Comment Report

Application ID 71145

1. jstanton 6/8/2004 11:01:30 AM Special Administration Area Notes
Comment: Special Administration Areas : Water District 37
Exempt: N
Reason:
Doc Attached:
Explanation:

2. jstanton 6/8/2004 11:06:40 AM Additional Information Notes
Comment: Reviewed by Adjudication Staff: Request
Mitigation Plan or acceptance form: N/A
Municipal Rights Anticipated Horizon Information: N/A

3. jstanton 6/8/2004 Comment/Analysis
Comment: On 3-30-04, I visited the Shoshone FSA office to review the slides relating to this property. The claims were filed in late 1988, so any land irrigated in late 1983 or later would be protected from forfeiture for non-use. I was able to locate the slides for 1984, 1985, 1988 and 1989; I did not check earlier or later slides. It appeared that most or all of the land was irrigated with ditches back then, while most of the land appears to be under sprinklers now based on the recent ArcView photo submitted by Brockway as part of the application. It appears that up to 36.1 acres were irrigated by the time the claims were filed, including 31.2 acres west of the Broadford Ditch & 4.9 acres east of it. 5 acres of water have been sold to a neighbor to the south, leaving 31.1 acres of historic irrigation available on this property; the transfer should be limited to this amount.

On 4-8-04, I visited this property accompanied by Jason of Brockway Engineering (who prepared the applications). The applicant was also there, and we discussed the transfers. I GPSd several points on the property, as there is a discrepancy between the ArcView base map and the gcdb data. This township has been re-rectified 3 times already to get it correct. Two GPS points near the NW corner of the property are 71 feet and 81 feet north of the 40 line, even though the 40 line is supposedly the north boundary of the property. The GPS data goes along with where the field boundary appears to be in ArcView. A GPS point near the NE corner of the property is 49 feet north of the 40 line. I GPSd a point on the south fenceline, but it came out right on the county road - obviously not a useful piece of data. I found a brass cap at the SW corner of Sec. 36, and another one at the NW corner of Sec. 1. Both were 23 feet east of the section line; the Sec. 36 cap was 14 feet north of the marked section line, and the Sec. 1 cap was 2 feet south of the line. These distances are within the tolerance level of our GPS unit, so I cannot say from this that the gcbd data is in error. However, a recent photo shown to me by Jason shows that the 40 line is the north boundary of the property; I am proceeding on this basis. ArcView shows about 9 acres in the

the property; I am proceeding on this basis. ArcView shows about 9 acres in the SW/SE, 38 acres in the SE/SE, & 2 acres in the NE/SE; but since I cannot show any land in the NE/SE, and since there is about 2 acres out of the SE/SE for the county road, I am showing 11 acres in the SW/SE so that everything at least adds up correctly.

The proposed ppu covers all the land owned by the applicant, including the channel of the Broadford Slough and surrounding trees, and her home site (which has only a lawn irrigated by the domestic well). These lots are VERY expensive, so anything could happen. Her lot could be sold and changed in numerous ways, and the channel of the Slough could even be moved. The transfer seeks maximum flexibility for future developments.

With regard to the irrigation system, this property is quite flat and gravelly; it would have been difficult to irrigate with ditches. There is now a sprinkler system there, consisting of a pump in Broadford Slough and a mainline that runs along the north side of the farm. I assume they irrigate with handlines, although none were hooked up during my visit. While there is a fair amount of soil closer to the Slough, the central part of the property is almost pure gravel and cobble; even if it was irrigated, it would be hard to find any beneficial use in this area. My acreage recommendations reflect this. The applicant did not know when the sprinklers were installed, but said that they were already in place when she bought the place. The existing well is just on the west side of the Slough near the ditch pump, and is connected directly to the mainline. The mainline will be moved further south towards the middle of the property so that it is accessible by all 4 of the proposed subdivision lots. The ditch pump will also be moved south so that it will be near the new well to be drilled; this will not change the pod at the head of the Slough, however.

In early August of 2005, Jason submitted an amended application to change the pod to the existing pump in the Broadford Slough that serves the Rosekrans property. This was done in response to several meetings regarding what the correct pod for Slough rights should be. It was decided that the head of the Slough (as shown on the original application) is not the pod. This is really a corrected application done before advertising, so no fee is required. I changed the application accordingly. The corrected app used the old claim numbers before the split with Townsend (same as on the original app), but my data entry is based on the correct numbers. I will ge the amended app scanned before proceeding with processing.

Authority To File: The applicant was half owner of the property as Mrs. Duininck, and received full ownership in
the divorce settlement via a warranty deed. Previous transfers done in 1983 split these rights up differently than how they were claimed in the SRBA, but a later deed splits the 5 surface rights evenly between the Rosekrans property and the land west of the Slough in the NE 1/4 Sec. 2. She owned both parcels at one time, and all of these water rights. Although the present ownership situation does not agree with the old transfers, proceeding according to the SRBA claims appears to be reasonable; it

transfers, proceeding according to the SRBA claims appears to be reasonable; it appears that no injury will be caused by this, as the owner of the south parcel bought half of all 5 rights.

Ms. Rosekrans has since sold all the property to various parties, but the deeds and the subdivision covenents make it clear that the homeowners association owns the water rights; the association is now the applicant for this transfer, with attorney Jim Speck as their contact person.

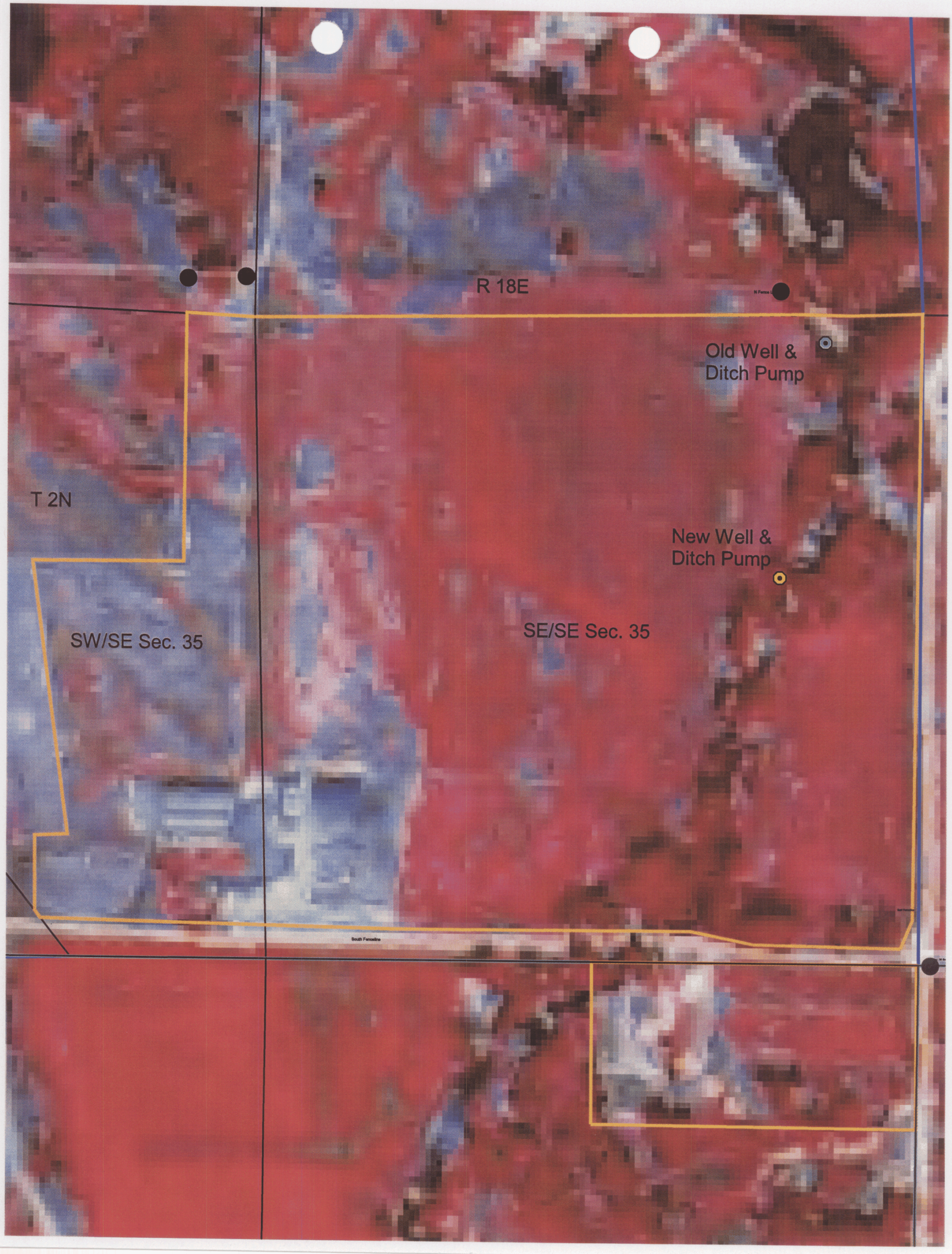
Water Right Validity: The property has continued to be irrigated, so forfeiture does not appear to be an issue.
These rights ar

4. jstanton 8/30/2004 Legal Notice Remarks
Comment: This application proposes to create a permissable place of use with the portions of these rights not sold to Mr. Townsend in order to provide water for subdivision that is being developed on the Rosekrans property. The rights will be limited to the number of acres that have been historically irrigated here. A new pump site will be established a little further south on the Broadford Slough to better serve the subdivision. The property is located about 1/2 mile SW of Bellevue on both sides of the Broadford Slough.

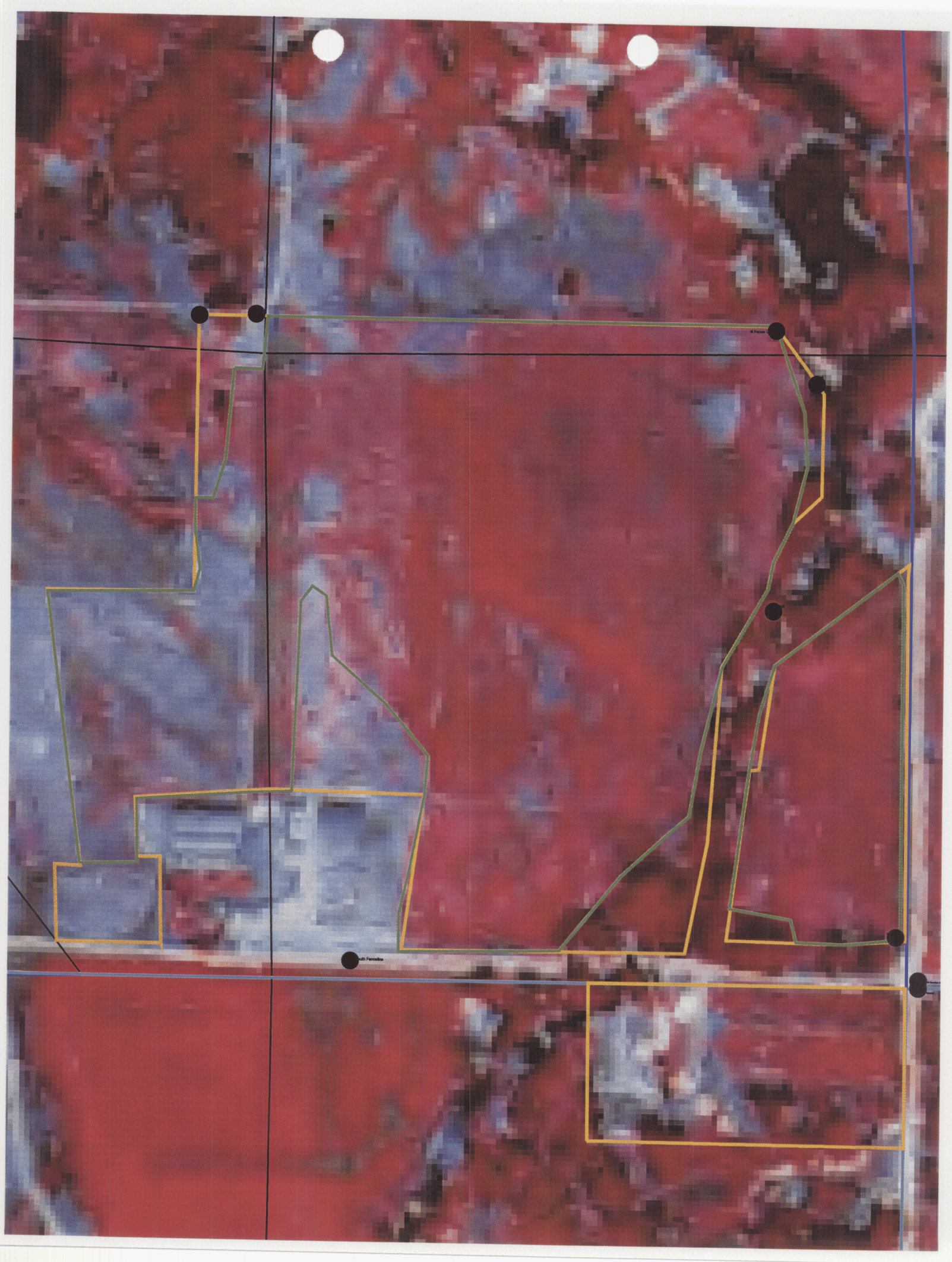
5. jstanton 8/11/2005 Change In Land Ownership
Comment: At the suggestion of Allen, I called the Blaine County assessor today to verify ownership of the pou. The Rhythm Ranch Sub. consists of 4 lots. Ms. Rosekrans still owns Lot 4. Lot 3 is owned by Jeff Watson, 10284 O. R. 250, Durango, CO, 81301. Lot 2 is owned by Diane Barker, PO Box 4607, Ketchum, ID, 83340. Lot 1 (the original Rosekrans home site) is owned by Solanaceae LLC (Douglas J. Aanestad registered agent), PO Box 3434, Ketchum, ID, 83340. Apparently no construction has occurred on the last 3 lots yet.

I will contact Jason at Brockways with our concerns. It would be difficult to split these rights properly until all homes and other construction are completed, as each lot will have a different amount of irrigated area that may or may not relate to the lot size.

6. jstanton 8/12/2005 Water Right Splits
Comment: Claims 37-20935 & 20941, when split, produced diversion rates to 3 decimal places. In order to balance these splits between Rosekrans & Townsend, I rounded the splits of 20935 up for Rosekrans (37-21229) and down for Townsend (37-21230). For the splits of 20941, I rounded down for Rosekrans (37-21235) and up for Townsend (37-21236). The total flow rates for each transfer do not change, and the original decreed flow rates for the two rights are not exceeded.


R 18E
Old Well &
Ditch Pump
T 2N
New Well &
Ditch Pump
SW/SE Sec. 35
SE/SE Sec. 35
South Fenceline


31.18
Historic ROW
4.92
1984 H-14


N Fence
uth Fenceline