

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
SEP 17 2010
Transfer No. 76819
Department of Water Resources
Eastern Region

APPLICATION FOR TRANSFER OF WATER RIGHT PART 1

Name of Applicant(s) Natural Guardian Limited Partnership Phone: 208-528-6635

Mailing Address: 2880 N. 55 W, Idaho Falls, ID 83402 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: PO 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

Attorney
Print Name and Title if applicable

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

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. This transfer is necessary to change the place of use to accurately reflect the actual place of use of these water rights. Additionally, these water rights have a condition limiting them to the irrigation of a combined total of 402 acres within a 482.5 acre permissible place of use. This transfer will create a 402 acre place of use and reduce the 482.5 acre permissible place of use to 425.9 acres.

76819

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					
✓ ☐	<u>35-8863</u>	<u>6.68 cfs</u>	<u>Irrigation</u>	<u>04/01 to 10/31</u>	<u>Ground water</u>
✓ ☐	<u>35-8942</u>	<u>0.22 cfs</u>	<u>Irrigation</u>	<u>04/01 to 10/31</u>	<u>Ground water</u>
☐ ☐	_____	_____	_____	_____ to _____	_____
☐ ☐	_____	_____	_____	_____ to _____	_____
☐ ☐	_____	_____	_____	_____ to _____	_____
Total: <u>6.9</u> cfs and/or _____ ac-ft.					

2. Total amount of water being transferred or changed 6.9 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	1/4	1/4	1/4	Sec.	Twsp.	Rge.	County	Source	Local name for diversion

4. Place of use: (If irrigation, identify with number of acres irrigated per 1/4 1/4 tract.)

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

Twsp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
2N	36E	9			0.6	3.6									39.4	24.4	17.3	34.7	120
		10									31	14.7	27.4	40		9	14.4		136.5
		15			10.1		39.1	13	29.6	34.4	22.5	9				7.2			164.9
		16	2.8			1.6									0.1				4.5

Total Acres (for irrigation use) 425.9

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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 change as a result of this transfer.

- 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? No. ☐ 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: _____
There will be no change to the land now irrigated. The purpose of this transfer is to correct the place of use so that it corresponds with the land that has historically been irrigated. Furthermore, this transfer will create a 402 acre place of use and reduce the 482.5 acre permissible place of use to 425.9 acres.

- 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: _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

A. DESCRIPTION OF RIGHT(S) AS RECORDED

For each water right listed in Part 1B.1. of the application, attach a Proof Report (obtained from Department) or Details Report (obtained from website @ <http://www.idwr.idaho.gov/apps/ExtSearch/SESearchWRAJ.asp>). Label it **Part 2A**

B. IF ONLY A PORTION OF THE RIGHT IS PROPOSED TO BE CHANGED, DESCRIBE THE PORTION BEING CHANGED AS IT APPEARS BEFORE THE REQUESTED CHANGES

- ☐ 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.

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 _____

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) _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT PART 3

A. PLAT MAP (See Part 3A of instructions for application for transfer for complete requirements.)

- ☐ 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.

B. CHANGES IN NATURE OF USE (Water Balance)

- ☐ 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**.

C. PLACE OF USE CHANGES THE SUPPLEMENTAL IRRIGATION RIGHTS

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

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]**FOR DEPARTMENT USE ONLY**

Transfer contains _____ pages and _____ attachments.
 Received by: DC Date: 9/17/2010 Prelim. Check by _____ Date: _____
 Fee paid: \$490.- Date: 9/17/2010 Received by: JLB Receipt # E036127
 Add'l fee paid _____ Date: _____ Received by _____ Receipt # _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

**APPLICATION FOR TRANSFER OF WATER RIGHT
MINIMUM REQUIREMENTS CHECKLIST**

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 and water right proof report or details report for part 2A of the transfer application are available from any 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.

- | 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 Proof Report (obtained from Department) or Details report (Obtained on website) describing each water right in the transfer as currently recorded.
Complete and attached an Application for Transfer Part 2B <u>for each water right</u> for which <u>only a portion</u> 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 <u>not</u> 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. |
| □ | ✓ | #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/water/rights . |
| □ | ✓ | #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). |
| □ | ✓ | #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: _____ |



Holden Kidwell
Hahn & Crapo P.L.L.C.
LAW OFFICES

Robert L. Harris
Attorney at Law

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PO Box 50130
Idaho Falls, Idaho 83405

Tel: (208) 523-0620
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rharris@holdenlegal.com

Attachment No. 1

Documentation Identifying Officers Authorized to Sign

Attachment No. 2a Water Right Ownership Documentation

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

9/16/2010

WATER RIGHT NO. 35-8863

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	NATURAL GUARDIAN LTD PARTNERSHIP 2880 N 55 W IDAHO FALLS, ID 83402 (208) 528-6635
Original Owner	JESTIN D CROFT 9801 W ARCO HWY IDAHO FALLS, ID 83402 (208)523-5897

Priority Date: 07/03/1989

Basis: License

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	6.68 CFS	
Total Diversion			6.68 CFS	

Location of Point(s) of Diversion:

GROUND WATER	NESE	Sec. 09	Township 02N	Range 36E	BONNEVILLE County
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Licensed Diversion Capacity: 6.9

76819

IRRIGATION Use:
Acre Limit: 334

Place(s) of use:

Place of Use Legal Description: IRRIGATION BONNEVILLE County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
02N	36E	9		SENE	9									
				NESE	39		NWSE	8		SWSE	15		SESE	35
		10		SWNW	3		SENE	2						
				NESW	30		NWSW	35		SWSW	40		SESW	40
				NWSE	8		SWSE	10						
		15		NWNE	8		SWNE	8						
				NENW	40		NWNW	20		SWNW	26		SENE	40
				NESW	25		NWSW	17		SESW	12			
				NWSE	5									
		16		NENE	2		SENE	4						
				NESE	1.5									

Total Acres: 482.5

Conditions of Approval:

1.	052	Diversion and use of water under this right is subject to an annual use fee if rules are subsequently promulgated which provide for the submittal of the fee.
2.	051	Any license issued by IDWR pursuant to the right or portion thereof for the use of trust water is subject to a term review of 20 years after the date of this approval to determine availability of water for the use and to re-evaluate the public interest at the end of the term.
3.		Use of this right with Right 35-08942 is limited to a total combined annual diversion volume of 1608.0 af, and to the irrigation of a combined total of 402 acres in a single irrigation season. This right is limited to the irrigation of 334 acres within the place of use described above in a single irrigation season.
4.	R31	This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.0 afa per acre for irrigation of the lands above.

Dates:

Licensed Date: 11/26/1996

Decreed Date:

Permit Proof Due Date: 3/1/1993

Permit Proof Made Date: 2/24/1993

Permit Approved Date: 3/5/1991

Permit Moratorium Expiration Date:

Enlargement Use Priority Date:

76819

Enlargement Statute Priority Date:
Water Supply Bank Enrollment Date Accepted:
Water Supply Bank Enrollment Date Removed:
Application Received Date: 07/03/1989
Protest Deadline Date:
Number of Protests: 0

Other Information:

State or Federal:
Owner Name Connector:
Water District Number: 120
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Combined Acres Limit: 402
Combined Volume Limit: 1608
Combined Rate Limit:
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

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Water Right Report

9/16/2010

WATER RIGHT NO. 35-8942

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	NATURAL GUARDIAN LTD PARTNERSHIP 2880 N 55 W IDAHO FALLS, ID 83402 (208) 528-6635
Original Owner	JESTIN D CROFT 9801 W ARCO HWY IDAHO FALLS, ID 83402 (208)523-5897

Priority Date: 04/17/1991

Basis: License

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	0.22 CFS	
Total Diversion			0.22 CFS	

Location of Point(s) of Diversion:

GROUND WATER	NESE	Sec. 09	Township 02N	Range 36E	BONNEVILLE County
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Licensed Diversion Capacity: 6.9

IRRIGATION Use:
Acre Limit: 68

Place(s) of use:

Place of Use Legal Description: IRRIGATION BONNEVILLE County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
02N	36E	9		SENE	9									
				NESE	39		NWSE	8		SWSE	15		SESE	35
		10		SWNW	3		SENE	2						
				NESW	30		NWSW	35		SWSW	40		SESW	40
				NWSE	8		SWSE	10						
		15		NWNE	8		SWNE	8						
				NENW	40		NWNW	20		SWNW	26		SENE	40
				NESW	25		NWSW	17		SESW	12			
				NWSE	5									
		16		NENE	2		SENE	4						
				NESE	1.5									

Total Acres: 482.5

Conditions of Approval:

1.	052	Diversion and use of water under this right is subject to an annual use fee if rules are subsequently promulgated which provide for the submittal of the fee.
2.	051	Any license issued by IDWR pursuant to the right or portion thereof for the use of trust water is subject to a term review of 20 years after the date of this approval to determine availability of water for the use and to re-evaluate the public interest at the end of the term.
3.	R31	This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.0 afa per acre for irrigation of the lands above.
4.		Use of this right with Right 35-08863 is limited to a total combined annual diversion volume of 1608.0 af, and to the irrigation of a combined total of 402 acres in a single irrigation season. This right is limited to the irrigation of 68 acres within the place of use described above in a single irrigation season.

Dates:

Licensed Date: 11/26/1996

Decreed Date:

Permit Proof Due Date: 8/1/1994

Permit Proof Made Date: 2/24/1993

Permit Approved Date: 8/12/1991

Permit Moratorium Expiration Date:

Enlargement Use Priority Date:

76819

Enlargement Statute Priority Date:
Water Supply Bank Enrollment Date Accepted:
Water Supply Bank Enrollment Date Removed:
Application Received Date: 04/17/1991
Protest Deadline Date:
Number of Protests: 0

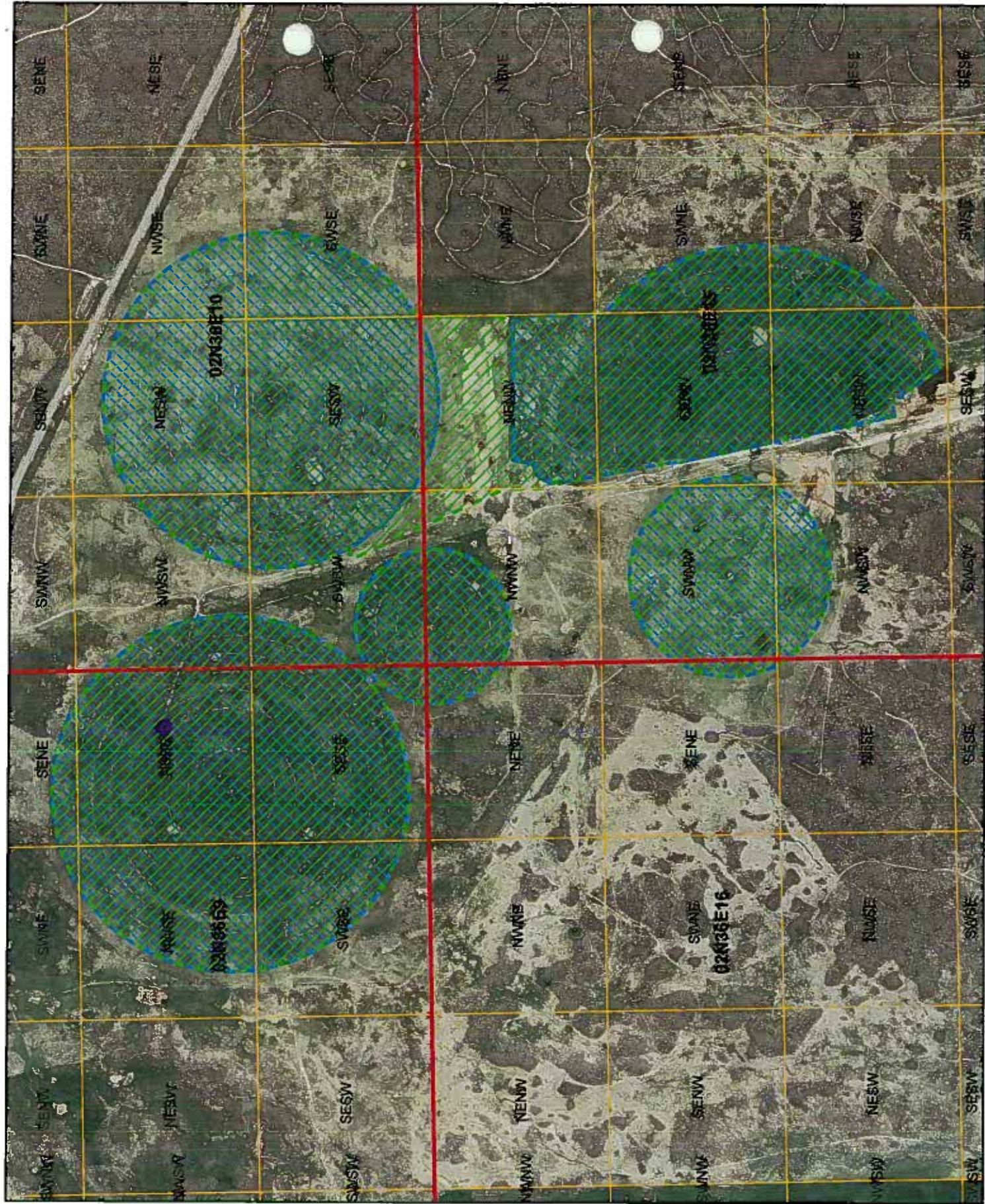
Other Information:
State or Federal:
Owner Name Connector:
Water District Number: 120
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Combined Acres Limit: 402
Combined Volume Limit: 1608
Combined Rate Limit:
Civil Case Number:
Old Case Number:
Decree Plaintiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

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76 81 9

Attachment No. 7a Map - Proposed POD

NATURAL GUARDIAN 35-8863/35-8942 TRANSFER



Legend

- Sections
- Quarter Quarters
- POD
- Proposed PPOU
- Proposed POU

402 Acre POU
425.9 Acre PPOU

76819

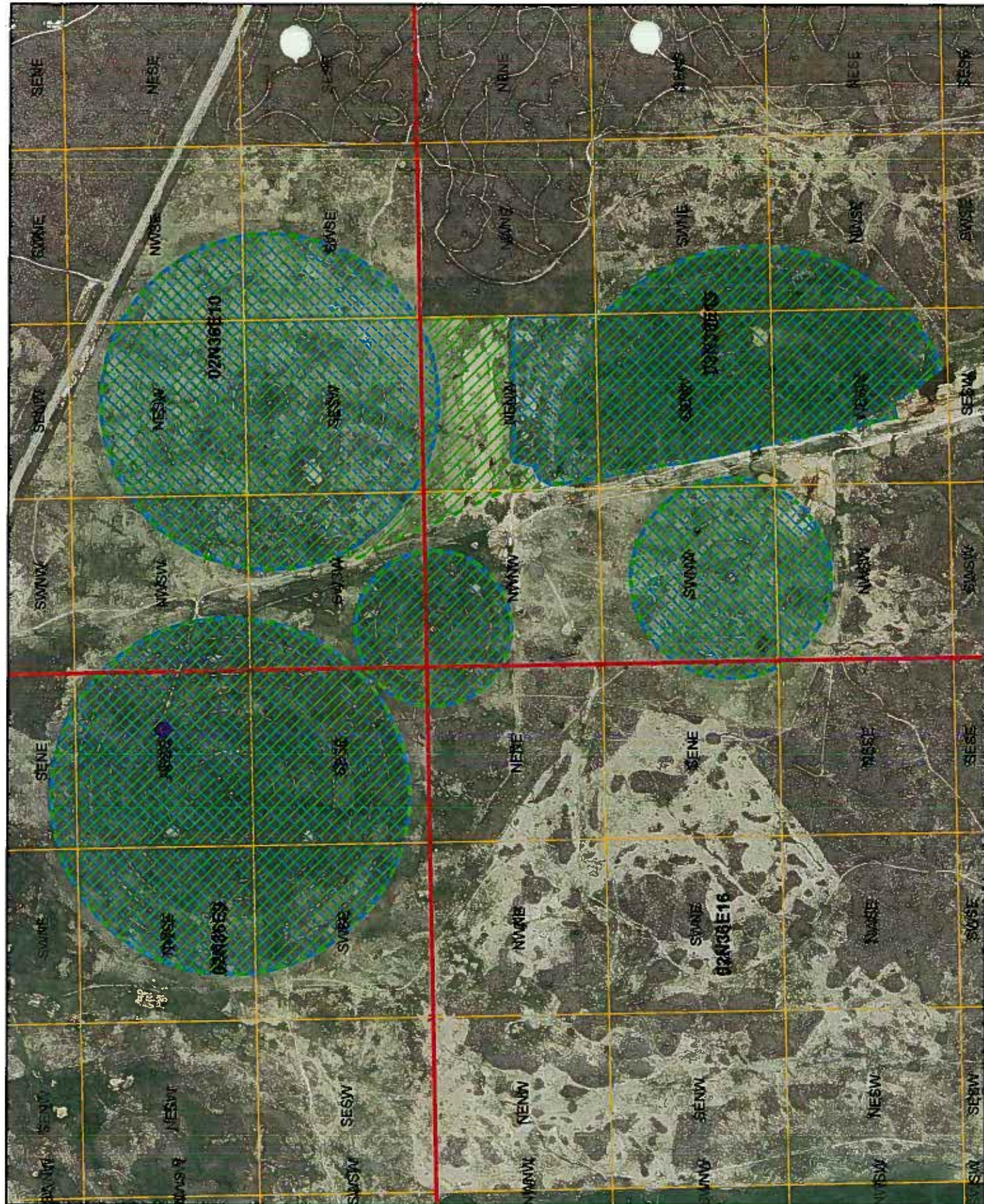
2009 NAIP Photo



Attachment No. 7b

GIS Shape File

NATURAL GUARDIAN 35-8863/35-8942 TRANSFER



Legend

- Sections
- Quarter Quarters
- POD
- Proposed PPOU
- Proposed POU

402 Acre POU
425.9 Acre PPOU

76819

2009 NAIP Photo

