State of Idaho
Department of Water Resources

INSTRUCTIONS FOR FILING AN APPLICATION FOR TRANSFER OF A WATER RIGHT

GENERAL INFORMATION

Section 42-222, Idaho Code requires a water right owner or claimant to seek approval from the Idaho Department of Water Resources (Department) before changing any of the following elements of a water right:

- Point of diversion
- Place of use
- Period of use
- Nature of use

This requirement applies to licensed, decreed, or claimed water rights to divert and use water in Idaho. Applications to change water rights are referred to as "applications for transfer" or "transfers."

The Department must ensure that a proposed transfer does not:

- Injure other water rights
- Enlarge the original water right
- Conflict with the local public interest
- Prevent the conservation of water resources within Idaho
- Adversely affect the local economy

The transfer applicant is responsible for providing information demonstrating compliance with these requirements.

A transfer application can include one or more water right proposed for use in a common diversion and conveyance system. Changes to multiple water systems require separate transfers.

► ***TIP*** *- More information about transfers is available on the Department's website at www.idwr.idaho.gov.*

The transfer application consists of the following parts:

- **Minimum requirements checklist** – helps the applicant identify and submit documentation needed for the transfer application.
- **Part 1** – describes the water right(s), or the changed portion(s) of split water rights, after the proposed changes.
- **Part 2** – describes the water right(s) as presently recorded. If a right is to be split, Part 2 also describes the portion of the right proposed to be changed. A separate Part 2 must be attached for each right listed on the application.
- **Part 3** – includes maps, information about changing the purpose and/or period of use of a water right, and information about changing a supplemental irrigation right.

COMPLETING THE MINIMUM REQUIREMENTS CHECKLIST

The checklist is part of the form and must be submitted with the application. Items noted by an asterisk (*) are required. Otherwise, responses are "yes" or "n/a." Label the required application attachments as noted in the checklist.

COMPLETING PART 1

Applicant Name through Signature – Complete all appropriate boxes. Label attachments as noted. Multiple applicant names joined by "and" require signatures from all the applicants, otherwise a single signature is generally sufficient.

► ***TIP*** *– Including your email address can save time if the Department needs to contact you for follow up questions.*

A. PURPOSE OF TRANSFER

1. **Check the boxes next to the statements describing the reason(s) for your transfer.** Multiple boxes may be checked.

2. **Briefly describe what you intend to accomplish with the transfer.** For non-irrigation uses, include a brief description of the water use activity, such as "stockwater for 200 range cattle," "domestic for internal use at 35 homes," or "commercial for a carwash." Attach and label an additional page if needed.

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

1. **Check the "all" box for changes to the entire right, check the "part" box for changes to only part of the right. List the water right number, amount of water in cubic feet per second (cfs) for natural flow rights or acre-feet (af) for storage rights, purpose or nature of use, period of use, and source. If the source is not ground water, also list the water body to which the source is tributary. Source and tributary names must be consistent with U.S. Geological Survey 7-½ minute quadrangle maps.**

Example:

Right Number	Amount	Nature of Use	Period of Use	Source & Tributary
63-54321	2.00 cfs	Irrigation	3/1 to 11/15	Ground Water
63-65432	100 af	Irrigation Storage	1/1 to 12/31	Ground Water
	100 af	Irrigation from Storage	3/1 to 11/15	

Total authorized under rights: 2.00 cfs and/or 100 af.

Totals are not necessarily the sum of values in the "amount" column. Some water rights have combined limits for lesser amounts. See "remarks" and/or "conditions of approval" in the water rights for possible combined limits.

2. **Record the total amount of water being transferred in "cfs" for natural flow and/or in "af" for storage.**

Example 1: All of each water right is to be transferred. The total in item B1 equals the total in item B2:
Total amount of water being transferred or changed 2.00 cfs (rate of flow) and/or 100 af. (storage volume)

Example 2: Part of each water right is to be transferred. The total in item B1 exceeds the total in item B2:
Total amount of water being transferred or changed 0.50 cfs (rate of flow) and/or 25 af. (storage volume)

► ***TIP –*** *Acre-feet information is intended for storage water rights, not for the annual diversion volume resulting from a rate of flow defined by a cfs value. Application fees are based on the total cfs being changed and/or the total af of storage volume being changed, not on the volume resulting from a cfs value. It is acceptable to list diversion volume in this part of the application to clarify nature of use changes, although that information is also required in Part 3B of the application.*

3. If you are not proposing to change or add one or more points of diversion, check "No Changes" and skip to item 4. If you are proposing point of diversion changes and/or additions, complete the remainder of item B3.

Check the "Eastern Snake Plain Aquifer" box, if applicable – see the **ESPA Map** at the end of these instructions.

For point of diversion changes and/or additions, list existing and/or proposed point(s) of diversion for the right(s) or portion(s) being changed. Locations should be described by U.S. Government Lot and/or at least the 40-acre (¼ ¼) tract of a section from the public land survey (PLS). PLS information is typically available from U.S.G.S. topographic maps, property deeds, property tax bills, or from various mapping tools on the Department's website.

Diversions from springs must be identified to the 10-acre (¼ ¼ ¼) tract of a section.

For a new diversion to be constructed, enter "yes" in the first column. The "Tag #" in the last column refers to a well drilling tag found on a well (not available for all wells). If known, list subdivision lot, block and name for existing and/or proposed points of diversion in Part 1B.5a of the application.

► ***TIP –*** *Township, range, section, and ¼ ¼ locations can be easily identified using the Map Tool on the Department's website. You can search for a printable map by entering your street address or your county parcel number. You can also use the map tool to complete Part 3A of the application. See Example Map #1 at the end of the instructions.*

Example:

New?	Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Source	Local Name or Tag #
No			NE	NE	15	5N	1E	Ada	Deer Creek	Buckeye Ditch
Yes	1	NW	NW	NW	14	5N	1E	Ada	Unnamed Spring	Box Spring

Notes:

Lot = government lot from public land surveys

Source = "ground water" for wells or shallow subsurface diversions, surface water names from U.S.G.S. topographic maps; some officially unnamed streams and springs have local names that can be added in the last column.

4. If you are not proposing to change the place of use for your water right(s), check "No Changes" and skip to item 5.

If you are proposing place of use change(s) and/or addition(s), list the proposed place of use for all water uses identified under "nature of use" column in Part 1B.1 of the application. The location should include township, range, section, and each 40-acre (¼ ¼) tract where water will be used.

If known, list subdivision lot, block, and name for place of use locations in Part 1B.5a of the application. Be sure to indicate that information applies only to the place of use if the subdivision lot and block location is different for the point of diversion.

For irrigation and/or irrigation from storage uses, list the number of acres irrigated in each 40-acre (¼ ¼) tract box.

For non-irrigation uses, list the following symbol in the appropriate 40-acre (¼ ¼) tract boxes:

Aesthetic – J
Commercial – C
Cooling – L
Domestic – D
Fire Protection – F
Fish Propagation – H
Ground Water Recharge – E
Heating – G
Industrial – I
Mining – X
Municipal – M
Power – P
Recreation – R
Stockwater – S
Wildlife – W

Example:

¼ of section (160 acres)

¼ ¼ of section (40 acres)

Twp	Rge	Sec	NE				NW				SW				SE				Total
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
5N	1E	14						10	2										12
5N	1E	15	25																25
5N	1E	15				D													

this is SE ¼ of NE ¼

Total acres (for irrigation use) 37

5. **(a) Describe the existing or proposed diversion system you want to use.** Describe any existing measuring devices and lockable controlling works and/or how measuring devices and lockable controlling works could be installed in the future if required**.** Specify subdivision lot, block, and name, if known, for any existing or proposed diversion point identified in Part 1B.3 of the application. If known, list the subdivision lot, block, and name for any place of use identified in Part 1B.4 of the application.

Example: 12" well, 350 ft. deep, 25-hp pump with 10" mainline to sprinklers. There is a lockable control valve and a rate/volume flow meter on the mainline about 25 ft. from the pump. Will add a new well similar to existing one and equip it the same way. Existing well is not in a subdivision lot. New well and place of use will be in Lot 5, Block 1, Rolling Hills Estates Subdivision.

5. **(b) Explain ownership of the property for the existing and/or proposed point(s) of diversion.** A brief description of legal access to that property (easement, contract, etc.) should be included if the applicant does not own that property.

5. **(c) Legal encumbrances for the land described by the right(s) being changed should be documented if the proposed change will adversely impact the value of the water right(s) and/or the land.** For example, moving a water right to new land and/or changing the nature of use of a water right would be assumed to adversely impact the value of the land currently served by the water right. However, adding a point of diversion to land currently served by the water right would be assumed to not adversely impact the value of the water right or the land where it is used. **It is acceptable to check "yes" in this item while also explaining why a statement from the lien holder, etc,. is not needed.**

5. **(d) Discuss the effect on land currently served by the water right(s) if the right(s) will be removed from the land or if a new nature of use of the right(s) is proposed for the current place of use.**

Example: All the irrigation rights for 30 acres will be retired and replaced with a new industrial plant.

5. **(e) Describe any other water rights currently diverted from the same point(s) of diversion or used at the same place of use as the right(s) being transferred.** Also describe any water right(s) already diverted at a proposed point of diversion location or already used at a proposed place of use location. Include water received from an irrigation district, canal company, municipality, or similar water delivery organization.

5. **(f) Complete this section to describe any non-use of the water right(s) being transferred**. See Section 42-223, Idaho Code, for additional information regarding defenses to forfeiture of a water right.

COMPLETING PART 2

A. DESCRIPTION OF RIGHT AS RECORDED

Attach a separate printout for each right identified in Part 1 of the application. Printout options include:

- Transfer Part 2A obtained from Department staff or printed from the Department's website
- Copy of a decree or partial decree issued by a court of law

The Department may maintain both water right records and adjudication claim records for each water right. Provide only one Part 2A for each right, in this order of preference:

- Adjudication recommendation, if status is "active"
- Adjudication claim, if status is "active"
- Water right decree, license, or statutory claim

B. PORTION OF RIGHT BEING CHANGED

Skip this part and go to Part 3 of the application if one or more of the following apply:

- Point of diversion change will affect the entire right
- Place of use change will affect the entire right
- Nature of use change will affect the entire right
- Period of use change will affect the entire right

Complete Part 2B if either of the following applies:

- The applicant owns part of the right and seeks a change to that part. Typically a change in ownership has occurred and the applicant is the new owner of part of the right and wants to add a point of diversion and/or make some other change to that part of the existing right **or,**
- The applicant owns the entire right but wants to move part of it to a separate diversion system. Ownership has not changed, but a separate system for part of the right is being proposed.

The information in Part 2B is a subset of the total right listed in Part 2A. A separate Part 2B is needed for each right for which only a portion of that right is being transferred for use in the common system listed in Part 1 of the application. A typical situation is a split of an irrigation right where a new owner proposes to move part of the right to a new location.

Example: You bought 30 acres of land in Township 5 North, Range 5 West, Section 15, NE ¼ of NW ¼. The land is part of a 100-acre irrigation right served by an existing well. You want to use your own well to irrigate your land. The right is identified as 63-59988 and includes 2.00 cfs for 100 acres for period of use from 3/1 to 11/15. Your warranty deed does not state that any water right was withheld from the land or that any non-standard division of any water right has occurred. Therefore you own a 30/100 portion of the right. Complete Part 2B as follows:

Right number: 63-59988

1. Amount: 0.60 cfs for Irrigation purposes from 3/1 to 11/15

   [total cfs of right divided by total acres of right multiplied by acres you purchased = cfs portion of your land]

   Example: [2.00 cfs / 100 acres X 30 acres = 0.60 cfs]

Lands irrigated or place of use:

Twp	Rge	Sec	NE				NW				SW				SE				Total
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
5N	5W	15					30												30

Total acres (for irrigation use) 30

If you are not proposing to change the place of use for your 30-acre portion, the place of use in this part of the application will match the place of use in Part 1B.4 of the application. If you are proposing to change the place of use for your 30-acre portion, the information in Part 2B shows where your portion came from, and the information in Part 1B.4 describes the proposed new place of use.

COMPLETING PART 3

A. PLAT MAP

A map of the proposed water diversion and delivery system is always required. Attach a map depicting the diversion and delivery system and place of use proposed in Part 1B.3 and Part 1B.4 of the application. The map should clearly confirm the written locations of the point(s) of diversion and place(s) of use proposed in Part 1.

The map should clearly show the location of any springs, streams, reservoirs, dams, canals, ditches, pipelines, wells or other diversion and conveyance works you will use. The map must clearly outline the boundary of land to be irrigated or land on which a non-irrigation use is proposed. Clearly label the map with township, range, section and ¼ ¼ of section information. Include any known government lot labels. The map should include a scale and an arrow pointing north.

U.S.G.S. topographic maps are commonly used for these requirements. Aerial photos or other suitable alternatives can be used, but they must be clearly labeled as noted above to be acceptable for the application. For many transfer applications, the Map Tool available on the Department website provides a satisfactory template for creating the required map.

See Example Map #1 at the end of the instructions.

A map of the reduced system after the proposed change(s) may also be required. Attach another map if either of the following changes to an irrigation right is proposed:

- A change in place of use and/or change in nature of use where part of the right is moved to different land for continued irrigation and/or for a different nature of use, **or**
- A change in the nature of use reducing part of the irrigation and replacing it with a different use on the same land.

In either situation, the map should clearly outline the boundary of the land being retired from irrigation. This can include a Geographic Information System (GIS) shape file, an aerial photo, a topographic map or a comparable alternative. The map should be clearly labeled with township, range, section and ¼ ¼ of section. The requirement for a map for a reduced system can be waived in some situations noted in the last sentence of Part 3A on the application.

See Example Map #2 at the end of the instructions.

B. CHANGES IN NATURE OF USE

Changes in nature of use and/or period of use are possible if the change will not enlarge the rate of flow, the annual diversion volume limit associated with the rate of flow, or the consumptive use volume resulting from the diversion volume, and if the other criteria listed on page 1 of these instructions are met. In most cases, to prevent injury and enlargement the transfer approval is limited by the consumptive use portion of the water right(s).

Nature of use changes are typically associated with irrigation rights. To change the nature of use of an irrigation right, the following information should be submitted with the application:

1. Rate of flow, annual diversion volume and annual consumptive volume required for the proposed new use.
2. Historic consumptive use for irrigated acres being retired to provide for the proposed new use. Historic consumptive use period typically includes at least the most recent five year consecutive period, although the applicant can seek to justify a longer historic period. For example, a longer period would be justified if the land has been in a set-aside program in recent years. The highest single-year historic consumptive use can usually be used, except in some supplemental irrigation right changes described in Part 3C, below.

Historic consumptive use can be estimated from the following website:

www.kimberly.uidaho.edu/ETIdaho

Consult that website for help with consumptive use data as follows:

1. Select the appropriate geographic station.
2. Select the crop.
3. Select the "precipitation deficit" data set for the crop.
4. Convert mean monthly millimeters for the growing season to feet:
   millimeters x 0.0032808 = feet, list to 2 or more decimal places.
5. Use the result, which is annual consumptive use in feet, to determine the number of acres to be retired for the proposed use.

Example: You seek 100 acre-feet of fully consumptive water use for a new industrial operation near Bliss on land that has been used to grow mint. How many irrigated acres need to be retired? Using the above steps, the consumptive use for the growing season is 947 millimeters:

947 mm x 0.0032808 ft/mm = 3.107 feet - then - 100 af /3.107 af/acre = 32.2 acres retired

Alternative methods to determine historic consumptive use can be acceptable if justified. For example, credible water diversion and system efficiency data can be used. Information similar to the above is needed for nature of use and/or period of use changes to non-irrigation rights.

The application should include enough information to provide a comparison for the rate of flow, annual diversion volume, and annual consumptive volume between the historic use and the proposed nature of use and/or proposed period of use.

C. PLACE OF USE CHANGES TO SUPPLEMENTAL IRRIGATION RIGHTS

1. **The most common change to a supplemental irrigation right is changing the place of use from land served by one primary right to other land served by a different primary right.** In that situation, the application should include information confirming the primary rights at the current and proposed places of use have comparable water supplies. The primary rights at the current and proposed locations do not have to be the same rights, but they must have essentially the same reliability to prevent an enlargement of supplemental use at the proposed place of use.

2. **A more complex proposal involves changing a supplemental right to a primary right.** The applicant must document historic use under the supplemental right to show the use would not be enlarged when changed to a primary right. This would require diversion records or other reliable data documenting the extent of beneficial use under the supplemental right. To be available for transfer for use as a primary right, the supplemental right should have been used at least 50% of the time during its history.

Changing a supplemental right to a primary right requires information listed in Part 3B, above. However, the highest single-year historic consumptive use for the supplemental right cannot be used. Instead, use the average annual historic consumptive use for at least a five-year period to determine the volume available for transfer. For irrigation from surface water sources, the time frame must include good and bad water supply years to confirm average values.

Regardless of the type of change proposed for a supplemental irrigation right, the application should include credible information showing that the rate of flow, annual diversion volume and annual consumptive use volume will not be enlarged by the proposed change.

APPLICATION FEE AND SUBMITTING THE APPLICATION

FEE

The application fee is based on the total amount of water proposed for transfer in Part 1B.2 and any additional fees related to change in nature of use or ownership as noted in the fee schedule. For applications involving a rate of flow and a storage volume, the fee is the greater of the two associated with the rate **or** the volume.

Example:
Total amount of water being transferred is 2.5 cfs ($660) and 150 af of storage ($580).
The application fee would be $660.

Checks or money orders should be payable to **IDWR**.

Application for Transfer or Exchange Fee Schedule

(CFS = cubic feet per second; AF = Acre-feet per year)

CFS			AF			FEE	CFS			AF			FEE
0.00	–	0.20	0	–	20	**$200.00**	11.01	–	12.00	1,101	–	1,200	**$1,380.00**
0.21	–	1.00	21	–	100	**$500.00**	12.01	–	13.00	1,201	–	1,300	**$1,460.00**
1.01	–	2.00	101	–	200	**$580.00**	13.01	–	14.00	1,301	–	1,400	**$1,540.00**
2.01	–	3.00	201	–	300	**$660.00**	14.01	–	15.00	1,401	–	1,500	**$1,620.00**
3.01	–	4.00	301	–	400	**$740.00**	15.01	–	16.00	1,501	–	1,600	**$1,700.00**
4.01	–	5.00	401	–	500	**$820.00**	16.01	–	17.00	1,601	–	1,700	**$1,780.00**
5.01	–	6.00	501	–	600	**$900.00**	17.01	–	18.00	1,701	–	1,800	**$1,860.00**
6.01	–	7.00	601	–	700	**$980.00**	18.01	–	19.00	1,801	–	1,900	**$1,940.00**
7.01	–	8.00	701	–	800	**$1,060.00**	19.01	–	20.00	1,901	–	2,000	**$2,020.00**
8.01	–	9.00	801	–	900	**$1,140.00**	20.01	–	100.00	2,001	–	10,000	*
9.01	–	10.00	901	–	1,000	**$1,220.00**	101.01	–	500.00	10,001	–	50,000	**
10.01	–	11.00	1,001	–	1,100	**$1,300.00**	500.01	&	over	50,001	&	over	***

For an application including a **change in nature of use** of water under one (1) or more right(s):
Additional fee of $250 per application.

For any application including a **change in ownership** of water right(s) as required per § 42-248, Idaho Code:
Additional fee of $25.00 per undivided right requiring an ownership change and/or
Additional fee of $100.00 per divided right requiring an ownership change.

* **$2,020.00 plus $40.00** for each additional 1.0 cfs or part thereof or 100 acre-feet or part thereof over the first 20.0 cfs or 2,000 acre-feet.

** **$5,220.00 plus $20.00** for each additional 1.0 cfs or part thereof or 100 acre-feet or part thereof over the first 100.0 cfs or 10,000 acre-feet.

*** **$13,220.00 plus $4.00** for each additional 1.0 cfs or part thereof or 100 acre-feet or part thereof over the first 500.0 cfs or 50,000 acre-feet.

SUBMITTING THE APPLICATION

Submit your completed and signed application with the fee to one of the following Regional Offices:

IDWR Eastern Region
900 N Skyline Dr, Suite A
Idaho Falls, ID 83402-1718
Telephone 208-525-7161
Fax 208-525-7177

IDWR Northern Region
7600 N Mineral Dr, Suite 100
Coeur d'Alene, ID 83815-7763
Telephone 208-762-2800
Fax 208-762-2819

IDWR Southern Region
650 Addison Ave W, Suite 500
Twin Falls, ID 83301-5858
Telephone 208-736-3033
Fax 208-736-3037

IDWR Western Region
2735 Airport Way
Boise, ID 83705-5082
Telephone 208-334-2190
Fax 208-334-2348

Eastern Snake Plain Aquifer

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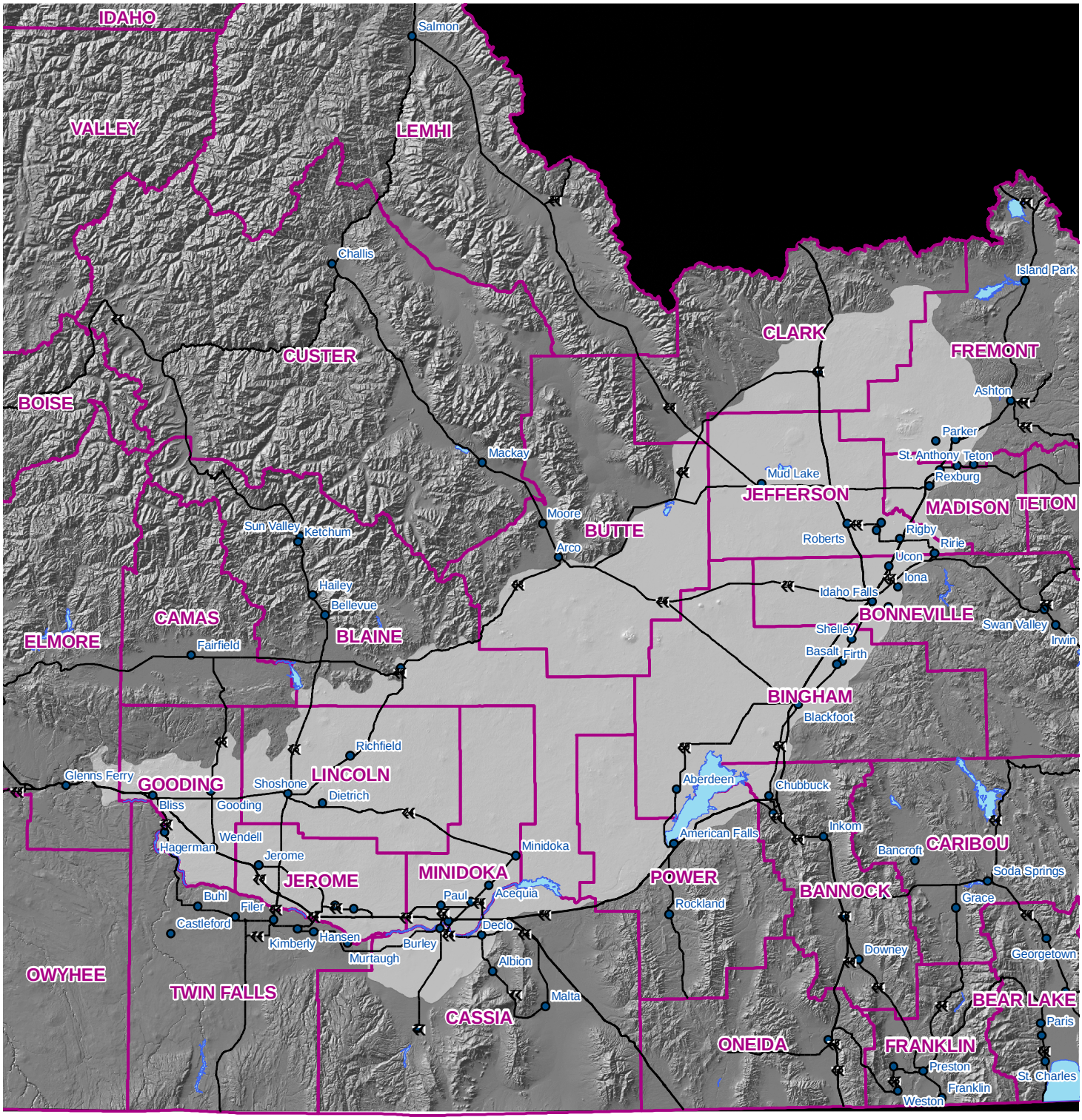

Water Diversion and Delivery System Map Example

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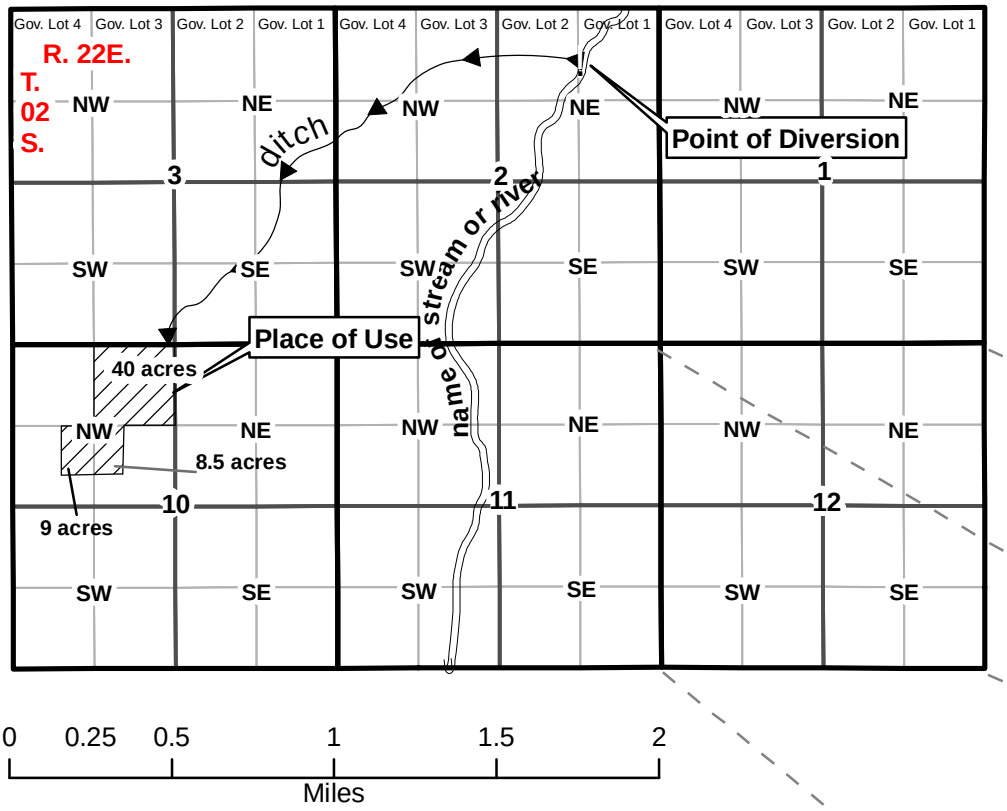

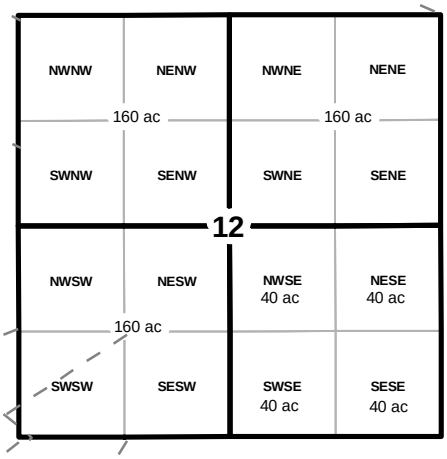

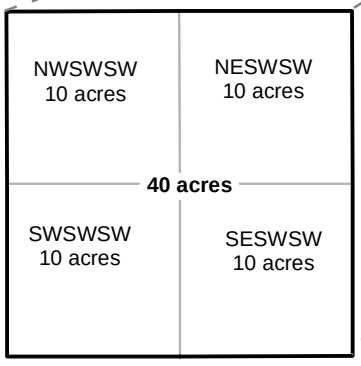

Sample Symbols for map

canals & ditches

dams

pipelines

place of use

point of diversion 5

reservoirs, ponds

springs 5

streams, rivers

other wells not part of system (

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Proposed Changes to Water Right 23-1907

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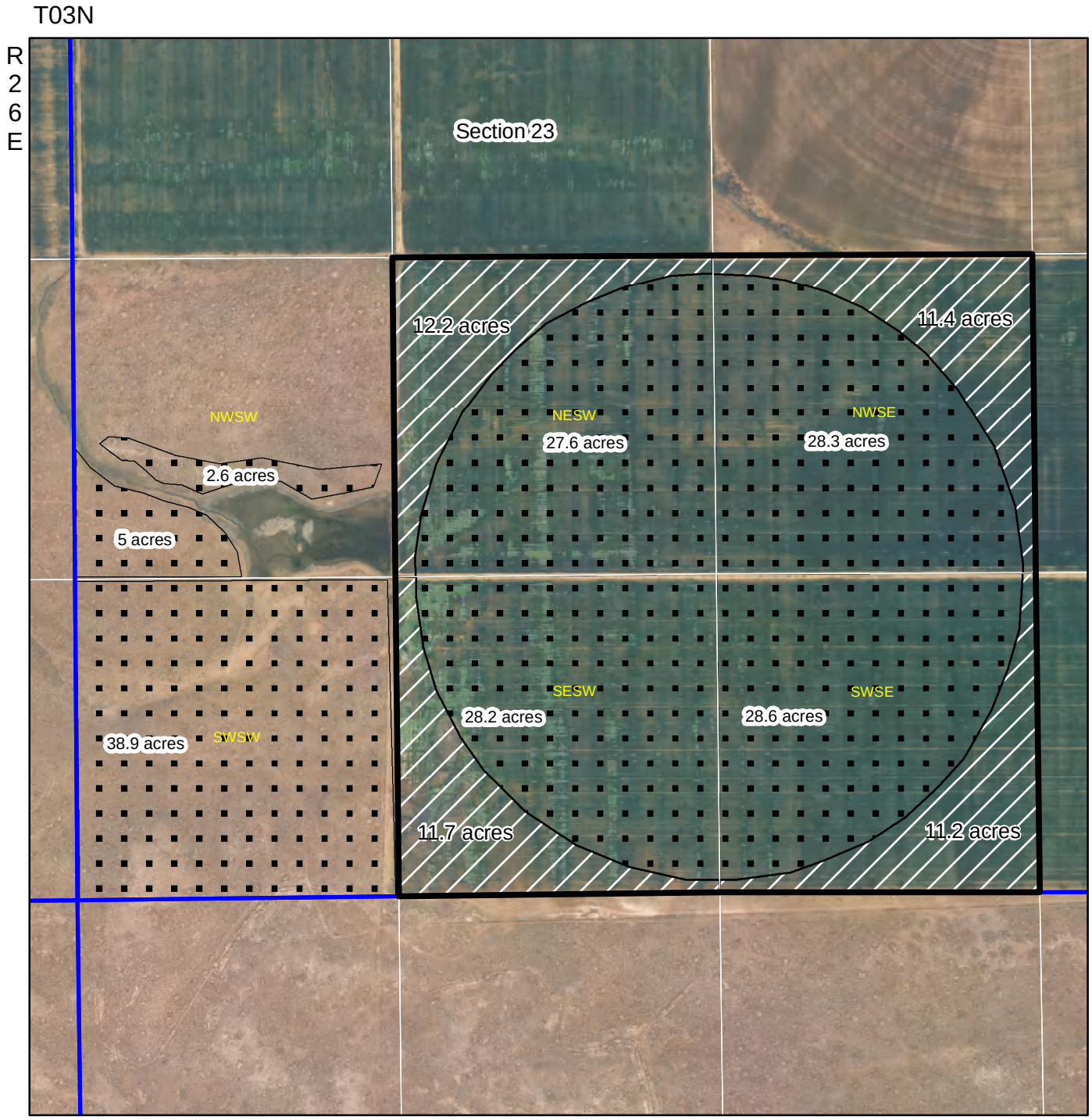

Old place of use
New place of use
Acres to be dried up
Township/Range
Sections
Quarter quarter

6/2009

0 0.125 0.25 0.5 Miles

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