

77826

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MAR 16 2012

Department of Water Resources
Eastern Region

APPLICATION FOR TRANSFER OF WATER RIGHT PART 1

Name of Applicant(s) Consolidated Irrigation Company Phone: _____

Mailing Address: 33 South 1st East, Preston, ID 83263 Email: _____

- ☐ If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant. Label it **Attachment #1**.
- ☐ Attach water right ownership documentation if Department records do not show the transfer applicant as the current water right owner. Label it **Attachment #2a**.
- ☐ If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). Label it **Attachment #2b**.
- ☐ Attach documentation of authority to make the proposed change if the applicant is not the water right owner. Label it **Attachment #3**.

Provide contact information below if a consultant, attorney, or any other person is representing the applicant in this transfer process.

- ☐ No Representative

Name of representative Robert L. Harris Phone: (208) 523-0620

Mailing Address: P.O. Box 50130, Idaho Falls, ID 83405 Email: rharris@holdenlegal.com

- ☐ Send all correspondence for this application to the representative and not the applicant.

OR

- ☒ Send original correspondence to the applicant and copies to the representative.

- ☐ The representative may submit information for the applicant but is not authorized to sign for the applicant.

OR

- ☒ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant and label it **Attachment #4**.

I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Robert L. Harris
Signature of Applicant or Authorized Representative

ROBERT L. HARRIS, ATTORNEY
Print Name and Title if applicable

3/16/2012
Date

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

A. PURPOSE OF TRANSFER

- 1. ☐ Change point of diversion ☒ Add diversion point(s) ☒ Change Place of use
- ☐ Change nature of use ☐ Change period of use ☐ Other: _____

2. Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label if **Part 1A.2**. Preston Riverdale and Mink Creek Canal Company, Preston & Whitney Reservoir Company, and Preston-Whitney Irrigation Company recently merged to form Consolidated Irrigation Company. The purpose of this transfer is to create a permissible place of use for Water Right No. 13-7747 consisting of the entire service area of the new company. New points of injection and redirection will also be added so that the water right can be utilized throughout the company's service area. The water right will be limited to the irrigation of 3,013 acres within the service area, as currently described in the water right. The initial location of the 3,013 acres is described by the enclosed shape file. Consolidated Irrigation Company's Cub River and Mink Creek natural flow water rights are limited to the irrigation of a combined 15,444 acres.

77826

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESAPPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued**B. DESCRIPTION OF RIGHTS AFTER THE REQUESTED CHANGES. IF THE RIGHTS ARE BEING SPLIT, DESCRIBE PORTIONS TO BE CHANGED AS THEY WOULD APPEAR AFTER THE REQUESTED CHANGES.**

1.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
All or part					
☒ ☐	<u>13-7747</u>	<u>30.13</u>	<u>Irrigation</u>	<u>04/20</u> to <u>09/30</u>	<u>Mink Creek/ Bear River</u>
☐ ☐	<u> </u>	<u> </u>	<u> </u>	<u> </u> to <u> </u>	<u> </u>
☐ ☐	<u> </u>	<u> </u>	<u> </u>	<u> </u> to <u> </u>	<u> </u>
☐ ☐	<u> </u>	<u> </u>	<u> </u>	<u> </u> to <u> </u>	<u> </u>
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☐ ☐	<u> </u>	<u> </u>	<u> </u>	<u> </u> to <u> </u>	<u> </u>
☐ ☐	<u> </u>	<u> </u>	<u> </u>	<u> </u> to <u> </u>	<u> </u>
☐ ☐	<u> </u>	<u> </u>	<u> </u>	<u> </u> to <u> </u>	<u> </u>

Total authorized under rights: 30.13 cfs and/or ac-ft.2. Total amount of water being transferred or changed 30.13 Cubic feet per second and/or acre-feet annum.

3. Point(s) of diversion:

- ☐ No changes to point(s) of diversion are proposed - the following chart is therefore not completed. (Proceed to #4.)
- ☐ Attach Eastern Snake Plain Aquifer analysis if this transfer proposes to change a point of diversion affecting the ESPA.
Label it **Attachment #5**.

New ?	Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Source	Local name for diversion
		SW	NE	SE	28	13S	41E	Franklin	Mink Creek	Point of Diversion
☒		NE	SW	SE	2	15S	40E	Franklin	Mink Creek	Point of Injection
☒		SE	NW	SE	10	15S	40E	Franklin	Mink Creek	Point of Rediversion
☒		SW	SE	SW	8	15S	40E	Franklin	Mink Creek	Point of Injection

4. Place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

- ☐ No changes to place of use are proposed - the following chart is therefore not completed. (Proceed to #5).

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

SEE ATTACHED GIS SHAPE FILES FOR
SERVICE AREATotal Acres (for irrigation use) 15,444

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Ident. No. _____

Point of Diversion/Place of Use Supplement

Attachment to: ☐ Application for Permit to Appropriate Water ☒ Application for Transfer** ☐ Adjudication Claim
☐ Application for Amendment of Permit ☐ Beneficial Use Field Report ☐ Statutory Claim

Location of points of diversion (POD):

New POD?	Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or well/diversion tag #
☒ Yes	15S	39E	13		NE	NE	SE	Franklin	Mink Creek	Point of Rediversion
☒ Yes	15S	39E	24		NW	NE	SW	Franklin	Mink Creek	Point of Rediversion
☒ Yes	15S	39E	25		NW	NE	NW	Franklin	Mink Creek	Point of Rediversion
☐ Yes										
☐ Yes										
☐ Yes										
☐ Yes										
☐ Yes										
☐ Yes										
☐ Yes										

Description of place of use (POU):

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

**APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued**

5. General Information:

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future. The current point of diversion out of Mink Creek will not change. The Application adds several points of injection and redirection so that the water right can be used throughout the Company's service area.

- b. Who owns the property at the point(s) of diversion? Applicant
If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? If yes, □ Attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it Attachment #6. List the name of the entity and type of lien:

It is the applicant's responsibility to provide notice to lien holder, trustee, mortgagor, or contract holder of the proposed changes that may impact or change the value of the water rights or affected real property. Any misrepresentation or legal encumbrance on this application may result in rejection of the application or cancellation of an approval.

- d. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer: Most of the land currently irrigated will still be irrigated. This application creates a permissible place of use so that the water right can be used throughout the service area of the new company if necessary.
- e. Describe the use of any other water right(s) for the same purpose or land, or the same diversion system as right(s) proposed to be transferred at both the existing and proposed point(s) of diversion and place(s) of use: The Company holds multiple water rights for use throughout its system. They are: 13-2, 13-3, 13-2104, 13-271, 13-143, 13-2103, 13-2302, 13, 2288, 13-2288A, 13-2108, 13-2291, 13-2298, 132022, 13-2102, 13-2287, 13-35, 13-36, 13-37, and 13-38.

- f. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- ☐ ☒ Undergone a period of five or more consecutive years of non-use,
- ☐ ☒ Currently leased to the Water Supply Bank,
- ☐ ☒ Currently used in a mitigation plan limiting the use of water under the right, or
- ☐ ☒ Currently enrolled in a Federal set-aside program limiting the use of water under the rights?

If yes, describe: _____

APPLICATION FOR TRANSFER OF WATER RIGHT PART 2

For each water right listed in Part 1B.1. of the application, attach a **Part 2A** report obtained from Department office or from the Department's website @ <http://www.idwr.idaho.gov/>, Water Right Transfers, Step 1. Insert Part 2A reports into the application following Part 1.

□ Complete and attach one copy of Part 2B for each right for which only a portion is proposed to be changed. If the entire right is proposed to be changed, Part 2B is not applicable. Additional copies of the **Part 2B** form can be obtained from any Department office or from the Department's website @ <http://www.idwr.idaho.gov/>, Water Right Transfers, Step 3, or Water Right Forms, Changes in Use. Insert completed Part 2B forms into the application following Part 2A of the same water right.

Right Number _____

1. Amount _____ (cfs/ac-ft) for _____ Purposes from _____ to _____
 Amount _____ (cfs/ac-ft) for _____ Purposes from _____ to _____
 Amount _____ (cfs/ac-ft) for _____ Purposes from _____ to _____
 Amount _____ (cfs/ac-ft) for _____ Purposes from _____ to _____
 Amount _____ (cfs/ac-ft) for _____ Purposes from _____ to _____
 Amount _____ (cfs/ac-ft) for _____ Purposes from _____ to _____
 Amount _____ (cfs/ac-ft) for _____ Purposes from _____ to _____
 Amount _____ (cfs/ac-ft) for _____ Purposes from _____ to _____
2. Lands irrigated or place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract)

[illegible]

Total Acres (for irrigation use) _____

APPLICATION FOR TRANSFER OF WATER RIGHT PART 3

- ✓ Attach a map of the diversion, measurement, control, and distribution system. Label it **Attachment #7a**.
- ✓ If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use. Label it **Attachment #7b**. If the place of use currently consists of a permissible place of use, then the attachment is not required if the application contains a clear statement that the boundaries for the place of use are not proposed to be changed by the transfer and the total number of irrigated acres within the place of use before and after the transfer is clearly stated.

☐ If you propose to change the nature of use or period of use of all or part of the right(s) listed in this application, attach documentation describing the extent of historic beneficial use of the portion of the right(s) proposed to be changed. Also attach documentation showing that the portion of the right(s) to be changed will not be enlarged in rate, volume, or consumptive use through the proposed change. Label it **Attachment #8a**.

1. Describe how the supplemental water rights have been used historically in conjunction with other water rights at the existing place of use. Describe the time during the irrigation season that the supplemental rights have been used. Include information about the availability or reliability of the primary right(s) being supplemented, both before and after the change. If the applicant is proposing to change a supplemental irrigation right to a primary right, provide the information required in Part 3B above.

[illegible]

Received by: _____ Date: _____ Prelim. Check by _____ Date: _____
 Fee paid: \$ 246.00 Date: 3/21/2012 Received by: Blue Receipt # 603749
 Add'l fee paid _____ Date: _____ Received by: _____ Receipt # _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

MINIMUM REQUIREMENTS CHECKLIST
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

An application for transfer must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. Incomplete applications will be returned. The instructions, fee schedule, Part 2A reports and additional Part 2B forms are available from an Department office or on the Department's website at <http://www.idwr.idaho.gov/>.

Check whether each item below is *attached* (Yes) or *not applicable* (N/A) for the proposed transfer.

***Means the item is always required and must be included with the application.**

Yes N/A

- ✓ * Completed Application for Transfer of Water Right form, Part 1.
- ✓ * Signature of Applicant(s) or applicant's authorized representative on Application for Transfer Part 1. Include evidence of authority labeled Attachment #3 (see below) if signed by representative.
- ✓ * Application for Transfer Part 2A. Attach a Part 2A report describing each water right in the transfer as currently recorded.
- ✓ Complete and attach an Application for Transfer Part 2B for each water right for which only a portion is proposed to be changed through this transfer application.
- ✓ * Application for Transfer Part 3A is always required (see Attachment #7a below); Parts 3B and 3C must be completed for transfer applications proposing to change the nature of use of the water right(s) or proposing changes to supplemental right(s).
- ✓ * Correct fee submitted with transfer application form. (Fee schedule is on website and instructions for application for transfer).

Attachments to Application - Label each attachment with the corresponding number shown below as Attachment #1-9

- ✓ #1 If the applicant is a business, partnership, organization, or association, and not currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder (see Part 1.)
- ✓ #2a Water Right ownership documentation if Dept. records do not show the transfer applicant as the current water right owner. Additional fee(s) required for water right ownership changes; see fee schedule.
- ✓ #2b If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s).
- ✓ #3 Documentation of authority to make the change if the applicant is not the water right owner.
- ✓ #4 Power of Attorney or documentation providing authority to sign or act on the applicant's behalf. (See Part 1.)
- ✓ #5 If the transfer application proposes to change the point of diversion for a water right affecting the Eastern Snake Plain Aquifer (ESPA), attach the results of an ESPA analysis and a detailed mitigation plan to offset any depletions to hydraulically connected reaches of the Snake River. ESPA transfer spreadsheet and model grid labeled cells are available on the Department's website at <http://www.idwr.idaho.gov/WaterManagement/WaterRights/WaterRightTransfers/resources.htm>
- ✓ #6 Notarized statement of agreement or a statement on official letterhead signed by an authorized representative from each lien holder or other entity with financial interest in the water right(s) or land affected by the proposed transfer (See Part 1.5.c)
- ✓ * #7a Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described on the application. Include legal description labels. If only a portion of the right is proposed to be changed, identify the current location of the part of the existing right(s) proposed to be changed. (See Part 3A).
- ✓ □ #7b If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use.
- ✓ #8a If the transfer application proposes to change the nature of use or period of use for one or more rights, provide documentation describing the extent of historic beneficial use for the water rights proposed to be transferred and document how enlargement will be avoided. (See Part 3B). Additional fee required for proposed changes to nature of use; see fee schedule.
- ✓ #8b If the transfer application proposes to change the place of use of a supplemental irrigation right, provide documentation regarding the historic use of the supplemental right(s) and availability or reliability of the primary right(s) being supplemented, both before and after the proposed change. (See Part 3C.)
- ✓ □ #9 Other. Please describe: CD containing GIS shape files for service area, 15,444 acre place of use, and 3013 acre place of use.

**Attachment No. 2a
Water Right Ownership
Documentation**

[Close](#)IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

3/13/2012

WATER RIGHT NO. 13-7747

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	PRESTON RIVERDALE & MINK CREEK CO C/O THANE WINWARD 10 S STATE ST PRESTON, ID 83263 (208)852-1120

Priority Date: 05/01/1888

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
MINK CREEK	BEAR RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/20	09/30	30.13 CFS	
Total Diversion			30.13 CFS	

Location of Point(s) of Diversion:

MINK CREEK|NESE|Sec. 28|Township 13S|Range 41E|FRANKLIN County

Place(s) of use: [Large POU Info](#)

Conditions of Approval:

1. TRANS. 196 & TRANS. 2071 P/D CHANGE. P/D MINK CREEK CANAL LEGAL: NESE, 28, T13S, R41E. P/D PRESTON-RIVERDALE CANAL LEGAL: SWSE, 1, T14S, R40E. DIVERSION RATE MINK CREEK CANAL = 30 CFS & REMAINING 6 CFS. THRU PRESTON-RIVERDALE CANAL. EXCEPT WHEN FLOW OF MINK CREEK DOES NOT EXCEED 60 CFS AT P/D'S OF PRESTON-RIVERDALE & MINK CREEK CANALS AND TWIN LAKES CANAL CO. THEN WATER SHALL BE DIVIDED ON BASIS OF 2/5 TO TWIN LAKES CANAL AND 3/5 TO PRESTON-RIVERDALE & MINK CREEK CANAL. P/U INCOMPLETE AC. IRR. = 3600.

Dates:

Licensed Date:

Decreed Date: 07/14/1920

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal:

Owner Name Connector:

Water District Number: 13N

Generic Max Rate per Acre: 0.02

Generic Max Volume per Acre: 3.5

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

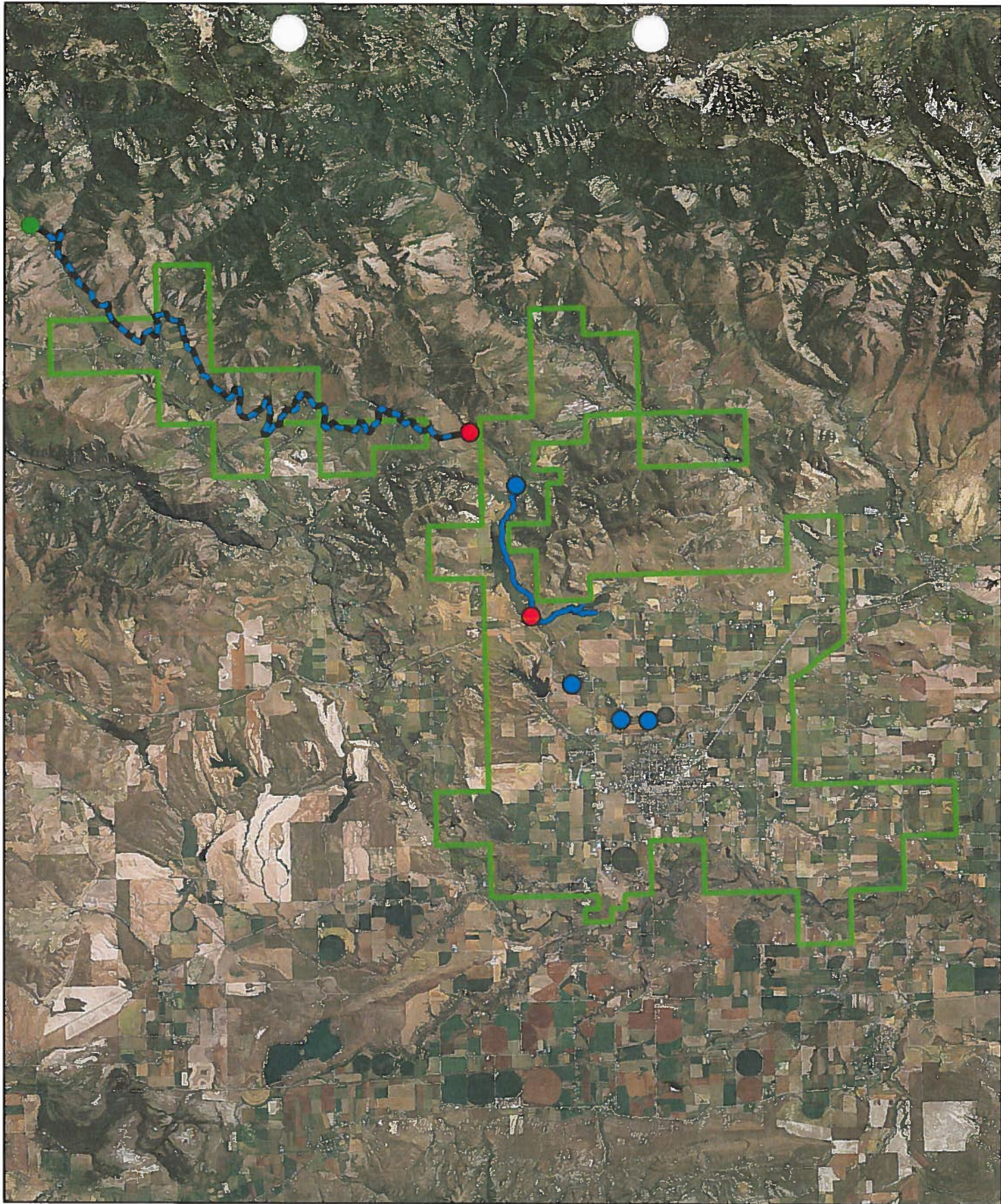
Attachment No. 7a
Map - Proposed POD

CONSOLIDATED IRRIGATION CO. 13-7747 TRANSFER



Legend

- Mink Creek POD
- Points of Injection
- Points of Rediversion
- Mink Creek Canal
- Lamont-Johnson Ditch
- Service Area



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2011 NAIP Photo

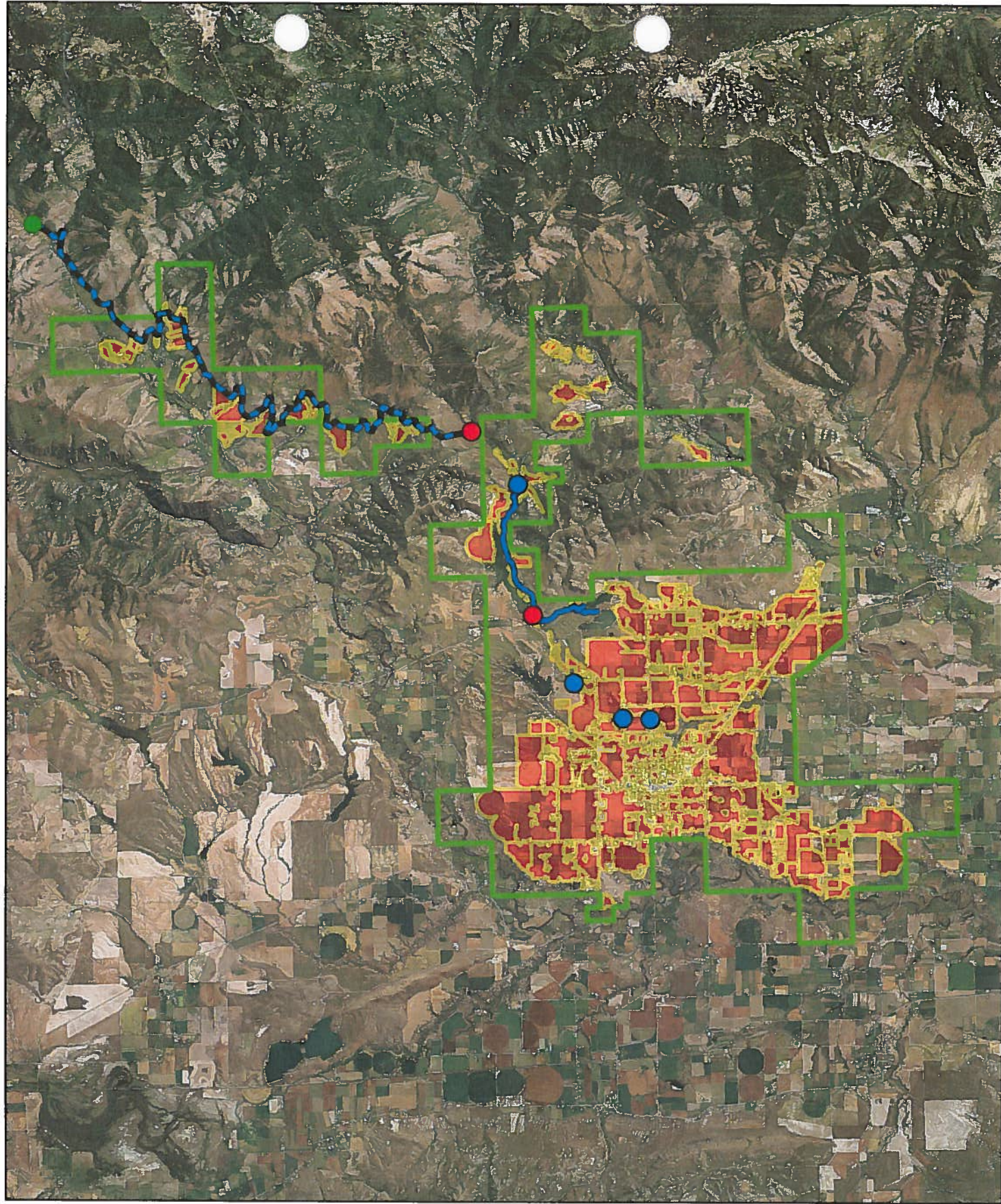
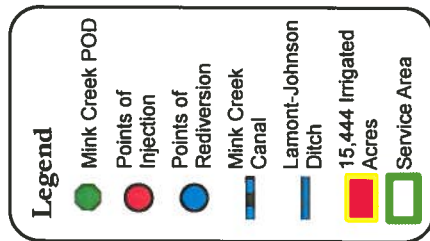
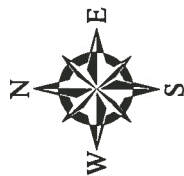


Prepared by:
Luke H. Marchant
3/15/2012

Attachment No. 7b

GIS Shape File

CONSOLIDATED IRRIGATION CO. 13-7747 TRANSFER



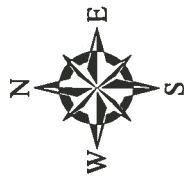
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2011 NAIP Photo



Prepared by:
Luke H. Marchant
3/15/2012

CONSOLIDATED IRRIGATION CO. 13-7747 TRANSFER



Legend

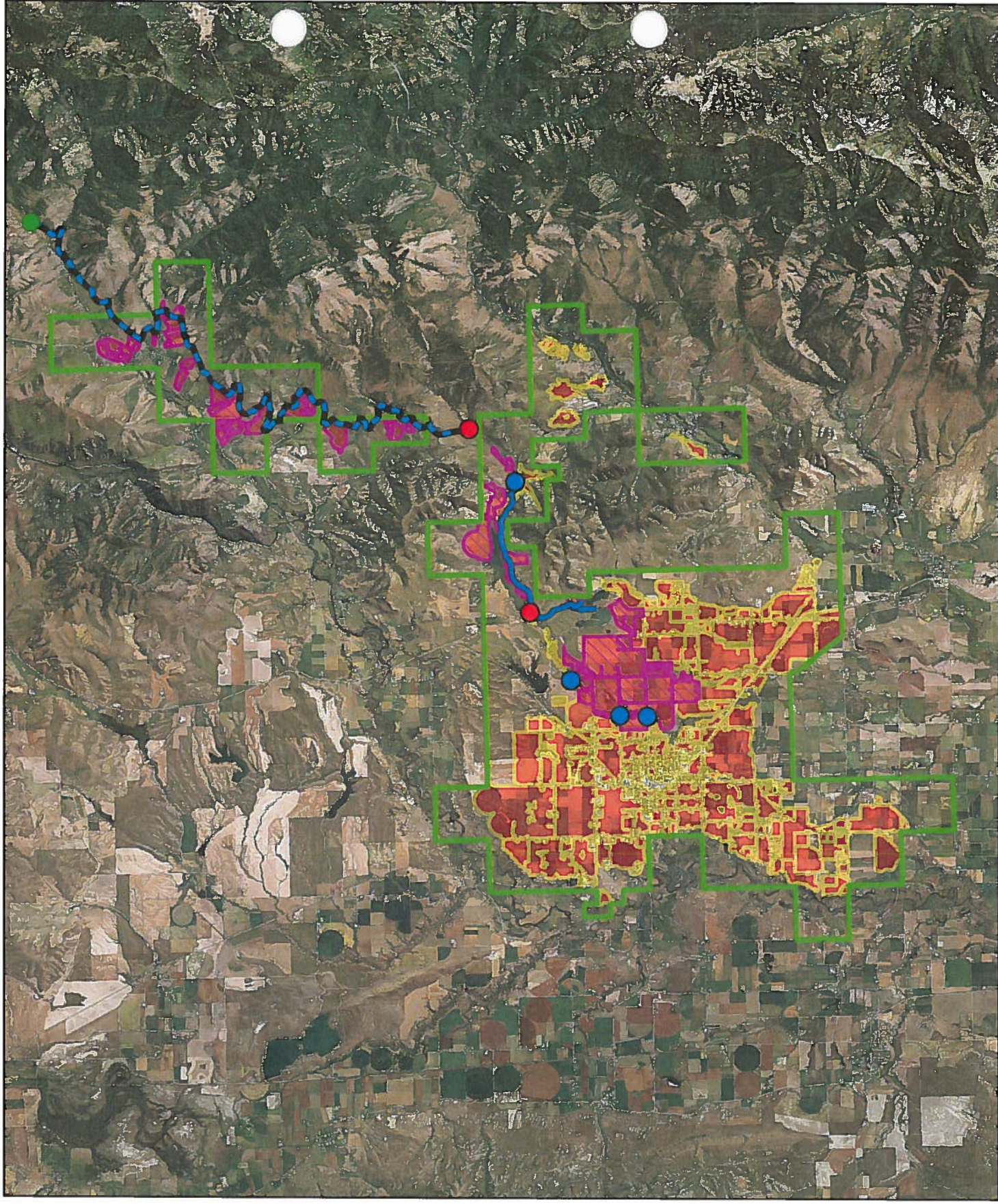
- Mink Creek POD
- Points of Injection
- Points of Rediversion
- Mink Creek Canal
- Lamont-Johnson Ditch
- ▨ 3,013 Mink Creek Irrigated Acres
- ▨ 15,444 Irrigated Acres
- ▭ Service Area

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2011 NAIP Photo



Prepared by:
Luke H. Marchant
3/15/2012



Attachment No. 9

Other