

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESJAN 30 2012 APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1
Department of Water Resources
Eastern RegionName of Applicant(s) Foster Land and Cattle Phone: _____Mailing Address: 400 Market Street, Ririe, ID 83443 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 Luke H. Marchant Phone: (208) 523-0620Mailing Address: P.O. Box 50130, Idaho Falls, ID 83405 Email: lmarchant@holdenlegal.com

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

OR

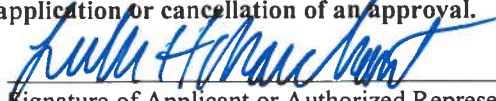
- ☒ Send original correspondence to the applicant and copies to the representative.

- ☐ 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.


Signature of Applicant or Authorized Representative

Attorney
Print Name and Title if applicable

01/25/12
Date

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

A. PURPOSE OF TRANSFER

- ☐ Change point of diversion ☐ Add diversion point(s) ☒ Change Place of use

☐ Change nature of use ☒ Change period of use ☐ Other: _____
- 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**. The decreed place of use for Water Right Nos. 35-7192A, and 35-9069 allows the irrigation of 636 total acres. The purpose of this application is to shrink the place of use by removing pivot corners that the Applicant no longer intends to irrigate. This Application will also change the period of use for Water Right No. 35-7192A from 4/01 – 11/01 to 4/01 – 10/31 so that it corresponds with the standard season of use for the region.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION 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					
✓ ☐	35-7192A	5.45	Irrigation	4/01 to 10/31	Ground Water
✓ ☐	35-9069	0.57	Irrigation	4/01 to 10/31	Ground Water
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights: 6.02 cfs and/or _____ ac-ft.

2. Total amount of water being transferred or changed 6.02 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

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	
4N	35E	11	33.7	40	40	34.5	40	35.4	32.7	38	39.2	34.3	33.5	40	35.2	40	40	35.6	592.1

Total Acres (for irrigation use) 592.1

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 diversion system will not be changed by this application.

- 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: The current place of use will be reduced by approximately 44 acres. These acres will no longer be irrigated.

- 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: _____

- 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: Due to portions of the property not being irrigated, an Application for Extension of Time to Avoid Forfeiture of a water right was filed and approved by the Department in 2007. The Applicant resumed irrigation of the entire place of use in 2010. See the attached report provided by Rocky Mountain Environmental which documents this use.

PART 2

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 _____

- [illegible]

2. Lands irrigated or place of use: (If irrigation, identify with number of acres irrigated per 1/4 1/4 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**.

☐ If you propose to change the place of use of a supplemental irrigation right, answer below and attach supporting documentation. Label it **Attachment #8b**.

- [illegible]

Transfer contains _____ pages and _____ attachments.

Received by: _____ Date: _____ Prelim. Check by _____ Date: _____

Fee paid: \$980.00 Date: 2/1/2012 Received by Blau Receipt # E037287

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: Report from Rocky Mountain Environmental documentation 2010 irrigation.

Attachment No. 2a
Water Right Ownership
Documentation

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

1/25/2012

WATER RIGHT NO. 35-9069

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	FOSTER LAND & CATTLE PO BOX 40 RIRIE, ID 83443
Original Owner	BLAINE L LARSEN
Original Owner	CONNIE L LARSEN PO BOX 188 HAMER, ID 83425-0188 (208) 662-5501

Priority Date: 11/29/1971

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
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

IRRIGATION Use:

Acre Limit: 60

Place(s) of use:

Place of Use Legal Description: IRRIGATION JEFFERSON County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
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

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. RIGHT NO. 35-07192A IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.
5. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

Dates:

Licensed Date:

Decreed Date: 01/31/2002

Permit Proof Due Date:

Permit Proof Made Date:

Permit Approved Date:

Permit Moratorium Expiration Date:

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: S
Owner Name Connector:
Water District Number: 120
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Combined Acres Limit: 636
Combined Volume Limit: 2544
Combined Rate Limit: 6.02
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

Close

[Close](#)

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

1/25/2012

WATER RIGHT NO. 35-7192A

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	FOSTER LAND & CATTLE PO BOX 40 RIRIE, ID 83443

Priority Date: 11/29/1971
Basis: Decreed
Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
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

IRRIGATION Use:
Acre Limit: 576

Place(s) of use:

Place of Use Legal Description: IRRIGATION JEFFERSON County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
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

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.

Dates:

Licensed Date:

Decreed Date: 01/31/2002

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: S

Owner Name Connector:

Water District Number: 120

77732

Generic Max Rate per Acre:
Generic Max Volume per Acre:
Combined Acres Limit: 636
Combined Volume Limit: 2544
Combined Rate Limit: 6.02
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

Close

Attachment No. 7a

Map - Proposed POD

HEYREND PLACE

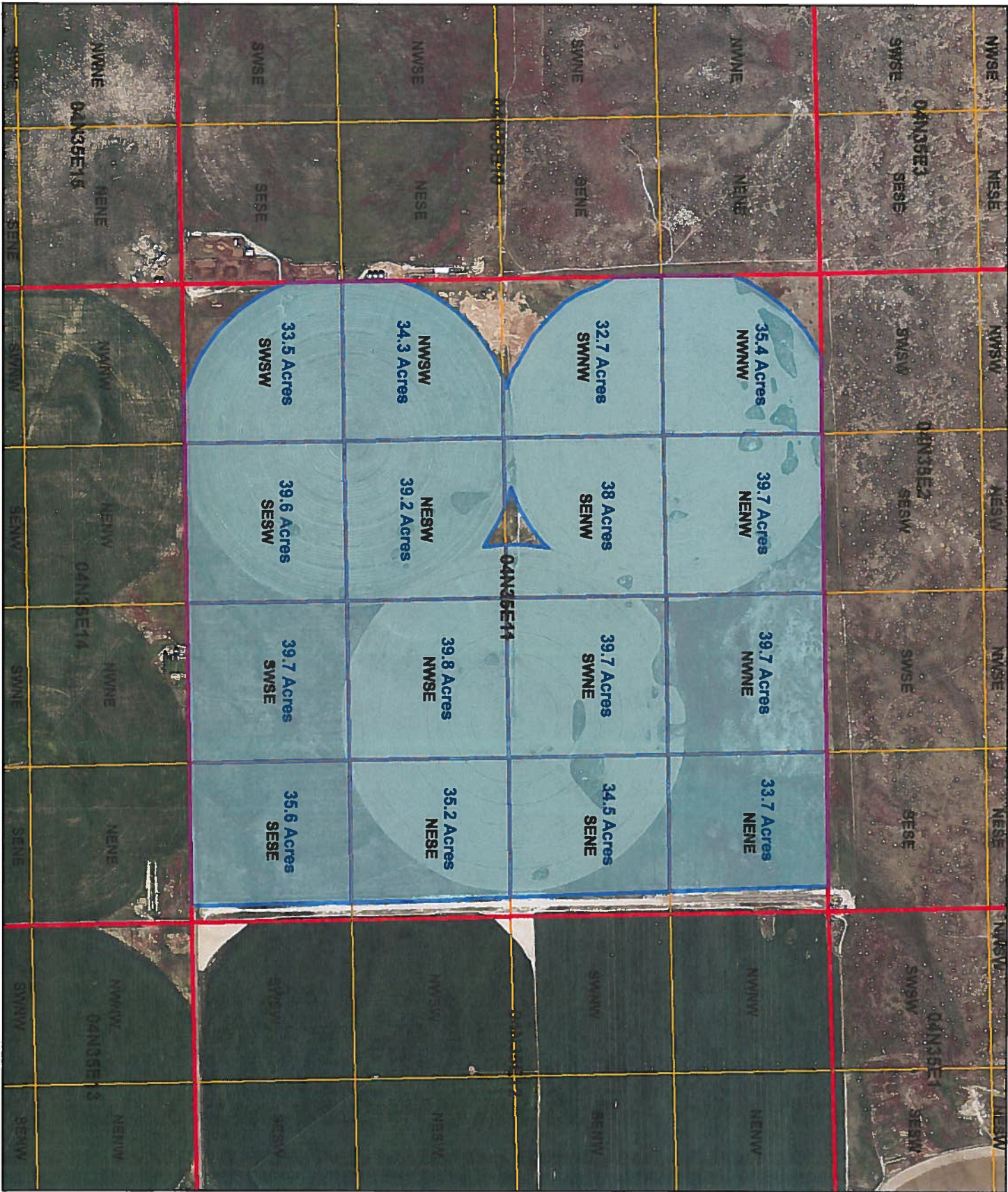


Legend

Proposed POU qq clip

Sections

Quarter Quarters



2011 NAIP Photo



Prepared by:
Luke H. Marchant
1/23/2011

Attachment No. 9
Other



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:

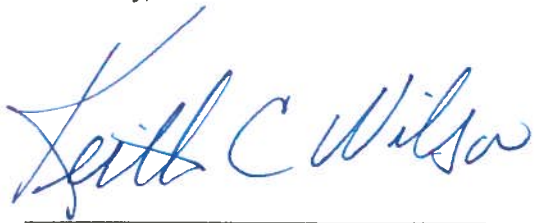
Photo #100_164

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

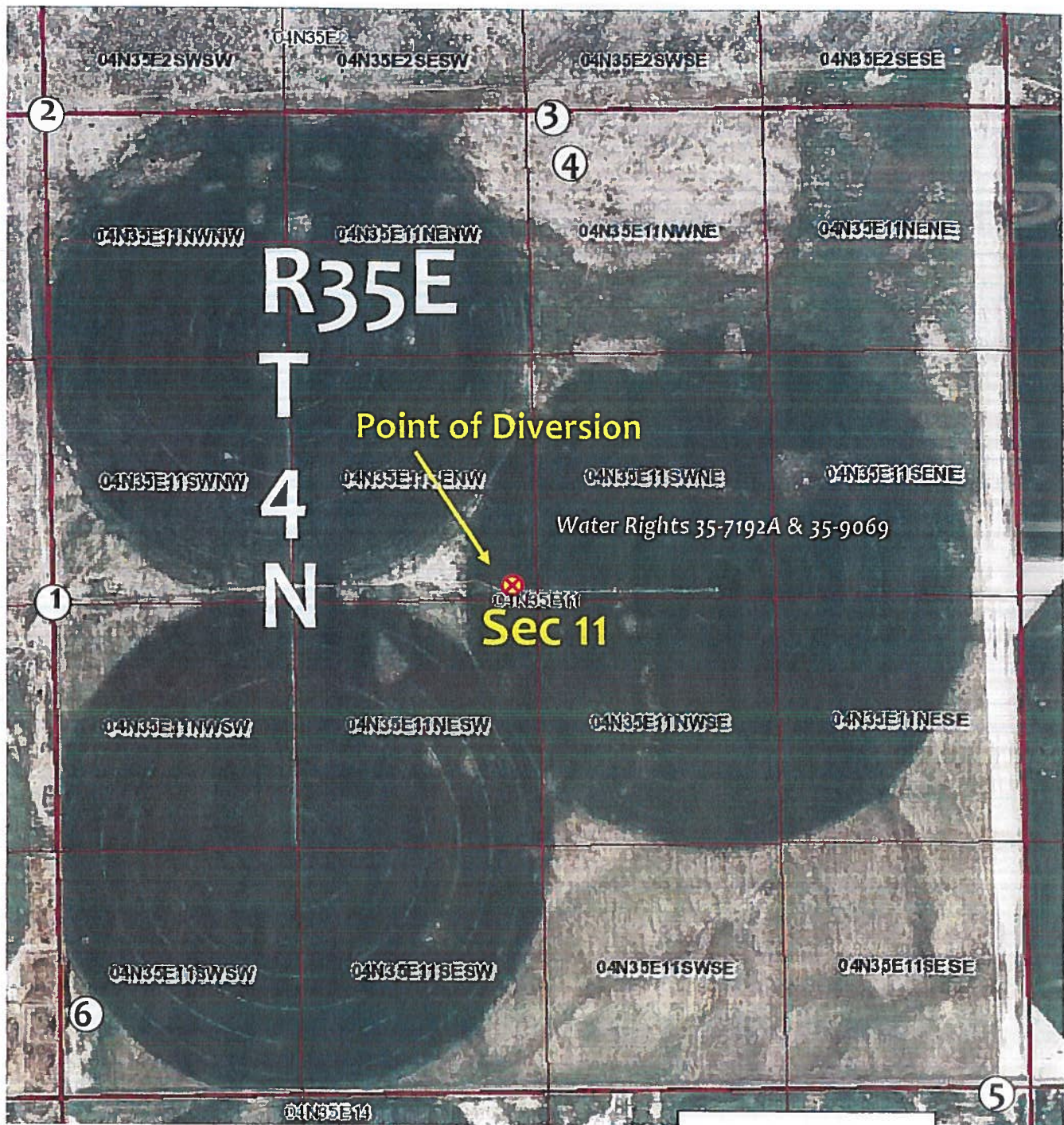


PHOTO LOCATIONS: Sec 11, T4N, R35E

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
--------------	------	---------	--------------	-----------	------------------

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	SENE	Sec. 11	Township 04N	Range 35E	JEFFERSON County
--------------	------	---------	--------------	-----------	------------------

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

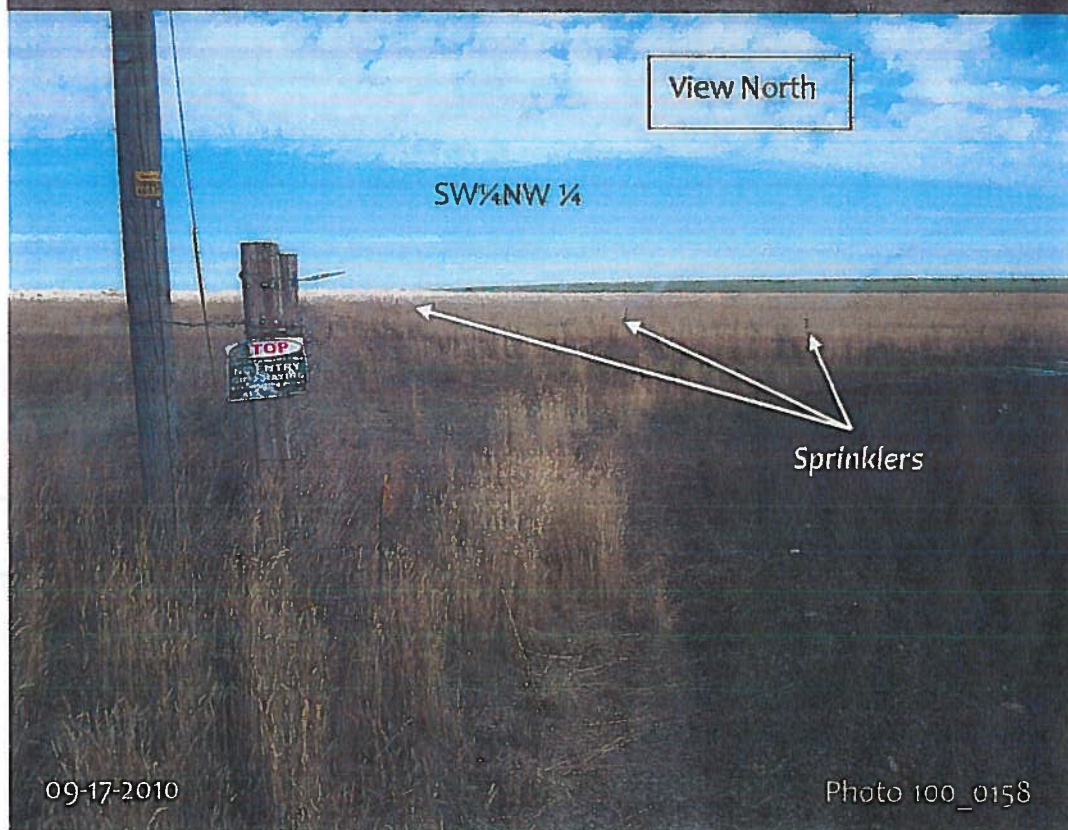
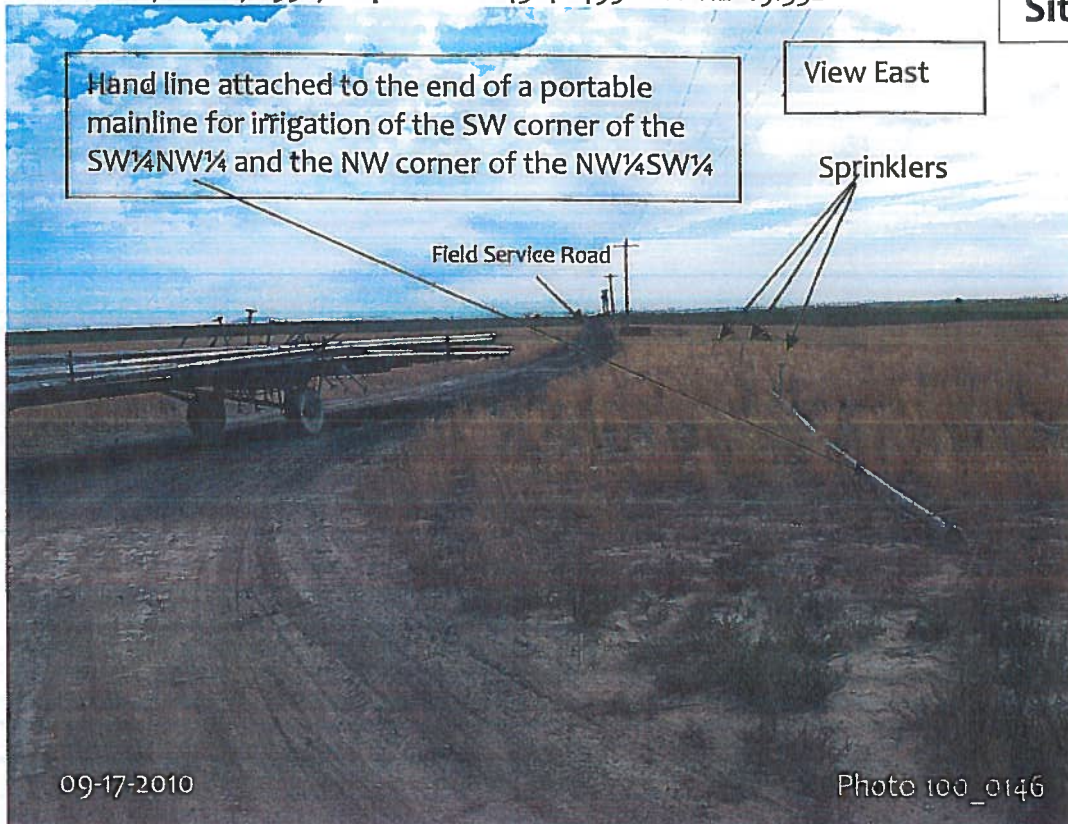
Water District Number: 120

Combined Acres Limit: 636

Combined Volume Limit: 2544 Combined Rate Limit: 6.02

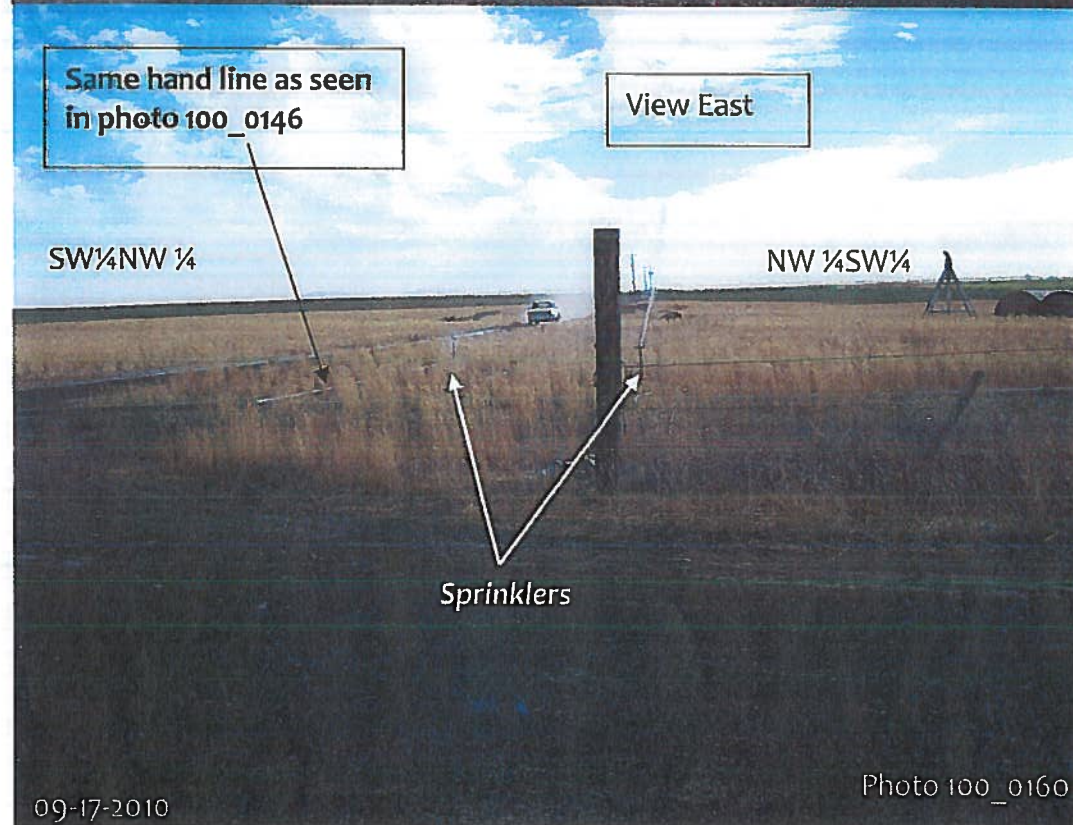
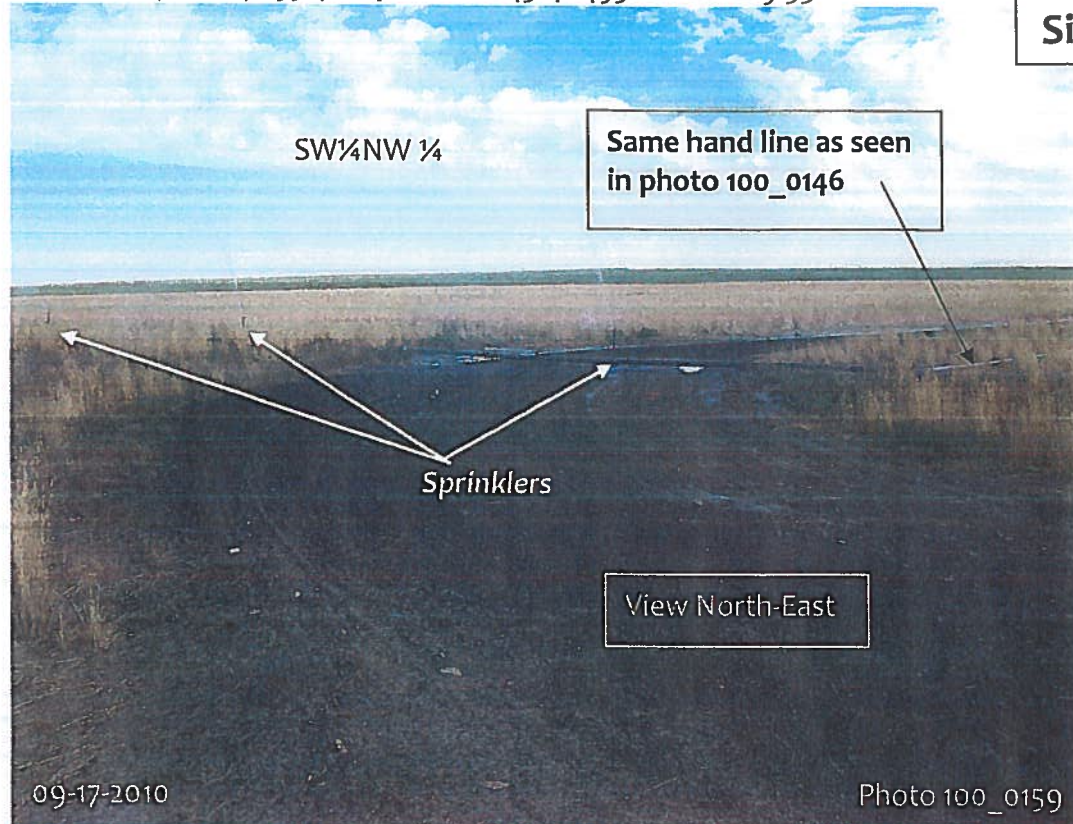
W $\frac{1}{4}$ Corner, Sec 11, R35E, T04N: N 43° 41.495' W 112° 19.332'

Site Location #1



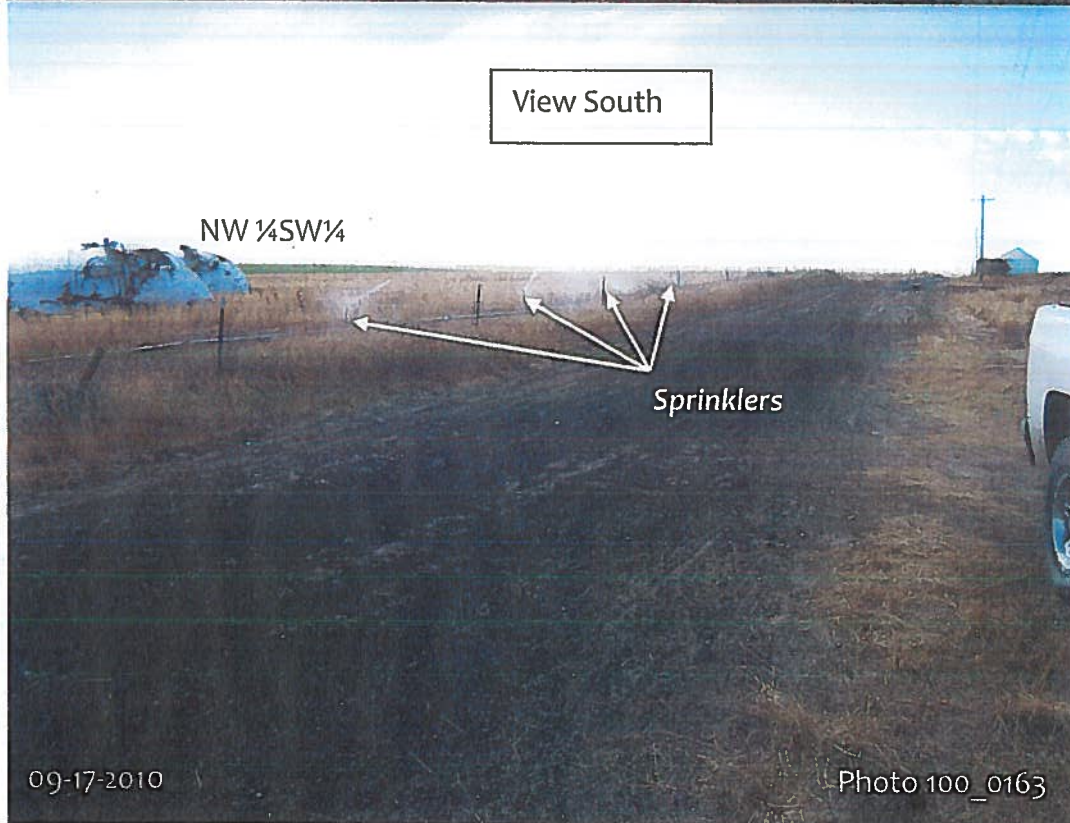
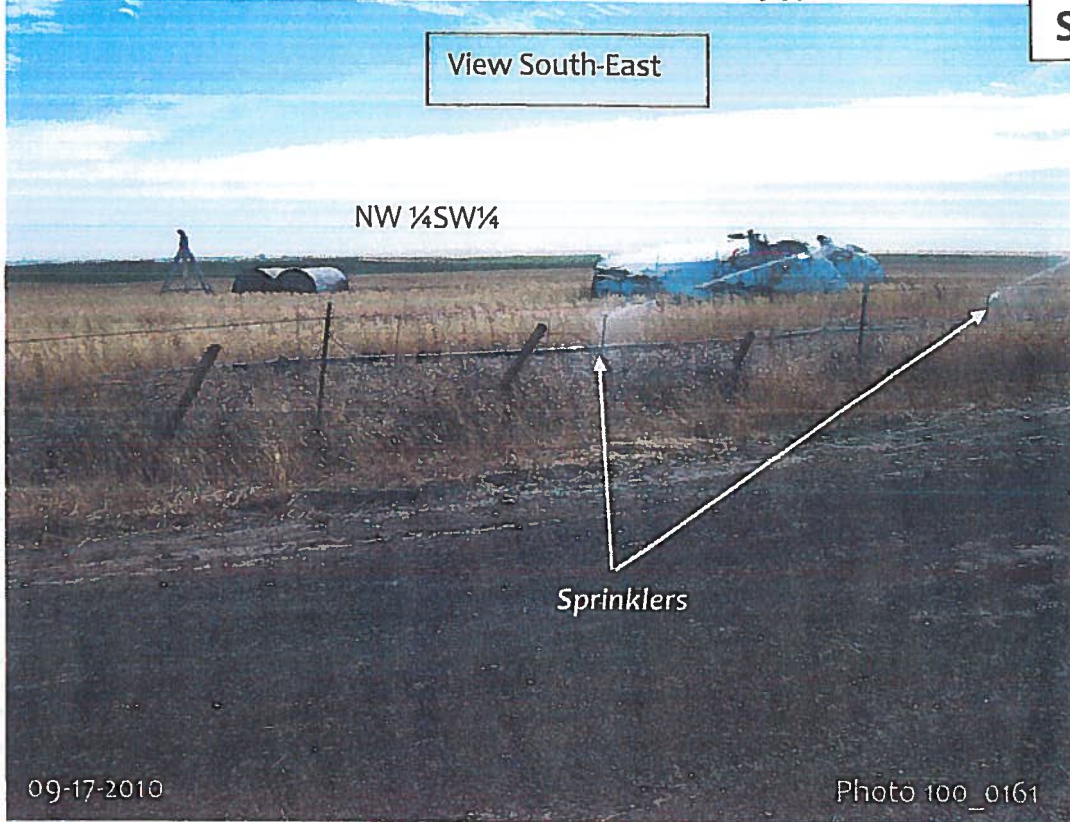
W $\frac{1}{4}$ Corner, Sec 11, R35E, T04N: N 43° 41.495' W 112° 19.332'

Site Location #1



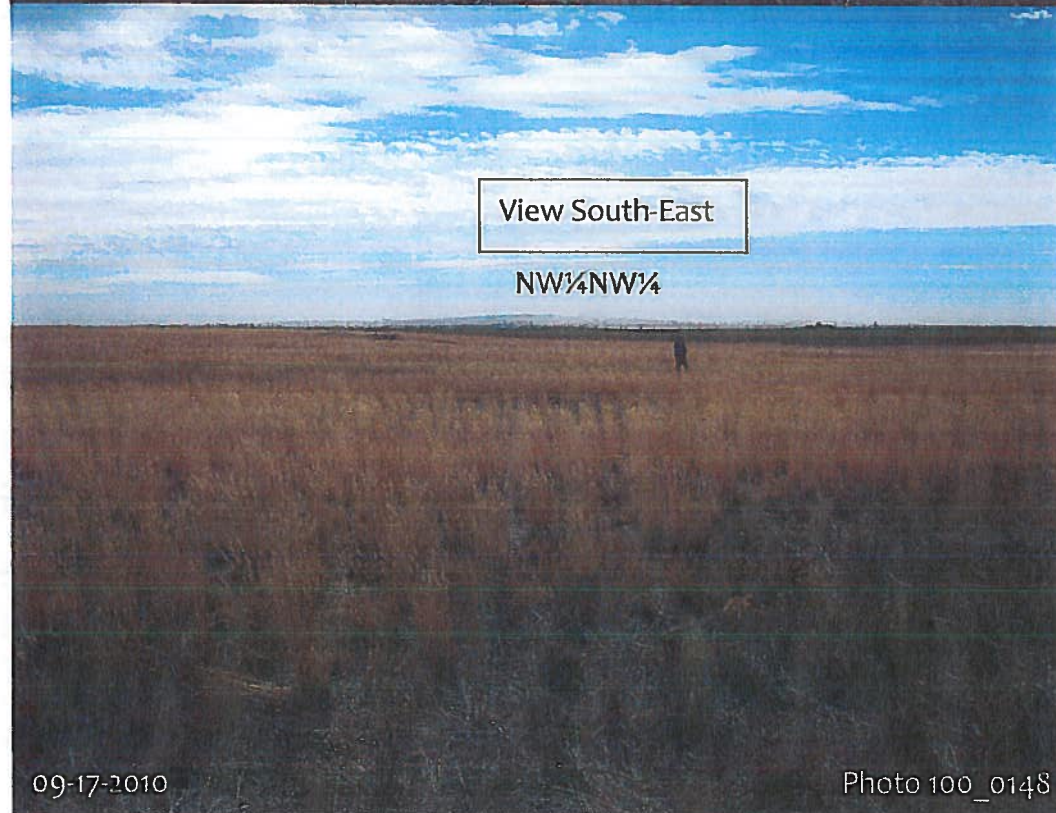
W $\frac{1}{4}$ Corner, Sec 11, R35E, T04N: N 43°41.495' W 112°19.332'

Site Location #1



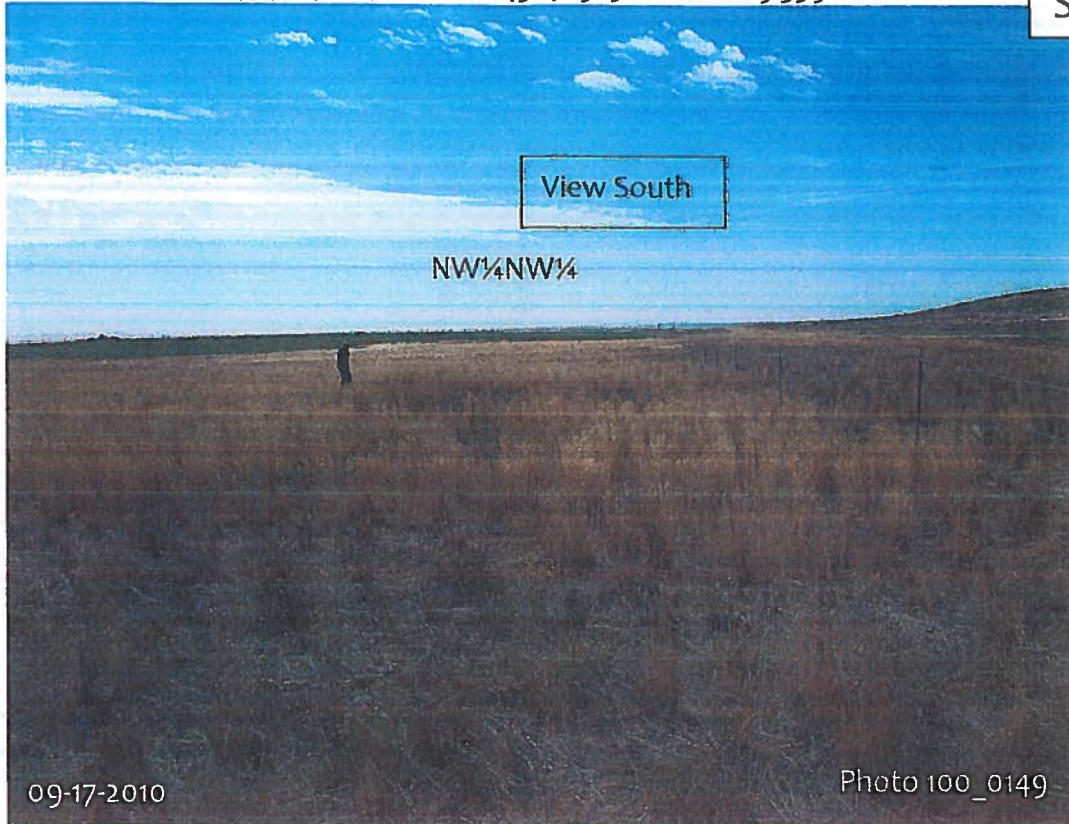
NW Corner, Sec 11, R35E, T04N: N 43° 41.925' W 112° 19.339'

Site Location #2



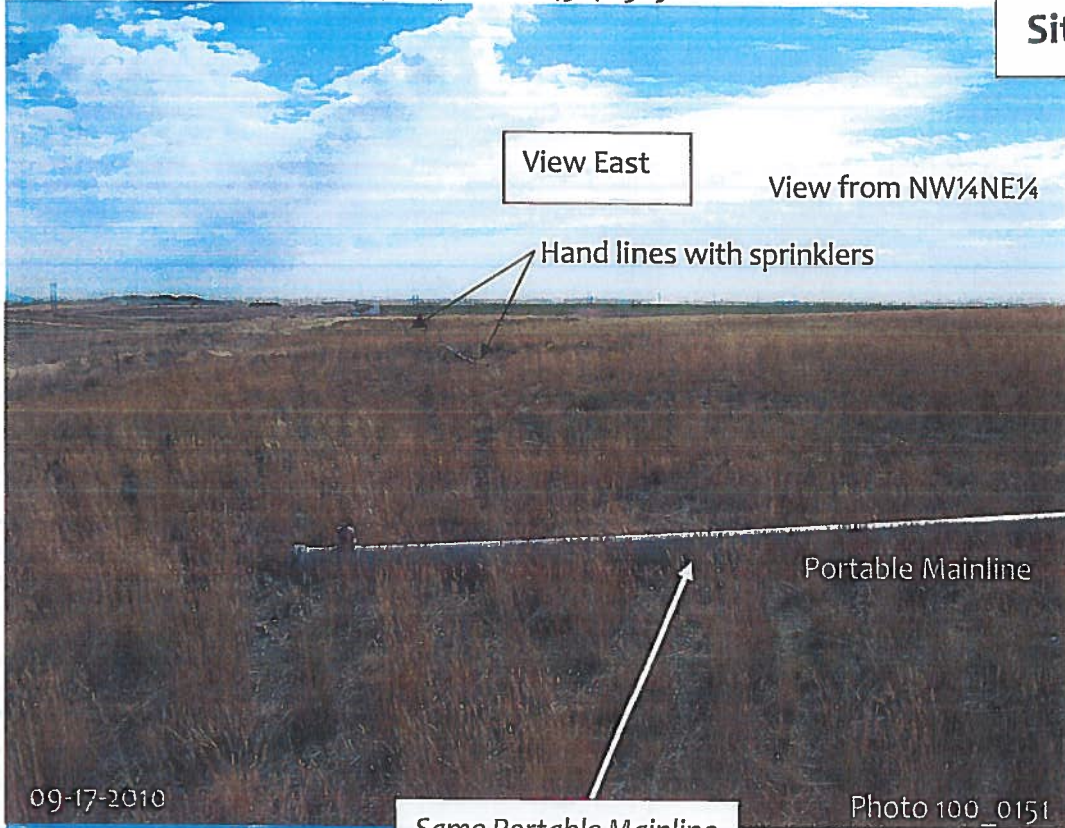
NW Corner, Sec 11, R35E, T04N: N 43° 41.925' W 112° 19.339'

Site Location #2



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

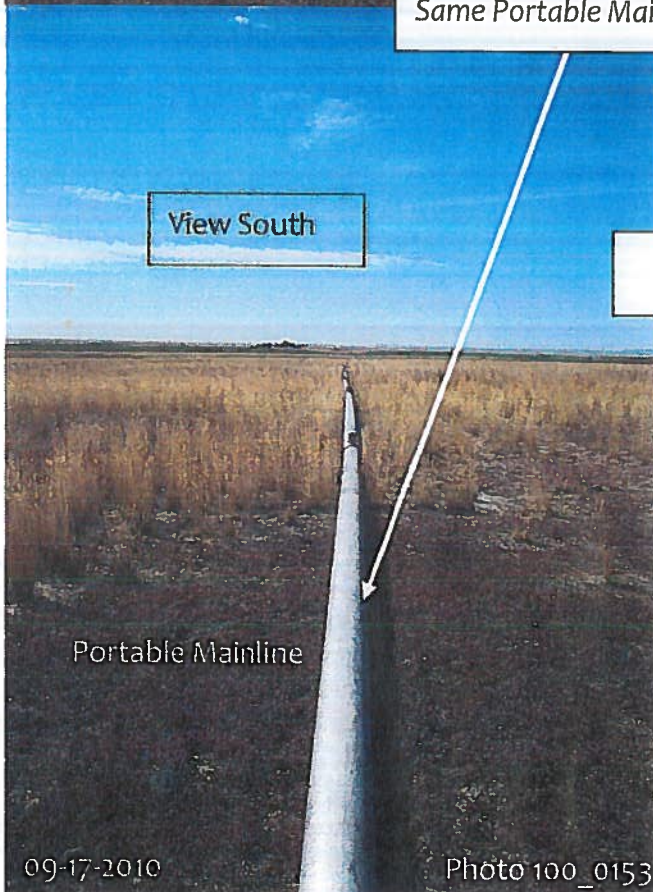
Site Location #3



Same Portable Mainline

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

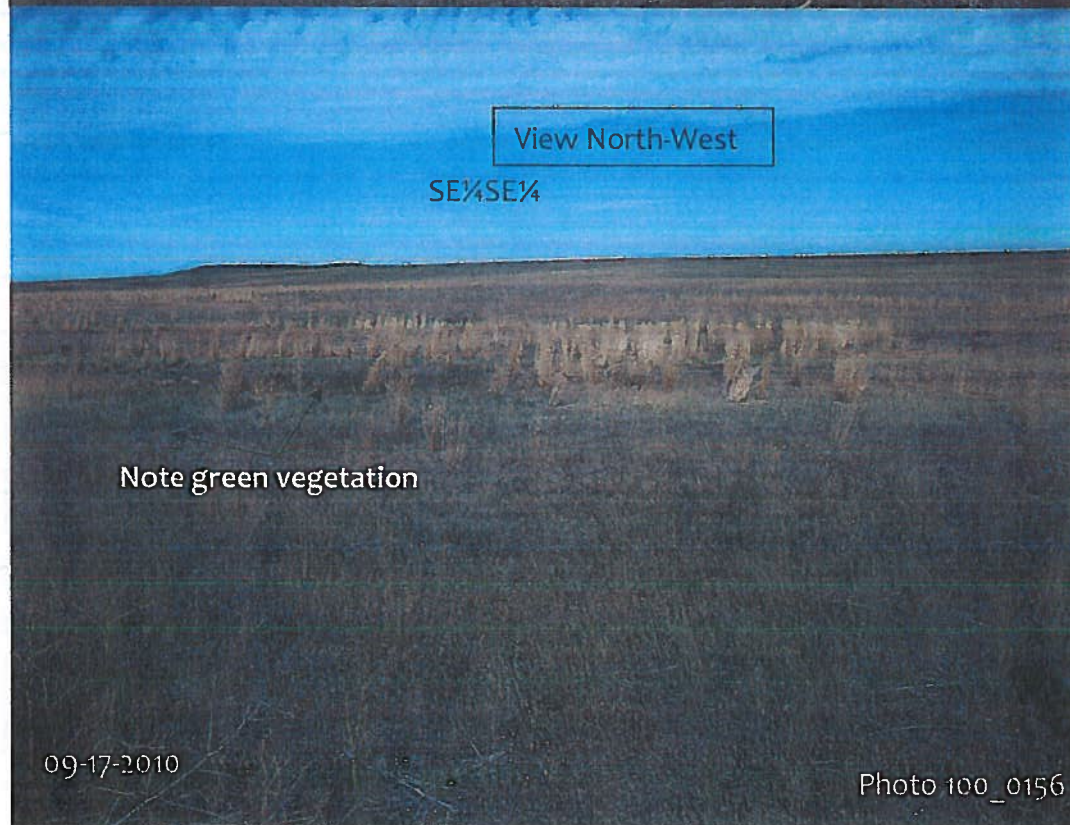
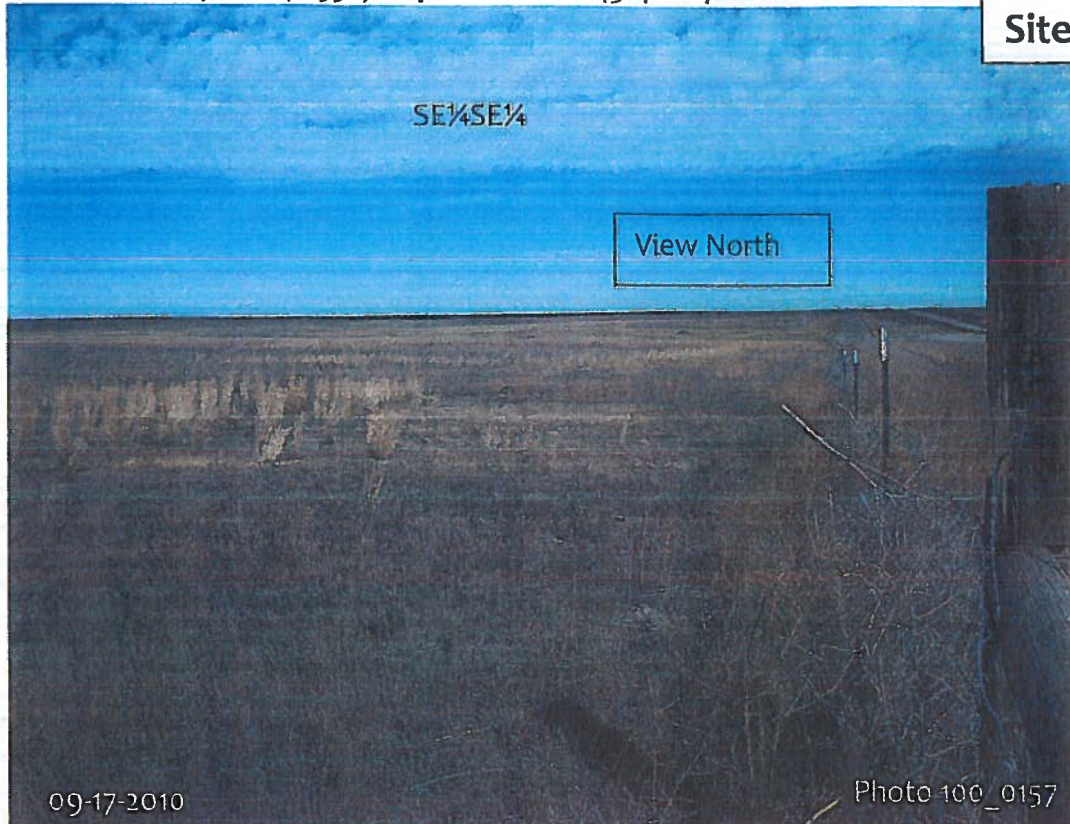
Site Location #4



Near SE Corner, Sec 11, R35E, T04N:

N 43°41.067' W 112°18.181'

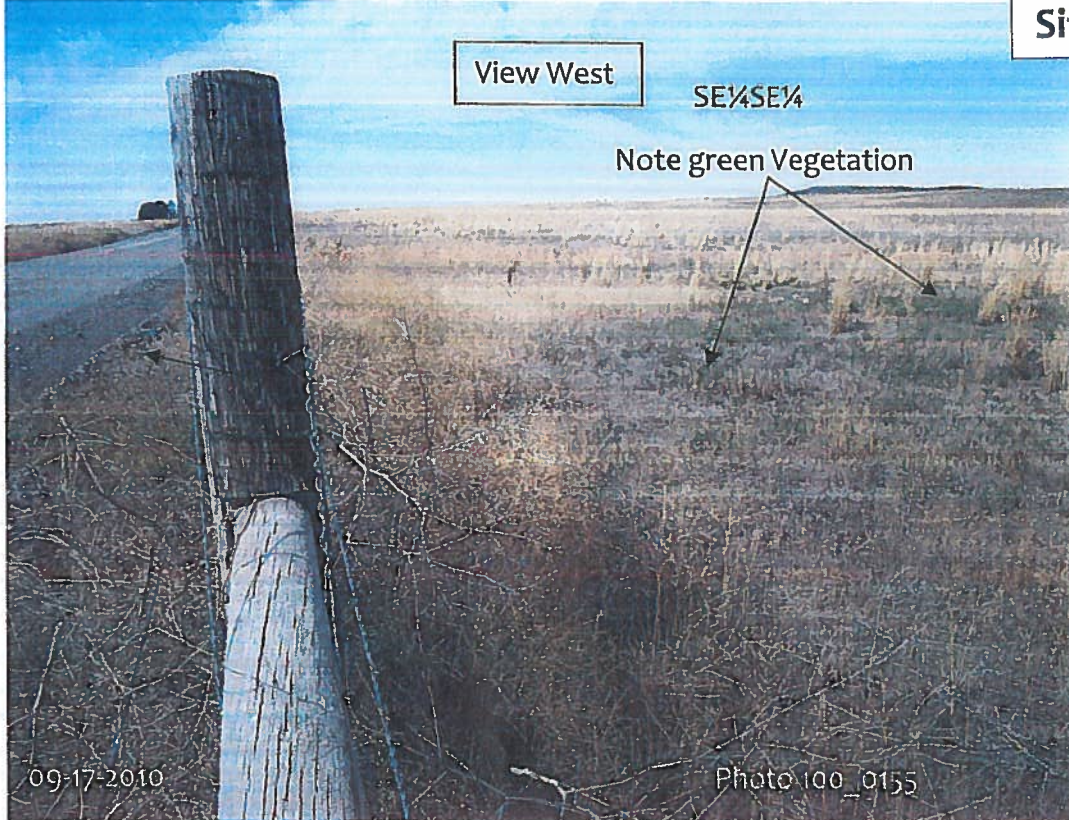
Site Location #5



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

