

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

APR 20 2009

Department of Water Resources
Eastern Region

Name of Applicant(s) Michael D. Ferguson Phone: 208-356-4336
 Mailing Address: PO Box 413, Rexburg, ID 83440 Email: michael@yellowstonebearworld.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 Robert L. Harris, Holden, Kidwell, Hahn & Crapo, PLLC Phone: 208-253-0620
 Mailing Address: PO Box 50130, Idaho Falls, ID 83405-0130 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

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 proposes to simply rearrange the place of use for Water Right No. 31-4089 to allow for a center pivot. No other elements of Water Right No. 31-4089 are proposed to be changed.

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>
	<u>31-4089</u>	<u>1.96/343 afa</u>	<u>Irrigation</u>	<u>4/01 to 10/31</u>	<u>Groundwater</u>
	_____	_____	_____	_____ to _____	_____
	_____	_____	_____	_____ to _____	_____
	_____	_____	_____	_____ to _____	_____
	_____	_____	_____	_____ to _____	_____
	Total:	<u>1.96</u> cfs and/or	<u>343</u> ac-ft.		

2. Total amount of water being transferred or changed 1.96 Cubic feet per second and/or 343 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.	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 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	
8N	34E	29	31	29	19	19													98

Total Acres (for irrigation use) 98

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 well and pump are described in attachment #9. The well could be accommodated to allow for a measuring device.

b. Who owns the property at the point(s) of diversion? Michael Ferguson
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: _____
The only effect is that the place of use will be rearranged to accommodate a center pivot

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: None

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: The land was in CRP for approximately 10 years, but the CRP contract expired in 2008. Mr. Ferguson now intends to irrigate the property with a pivot.

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 _____

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)

Tw	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	

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**.

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]

Transfer contains _____ pages and _____ attachments.
 Received by: _____ Date: _____ Prelim. Check by _____ Date: _____
 Fee paid: 290 _____ Date: _____ Received by _____ Receipt # E034960
 Add'l fee paid _____ Date: _____ Received by _____ Receipt # _____

TRANSFER PART

2a

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

4/20/2009

WATER RIGHT NO. 31-4089

Owner Type	Name and Address
Current Owner	MICHAEL D FERGUSON PO BOX 413 REXBURG, ID 83440 (208)356-4336
Original Owner	MILBURN HAWKER JR 1052 E 2600 N MONTEVIEW, ID 83435 (208)657-2578

Priority Date: 02/22/1946
Basis: Decreed
Status: Active

Source	Tributary
GROUND WATER	

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	4/01	10/31	1.96 CFS	343 AFA
Total Diversion			1.96 CFS	

Location of Point(s) of Diversion:

GROUND WATER	NWNWNE	Sec. 29	Township 08N	Range 34E	JEFFERSON County
--------------	--------	---------	--------------	-----------	------------------

Place(s) of use:

75 545

Place of Use Legal Description: IRRIGATION JEFFERSON County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
08N	34E	29		NENE	18		NWNE	32		SWNE	24		SENE	24

Total Acres: 98

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.
----	-----	---

Dates:

Licensed Date:

Decreed Date: 02/22/2002

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: 110

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

75 54 5

ATTACHMENT 4

ATTACHMENT NO. 4

Robert L. Harris of the law firm, Holden, Kidwell, Hahn & Crapo, PLLC, is authorized to sign for the applicant. He previously submitted a Notice of Change of Water Right Ownership for Water Right No. 31-4089. Attached is a copy of a letter dated April 23, 2008, received by the Department on April 25, 2008, relating to this water right.

G:\WPDATA\RLH\14629-001 Velvet Ranches\Attachment No. 4.wpd:cdv



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

1000 Riverwalk Drive, Suite 200
PO Box 50130
Idaho Falls, Idaho 83405

Tel: (208) 523-0620
Fax: (208) 523-9518
www.holdenlegal.com
E-MAIL rharris@holdenlegal.com

April 23, 2008

Idaho Department of Water Resources
PO Box 83720
Boise, ID 83720-0098

RECEIVED
APR 25 2008
DEPARTMENT OF
WATER RESOURCES

Re: Notice of Change of Water Right Ownership for Water Right No. 31-4089.

Dear Ladies & Gentlemen:

Enclosed please find a completed Notice of Change of Water Right Ownership for Water Right No. 31-4089. The water right is currently in the name of Milburn Hawker, Jr., but is now owned by Michael D. Ferguson. He acquired the property in 2005, because the land at that time was in CRP, and the Notice of Change of Ownership was inadvertently not filed. If you have any questions, please let me know.

Sincerely,

Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Enclosures

G:\WPDATA\IRLH\14629-001 Velvet Ranches\IDWR ltr 042308.wpd:cdv

Established in 1896

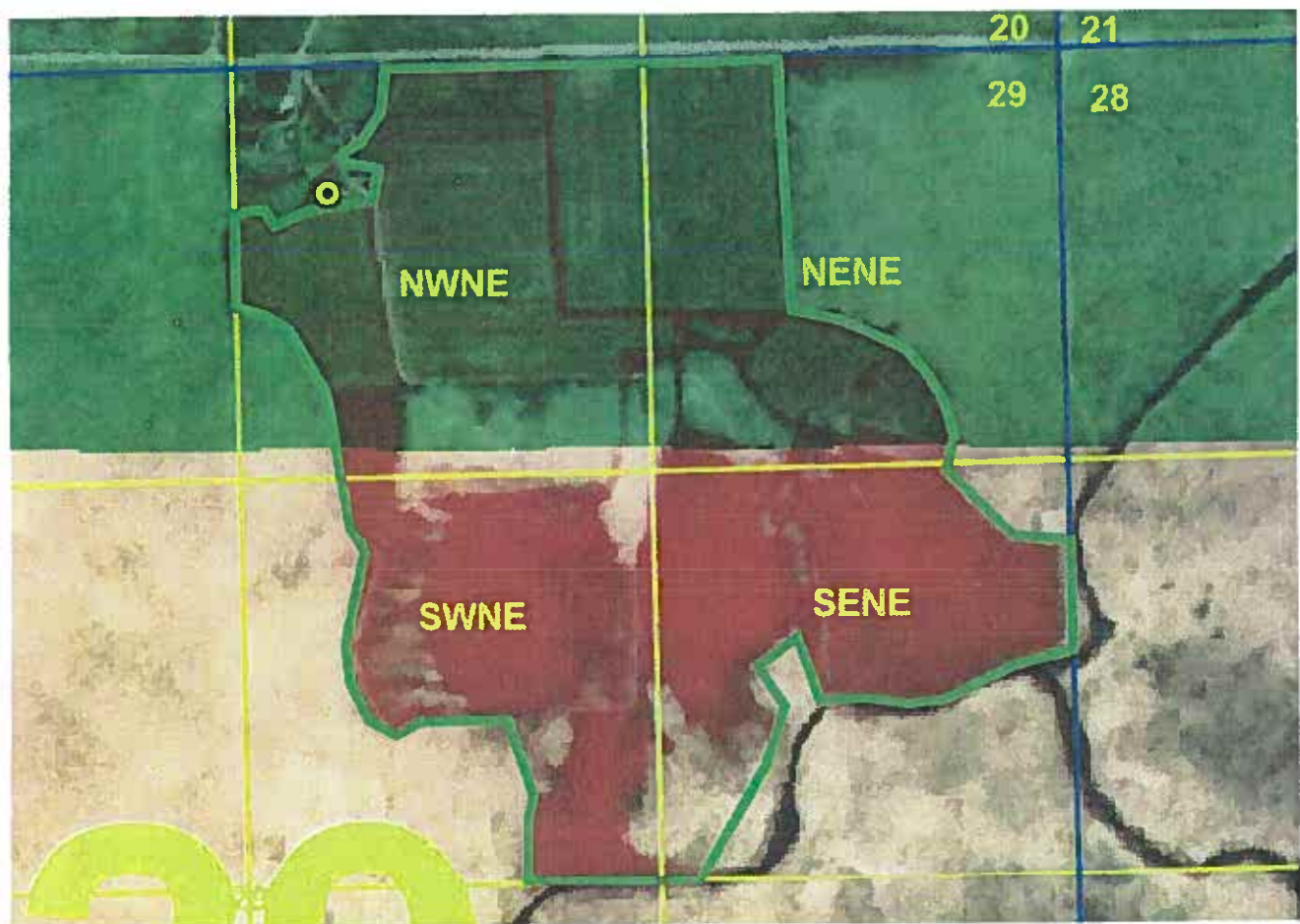
75545

ATTACHMENT 7a

IDAHO DEPARTMENT OF WATER RESOURCES

31-04089

T08N, R34E, SEC. 29



1320

0

1320 Feet



PLACE OF USE



POINT OF DIVERSION

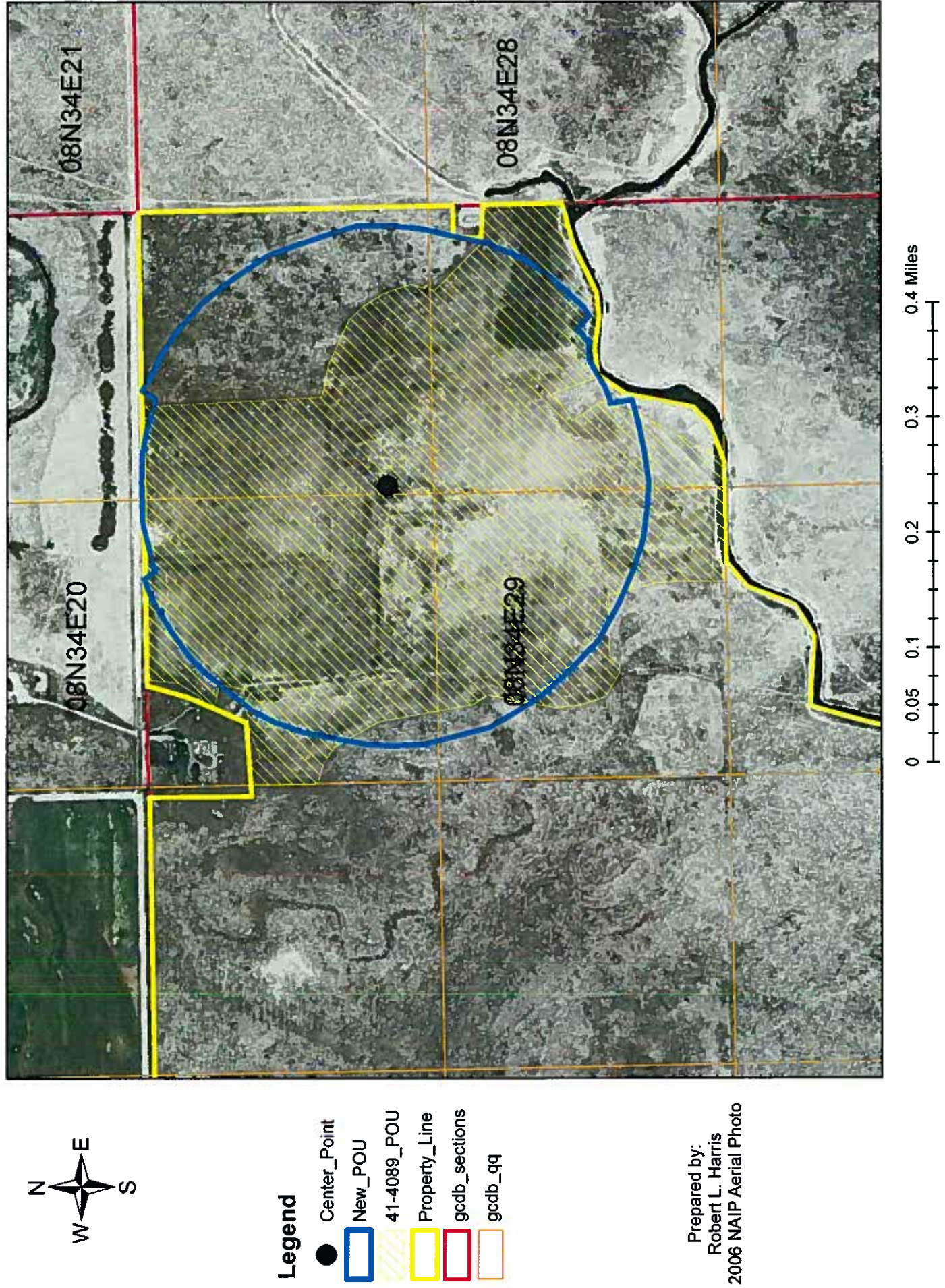
ACRES IRRIGATED- 98

GIS: PLACE OF USE
POINT OF DIVERSION
1987/1988 NAPP PHOTOS
PREPARED BY DAVE CARLSON

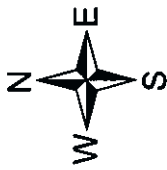
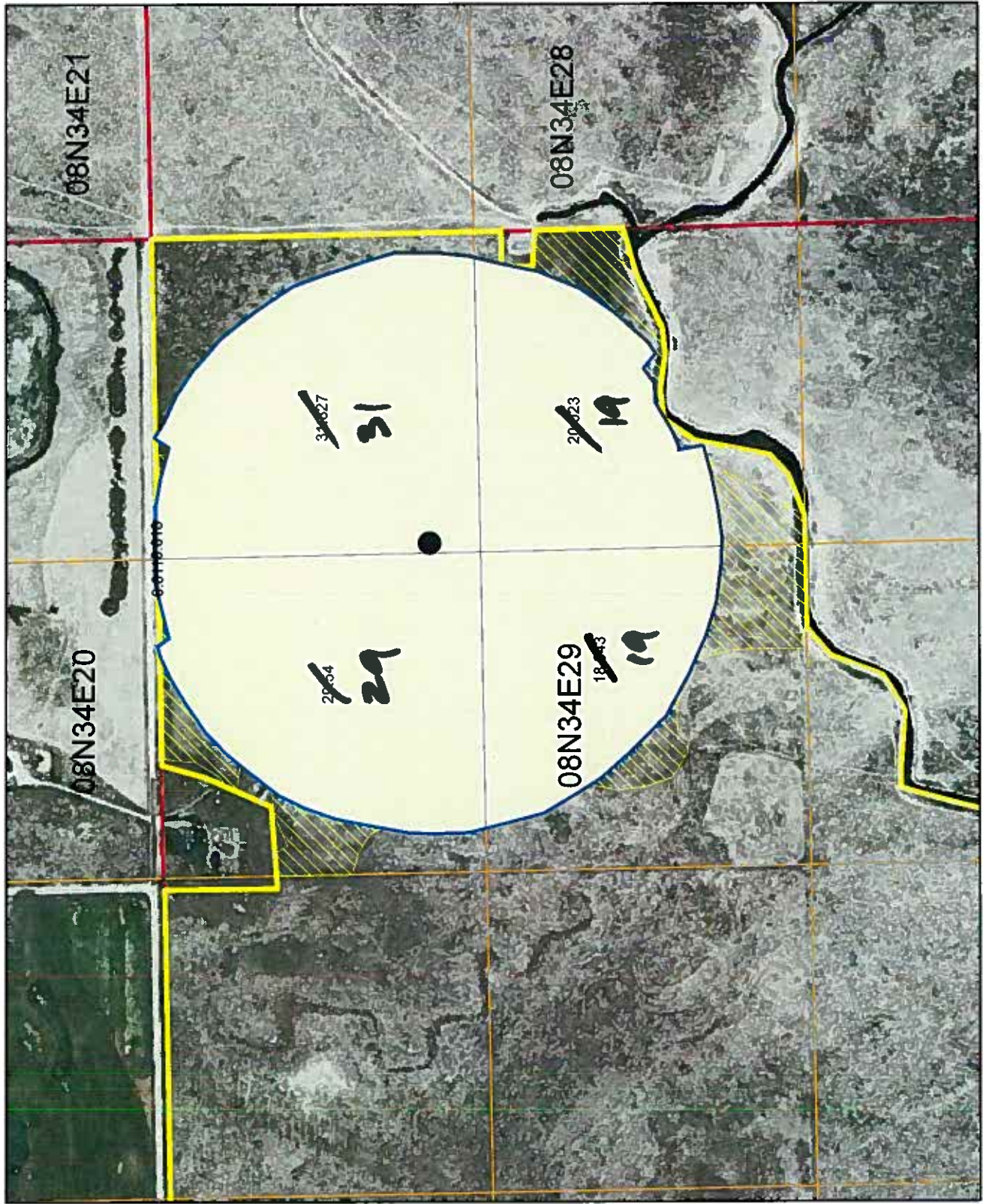
75 54 5

ATTACHMENT 7b

MICHAEL FERGUSON TRANSFER APPLICATION



MICHAEL FERGUSON TRANSFER APPLICATION

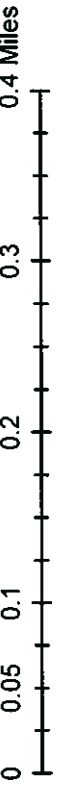


Legend

- Center_Point
- POU_qq
- New_POU
- 41-4089_POU
- Property_Line
- gcdb_sections
- gcdb_qq

75545

Prepared by:
Robert L. Harris
2006 NAIP Aerial Photo



ATTACHMENT 9

PAGE: 4
POINT OF DIVERSION REVIEW SHEET CONTINUED

CLAIM NUMBER: AS1-84069

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	COUNTY	DIVERSION NAME
---	---	29	NW	NW	NE	---	---	---
---	---	---	---	---	---	---	---	---
---	---	---	---	---	---	---	---	---
---	---	---	---	---	---	---	---	---
---	---	---	---	---	---	---	---	---
---	---	---	---	---	---	---	---	---
---	---	---	---	---	---	---	---	---

SOURCE: GROUNDWATER

TRIB:

REVIEWED BY:

DC

DATE:

9/13/94

SYSTEM DESCRIPTION:

Fairbanks Morse 15hp

power #1050

No F426607

open discharge

Spec T143B-1

Fairbanks Morse pump CF53723

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	
✓	*	*Means the item is <u>always required</u> 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 <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: <u>The well and pump described in attachment #9.</u>