

APR 22 2009

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 WATER RESOURCES
 WESTERN REGION
 STATE OF IDAHO
 DEPARTMENT OF WATER RESOURCES
Transfer No. 75555
**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 * Means the item is always required and must be included with the application.

- ☒ * 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 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.
- ☐ ☒ #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: _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of Applicant(s) Mellin Properties, LP Phone 208-250-2963

Mailing address 10070 Los Ranchitos Dr., Boise, ID 83709-0349 Email rmellinla@msn.com

- ☐ 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 Scott King Phone 208-383-4140

Mailing address SPF Water Engineering, 300 E. Mallard Dr., Boise, ID 83706 Email sking@spfwater.com

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

Ralph Mellin
Signature of Applicant or Authorized Representative

Ralph Mellin, General Partner
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 it **Part 1A.2**. Applicant proposes a permissible place of use for the remaining irrigation of parent right 63-7194 that has not been sold and transferred. Affected rights include 63-33097 and 63-33100. The later right represents 5 acres recently sold to Scot Halladay, transfer No. 74580. The water sale was not finalized and Mr. Halladay is in the process of

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Part 1A.2. continued:

rescinding the transfer (see Attachment 3). Water right 63-33100 will then revert back to its original 5-acre place of use owned by the applicant. Additional points of diversion are proposed.

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. <u>Right Number</u>	<u>Amount</u> (cfs/ac-ft)	<u>Nature of Use</u>	<u>Period of Use</u>		<u>Source & Tributary</u>
63-33097	1.17/317.7	Irrigation	4/1	to 11/01	Ground Water
63-33100	0.08/22.5	Irrigation	4/1	to 11/01	Ground Water
				to	
				to	
				to	
				to	
				to	
				to	
				to	
Total <u>1.25</u> cfs and/or <u>340.2</u> ac-ft					

2. Total amount of water being transferred or changed 1.25 cubic feet per second and/or 340.2 acre-feet per 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 or tag #
N			SW	NE	21	1N	1W	ADA	Ground Water	existing well
Y			NE	NE	21	1N	1W	ADA	Ground Water	
Y			NW	NE	21	1N	1W	ADA	Ground Water	
Y			SW	NE	21	1N	1W	ADA	Ground Water	
Y			SE	NE	21	1N	1W	ADA	Ground Water	

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	
1N	1W	21	40	40	40	40													160

Total Acres (for irrigation use) 75.6 ac (160 PPU)

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: Well, pump, pressurized irrigation system. The existing well system can be modified to accommodate a measuring device if required by IDWR. Any new well system will be constructed to accommodate a measuring device.

- 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 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: _____

- 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: Water from the Idaho Water Supply Bank is being sought while Application for Permit 63-33142 is processed.

- 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/SearchWRAJ.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:

- [illegible]

2. Lands irrigated or place of use: (If irrigation, identify with number of acres irrigated per $\frac{1}{4}$ $\frac{1}{4}$ 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 TO 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 on Part 3B above.:

FOR DEPARTMENT USE ONLY

Transfer contains 7 pages and 5 attachments.
Received by JVD Date 4-22-09 Prelim. Check by KW Date 1-21-2010
Fee Paid 290.⁰⁰ Date 4-22-09 Received by Jmk Receipt # WD37393
Add'l Fee Paid _____ Date _____ Received by _____ Receipt # _____

PART 2A

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

4/2/2009

WATER RIGHT NO. 63-33097

Owner Type	Name and Address
Current Owner	MELLIN PROPERTIES LIMITED PARTNERSHIP RALPH MELLIN, GENERAL PARTNER 4500 N TUMBLEWEED LN BOISE, ID 83713-2500 (208)322-7500
Original Owner	RALPH J MELLIN 4500 N TUMBLEWEED LN BOISE, ID 83713-2500 (208)322-7500
Original Owner	MARION SCHMELZEL RT 1 NEW PLYMOUTH, ID 83655

Priority Date: 02/07/1969

Basis: Decreed

Status: Active

Source	Tributary
GROUND WATER	

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	04/01	11/01	1.17 CFS	317.7 AFA
Total Diversion			1.17 CFS	

Location of Point(s) of Diversion:

GROUND WATER|SWNE|Sec. 21|Township 01N|Range 01W|ADA County

Place(s) of use:

Place of Use Legal Description: IRRIGATION ADA County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
01N	01W	21		NENE	28		NWNE	26.5		SWNE	7		SENE	9.1

Total Acres: 70.6

Conditions of Approval:

- This right is a split from former right 63-32676 .
- 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.
THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS MARCH 1 AND MAY CONTINUE TO AS LATE AS NOVEMBER 15, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE APRIL 1 AND AFTER NOVEMBER 1 UNDER THIS REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.
- S39

Dates:

Licensed Date:

Decreed Date: 05/16/2008

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:
Generic Max Rate per Acre:
Generic Max Volume per Acre:
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

PART 2A

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

4/7/2009

WATER RIGHT NO. 63-33100

Owner Type	Name and Address
Current Owner	SCOT HALLADAY 9246 W ROCKSTONE CT KUNA, ID 83634 (208)562-8416
Original Owner	RALPH J MELLIN 4500 N TUMBLEWEED LN BOISE, ID 83713-2500 (208)322-7500
Original Owner	MARION SCHMELZEL RT 1 NEW PLYMOUTH, ID 83655

Priority Date: 02/07/1969
Basis: Decreed
Status: Active

Source	Tributary
GROUND WATER	

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	04/01	11/01	0.08 CFS	22.5 AFA
Total Diversion			0.08 CFS	

Location of Point(s) of Diversion:

GROUND WATER|SENE|Sec. 26|Township 02N|Range 01E|ADA County

IRRIGATION Use:
Acre Limit: 5

Place(s) of use:

Place of Use Legal Description: IRRIGATION ADA County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
02N	01E	26		NENE	6		SENE	4						

Total Acres: 10

Conditions of Approval:

1. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
2. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
3. T19 Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
4. X27 This right is limited to the irrigation of 5 acres within the place of use described above in a single irrigation season.
5. X61 The period of use for the irrigation described in this approval may be extended to a beginning date of 3/15 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 and after 11/1 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 5/16/2008.
6. R69 This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.

Attachment 2

Dates:

Licensed Date:

Decreed Date: 05/16/2008

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:

Generic Max Rate per Acre: 0.03

Generic Max Volume per Acre: 4.5

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

Close

ATTACHMENT 3

**DOCUMENTATION OF AUTHORITY TO
CHANGE WATER RIGHT 63-33100**

Attachment 3a

April 2, 2009

STATE OF IDAHO)
) ss
COUNTY OF ADA)

On this 6th day of April, 2009 before me, a Notary Public, personally appeared Scot Halladay, to me known to be the person named in and who attested to the foregoing letter and acknowledged that he attested to the same as his voluntary act and deed.



Laressa Gillear
Notary Public in and for said County and State

Attachment 3b

March 25, 2009

Ralph Mellon
Mellon Properties Limited Partnership
4500 North Tumbleweed Ln.
Boise, ID 83713-2500
Telephone: (208) 322-7500

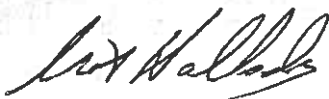
Contract for Sale of Water Right dated June 27, 2007 for 5 Acres

Ralph,

I received the approval from the Idaho Department of Water Resources several months ago in regards to the successful transfer of the water rights. Actually, I have been expecting a phone call from you; I assumed they would have notified you at the same time the water rights transfer was approved. The past several months I have been attempting to put together the funds needed to close the transaction. Unfortunately, I have not been able to obtain the funds as my business has literally drained all of my available funds and then some. I was hoping the past several months I would be able to work something out so that I could put together the money needed, unfortunately that has not happened. I understand as per the contract if the remaining amount is not paid to you the water rights would need to be transferred back to you. I don't know if it is a possibility for me to retain one of the five acres as I have paid the \$7,500 deposit at the beginning of the contract and the housing value used to track the cost per acre has gone down considerably from the \$7,500 per acre.

I wanted to write this letter as to give you a chance to think about this and then we can discuss in a few days as to what needs to be done to transfer the water rights back to you. I have no intention of trying to make this transition back to you difficult in any way and will cooperate completely in the process. I was just hoping that by focusing on my business the past few months I would have been able to secure funds needed to purchase the water rights. Unfortunately that has not happened.

Sincerely,

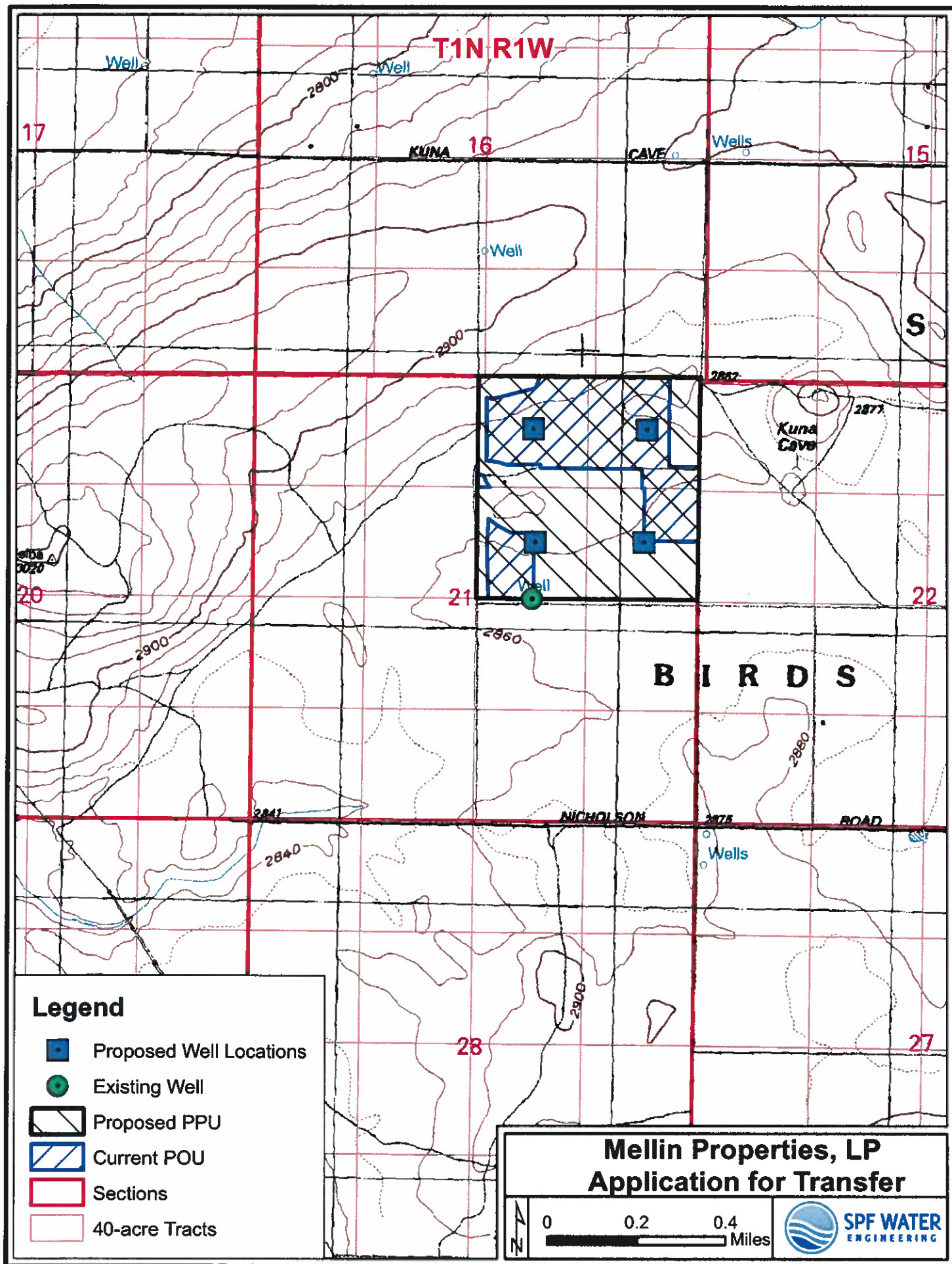


Scot Halladay

870-3884

Attachment 4

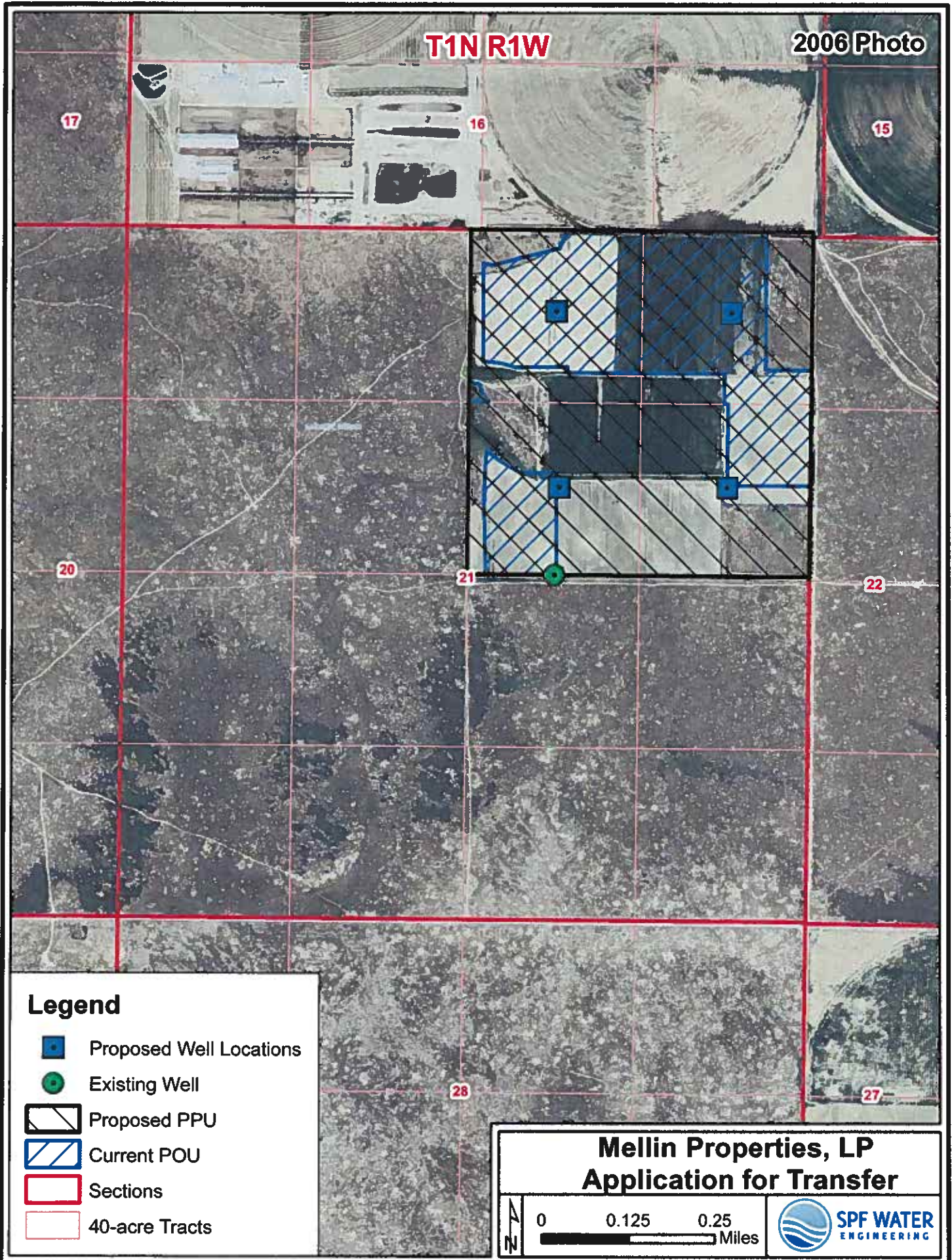
ATTACHMENT 7a & 7b
TOPO MAP & AERIAL PHOTO



Attachment 5a

T1N R1W

2006 Photo



Attachment 5b