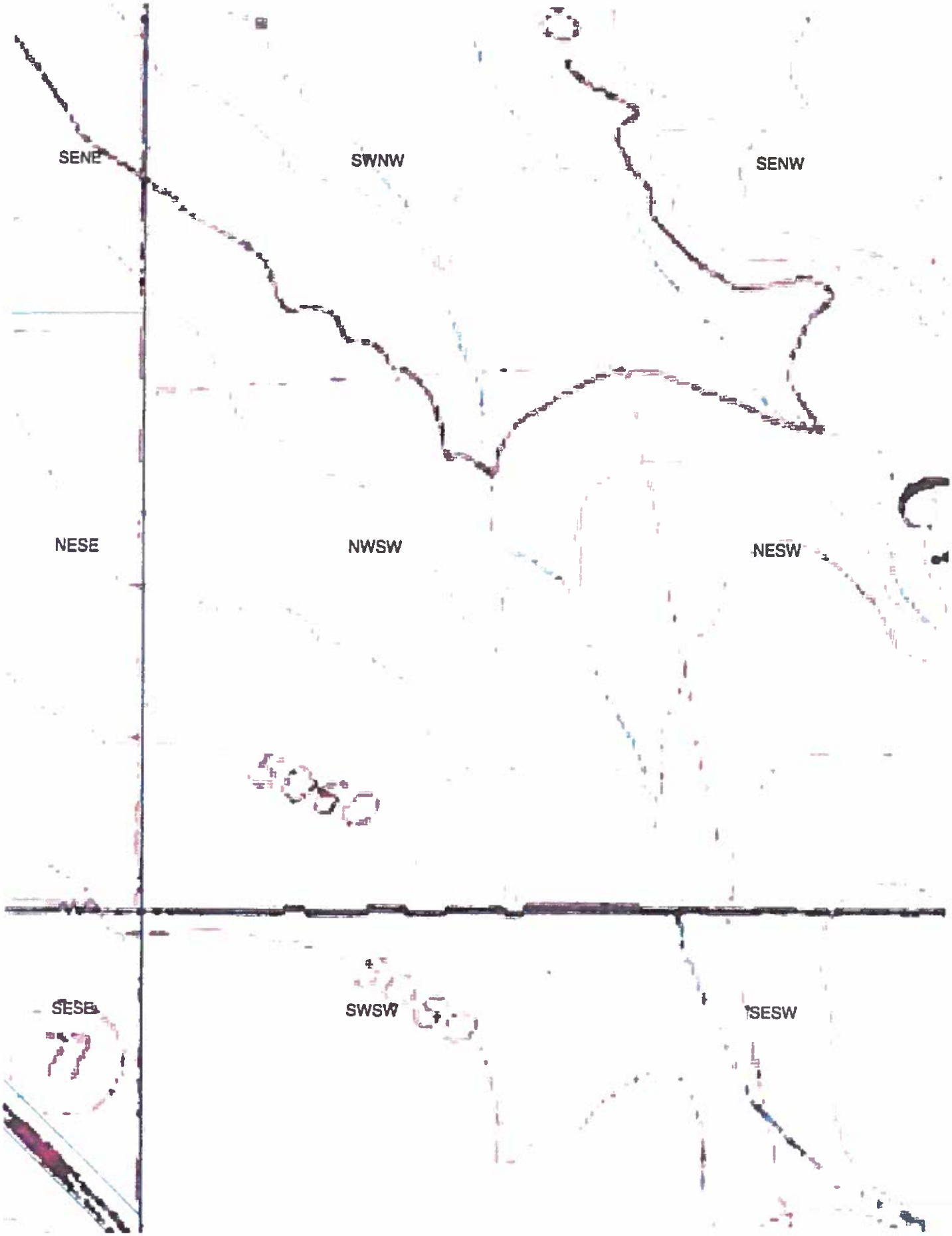
This map depicts the IRRIGATION place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.

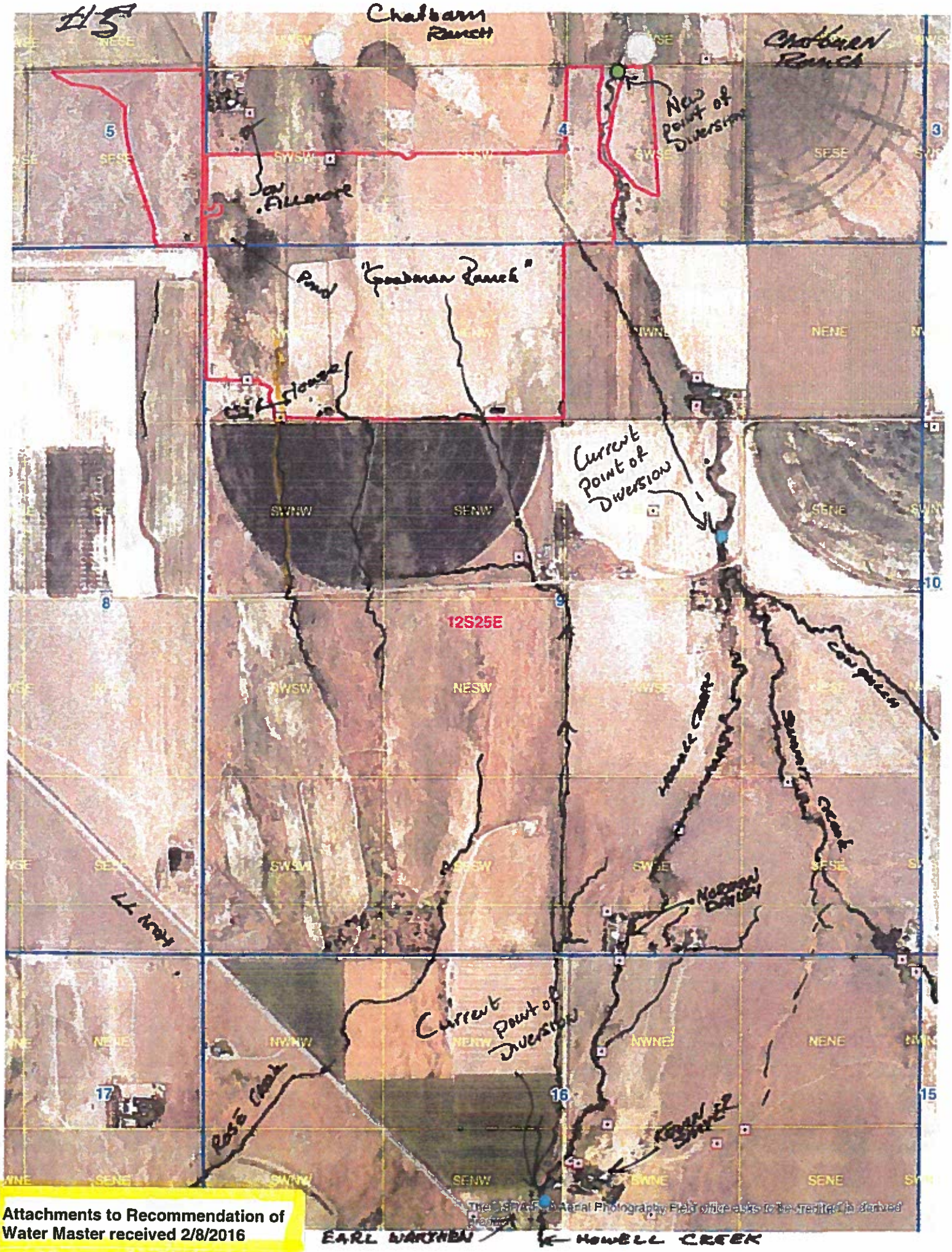


#4 BENNIE SMYER "LOVE SONG DOVE"



#4A ELEVATION @ BENNIE SMYER'S





Attachments to Recommendation of Water Master received 2/8/2016

Attachments to Recommendation of Water Master received 2/8/2016

File Prepared Date: 1/23/2016
2/4/2016
Revised 2/7/2016

MARSH CREEK WATER DISTRICT 45F
SNAKE RIVER ADJUDICATED
SURFACE WATER RIGHTS
2007

Sort Key:				CFS	IN	Total	acre			Stream	COMB LIMIT	Div	
current POD	New POD	Priority Date	Decree	Rate:	Inch	A/C	Limit	PLS	NAME:	Name:	ID'S	P	Remarks:
HOb1		04/01/1875	45-284A	0.67	33.5	90		12S25E21SENWSW	Hawker, Fred	Howell Creek	6780		
HOc1-3		04/01/1875	45-284B	1.5	75	378	90	12S25E21SENWSW	Albion Ranch 2006 LLC	Howell Creek	7451		
HOc1-3		04/01/1875	45-284B					12S25E16SWSESW			7451		
HOc1-3		04/01/1875	45-284B					12S25E21NENWSW			7451		
HOc1-3		04/01/1875	45-284B					12S25E21NWSENW			7451		
HOb1		04/01/1875	45-284C	0.51	25.5	129.9	32	12S25E21SENWSW	Clark, Ranch (see Note 1)	Howell Creek	5936		
HOb1		09/01/1880	45-286	1.2	60	129.9	119	12S25E21SENWSW	Clark, Ranch (see Note 1)	Howell Creek	5936		
HOb1		09/01/1880	45-286	1.2	60	129.9	119	12S25E21SENWSW	Clark, Ranch (see Note 1)	Howell Creek	5936		
HOb1		09/01/1880	45-286A	0.4	20	90		12S25E21SENWSW	Hawker, Fred	Howell Creek	6780		
HOb1		09/01/1880	45-286A	0.4	20	90		12S25E21SENWSW	Hawker, Fred	Howell Creek	6780		
HO		*04/12/1892*						*HIGH WATER*					45-255
HO		04/12/1892	45-256A	3.35	167.5	167.7		12S25E21SENWSW	Clark, Ranch (see Note 1)	Howell Creek	4551	??	
HO		04/12/1892	45-256B	4.7	235	235		12S25E21SENWSW	Hawker, Fred	Howell Creek	5616	??	
								High Water					
AN		*04/12/1892*						ANTONE CREEK					
AN		04/12/1892	45-256A	3.35	167.5	167.7		12S25E28SENENE	Clark, Grant (see note 1)	Antone Creek	4551		
AN		04/12/1892	45-256A					12S25E22SWNWSW					
AN		04/12/1892	45-256A					12S25E27SWSWNE					
AN		04/12/1892	45-256A					12S25E22SWNWSW	Albion Ranch 2006				
AN		04/12/1892	45-256A										
AN		04/12/1892	45-256B	4.7	235	235		12S25E28SENENE	Hawker, Fred		5616		

						High Water					
PC	04/12/1892					PINE CREEK					
PC	04/12/1892	45-256A	3.35	167.5	167.7	12S25E27SWSWNW	Clark, Grant (see Note 1	Pine Creek	4551	Rediver	
PC	04/12/1892	45-256A				12S25E33SWNWNW			4551		
PC	04/12/1892	45-256A				12S25E28SESWSE			4551	Injection	
PC	04/12/1892	45-256A				12S25E28SENENE			4551	Rediver	
PC	04/12/1892	45-256A				12S25E22SWNWSW			4551	Rediver	
PC	04/12/1892	45-256A				12S25E22SWNWSW	Albion Ranch 2006				
PC	04/12/1892	45-256A									
PC	04/12/1892	45-256B	4.7	235	235	12S25E28SESWSE	Hawker, Fred	Pine Creek	5616	Injection	
PC	04/12/1892	45-256B				12S25E28SENENE			5616	Rediver	
PC	04/12/1892	45-256B				12S25E33SWNWNW			5616		

Current POD's

Not in compliance with either a weir/Hd-gate or Staff gage just accepting my standard measurement!

The Comb Limit ID's Hawker 5616 and Grant Clark 4551 that show up as Howell Creek is Antone/Pine Creeks ID's. I therefore indicate that the Howell Creek 4/12/1892 never exsisted before the Adjudication report that was prepared.

Stokes versus Woods Document that was the legal document and I as the Watermaster had never delivered from Howell Creek the Antone/Pine. Yes, Anton/Pine does empty into Howell Creek but not until it drops into Sumit Creek which would empty into Howell Creek along with Cow Gulch Creek at (Sec 9 Twp12S Rge 25E) at 900 S 1320 E (just above (South) of the Chatburn Diversion).

I believe 45-255 from Stokes vs Woods, Priority Date 4/12/1892 which is missing from the Adjudicated Mstr File is the Howell Creek right to Chatburn.

Note: I could not find Pine Creek ever exsisted in the Woods verses Stokes nor John Bridger verses Hyrum Tremayne in (Excessive water over Woods verses Stokes (1892 Water Rights).

Attachments to Recommendation of Water Master received 2/8/2016