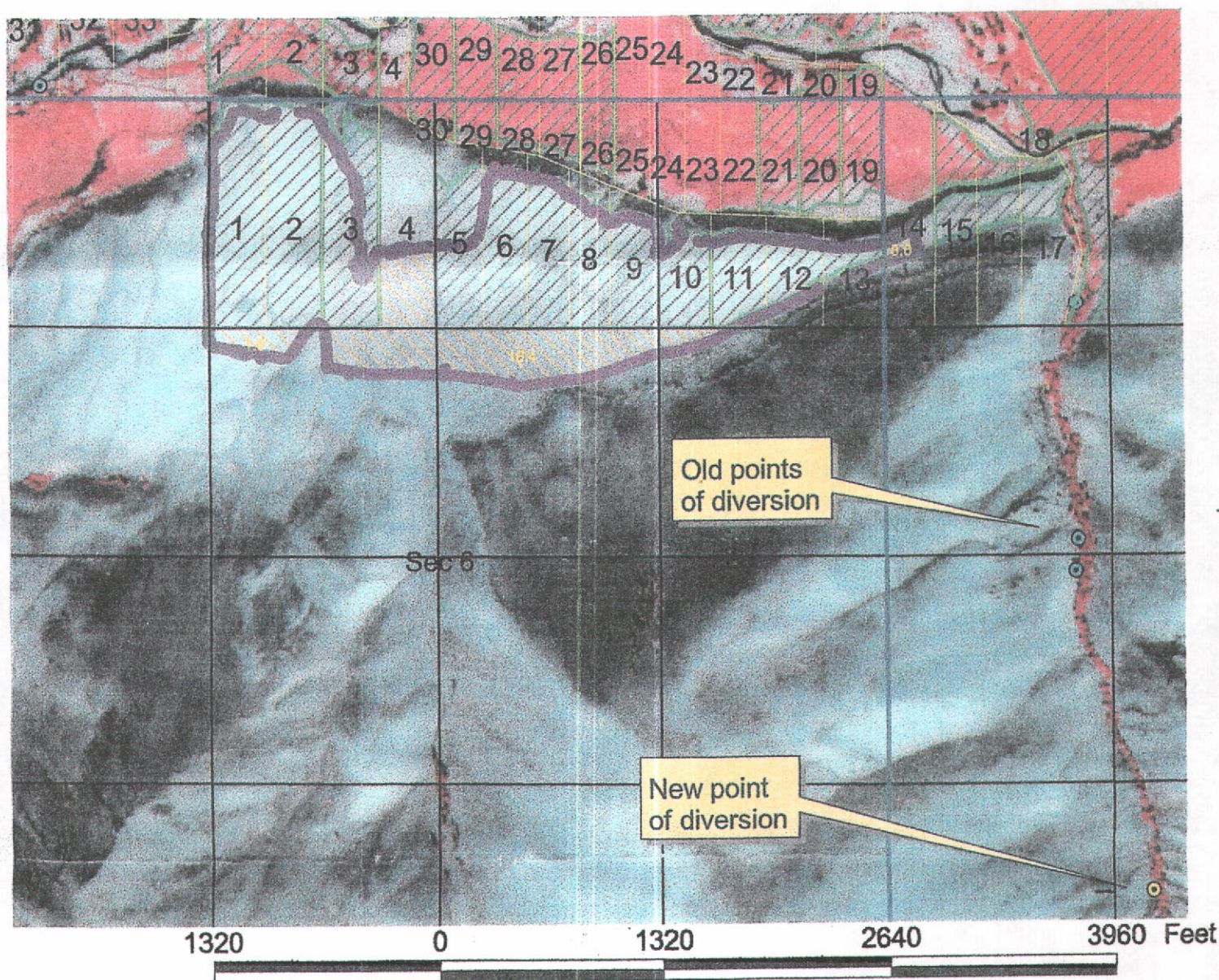


Potential Illegal Irrigation Pine Creek Subdivision Area



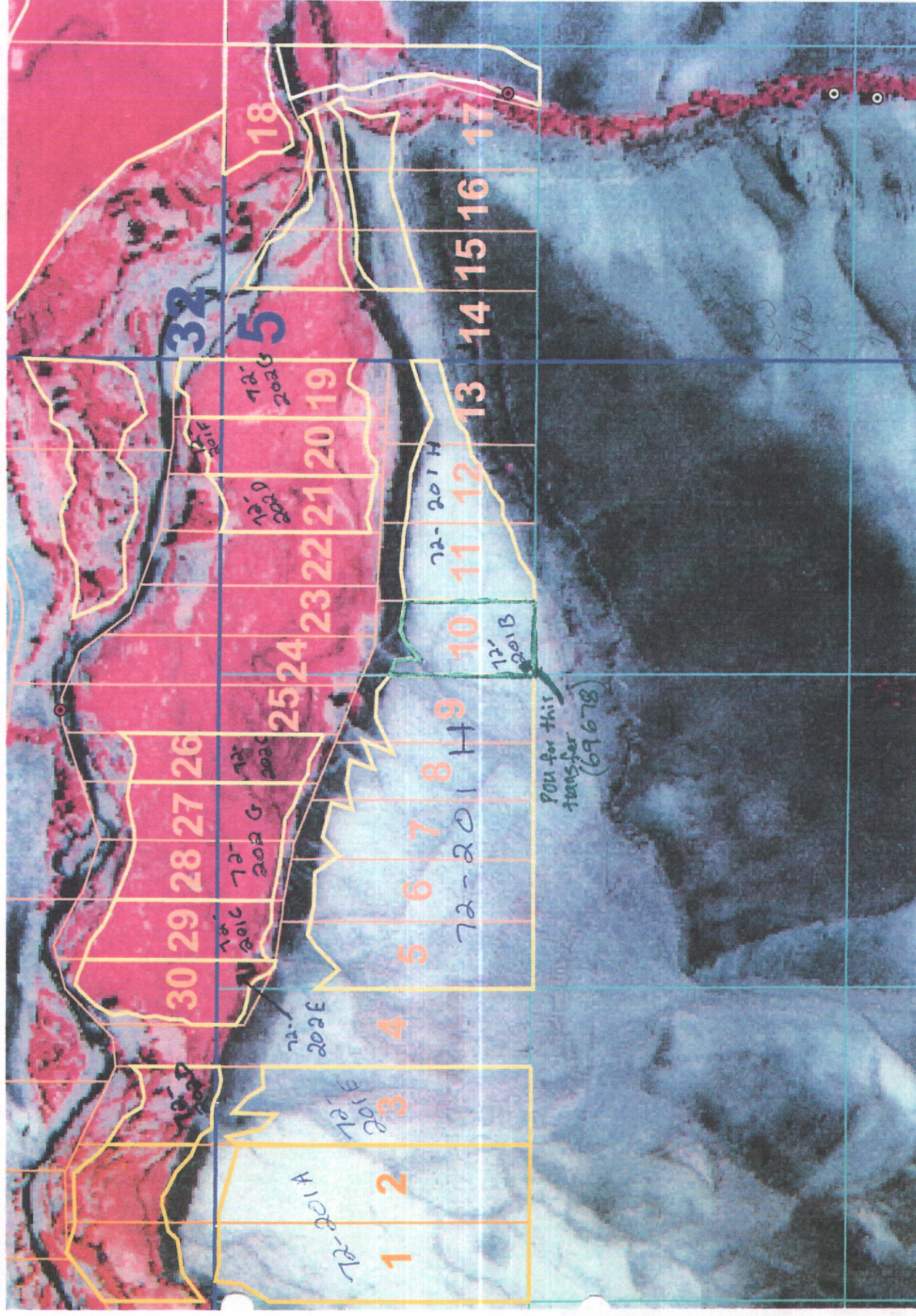
Section 6 and 5
T09N, R18E

- T09n18e-sec.shp
- T09n18eqq.shp
- M071119b.txt
- T110n18e.shp
- T109n18e.shp
- Vhb72-pou.shp
- Baker potential illegal.shp
- Vhb72-pod.shp
- M071119a.txt

By: ADM

Overlap Review Map
J. F.

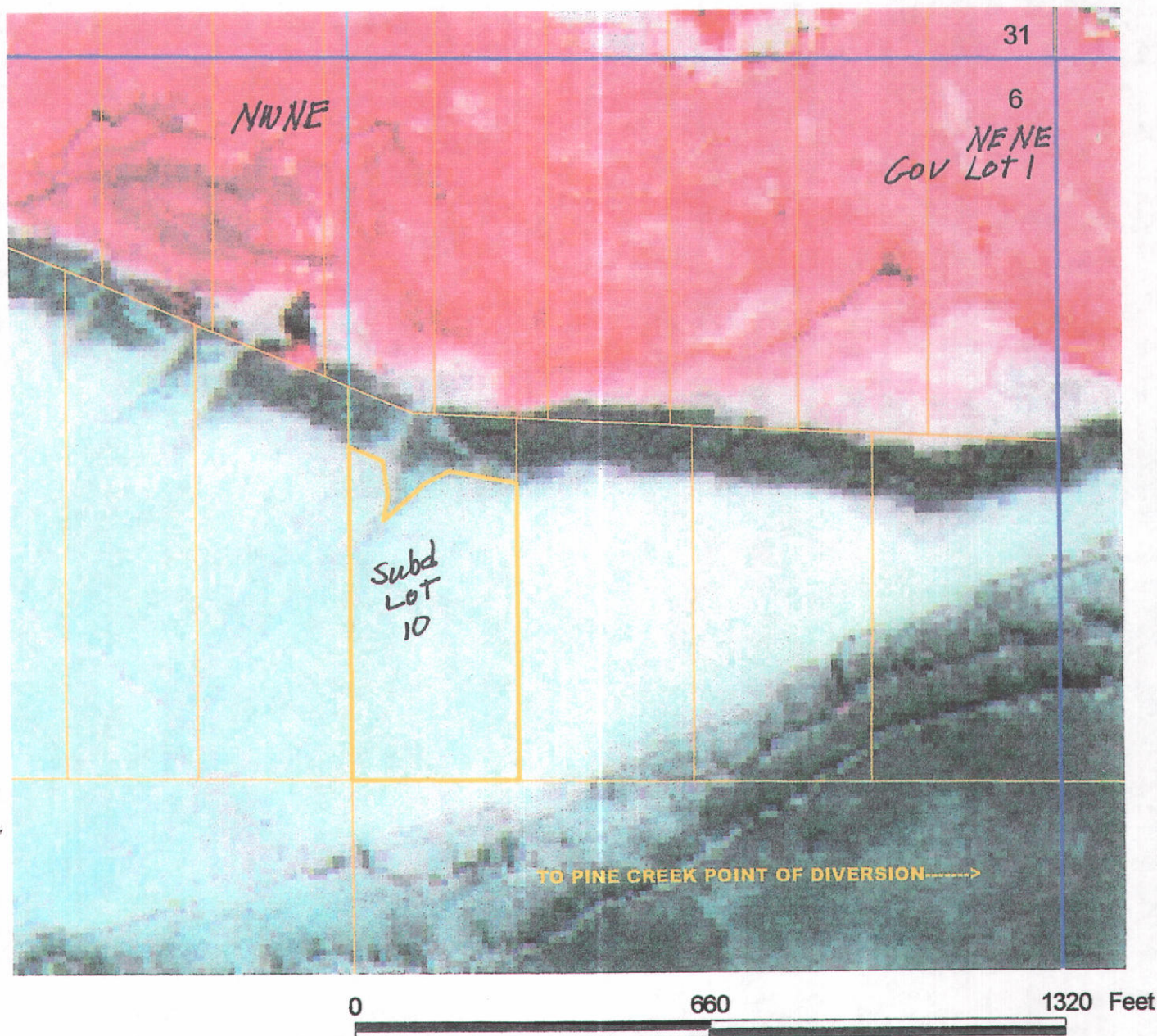
TWP 09N RNG 18E SEC 5, 6
TWP 10 N RNG 18E SEC 31



1987 NAPP AERIAL PHOTOGRAPHY

RIGHT 72-00201B

RECOMMENDED PLACE OF USE
TWP 09N, RNG 18E, SEC 6
data entry on October 27, 1998



- RECOMMENDED PLACE OF USE
- RECOMMENDED POINT OF DIVERSION
- SECTION LINES
- QUARTER/QUARTER LINES
- SUBDIVISION LOT BOUNDARIES



GIS PLACE OF USE PRESENTATION
1987 OR 1988 NAPP AERIAL PHOTOTGRAPHY
DATA ENTRY BY VIKIE HANCOCK

Recommendation Map

Page 1 of 6STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. _____

RECEIVED

APPLICATION FOR TRANSFER OF WATER RIGHT

FEB 14 2002

SECOND AMENDED (2-13-02) **PART 1**
i.e. per phone conversation with Pat BrownDepartment of Water Resources
Southern RegionName of applicant Melodie and Wayne Baker Phone 208-838-2440Post Office address HC 68 Box 304, Clayton, ID 83227

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 the reason for the proposed changes Moving POD upstream to use piping rather than open ditch
will result in more efficient conveyance which in turn leaves additional water in
Pine Creek which will in turn contribute to flows in the Salmon River.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

- | 1. Right Number | Priority | Amount
(cfs/ac-ft) | Nature
of Use | Period of Use |
|------------------|-----------------|-----------------------|-------------------|----------------------|
| <u>72-00201B</u> | <u>5-1-1888</u> | <u>.05 cfs</u> | <u>Irrigation</u> | <u>4-01 to 10-31</u> |
| _____ | _____ | _____ | _____ | _____ to _____ |
| _____ | _____ | _____ | _____ | _____ to _____ |
| _____ | _____ | _____ | _____ | _____ to _____ |
2. Total amount of water being transferred .05 cubic feet per second and/or _____ acre-feet per annum.
3. Source of water Pine Creek tributary to Salmon River, East Fork
4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NW	SE	SW	5	9N	8E	Custer	**may include the SWSESW of Sec. 5 also.

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
9N	18E	06	3.9																3.9

Total acres 3.9

3.5.2

PART 1**6. General Information:**

a. Description of diversion system Diversion will be into screened 10" pipe, much
of which will be buried, including in the ditch route from the old POD.

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes XX No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:
Will not change.

d. Remarks:

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____

And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19____.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. _____ Decreed to _____
in case of _____ vs. _____
dated _____ in _____ county of _____
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. 72-00201B on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice

☐ Warranty Deed

☐ Other _____

3. Source of water Pine Creek tributary to Salmon River, East Fork

4. Date or priority 5-1-1888

5. Water is used for the following purpose:

amount .05 cfs for Irrigation purposes from 4-1 to 10-31
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

6. Total amount of water under right .05 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SE	SW	NW	5	9N	18E	Custer	
	NE	NW	SW	5	9N	18E	Custer	

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
9N	18E	6	3.9																3.9

Total acres 3.9

9. Describe any other water rights used for the same purpose as described above _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
 No _____ If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SE	SW	NW	5	9N	18E	Custer	
	NE	NW	SW	5	9N	18E	Custer	

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

1. amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
2. Point(s) of Diversion:

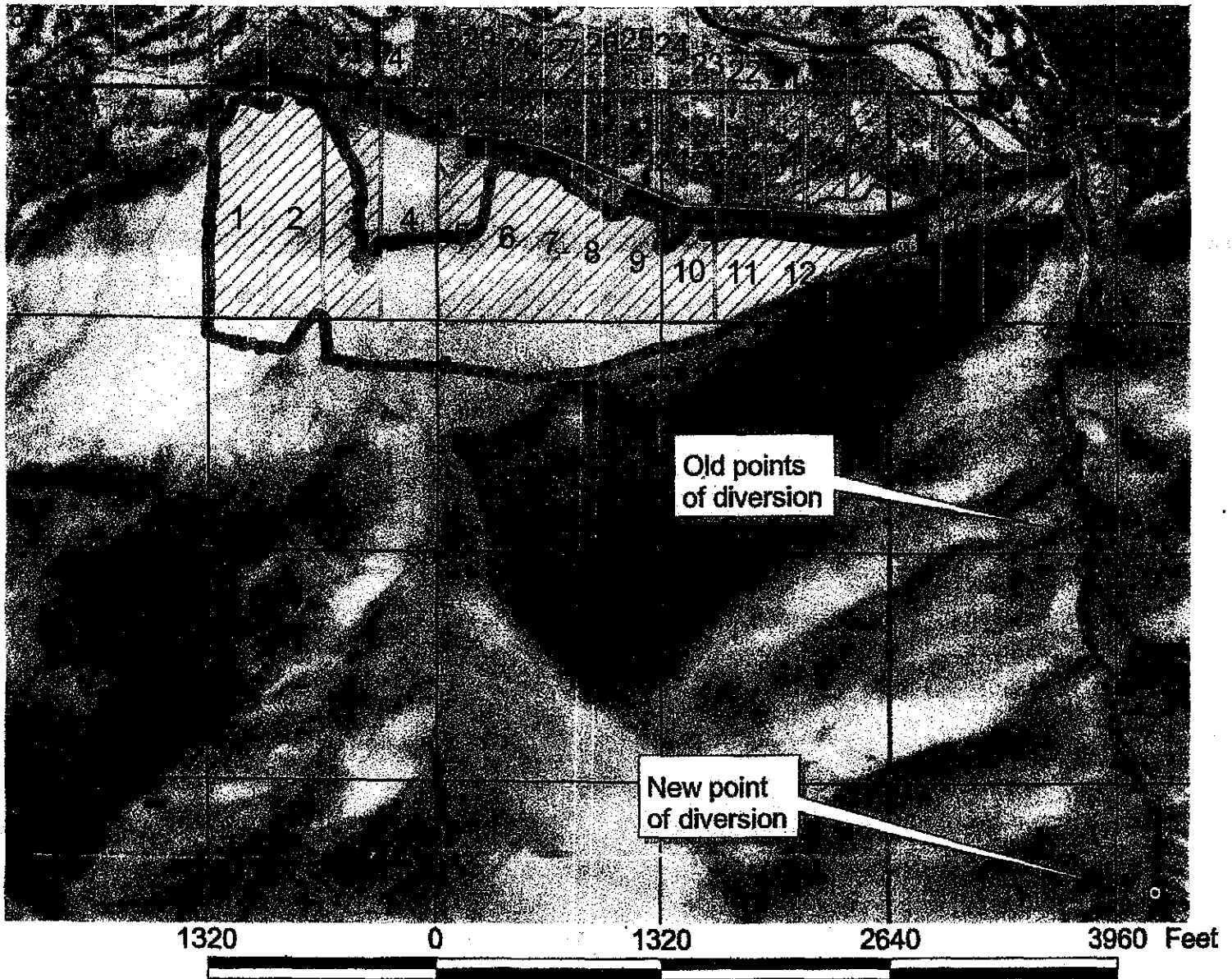
Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total acres _____

Potential Illegal Irrigation Pine Creek Subdivision Area



Section 6 and 5
T09N, R18E

- T09n18e-sec.shp
- T09n18eqq.shp
- M071119b.bt
- T110n18e.shp
- T109n18a.shp
- Vhb72-pou.shp
- Baker potential illegal.shp
- Vhb72-pod.shp
- M071119a.bt

By: ADM

PART 3**B. CHANGES IN NATURE OF USE**

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
				to
				to

2. Quantity and quality of return flows and location of discharge:
N/A

3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

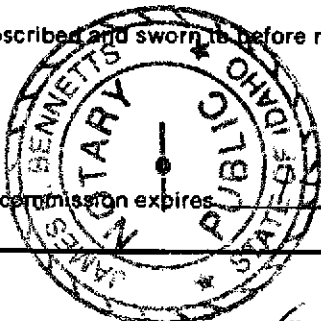
I understand that any willful misrepresentations made in this application may result in voiding its approval.

Subscribed and sworn to before me this 27th day of September, 192001.

Melode L. Baker
 (Signature of Applicant)

James B. Bennett
 (Notary Public)

My commission expires 13-05

**FOR DEPARTMENT USE ONLY**

Transfer contains 6 pages and 5 attachments

Received by JF Date 9-28-01 Protest filed by _____

Prelim. check by JF Fee 1.00 - ck for 390 5024332 two transfers

Receipted by JF Date 9-28-01

Published in The Chaffin Messenger Copies of protest forwarded by _____

Pub. dates 3/7 & 3/14/02 Hearing held by _____ Date _____

Watermaster recommendation requested on N/A Recommended for ☐ approval ☐ denial

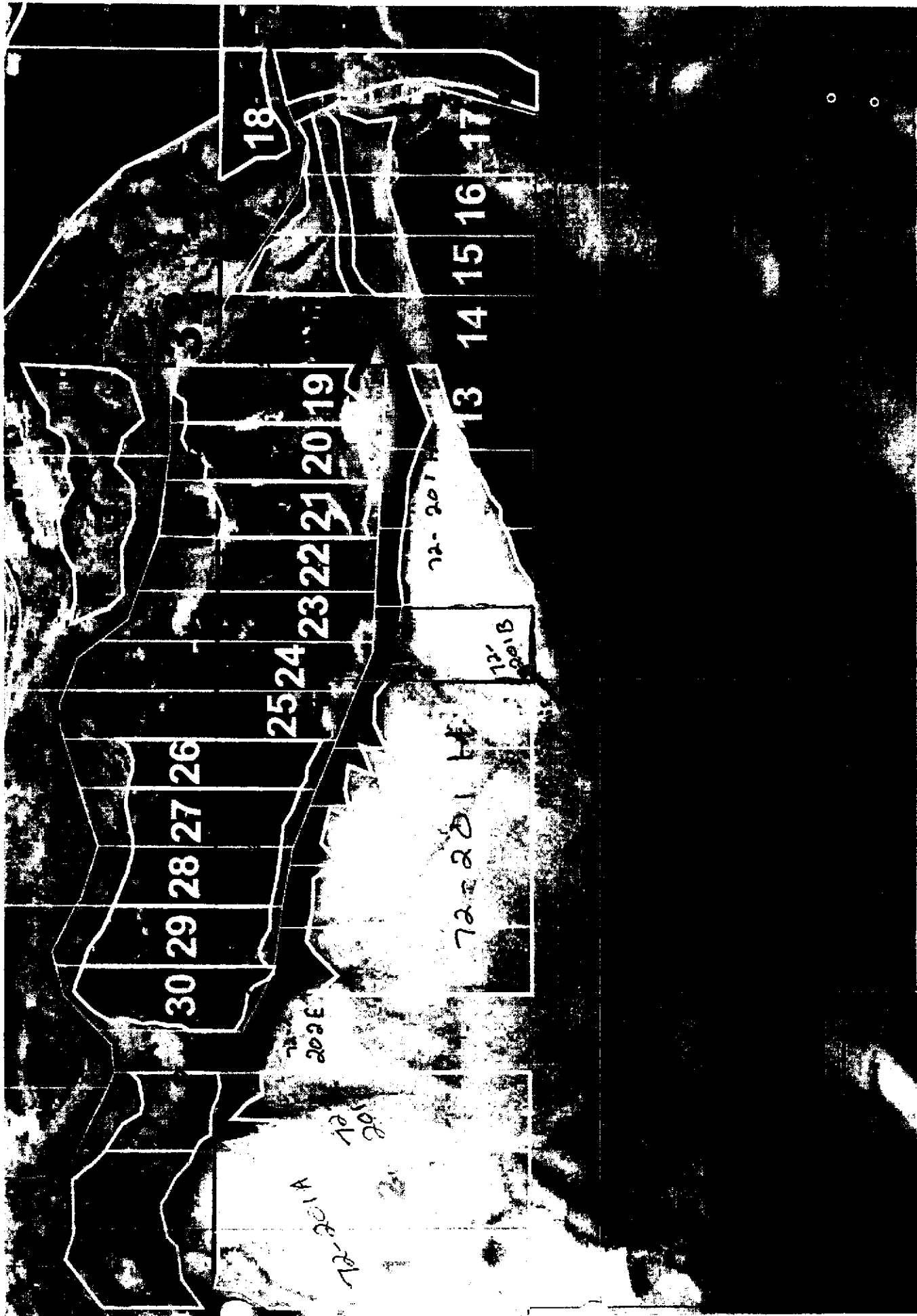
_____ rec'd. _____ by _____

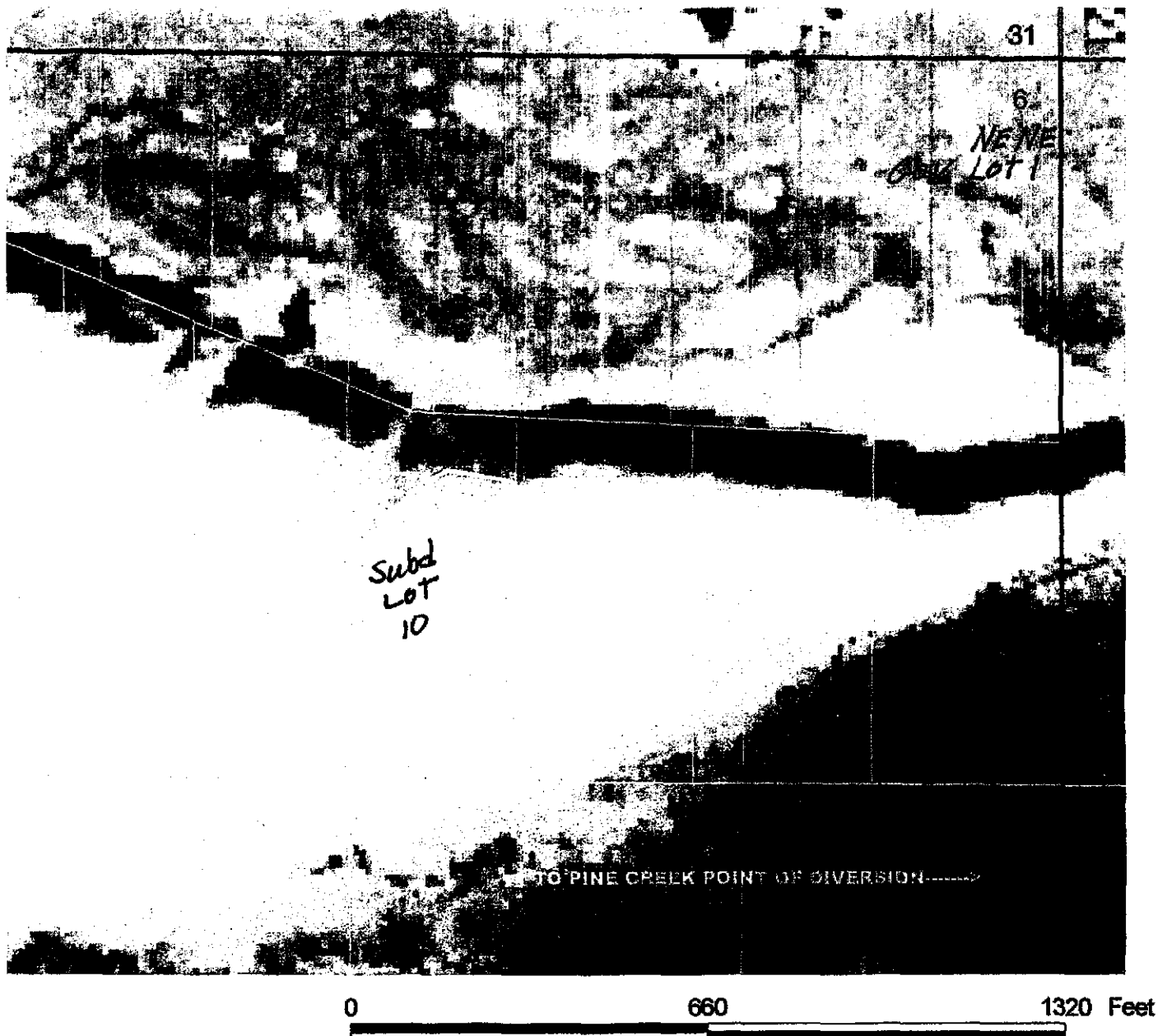
Copy of transfer sent to lien holder _____

PINE CREEK SUBDIVISION

Overlap Review Map
J.F.

TWP 09N RNG 18E SEC 5, 6
TWP 10 N RNG 18E SEC 31



RIGHT 72-00201B**RECOMMENDED PLACE OF USE
TWP 09N, RNG 18E, SEC 6
data entry on October 27, 1998****RECOMMENDED PLACE OF USE****⊙ RECOMMENDED POINT OF DIVERSION****□ SECTION LINES****QUARTER/QUARTER LINES****SUBDIVISION LOT BOUNDARIES****GIS PLACE OF USE PRESENTATION
1987 OR 1988 NAPP AERIAL PHOTOGRAPHY
DATA ENTRY BY VIKIE HANCOCK***Recommendation Map*

RECEIVED

JUN 1 - 2000

Department of Water Resources

200 MAY 31 AM 8:43

FILED
J. IDAHO

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

)
)
)
)

ORDER OF PARTIAL DECREE

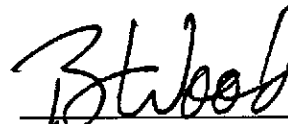
For Water Right 72-00201B

On March 7, 2000, a *Special Master's Report and Recommendation* was filed for the above water right. No challenges were filed to the *Special Master's Report and Recommendation* and the time for filing challenges has now expired.

Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 13f, this Court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report* and wholly adopts them as its own.

Therefore, IT IS ORDERED that water right 72-00201B is hereby decreed as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED MAY 31 2000



BARRY WOOD

Administrative District Judge and
Presiding Judge of the
Snake River Basin Adjudication

RECEIVED

JUN 1 - 2000

Department of Water Resources

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 72-00201B

200 MAY 31 AM 8:43

FILED
TWIN FALLS, IDAHO

NAME AND ADDRESS: D WAYNE BAKER
MELODIE L BAKER
HC 68 BOX 304
CLAYTON, ID 83227

SOURCE: PINE CREEK TRIBUTARY: SALMON RIVER, EAST FORK

QUANTITY: 0.05 CFS

PRIORITY DATE: 05/01/1888

POINT OF DIVERSION: T09N R18E S05 SESWNW Within Custer County
NENWSW

PURPOSE AND	PURPOSE OF USE	PERIOD OF USE	QUANTITY
PERIOD OF USE:	Irrigation	04-01 TO 10-31	0.05 CFS

PLACE OF USE: Irrigation Within Custer County
T09N R18E S06 LOT 01 (NENE) 3.9
3.9 Acres Total

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



Barry Wood
Administrative District Judge
Presiding Judge of the
Snake River Basin Adjudication

RECEIVED

JUN 1 - 2000

Department of Water Resources

2000 MAY 31 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)

Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 72-00201B

CERTIFICATE OF MAILING

I certify that a true and correct copy of the PARTIAL DECREE
PURSUANT TO I.R.C.P. 54(b) for WATER RIGHT 72-00201B was mailed
on May 31, 2000, with sufficient first-class postage prepaid
to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

USDI BLM

Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724
Phone: 208-387-0835

D WAYNE BAKER
MELODIE L BAKER
HC 68 BOX 304
CLAYTON, ID 83227
Phone: 208-838-2440

DIANA DELANEY
Chief Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
05/31/00

Memorandum

To: T69678

From: John Freitag

Re: Legal Notice

Date: 02-13-02

This transfer is proposing to change the point of diversion for water right 72-201B. The source of water is Pine Creek tributary to the East Fork of the Salmon River. The point of diversion is to be moved upstream and will change from open ditches to pipes.

The location of this proposed transfer is located 8 miles south and 1 mile east of Clayton Idaho.



State of Idaho

T69678

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

Memorandum

To: T69678

From: John Freitag

Re: Transfer Review

Date: 02-13-02

This transfer will change the POD to a point upstream of the two older POD's.

The pipe from the POD to the POU goes across BLM land. A proposed agreement between the applicant and the BLM is included in the file, to date the agreement has not been signed by the BLM. Applicant's representative (Pat Brown) wishes to proceed with advertising of transfer regardless of agreement with BLM being signed.

Water rights 72-202D, 72-202G, 72-201F, and 72-201H are used within the same forty acre tract as 72-201B, but do not overlap with 72-201B (See map in file). Transfer 69690 in the name of Dick and Betty Baker, which was submitted along with this transfer, includes rights 72-201A, 72-201E, and 72-201H. Transfer 69690 is proposing to change the POD to the same location and system as this transfer.

PATRICK D. BROWN, P.C.
LAW OFFICES

T69678

RECEIVED

FEB 14 2002

February 13, 2002

Department of Water Resources
Southern Region

John Freitag
Idaho Department of Water Resources
1341 Filmore, Suite 200
Twin Falls ID 83301

RE: AMENDED APPLICATIONS FOR TRANSFER OF WATER RIGHT,
MELODIE AND WAYNE BAKER AND DICK AND BETTY BAKER

Dear John:

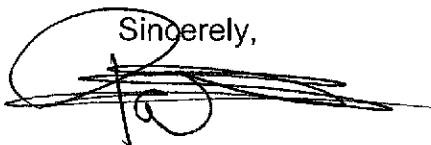
As we discussed earlier today, enclosed are the Second Amended pages to the applications for transfer of water rights No. 72-00201A, 201B, 201E, and 201H. These changes are to reflect the typographical error on page 1 of each Application for Transfer.

Under No. 4. "Point(s) of Diversion"-description after the requested change, the Application currently reads: "***may include the SWNESW of Sec. 5 also." It should read "***may include the SWSESW of Sec. 5 also." This is to reflect the POD may be further south and in any event is near the northern boundary of the SWSESW.

I have enclosed an amended copy of page 1 of each Application. Please insert them into the appropriate place.

Thank you for your assistance with this. If you have any questions, please feel free to call me.

Sincerely,



Patrick D. Brown
Attorney at Law

pdb/tf
enc. (2pg)
cc: Melodie Baker



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

April 5, 2002

RECEIVED

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

APR - 8 2002

Department of Water Resources

WAYNE &/OR MELODIE BAKER
HC 68 BOX 304
CLAYTON ID 83227

RE: Application for Transfer No. 69678 (Water Right No. 72-201B)

Dear Applicants:

Enclosed are copies of protests filed against the above referenced application. The Department suggests you contact the protestants directly to determine the exact nature of the protests and, if possible, to resolve the matter without action by the Department. In our experience, informal discussion between the parties prior to initiation of formal proceedings often leads to resolution of the protest.

Please note that your application is considered a contested case and subject to the Rules of Procedure adopted by the Department. If you need a copy of these rules, please contact this office. The Rules of Procedure are also available on the Internet by using the IDWR Homepage at the following electronic address:

<http://www.idwr.state.id.us/apa/idapa37/0101.htm>

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

If the protest cannot be resolved informally, the matter will be scheduled for conference and/or hearing. The following are criteria the Department must consider in either approving or denying the application (Section 42-222, Idaho Code).

1. Will other water rights be injured by the proposed transfer?
2. Will the proposed change constitute an enlargement in the use of the original Right(s)?
3. Will the proposed change conflict with the local public interest?
4. Will the proposed change be contrary to the conservation of water resources within the State of Idaho?

If you wish to proceed with a Pre-hearing Conference &/or formal Hearing, please notify this office or if you have any questions please feel free to contact us.

Please note that it is illegal to divert water in Idaho without or not in compliance with a valid water right pursuant to Section 42-351, Idaho Code. Since your current water rights do not authorize the new point of diversion from Pine Creek I request your cooperation in not using the new diversion until this matter is resolved &/or approval granted from this agency.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

Enclosures

cc:

Patrick Brown

Robert Foster-IDWR



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

April 4, 2002

RENEE SYNDER FIELD MGR
USDI - BUREAU OF LAND MGT
HC 63 BOX 1670
CHALLIS ID 83226 -9304

RE: Transfer No. 69678 (Water Right No. 72-00201B) - Wayne & Melodie Baker
Transfer No. 69690 (Water Right No. 72-00201E, 72-00201A, 72-00201H) - Dick & Betty Baker

Dear Ms. Synder:

Your protests against the approval of the above referenced applications have been received and a copy has been sent to the applicant with the suggestion that they contact you directly to determine the exact nature of the protests and, if possible, to resolve the matter without action by the Department.

Please note that the applications are considered as contested cases and subject to the Rules of Procedure adopted by the Department.

If you need a copy of these rules, please contact this office. The Rules of Procedure are also available on the Internet by using the IDWR Homepage at the following electronic address:
<http://www.idwr.state.id.us/apa/idapa37/0101.htm>

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Sincerely,

Allen D. Merritt, P.E.
Regional Manager

Enclosure(s)



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

April 4, 2002

VALLEY SUN LLC
C/O JON MARVEL MGR
PO BOX 1770
HAILEY ID 83333

RE: Transfer No. 69678 (Water Right No. 72-00201B) - Wayne & Melodie Baker
Transfer No. 69690 (Water Right No. 72-00201E, 72-00201A, 72-00201H) - Dick & Betty Baker

Dear Mr. Marvel:

Your protests against the approval of the above referenced applications have been received and a copy has been sent to the applicant with the suggestion that they contact you directly to determine the exact nature of the protests and, if possible, to resolve the matter without action by the Department.

Please note that the applications are considered as contested cases and subject to the Rules of Procedure adopted by the Department.

If you need a copy of these rules, please contact this office. The Rules of Procedure are also available on the Internet by using the IDWR Homepage at the following electronic address:
<http://www.idwr.state.id.us/apa/idapa37/0101.htm>

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Sincerely,

Allen D. Merritt, P.E.
Regional Manager

Enclosure(s)

November 26, 1999

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

MAR 22 2002

Department of Water Resources
Southern Region

NOTICE OF PROTEST

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, 42-222 and 42-224, Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information.

1. Matter being protested Application for Transfer #69678 in the name of Melodie or Wayne Baker

2. Name of protestant Valley Sun, LLC

3. Protestant's Representative for service (If different than protestant)

Jon Marvel c/o Valley Sun, LLC

4. Service mailing address Valley Sun, LLC P.O. Box 1770, Hailey, ID 83333

5. Service telephone no. (208) 788-2290

6. Basis of protest (including statement of facts and law upon which the protest is based)

See attached copy of letter dated March 21, 2002.

Valley Sun, LLC also protests the installation of this new point of diversion if it is already in place and if that is the case, requests that IDWR investigate and order removal of the installation prior to considering this protest. (Additional pages may be attached to describe nature of the protest)

7. What would resolve your protest? Compliance with Federal and State Law.

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 22nd day of March, 2000. 2002

Protestant

Protestant's Representative

Valley Sun LLC

Jon Marvel, Manager

NOTE:

A protestant is required to timely file a protest with the department together with a \$25.00 protest fee for each application being protested in order for the protestant to be considered a full party by the department. In addition, the department's Rule of Procedure, IDAPA 37.01.01203, requires a protestant to send a copy of a protest to the applicant.

INSTRUCTIONS

1. The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. _____ in the name of _____" or "Application for Transfer No. _____ in the name of _____."
 2. Show the name of the protestant. Only one (1) protestant may be shown per protest form. If this protest form is signed by more than one person, the hearing officer will consider the first signer as the official protestant and the representative for service of documents.
 3. If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.
 4. Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.
 5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.
 6. Specifically describe the nature of the protest.
 7. Describe the relief being sought by the protestant.
-

FOR DEPARTMENT USE ONLY

Received by *J* Date 3-22-02 Time 3:40 pm
\$25.00 fee Receipted by *J* # 5022664 Date 3-22-02

VALLEY SUN LLC

P.O. Box 1770
Hailey, ID 83333
(208) 788-2290

March 21, 2002

RECEIVED

MAR 22 2002

Department of Water Resources
Southern Region

Idaho Department of Water Resources, Southern Region
1341 Fillmore St.-Suite 200
Twin Falls, Idaho 83301

Also sent by fax: March 22, 2002

Re: Protest the application of two companion transfers filed on 02/13/02 to transfer a point of diversion, application filing no. 69678 and 69690

Valley Sun L.L.C. (a down stream water right holder) and Western Watersheds Project (an Idaho non-profit corporation) hereby protest the application by D. Wayne & Melodie L. Baker, HC 68 Box 304; Clayton ID 83227 filed Application No. 69678 for diversion of 0.05 cfs for irrigation of 3.9 acres within NENE, S06, T09N, R18E and the application of Dick & Betty Baker, HC 68 Box 350; Clayton ID 83227 filed Application No 69690 for diversion of a combined total of 1.76 cfs for irrigation of 59.1 acres within N1/2, S06, T09N, R18E

The protest is filed to prevent diversion of waters of the State of Idaho in violation of law.

The combination of the water rights drawn from this proposed point of diversion total 1.81 cfs which may exceed the flows of Pine Creek during all or part of the irrigation season. In addition, it appears that the point of diversion is located not only on federal land but also within a wilderness study area. Pine Creek is tributary to the East Fork of the Salmon River which contains occupied habitat for Chinook Salmon, Steelhead and Bull Trout all of these are listed under the Endangered Species Act. Pine Creek is occupied by resident West Slope Cutthroat Trout a sensitive species. Dewatering of Pine Creek may and probably does have an impact on spawning and or rearing habitat of a listed species. It clearly would have an impact on West Slope Cutthroat. The application does not mention any NEPA analysis. A NEPA analysis is required for the alteration of the point of diversion on federal land. The potential for this diversion to impact a listed species and a wilderness study area make NEPA compliance critical. A federal judge ruled recently that federal agencies can restrict irrigation water in order to protect salmon listed under the ESA. The use of approved fish screens, metering devices or devices to ensure the maintenance of instream flows are not mentioned in

the application. State law requires that diversions utilize screens and provide for fish passage.

If approved, these applications may contribute to the taking of listed and sensitive fish species in violation of law. They would also illegally grant an intrusion or development in a designated wilderness study area. Furthermore, a relocation of the point of diversion up stream would cause a longer section of Pine Creek to be dewatered when dewatering occurs, further decrease fish habitat within Pine Creek. All of these issues indicate that granting these applications would not be in the public interest.

Sincerely,

Stew Churchwell

For: Jonathan H. Marvel, Ranch Manager, Valley Sun L.L.C.
Executive Director, Western Watersheds Project



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Upper Columbia - Salmon Clearwater District

Challis Field Office

HC 63, Box 1670

Challis, Idaho 83226-9304

<http://www.id.blm.gov>

Fax #
879-6219

File #
(879-6200)

In Reply Refer To:
7250 (084)

RECEIVED
70 #
MAR 04 2002

Department of Water Resources
Southern Region

February 28, 2002

RECEIVED
Receipt # 5024634
MAR 06 2002

Department of Water Resources
Southern Region

Idaho Department of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls, Idaho 83301-3380

Idaho Department of Water Resources:

The Bureau of Land Management (BLM) is hereby protesting **Transfer No. 69678**, filed by Wayne and Melodie Baker. The BLM objects to the following:

T9N R18E S5 NWSESW	New Point of Diversion on BLM land.
T9N R18E S5 SWSESW	New Point of Diversion on BLM land.

The BLM has not authorized these new Points of Diversion. The area the new diversions are located in is a Wilderness Study Area and by regulation and policy new actions such as these diversions cannot be authorized.

Based on a field visit by BLM personnel on October 2, 2001, there is only one new diversion, located at T9N R18E S5 NWSESW, confirmed by Global Positioning System (GPS) data of the same date. The Bakers have illegally installed this new diversion and are fully aware that it is without the authorization of the BLM.

Transfer No. 69678 should be **disallowed** by the Idaho Department of Water Resources (IDWR), as the BLM will not grant authorization for this new diversion(s).

Sincerely,

Renee Snyder
Field Manager



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Upper Columbia - Salmon Clearwater District
Challis Field Office
HC 63, Box 1670
Challis, Idaho 83226-9304
<http://www.id.blm.gov>

In Reply Refer To:
7250 (084)

RECEIVED
MAR 06 2002
Department of Water Resources
Southern Region

March 4, 2002

Mary Baldwin
Idaho Department of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls, Idaho 83301-3380

Dear Mary:

In response to your phone call on March 4, 2002, I have enclosed a check for the amount of \$50 to cover fees associated with the letters of protest to transfers 69678 and 69690, which we submitted on February 28, 2002.

If you have any further needs, please contact me at (208) 879-6206.

Sincerely,

Kate Foster

for Renee Snyder
Field Manager

MEMORANDUM

DATE: March 4, 2002
TO: Files: Apps for Transfer No. 69678 & 69690
FROM: Mary A. Baldwin, Southern Region
SUBJECT: BLM protests

On this date, we received a protest on both above referenced transfers from the BLM-Challis Office via Federal Express without the required protest fees.

A telephone call was made to the BLM office; Renee Snyder (Field Manager) is out of the office all this week.

Therefore, a message was left with Acting Field Manager, Peggy Redick, regarding the needed fees before the end of the protest period, March 25, 2002.