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Form 42-1761-1 08/11

JUL 19 2012

DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
WATER RESOURCE BOARD

WSB No. _____

Receipt No. 6095749Date/by 7/19/2012 JSZ

(For Department Use Only)

**APPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANK**Name of Seller/Lessor Foster Land and Cattle Phone _____Mailing address PO Box 40, Ririe, ID 83443 Email _____**A. DESCRIPTION OF WATER RIGHT, OR PORTION THEREOF, OFFERED TO THE BANK**If the entire right is for sale or lease, check here ☐, list the water right number, and skip to Part B.

1. <u>Water Right Number</u>	<u>Amount (cfs/ac-ft)</u>	<u>Nature of Use</u>	<u>Period of Use</u>
<u>35-7192A</u>	<u>1.78 cfs/700 ac-ft</u>	<u>Irrigation</u>	<u>04/01</u> to <u>10/31</u>
_____	_____	_____	_____ to _____
_____	_____	_____	_____ to _____

Total Amount: 1.78 cfs/700 ac-ft

2. Source of water _____ Ground water _____ tributary to _____

3. Point(s) of Diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
4N	35E	11			SE	NW	Jefferson

4. Lands irrigated or place of use: *See Part D for additional information regarding place of use.

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	35E	11	33.1	36.5	0.6	7.3	5.1							7.0	10.1	1.3	38.5	35.5	175

If the right is for irrigation, show total number of acres offered to the bank. Total Acres 175**B. OWNERSHIP**

1. Are you currently listed in IDWR's records as the owner of the water right being offered to the bank? Yes ☒ No ☐
 If no, provide documentation of your authority to sign on behalf of the right holder OR attach a Notice of Change in Water Right Ownership form along with the required documentation and fee.

2. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☒
 If yes, provide written consent from the company, corporation or irrigation district to the proposed sale or lease and list name of entity:

C. GENERAL INFORMATION

1. Please provide a description of the current diversion system.

Water is diverted through an existing well and pump.

2. Describe any other water rights used for the same purpose or at the same place of use as described above.

Water Right No. 35-9069 is also used in conjunction with this water right.

3. Will the present place of use continue to receive water from any source?

Yes ☐ No ☒

If yes, describe.

4. Has any portion of this water right undergone a period of five or more consecutive years of non-use?

Yes ☐ No ☒

If yes, describe and attach watermaster records or other evidence to demonstrate that the right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code.

5. Is this water right involved in any other Department process such as an application for transfer or a mitigation plan? Yes
- ☐
- No
- ☒

If yes, describe.

D. REQUIRED ITEMS

This form must be signed and submitted with the following REQUIRED items:

1. Plat map, survey map or aerial photograph clearly showing the specific acres proposed to be idled by this lease application.
2. Filing fee of \$250.00. If you are submitting more than one lease application and the rights have a common place of use or common diversion rate or common diversion volume, the combined maximum fee is \$500.00.

E. SALE/LEASE AGREEMENT

1. Is the water right, or portion thereof, described above offered to the Idaho Water Resource Board (IWRB) for sale
- ☐
- or lease
- ☒
- .

If lease, for a period from 07/15/2012 to 12/31/12 (not to exceed 5 years).
(Month / Day / Year) (Month / Day / Year)

2. Show the minimum payment acceptable to the Seller/Lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.

Current Rental Rate

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this right for sale or lease to the Idaho Water Resource Board.

The owner/lessor acknowledges the following:

1. Payment to the owner/lessor is contingent upon the sale or rental of the right from the bank.
2. While a right is in the bank, the owner/lessor of the right may not use the right even if the right is not rented from the bank.
3. A right accepted into the bank stays in the bank until the Board releases it or the lease term expires.
4. While a right is in the bank, forfeiture provisions are stayed.
5. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right.


 Signature of Applicant

 Luke H. Marchant, Attorney
 Printed Name and Title*

7/17/12
 Date

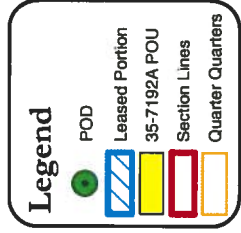
Signature of Applicant

Printed Name and Title*

Date

*Please provide title of signatory if signing on behalf of a company or organization or with power of attorney

Mail to: Idaho Department of Water Resources, P.O. Box 83720, Boise, ID 83720-0098



Prepared by:
Luke H. Marchant
07/13/2011



REPORT

ON-SITE INSPECTION OF THE SECTION 11, T04N, R35E

Conducted on September 17, 2010

BY KEITH C. WILSON

SENIOR WATER RIGHTS ANALYST - ROCKY MOUNTAIN ENVIRONMENTAL

On September 17, 2010, I accompanied Dave Chappell to Section 11, T04N, R35E, Jefferson County, Idaho. The purpose of the on-site inspection was to observe and document irrigation of the corners not directly irrigated under the three pivots. According to Mr. Chappell the irrigation of the corners was for the purpose of grazing all of Section 11 at the end of the irrigation season. To document the irrigation, GPS coordinates and photos were taken at the following locations:

Latitude/Longitude: Degrees Decimal-minutes				
Site Location	Latitude	Longitude	Photos	Attachment #
1	N 43° 41.495'	W 112° 19.332	100_0146	#B
			100_0158	
			100_0159	
			100_0160	
			100_0161	
			100_0163	
2	N 43° 41.925'	W 112° 19.339	100_0147	#C
			100_0148	
			100_0149	
3	N 43° 41.925'	W 112° 18.681	100_0151	#D
4	N 43° 41.891'	W 112° 18.681	100_0153	#D
5	N 43° 41.067'	W 112° 18.181	100_0157	#E
			100_0156	
			100_0155	
6	N 43° 41.112'	W 112° 19.332	100_0164	#E

These site locations are indicated on the 2009 aerial photo in "Attached A". Photos taken at these Site Locations document the inspection. Numerous photos were taken, only relevant and clear photos are included with this report.

The 2009 aerial photo in "Attachment A" appears to indicate that the corners, with a few exceptions, in Section 11, T04N, R35E, were, are, or have been irrigated. The irrigation of Section 11, T04N, R35E, is authorized under water rights 35-7192A and 35-9069 which in combination are authorized to divert 6.02 cfs and irrigate 636 acres (See "Attachment A").

During the on-site inspection, it was observed that the irrigation of the corners required the use of portable mainlines and laterals with sprinklers, as seen in some of the photos on the enclosed attachments.

At the time of the inspection, an employee told Dave Chappell that the south-east corner of Section 11 (i.e. within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, and the SE $\frac{1}{4}$) had already been irrigated once and that the vegetation had already started to green up. Photos 100_0155, 100_0156 and 100_0157, on "Attachment E", Site #5 (near the SE corner SE $\frac{1}{4}$ SE $\frac{1}{4}$) appear to substantiate that statement.

Site #1, "Attachment B", West $\frac{1}{4}$ corners of Section 11, T04N, R35E:

Photos 100_0146, #100_158, #100_0159, #100_0160, #100_0161 and #100_0163 -

A portable mainline and hand lines have been laid from the well along the field service road to the West $\frac{1}{4}$ corner of Section 11. The hand lines were placed north and south from the West $\frac{1}{4}$ corner Section 11, along the west section line of Section 11. Irrigation was observed in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 11, as seen in the above numbered photos.

Site #2, "Attachment C", NW corner NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 11, T04N, R35E:

Photos #100_0147, #100_0148 and #100_0149 -

No irrigation of the NW corner NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 11, was observed at the time of the inspection. It is the opinion of this examiner that irrigation of the NW corner NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 11, could be accomplished using hand lines from the West $\frac{1}{4}$ corner as seen in Photos #100_158, #100_159, and #100_160, taken at Site #1 or from the N $\frac{1}{4}$ Corner using the portable mainline that runs in a North-South direction along the center line of Section 11, as seen in photos #100_151 and #100_153, taken at Site #3 and Site #4, "Attachment D".

Site #3, Site #4, "Attachment D", near the N $\frac{1}{4}$ corner of Section 11, T04N, R35E:

Photos #100_151 and #100_153 -

No irrigation was observed at Site #3 or Site #4. Photo #100_151 (Site #3) and Photo #100_153 (Site #4), show a portable mainline that runs in a North-South direction along the center line of Section 11, towards the point of diversion. Hand lines were observed at Site #4, photo #100_153, in a view looking East in the NW corner of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 11. Due to slight elevation change Site #3 and Site #4 were chosen to show that the mainline continues south towards the point of diversion and hand lines continue into the NW corner of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 11.

During the inspection, no irrigation was occurring in the NE $\frac{1}{4}$ Section 11. Hand lines were observed, and the vegetation was green as evidenced in the 2009 aerial photo, "Attachment A" that would support irrigation, with this as evidence no photos were taken.

Site #5, "Attachment E", near the SE corner of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 11, T04N, R35E:

Photos #100_0155, #100_0155, and #100_0156 -

No irrigation was occurring in the SE corner of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ or the S $\frac{1}{2}$ SE $\frac{1}{4}$ Section 11, at the time of the on site inspection. This observer noted that it appears that vegetation is beginning to green up in the SE corner of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 11. This would be consistent with the information provided that the S $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 11 had already been irrigated. The 2009 aerial photo "Attachment A" appears to substantiate the SE corner of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ and the S $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 11, has been irrigated.

Site #6, "Attachment E", SW corner of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 11, T04N, R35E:

Photo #100_164

Irrigation was occurring in the SW corner of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 11, as seen in Photo #100_164.

During the inspection, this examiner noted that the entire Section 11, T04N, R35E was fenced while most of the surrounding irrigated fields were not. Even though no grazing was observed at the time of the inspection, the fact that all of Section 11 is fenced would be consistent with, and would lend creditability to, the statement that Section 11 would be used for grazing purposes. Irrigating ground for grazing purposes is considered a beneficial use of a water right or rights.

The conclusion, the stated purpose of the on site inspection was to observe and document irrigation of the corners not directly irrigated under the three pivots located in Section 11, T04N, R35E. Based on the on-site inspection, the 2009 aerial photo (Attachment A), and the photo documentation (Attachments B, C, D and E), it is this examiners professional opinion that there is sufficient evidence that the ground has or was being irrigated on somewhat of a regular basis and that the water was being beneficially used.

Sincerely,



Keith C. Wilson
Senior Water Right Analyst



PHOTO LOCATIONS: Sec 11, T4N, R35E

2009 Aerial Photo

Site Location # Latitude/Longitude: Degrees Decimal-minutes Attachment

#1.	N 43°41.495'	W 112° 19.332'	B
#2.	N 43°41.925'	W 112° 19.339'	C
#3.	N 43°41.925'	W 112° 18.681'	D
#4.	N 43°41.891'	W 112° 18.681'	D
#5.	N 43°41.067'	W 112° 18.181'	E
#6.	N 43°41.112'	W 112° 19.332'	E

WATER RIGHT NO. 35-7192A

Water Right Report

Owner Type	Name and Address
Current Owner	PAUL & ALICE HEYREND
	PO BOX 169, ARTOIS, CA 95913
	(530)934-3010

Priority Date: 11/29/1971

Basis: Decreed

Status: Active

Source	Tributary
GROUND WATER	

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	4/01	11/01	5.45 CFS	
Total Diversion			5.45 CFS	

Location of Point(s) of Diversion:

GROUND WATER	SENW	Sec. 11	Township 04N	Range 35E	JEFFERSON County
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IRRIGATION Use: Acre Limit: 576

Place of Use Legal Description: IRRIGATION JEFFERSON County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
04N	35E	11		NENE	40		NWNE	40		SWNE	40		SENE	40
				NENW	40		NWNW	40		SWNW	40		SENW	40
				NESW	40		NWSW	40		SWSW	39		SESW	39
				NESE	40		NWSE	40		SWSE	39		SESE	39

Total Acres: 636

IRRIGATION Use: Acre Limit: 576

Conditions of Approval:

1.	C18	THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
2.		USE OF THIS RIGHT WITH RIGHT NO. 35-09069 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 6.02 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 2544 AF.
3.		USE OF THIS RIGHT WITH RIGHT NO. 35-09069 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 636 ACRES IN A SINGLE IRRIGATION SEASON. THIS RIGHT IS LIMITED TO THE IRRIGATION OF 576 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
4.	C05	RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
5.		RIGHT NO. 35-09069 IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.

Decreed Date: 01/31/2002

Water District Number: 120

Combined Acres Limit: 636

Combined Volume Limit: 2544 Combined Rate Limit: 6.02

WATER RIGHT NO. **35-9069****Water Right Report**

Owner Type	Name and Address
Current Owner	PAUL & ALICE HEYREND
Current Owner	PO BOX 169, ARTOIS, CA 95913
	(530)934-3010

Priority Date: 11/29/1971

Basis: Decreed

Status: Active

Source	Tributary
GROUND WATER	

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	4/01	10/31	0.57 CFS	
Total Diversion			0.57 CFS	

Location of Point(s) of Diversion:

GROUND WATER	SENW	Sec. 11	Township 04N	Range 35E	JEFFERSON County
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IRRIGATION Use: Acre Limit: 60

Place of Use Legal Description: IRRIGATION JEFFERSON County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
04N	35E	11		NENE	40		NWNE	40		SWNE	40		SENE	40
				NENW	40		NWNW	40		SWNW	40		SENW	40
				NESW	40		NWSW	40		SWSW	39		SESW	39
				NESE	40		NWSE	40		SWSE	39		SESE	39

Total Acres: 636

IRRIGATION Use: Acre Limit: 60

Conditions of Approval:

1.	C18	THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
2.		USE OF THIS RIGHT WITH RIGHT NO. 35-07192A IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 6.02 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 2544 AF.
3.		USE OF THIS RIGHT WITH RIGHT NO. 35-07192A IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 636 ACRES IN A SINGLE IRRIGATION SEASON. THIS RIGHT IS LIMITED TO THE IRRIGATION OF 60 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
4.	C05	RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
5.		RIGHT NO. 35-07192A IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.

Decreed Date: 01/31/2002

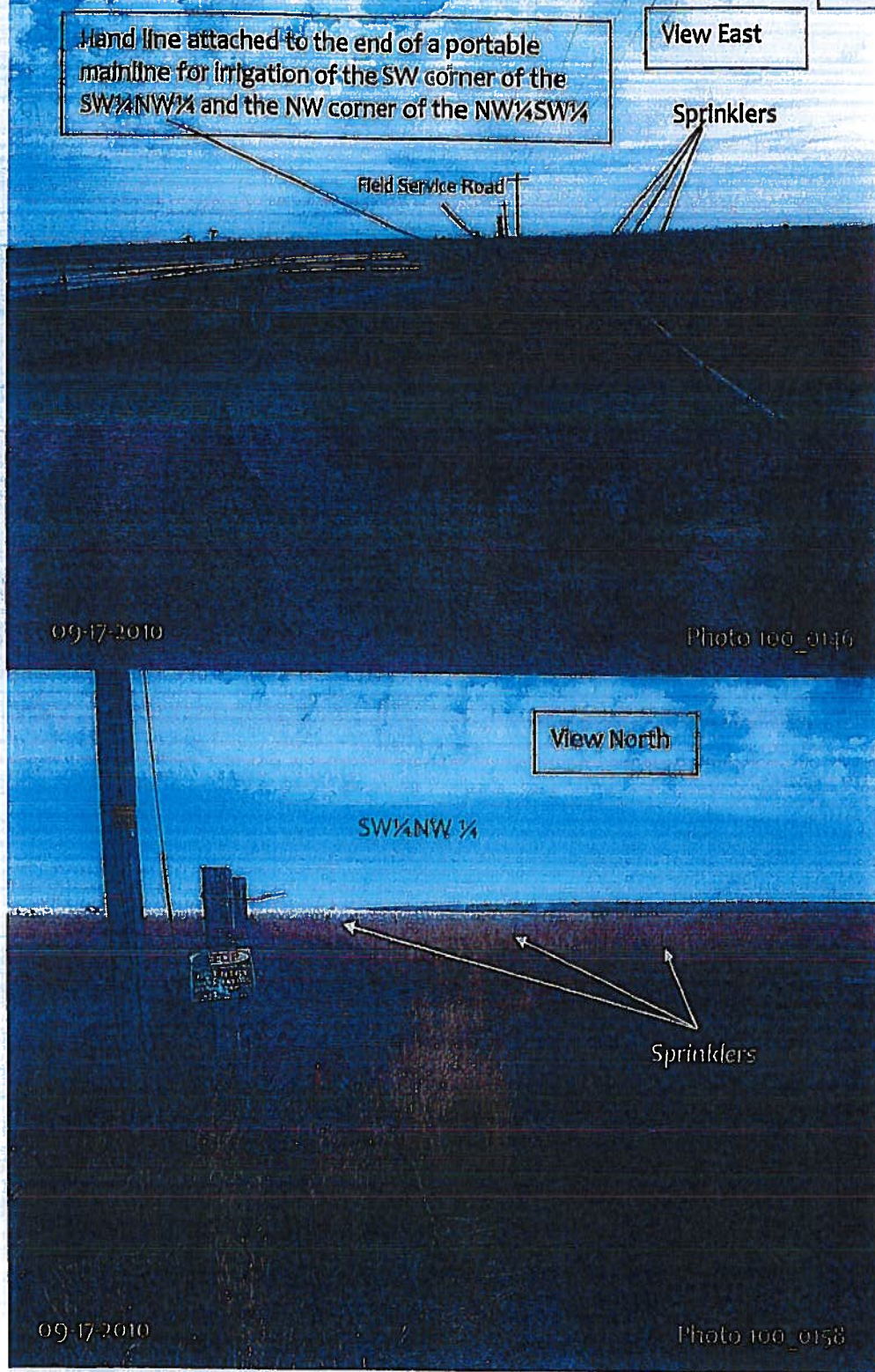
Water District Number: 120

Combined Acres Limit: 636

Combined Volume Limit: 2544 Combined Rate Limit: 6.02

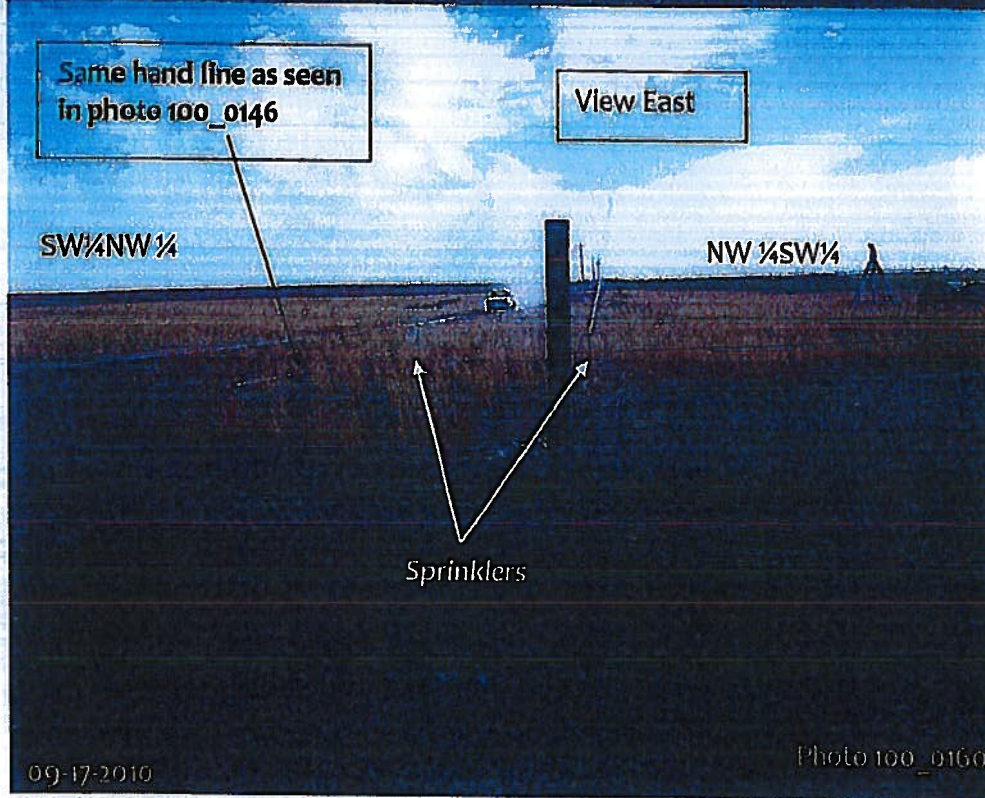
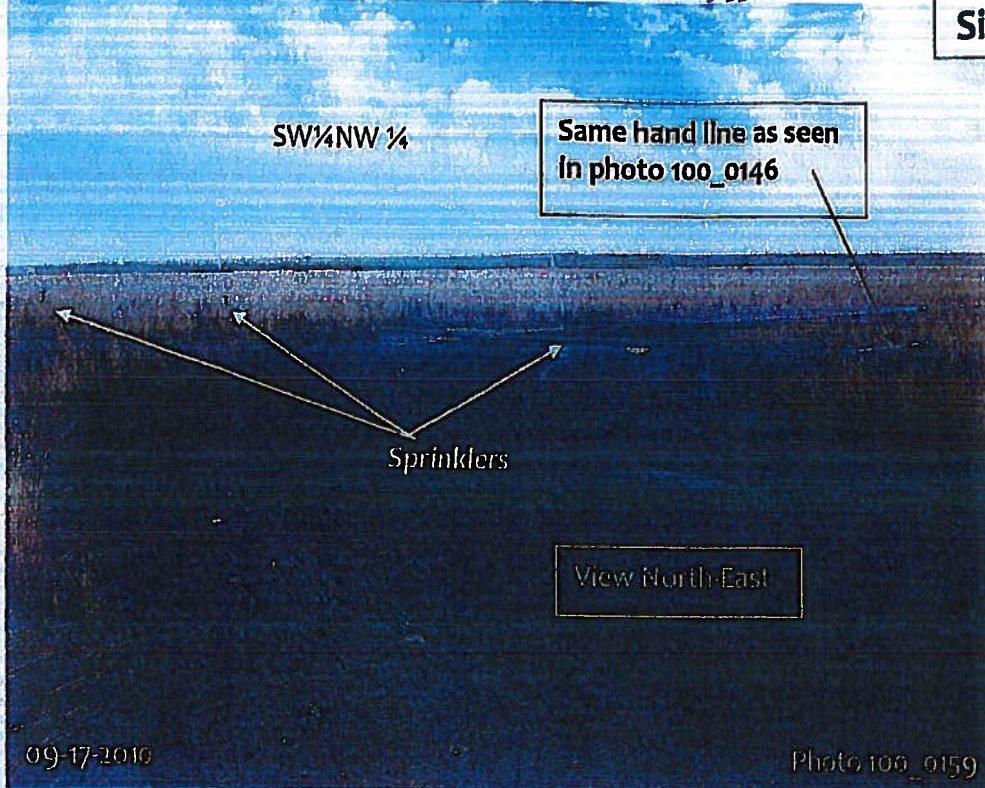
W $\frac{1}{4}$ Corner, Sec 11, R35E, T04N: N 43° 41.495' W 112° 19.332'

Site Location #1



W¼ Corner, Sec 11, R35E, T04N: N 43° 41.495' W 112° 19.332'

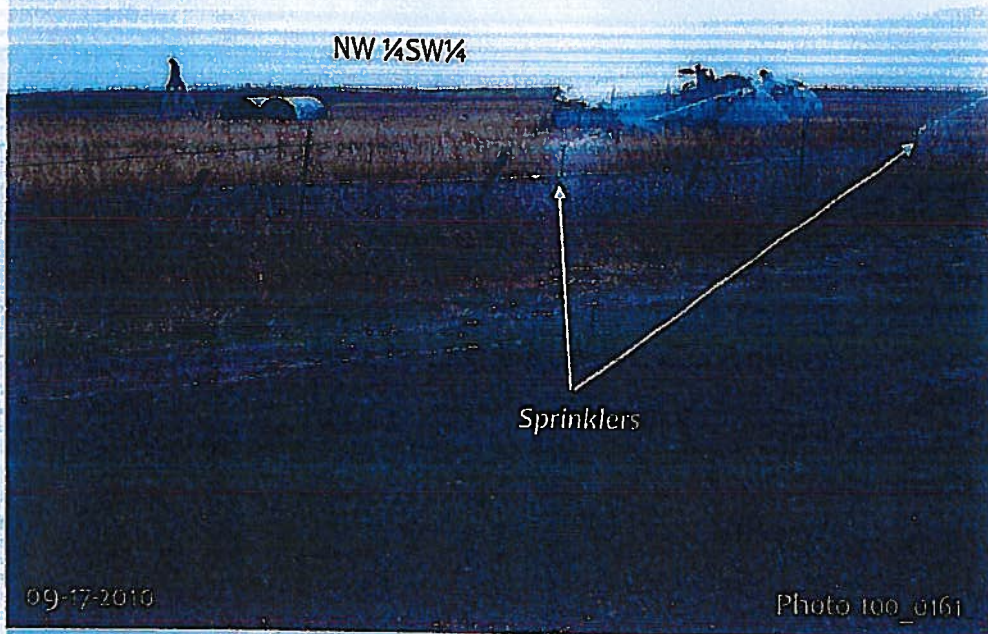
Site Location #1



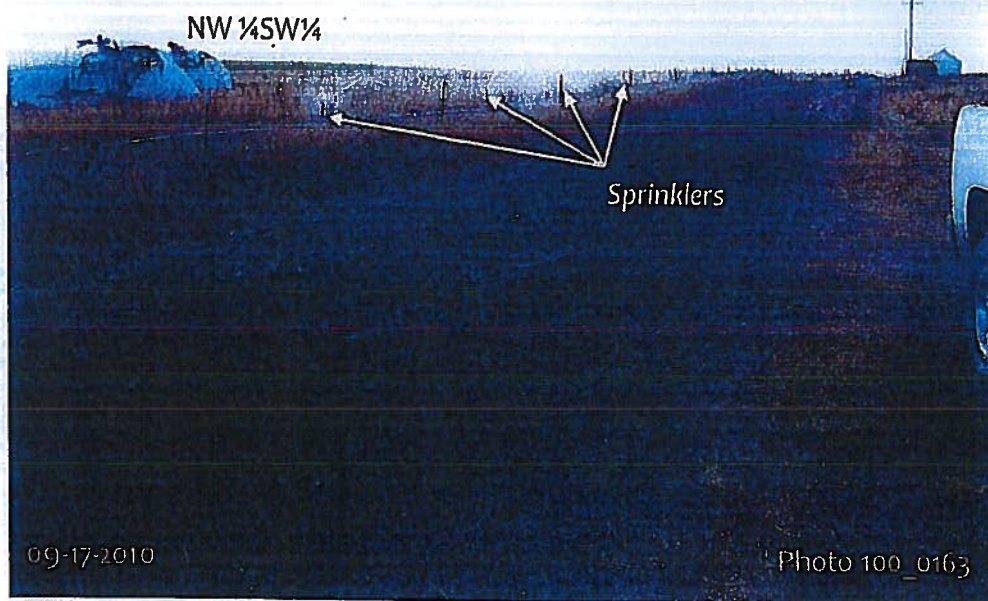
W $\frac{1}{4}$ Corner, Sec 11, R35E, T04N: N 43° 41.495' W 112° 19.332'

Site Location #1

View South-East



View South



NW Corner, Sec 11, R35E, T04N: N 43°41.925' W 112°19.339'

Site Location #2

View East

NW¼NW¼

09-17-2010

Photo 100_0147

View South-East

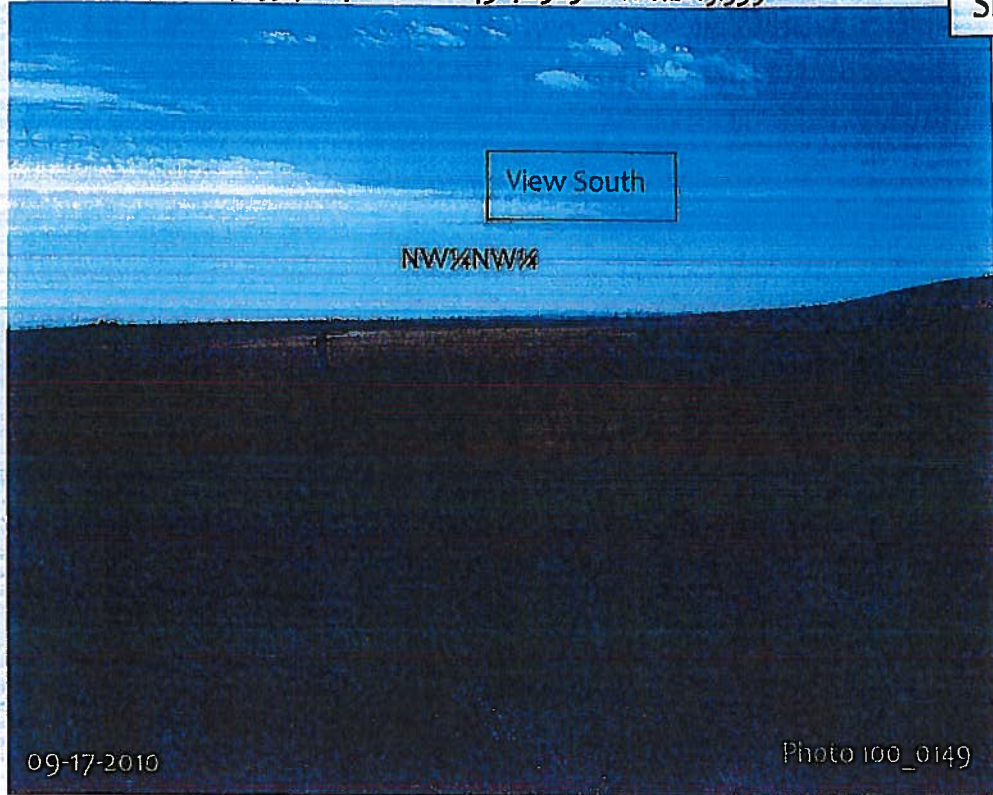
NW¼NW¼

09-17-2010

Photo 100_0148

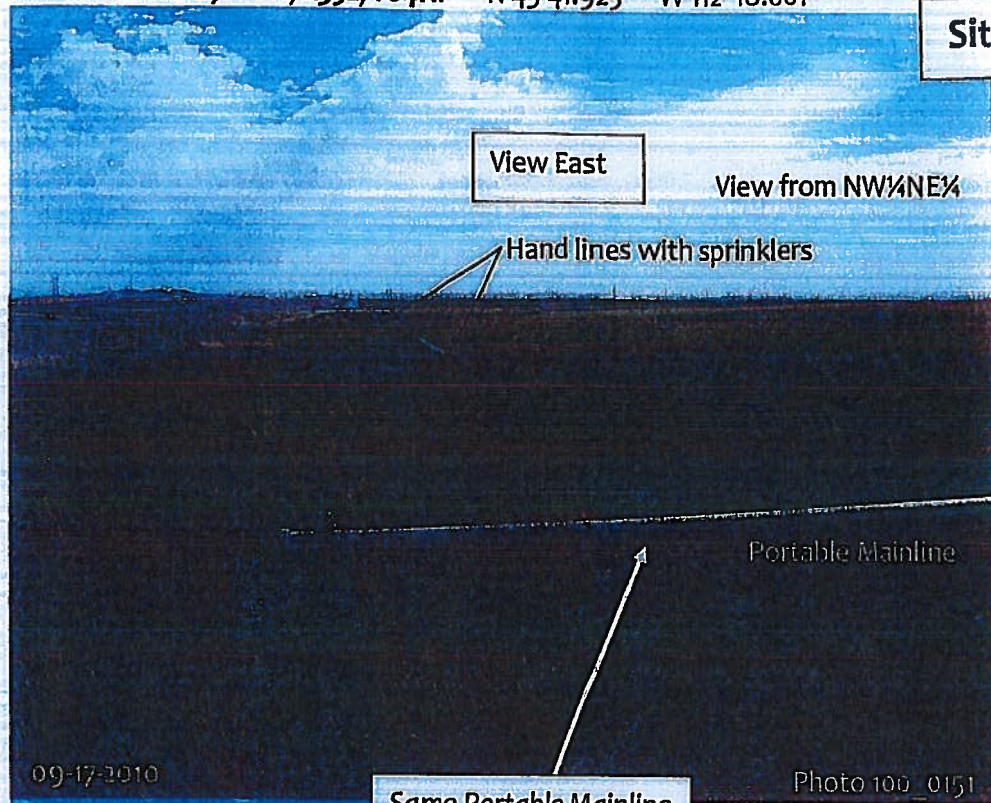
NW Corner, Sec 11, R35E, T04N: N 43° 41.925' W 112° 19.339'

Site Location #2



Near N ¼ Corner, Sec 11, R35E, T04N: N 43°41.925' W 112° 18.681'

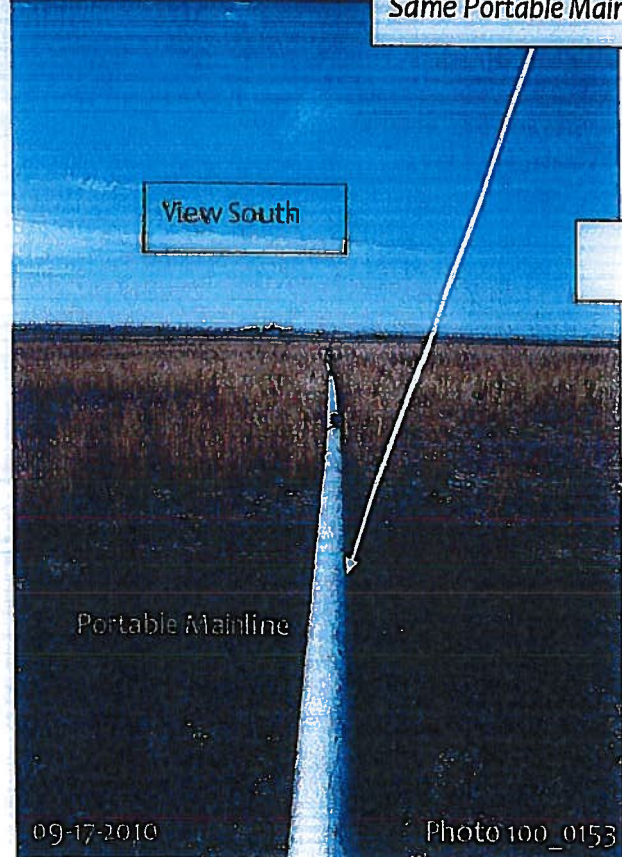
Site Location #3



Same Portable Mainline

Near N ¼ Corner, Sec 11, R35E, T04N:
N 43°41.891' W 112° 18.681'

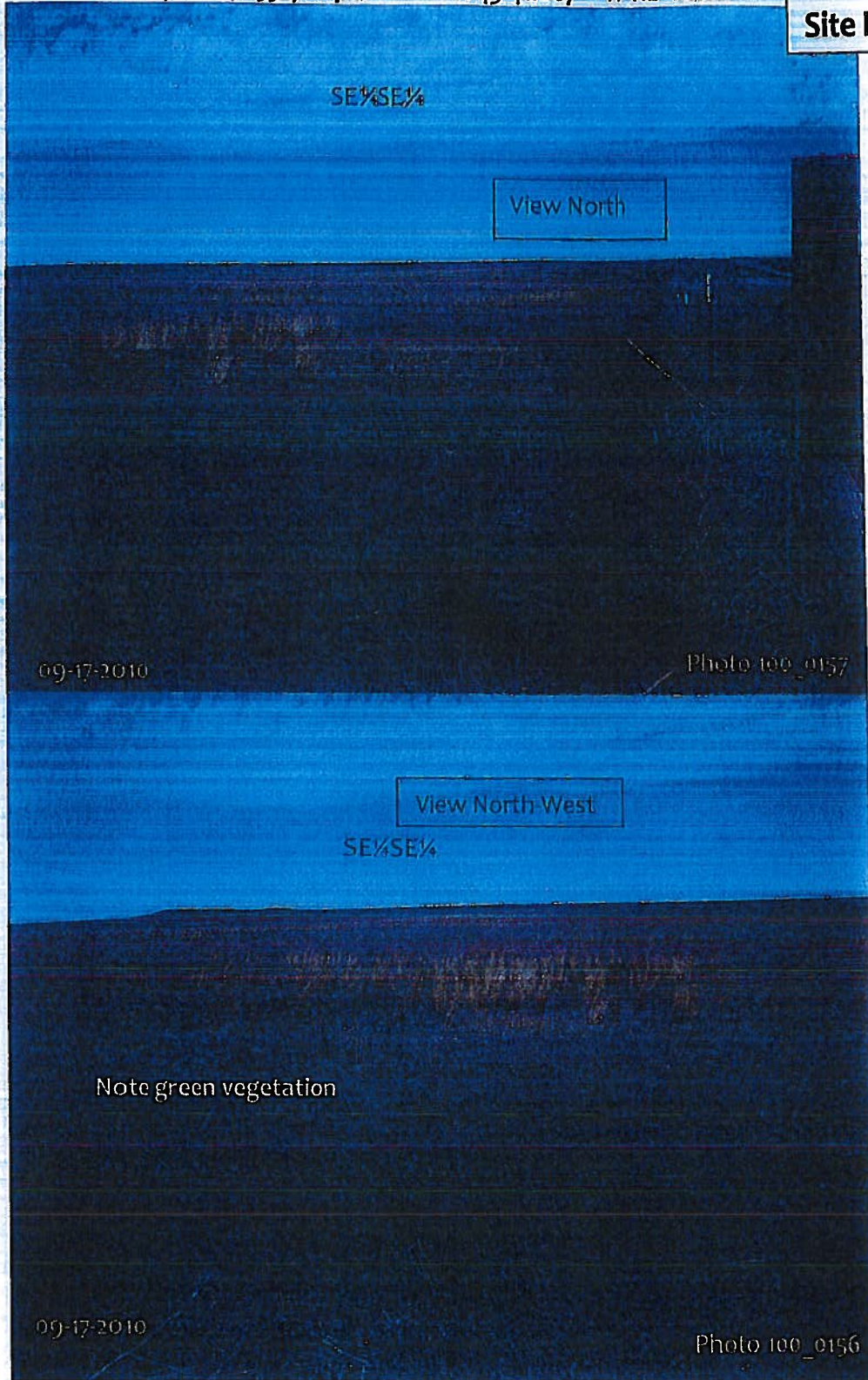
Site Location #4



Near SE Corner, Sec 11, R35E, T04N:

N 43° 41.067' W 112° 18.181'

Site Location #5



Near SE Corner, Sec 11, R35E, T04N:

N 43°41.067' W 112°18.181'

Site Location #5



Near SW Corner, Sec 11, R35E, T04N:

N 43°41.112' W 112°19.332'

Site Location #6

