



## State of Idaho

### DEPARTMENT OF WATER RESOURCES

900 N Skyline Dr., Ste A, Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 FAX: (208) 525-7177 www.idwr.idaho.gov

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Interim Director

May 27, 2010

JOHN L POWERS TRUST  
PO BOX 493  
MACKAY, ID 83251

RE: Transfer Application for Water Right 34-7239A

Dear Mr. Powers,

From our telephonic conversations, it seems that some additional clarification is required to fully understand the purpose of this transfer and what you wish to accomplish. I have enclosed copies of aerial photographs for you to determine the location of the pivot with the assistance from Jay Jensen (Exhibit A and B).

Some additional questions have arisen about how the surface water and ground water has been used in the past and how they would be used in the future with an approved transfer. The following questions will help me understand your water rights.

- 1 • How is the surface water and ground water used together?
- 2 • What source is used to irrigate the established pivot?
- 3 • Is water from the current well still injected into Sharp ditch at 7N 24E Sec 21 NESW and redirected from the Sharp ditch at 7N 24E Sec 28 NENE? This information was on the Beneficial Use Field Report dated on 8-1-2001.
- 4 • Do you want to maintain the current well if you drill a new well?
- 5 • Currently, is there anywhere within your Place of Use (POU) that the only source is surface water? Please refer to Exhibit C for POU.

I have also included a page from the transfer application that describes the proposed delivery system that needs to be completed. Try to be as detailed in the description as possible. If you have any comments or concerns, please contact me at the office.

Sincerely,

Denise Kidman  
Water Resource Agent

Enclosures

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Department of Water Resources  
Eastern Region

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John L. Brown Trust  
PO B493  
Mackay, ID 83251

State of ID IDWR  
900 N. Skyline Dr.  
Idaho Falls ID 83402  
ATTN Denise Lidman

Dear Denise

1. The surface & ground water will be used separately. It is currently being used to surface irrigate together with the river water.
2. The established point is ~~not~~ irrigated w/river water
- 3 yes periodically
4. Yes - But not for irrigation at this time
- 5 yes

I hope this clarifies your questions

Sincerely

John L. Brown Trust  
by John Brown Trustee

P.S. I've tried to highlight the area to be irrigated w/river P & D.

↑ North

- Please indicate where pivot will be located.
- Please indicate the boundary of the pivot.

Indicated on Page 3  
Enclosed.  
highlighted in yellow

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Eastern Region

Exhibit A

34-7289A

N ↑

21 22  
28 29

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↑  
Proposed well  
John Powers  
indicated POD  
location by using  
Sticker.

Exhibit B

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STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
Department of Water Resources  
Eastern Region

**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:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- b. Who owns the property at the point(s) of diversion?

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:  
Applicant

\_\_\_\_\_  
\_\_\_\_\_

- 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: NONE

\_\_\_\_\_  
\_\_\_\_\_

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 of 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:  
More efficient use of the water.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 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) use: 34-440B

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 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 right

If yes, describe:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Exhibit  
D



Water Right  
34-7239A  
(IRRIGATION)

# Idaho Department of Water Resources

## Legend

- Point of Diversion
- Place of Use
- State Outline
- Townships
- PLS Sections
- Quarter Quarters

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Eastern Region

Current POD  
and POU



Custer County  
IDWR Basin 34

Prepared by Denise Kidman  
On May 27, 2010  
2004 Aerial Photography



0 0.375 0.75 1.5 Miles

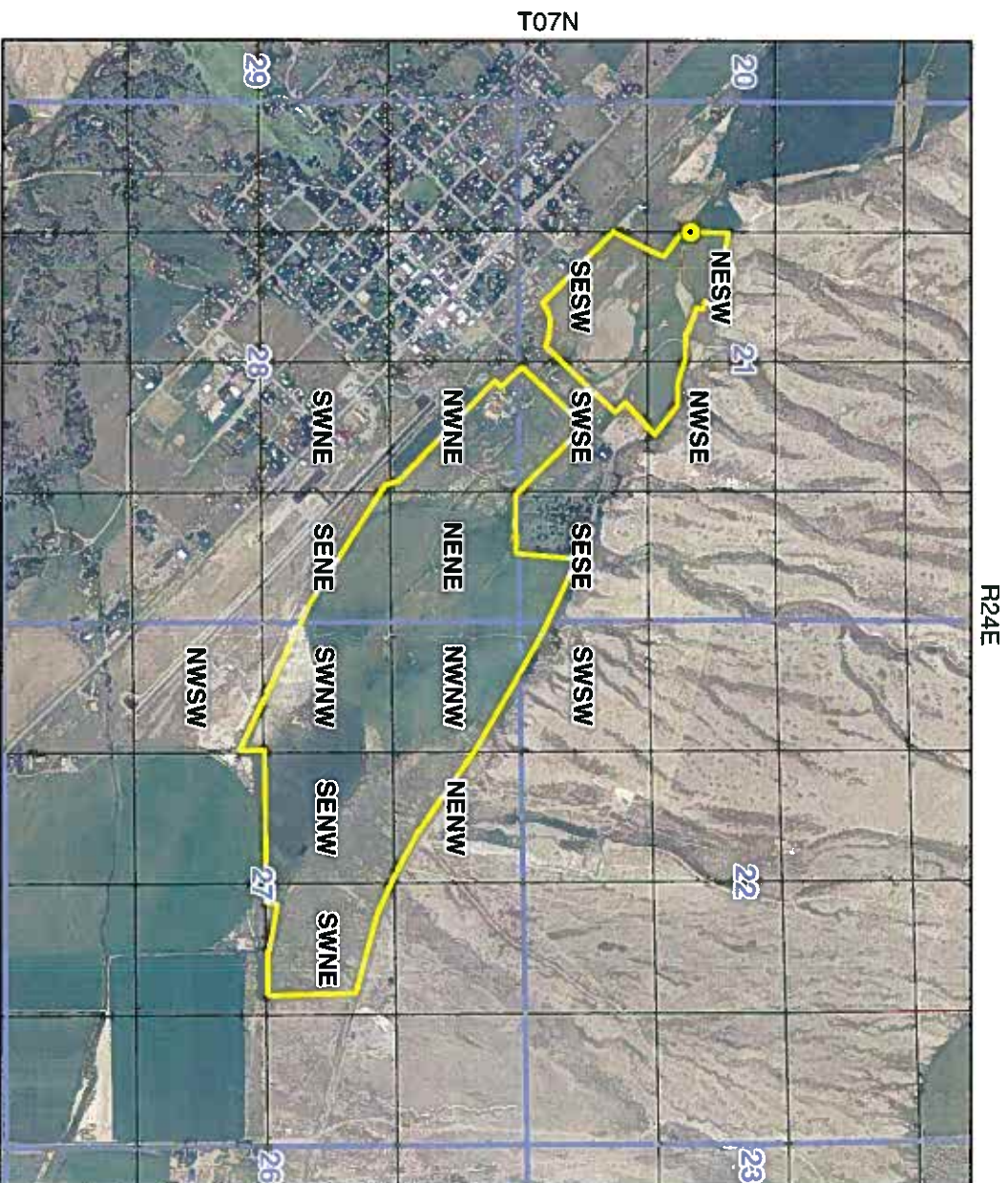
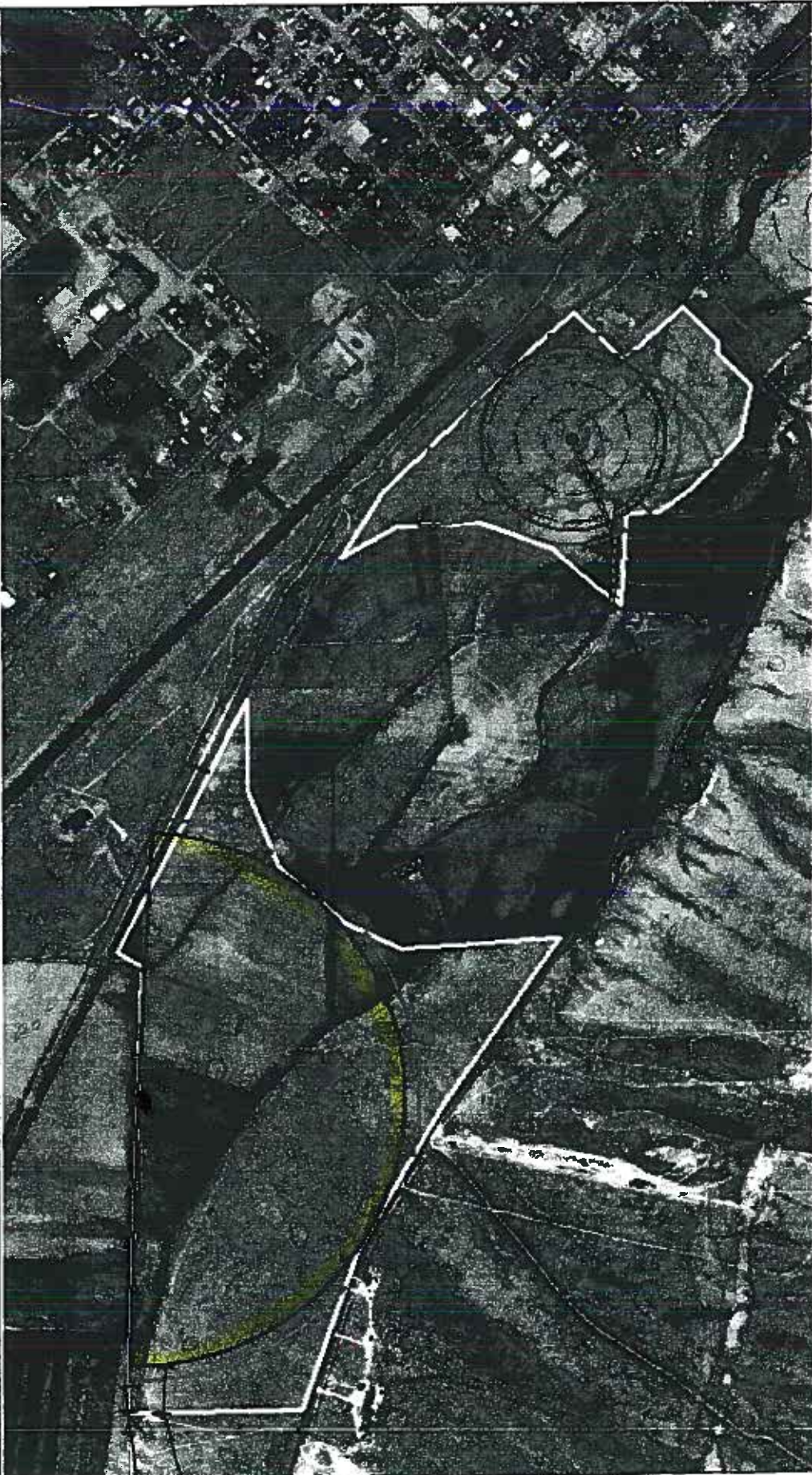


Exhibit C

Page 3

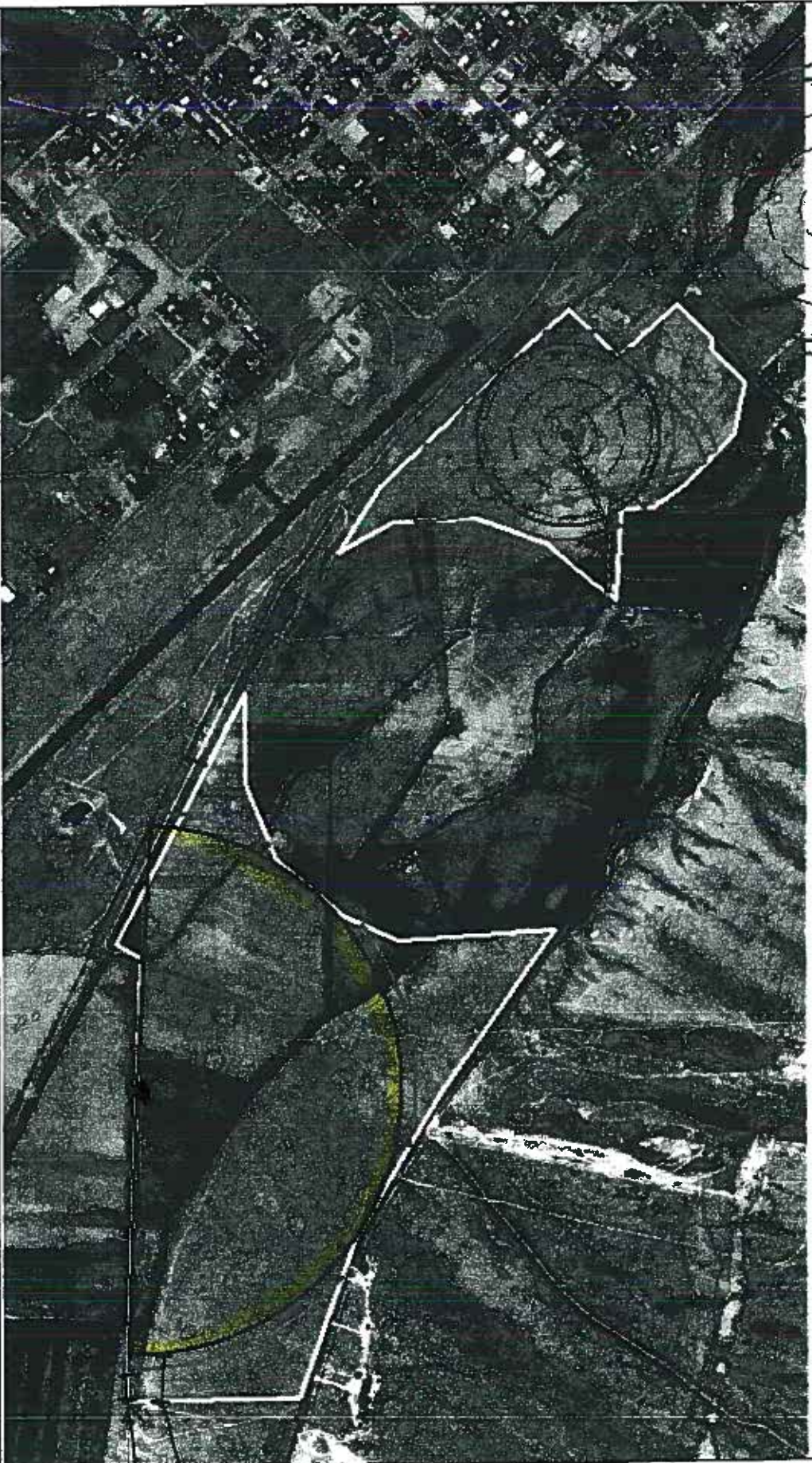
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