

OCT 09 2007

WATER RESOURCES
WESTERN REGION

Notice of Protest

1. Application for Permit No. 63-32423 in the name of JMM Dry Creek, LLC
2. Name of protestant: Dry Creek Rural Neighborhood Association
Leslie Nona, DCRNA chairman
Jeff Nona
Annemarie Muthart
Joanne Pence
Marian E. Shaw
3. Protestant's representative: DCRNA board members as listed above
4. Service mailing address: Marian E. Shaw
13975 Broken Horn Rd.
Boise, ID 83714
5. Service telephone number: 208-229-2133

6. Basis of Protest:

Applicant groundwater withdrawals may negatively impact nearby existing water rights by reducing the quantity of water under existing rights. It is questionable that the water supply is sufficient for the purpose for which it is sought to be appropriated. Idaho Statute 42-203A (5) (a&b)

- a. Protestant has a domestic and agricultural well very near to the proposed new community well (protestant wells are in T05N R02E S31 (domestic) and T05N R02E S31 NWNW (ag)).
Attached water rights held by the protestant include 63-3160A for 1.96 CFS groundwater, priority date 06/29/1959, and 63-2618 for 0.86 CFS surface water from Dry Creek, total diversion together not to exceed 1.96 CFS.
- b. Applicant proposes a new municipal well for the proposed Dry Creek Ranch. Diversion rates of 5CFS in combination with 5 water rights with irrigation use appurtenant to the 1400 acre property are to be used:
- c. Right 63-7123 (priority date 07/11/1968) is for 0.79 CFS from one well.

- d. Right 63-4086B (priority date 07/20/1960) is for 5.0 CFS from one well (shared with the same well as for 63-7123).
- e. Right 63-4023B (priority date 07/01/1927) is for 3.0 CFS from 4 wells on the property, including the well which is the shared point of diversion for 63-7123 and 63-4086B.
- f. Right 63-2535 (priority date 08/24/1937) is for 0.70 CFS of groundwater from one well, which is also a shared point of diversion for 63-4023B.
- g. Right 63-17454 (priority date 03/20/1938) is a surface water right for 1.7 CFS from Dry Creek.

The rights have both overlapping areas of use and points of diversion. Actual maximal diversion rates may be less than stated for each right individually. A map of irrigated areas and points of diversion is included.

The “Conceptual Water System Report” proposed by SPF Water Engineering, LLC for Dry Creek Ranch planned community application describes on page 5 the current production of the existing wells (1):

“At least 13 wells have been drilled on the Dry Creek Ranch property. The most productive wells have been located in the east-central part of the property, producing up to 3,000 gpm from depths between 100 and 300 feet. It is likely that one or more successful production wells could be completed in this area, *although the sustainable well yield from the aquifer has not been determined.* Wells drilled in other parts of the property have been far less productive (1-150 gpm).” (Italics are the protestant’s).

The “Conceptual Waster System report notes on page 8:

“The water supply is limited in the northwest area of Boise. Despite this limitation, several new developments are proposed or being constructed in the area.”

In its 1991 report (2), IDWR recommends that the “current observation well network in the Dry Creek area [Eagle, ID] is inadequate to monitor the effects of continued development of ground-water resources in the area.” Lacking full implementation of the monitoring recommendation, there remains a paucity of new data and there is insufficient data with regard to the sufficiency of water.

- 7. What would resolve your protest?
 - a. Denial of the application

- b. Absent denial, a better understanding of the area's hydrology and water supply before approval of new rights. Several of the water rights on the property had not been used since 1994, but there is some agricultural activity (potato farming) now along with renewed irrigation of some of the area this year. This is a good time for well-monitoring. As part of resolution, a twice-yearly well-monitoring program of 10 wells to be specified by arrangement between the Dry Creek Rural Neighborhood Association and the developer should be instituted. Monitoring should be carried out for 15 years at the expense of the developer. Monitoring results should be reported annually in a report supplied to DCRNA and to the Western Regional Manager of IDWR prior to Dec. 31 of each year.
- c. If the application is approved, protestant asks that the pre-existing wells be abandoned and made unuseable.

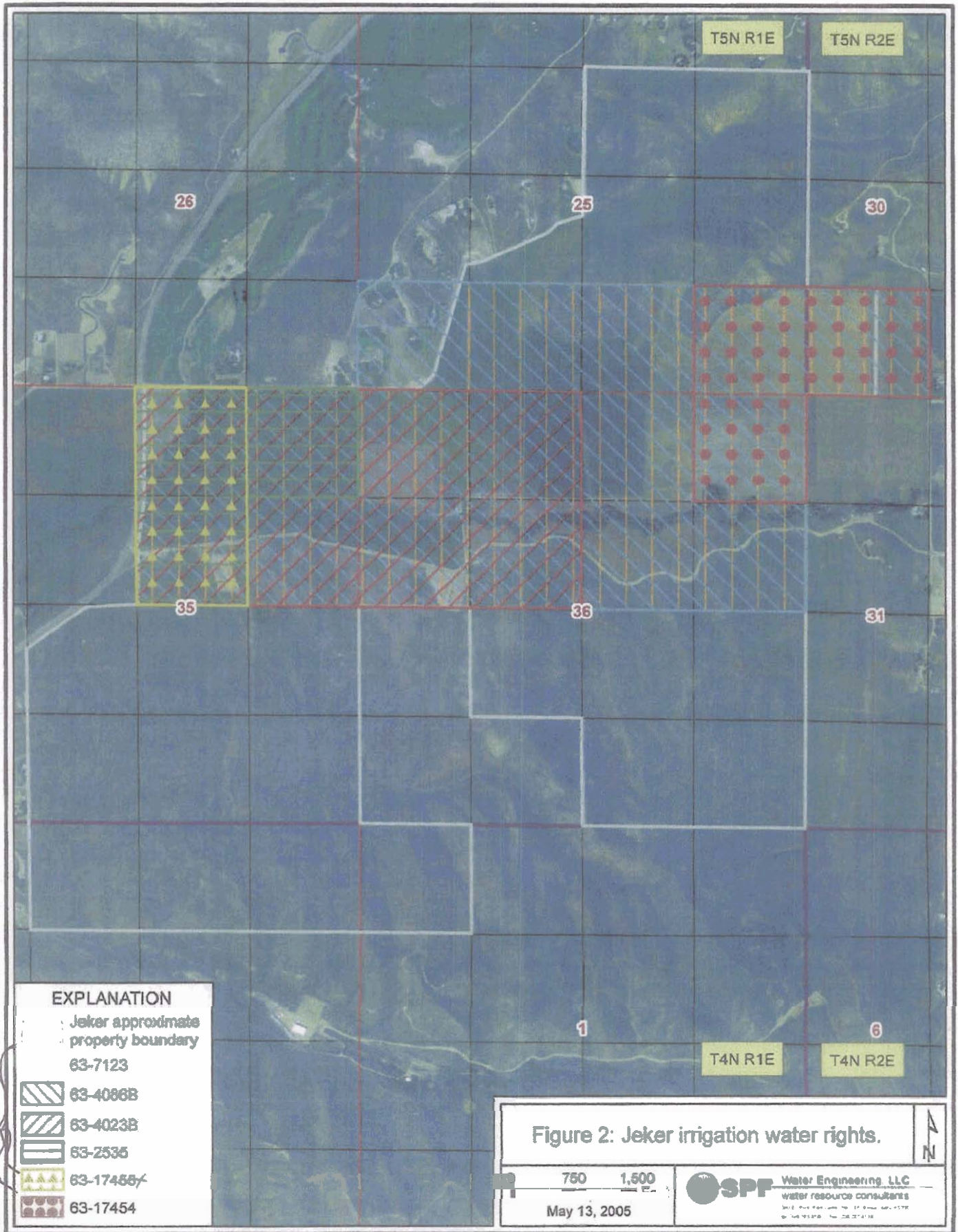
1. SPF Water Engineering, LLC. July 18, 2006. "Element G, Dry Creek Ranch Planned Community. Conceptual Water System Report."

2. Baker, Steven J. Idaho Department of Water Resources. June 1991. "Ground-Water conditions in the Dry Creek Area, Eagle, Idaho."

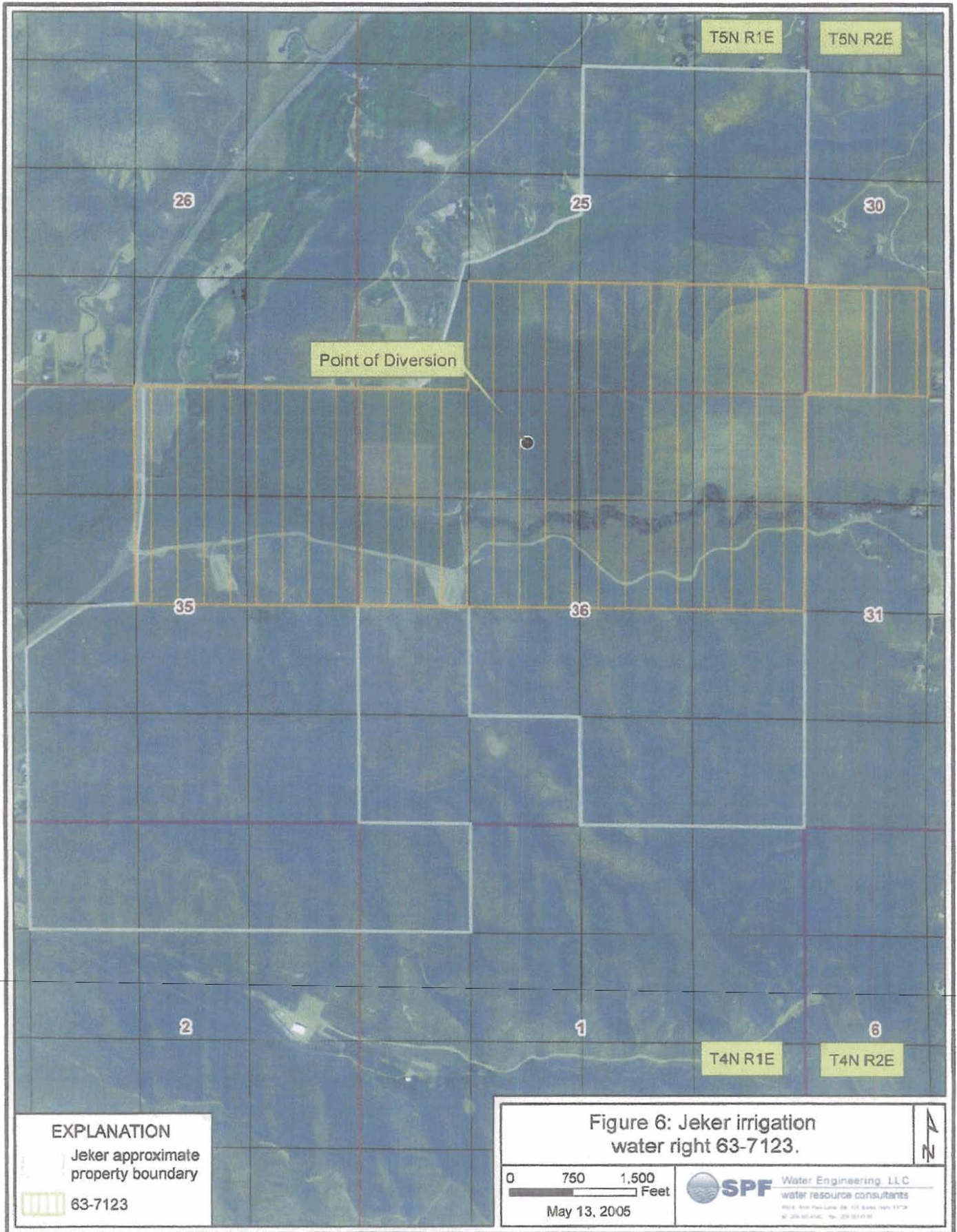
Marcus E. Phue
10/9/07

#25 - received 10-9-07 by DB # W035885

ELEMENT G, DRY CREEK RANCH PLANNED COMMUNITY



ELEMENT G, DRY CREEK RANCH PLANNED COMMUNITY

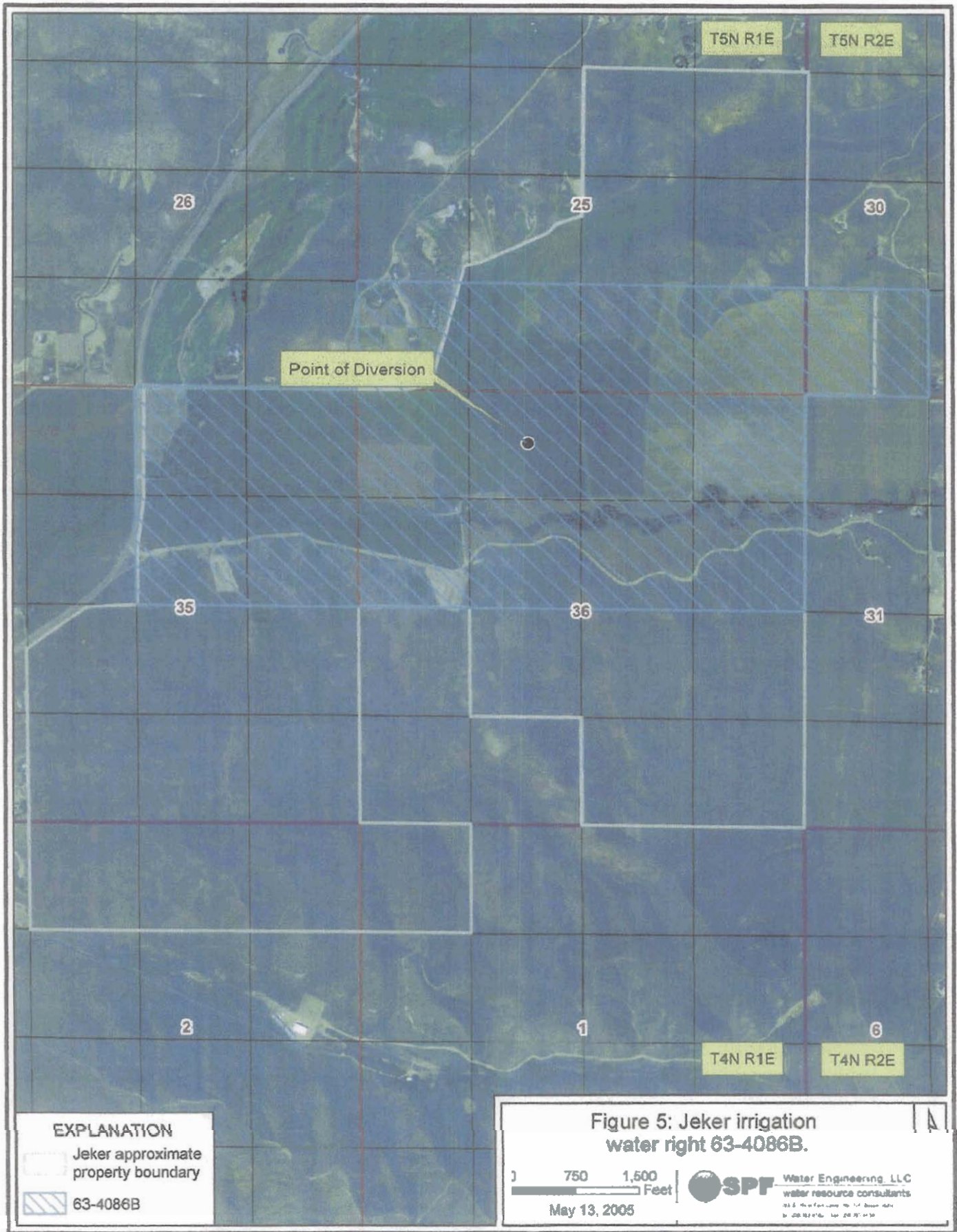


DRY CREEK RANCH
ELEMENT G, REVISION 0_080106

well A

.79 CFS

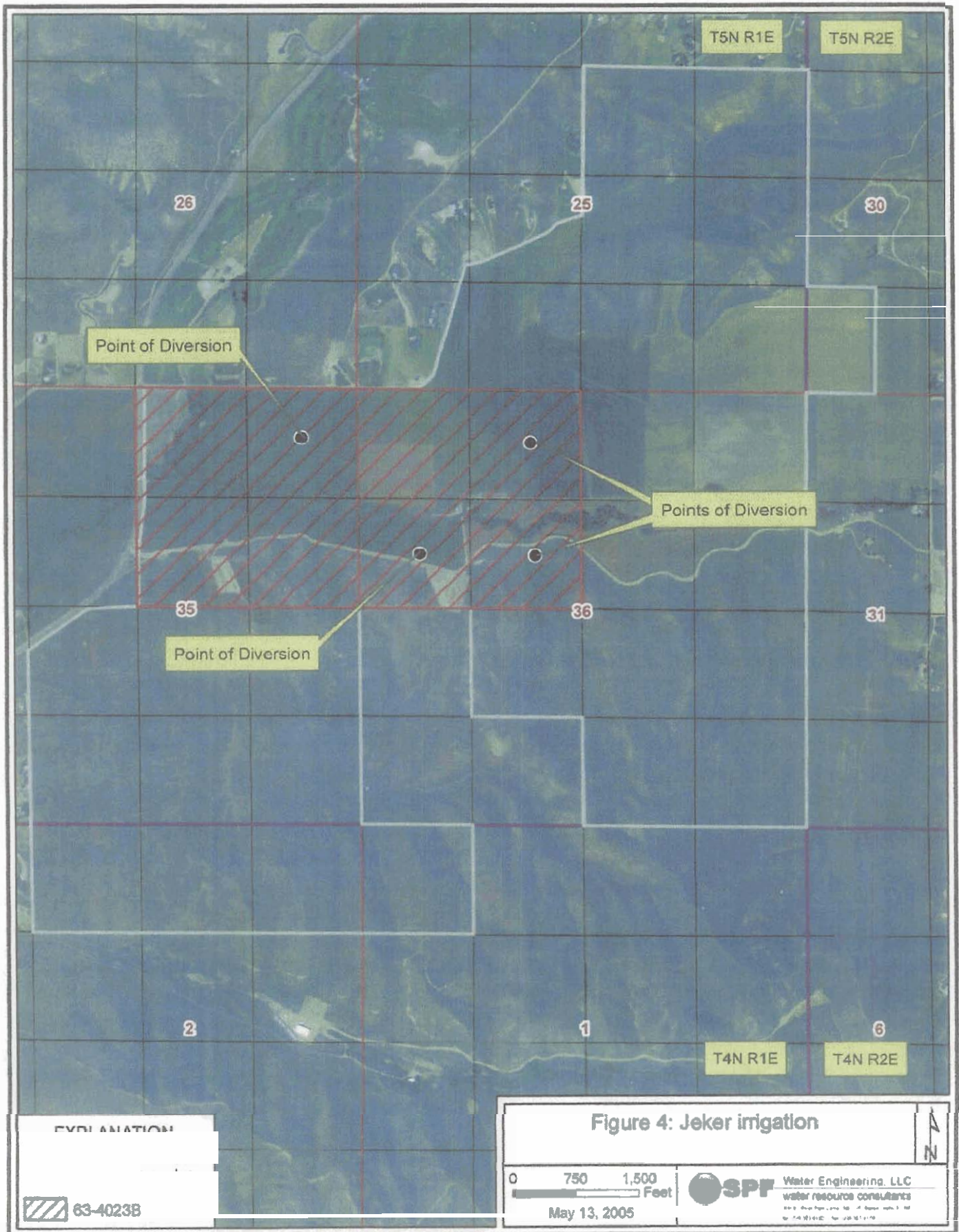
ELEMENT G, DRY CREEK RANCH PLANNED COMMUNITY



well A

5.0 CFS

ELEMENT G, DRY CREEK RANCH PLANNED COMMUNITY

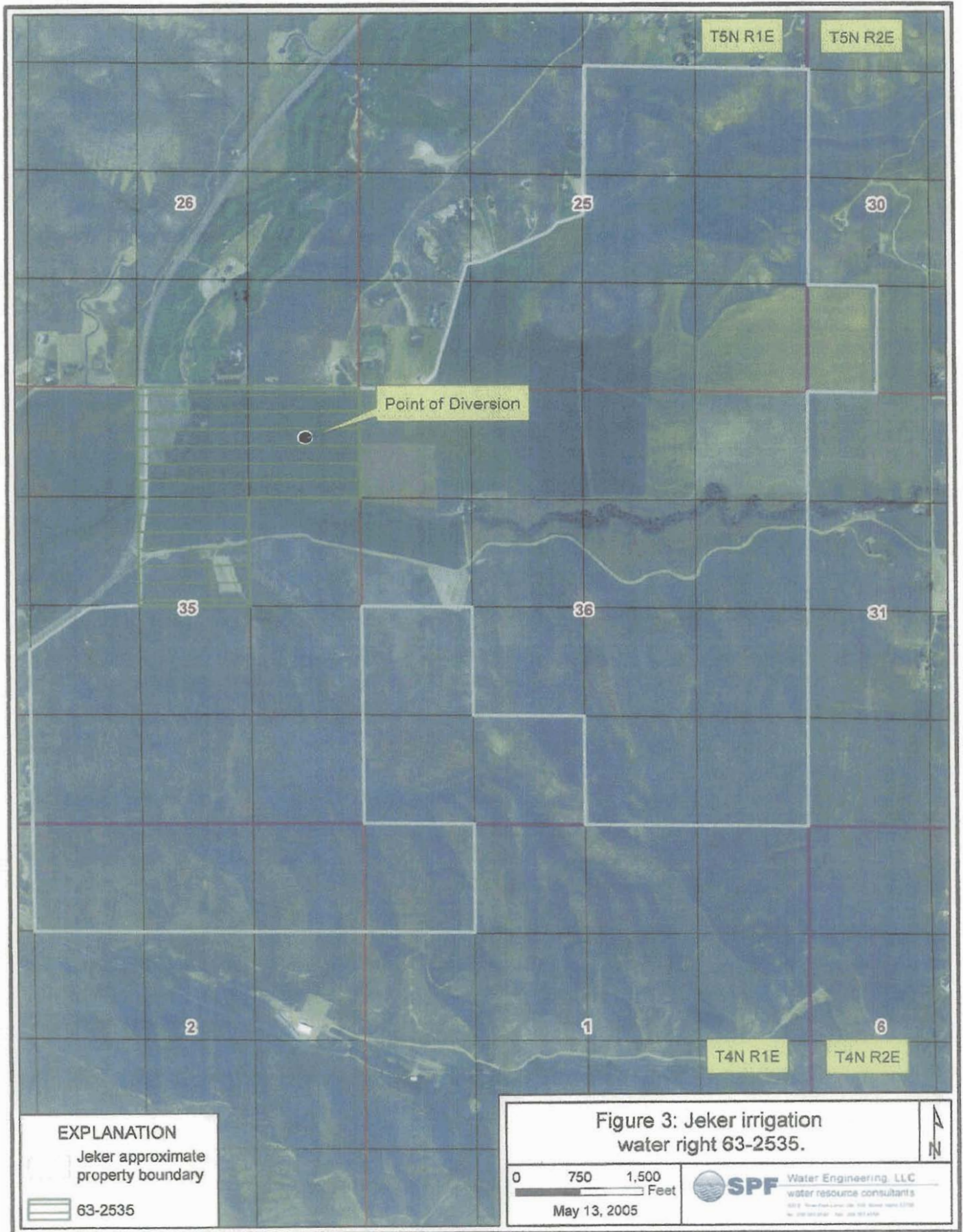


DRY CREEK RANCH
ELEMENT G, REVISION 0_080106

3.0 CFS

well A + 3 others

ELEMENT G, DRY CREEK RANCH PLANNED COMMUNITY



70 CFS

ELEMENT G, DRY CREEK RANCH PLANNED COMMUNITY

