



## **Water Right Memo**

**To: Deer Springs Ranch Owners Association**

**From: Logan Riley and Jim Riley**

**Date: June 2, 2023**

**Re: Deer Springs Ranch Owners Association Water Rights**

At the request of Deer Springs Ranch Owners Association ("DSROA"), this memorandum has been created to comprehend the following: the total acre-feet of each water right, the locations of the place of use and nature of use of each water right, the water rights that might be at risk of forfeiture, and a strategy for DSROA to efficiently manage their water rights. The discussion of water rights is split into three sections, namely "Irrigation and Domestic Water Rights", "Stock Watering Water Rights" and "Lapsed and Unapproved Water Rights".

### **Irrigation and Domestic Water Rights**

The water rights below in Table 1 are all the rights associated with this section. If a water right has a domestic or irrigation component to it, then it is listed in this section. DSROA has a total of 12 water rights that fall into this group. These 12 water rights add up to 242.2 acres of irrigation, 17 domestic units and Recreation Camp Use for a total of 976.96 acre-feet.

According to Utah Code 73-1-4, a water user must use their water at least one full season within a seven-year time period. The Division of Water Rights will generally review the past seven years of aerial photographs on their database to determine if water has been used for irrigation, domestic and stock watering use. Upon examining the last seven years of aerial

photographs of the irrigation associated with these water rights, it has become evident that a vast majority of the water rights have remained unused for over 7 years. This is a problem. All the irrigation on the list below except the irrigation associated with Water Right 89-1259 appear to have potential non-use issues. The means the total number of acre-feet that are at risk of being lost is 836.668, which is 209.17 acres of irrigation.

Table 1 - Irrigation and Domestic Water Rights

Water Right	Map #	Source	Priority	Status	Flow Rate (cfs)	Quantity (af)	Irr	Dom	Comments
89-5	4	Meadow Canyon Creek	1911	Cert	2	246.4	61.6		
89-9	4 & 5	Meadow Canyon Creek	1914	Cert	1.5	346.3	86.575		89-1496 was certificated on top of a portion of this water right. This table reflects the reduction.
89-17	1	Podunk Wash	1929	Cert		131.28	32.82		Has irrigation and storage in Podunk Lake.
89-112	5	Well	1934		0.067	0.45		1	Also part of the stk water rights.
89-169	5	Deer Spring	1864	Cert	0.24	0.45		1	Also part of the stk water rights.
89-1250	1	Oak Spring	1976	Cert	0.0267	5.738	1.322	1	Also 30 ELUs broke off the 506 ELU water group.
89-1259	2	Meadow Canyon Spring	1864		0.65882	132.15	33.038		89-1672 was segregated off of this and deeded to Clarkson Properties.
89-1260	2	Cabin Spring	1864			0.9		2	No documents on file. Not part of the PD.
89-1263	2	Cabin Spring	1976	Cert	0.0089	5.8	1	4	
89-1265	3	Black Knoll Spring	1976	Cert	0.0007	0.492			0.492 af for Recreation Camp Use
89-1496	5	Two Wells	1976	Cert		79.5	18.975	8	This was certificated on top of 89-9, making it supplemental.
89-1497	4	Well	1976	Cert	0.189	27.5	6.875		0.45 af broke off to the Millets.
					4.6911	976.96	242.2	17	

The Irrigation and Domestic water rights place of use maps are in Exhibit A at the end of this memo. These maps illustrate the issues of non-use, as it cannot be seen how the irrigation rights are used. The irrigation portion of the water rights on the list in this section are at risk of forfeiture because of non-use issues.

### Stock Watering Water Rights

All 28 of the stock watering water rights owned by DSROA are all part of the same supplemental group associated with 506 ELUs. Water Right 89-1250 is also part of this group, however, it has had its sole supply defined as 30 ELUs. There appears to be some evidence of stock watering taking place on the ground and at the sources. DSROA will need to make sure

they have had stock watering at the locations shown in the stock watering maps in Exhibit B. The water rights associated with the 506 ELUs are shown below in Table 2.

**Table 2 - Stock watering Water Rights**

<b>Water Right</b>	<b>Map #</b>	<b>Source</b>	<b>Priority</b>
89-111	4	Well	1934
89-112	4	Well	1934
89-166	2 & 3	Slide Canyon Creek	1864
89-167	1	Oak Spring	1864
89-168	2	Broad Hollow Wash	1864
89-169	4	Deer Spring	1864
89-170	1	Lick Wash	1864
89-172	3	Black Knoll Spring	1864
89-174	2	Lower Gravel Spring	1864
89-175	2	Birch Canyon Wash	1864
89-176	2	Crawford Spring Stream	1864
89-177	4	Leaf Spring	1864
89-178	2	Unnamed Tributary	1864
89-180	3	Slide Canyon Wash	1864
89-181	3	Slide Canyon Wash	1864
89-182	2	Crawford Spring Stream	1864
89-183	2	Gravel Canyon Wash	1864
89-184	4	Broad Hollow Wash	1864
89-185	1	Lick Wash	1864
89-186	2	Unnamed Tributary	1864
89-187	4	Unnamed Tributary	1864
89-188	4	Dunham Wash	1864
89-189	4	Dunham Wash	1864
89-190	2	Meadow Canyon Stream	1864
89-191	4	Meadow Canyon Stream	1864
89-192	4	Meadow Canyon Stream	1864
89-1204	2	Meadow Springs	1864
89-1250	1	Oak Spring	1976

The combined water rights associated with these stocks rights is 14.168 acre-feet, which is equivalent to 506 ELUs. However, it's worth mentioning that the database contains a mistake, indicating only 162 ELUs instead of the correct amount of 506 ELUs as stated in the PD. DSROA is advised to

reach out to the Division of Water Rights to rectify this error. It's also worth mentioning because the Holt's and Jon Pearce updated title to a portion of 89-167, that they too have some interest in the 506 ELUs.

Kurt Jacobsen, with DSROA, mentioned that there are approximately 168 head of livestock that water on the DSROA stock watering sources, from April to November each year. This is lower than the total allocated water rights, but the ground might not be able to support all 506 ELUs.

## Lapsed and Unapproved Water Rights

DSROA owns 16 water rights that are either in a lapsed or unapproved status and are shown below in Table 3.

Table 3 - List of Lapsed and Unapproved Water Rights

Water Right	Source	Priority	Status	Flow Rate (cfs)	Quantity (af)
89-1580	Well	1999	LAP	0.015	1.73
89-1269	Well	1976	LAP	0.0907	23.71
89-1234	Well	1976	LAP	0.2334	34.54
89-1264	Leaf Spring	1976	LAP	0.0865	22.6
89-1266	Lower Gravel Spring	1976	LAP	0.0432	11.3
89-1267	Upper Lick Spring	1976	LAP	0.0432	11.3
89-1580	Well	1999	LAP	0.015	1.73
89-1268	Slide Spring	1976	LAP	0.0712	18.6
89-1241	3 Wells	1976	UNAP	3	743
89-1240	3 Wells	1976	UNAP	1	272
89-1239	3 Wells	1976	UNAP	1	272
89-1238	3 Wells	1976	UNAP	1	272
89-1237	3 Wells	1976	UNAP	1	272
89-1236	3 Wells	1976	UNAP	1	272
89-1235	3 Wells	1976	UNAP	1	272

The lapsed water rights are beyond salvaging and are irretrievable. However, DSROA has three possible courses of action regarding the unapproved water rights:

1. Approval of all the pending applications. This would require DSROA to advocate with the Division of Water Rights and prove that all the pending (unapproved) applications are needed and were filed before

the groundwater policy was changed to just small domestic applications. This will be the most difficult course of option.

2. Approval of a portion of the applications. This would require DSROA to “give up” the irrigation portion of the pending (unapproved) applications to just have the Division approve the domestic portions. This might be more enticing for the Division to push the applications through their process with less acre-feet needing approval, which DSROA gets the domestic uses that they need for their lot owners.
3. Withdrawing the unapproved applications. This is the least beneficial to DSROA and would be a last-ditch effort if options 1 and 2 above don't work out. After withdrawing all the pending applications then DSROA would file "small domestic" applications for all lots that may require water within the next five to ten years.

### **Next Steps and Plan**

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DSROA is facing a critical problem with the non-use of their water rights for more than 7 years. If DSROA files a change application for the irrigation portion of any of the rights mentioned in the "Irrigation and Domestic" water rights section, it would probably be denied by the Division of Water Rights, except for the irrigation linked with 89-1259, as the State Engineer is likely to observe the apparent irrigation at the historical place of use. In this context, DSROA has two alternatives to safeguard their water rights for potential utilization:

- 1. Put To Beneficial Use.** One solution is to immediately utilize all irrigation water rights by placing them to beneficial use. The maps in Exhibit A show precisely where the Division of Water Rights needs to witness the usage of these rights. Capture photographic evidence of the water being diverted and its usage location. It is necessary to put this water to beneficial use for a minimum of 15 consecutive irrigation seasons. According to 73-1-4(2)(a), the State Engineer will only scrutinize up to 15 years before the change application filing date. If the water rights were utilized numerous times within the previous 15 years of the application filing, approval is highly probable. Please note that this legislation is subject to change before DSROA applies for a modification. If DSROA determines this is the best alternative, the water right maps in Exhibit A and Exhibit B need to be reviewed in detail. Several water right places of use are on lots owned by private residences in the DSROA. The DSROA

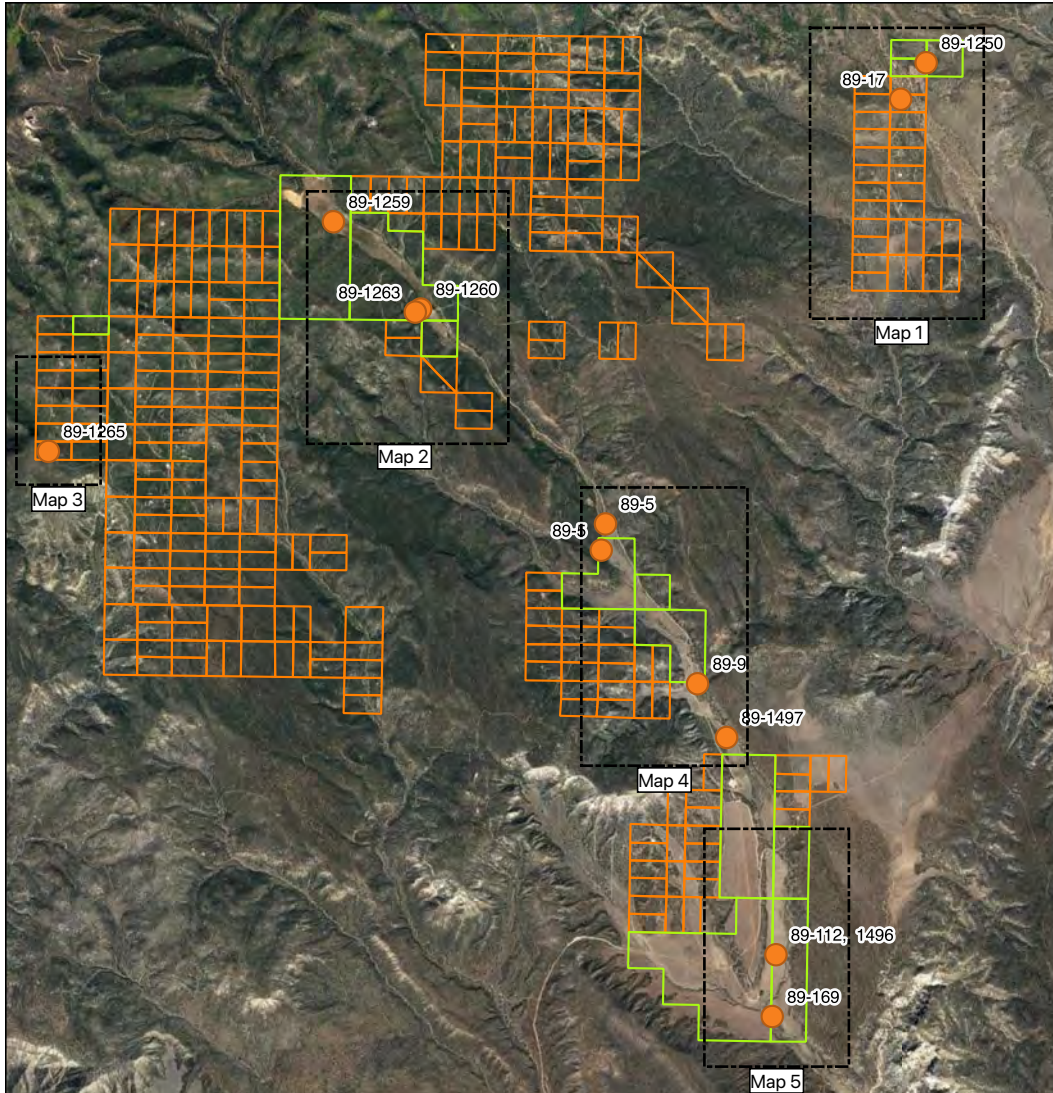
needs to work with the lot owners to ensure that the water rights are placed to use on their parcels.

**2. File Non-Use Applications.** This alternative is quite similar to option 1, where DSROA files Non-Use Applications for the next fifteen years, followed by a change application. This strategy protects DSROA water rights under Non-Use Applications, which are valid for up to 15 years. Afterward, the State Engineer can only examine up to 15 years, which means that the DSROA water rights will be safeguarded. Please keep in mind that this legislation is subject to change before DSROA applies for a modification.

**3. Resolve Unapproved Applications.** Determine which route DSROA would like to take on the unapproved applications, as outlined in the "Lapsed and Unapproved Applications" section in this report and begin taking the necessary steps.

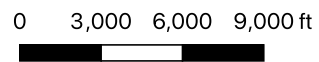
DSROA should promptly implement one of these two alternatives. If the "Put to Beneficial Use" option is chosen, DSROA should attempt to irrigate for as many seasons as feasible, despite the State law requiring one season within every seven, to eliminate any ambiguity about the usage frequency and duration. On the other hand, if the "File Non-Use Applications" option is the preferred option, DSROA should file Non-Use applications immediately for all water rights with irrigation use.

# Exhibit A – Irrigation and Domestic Rights



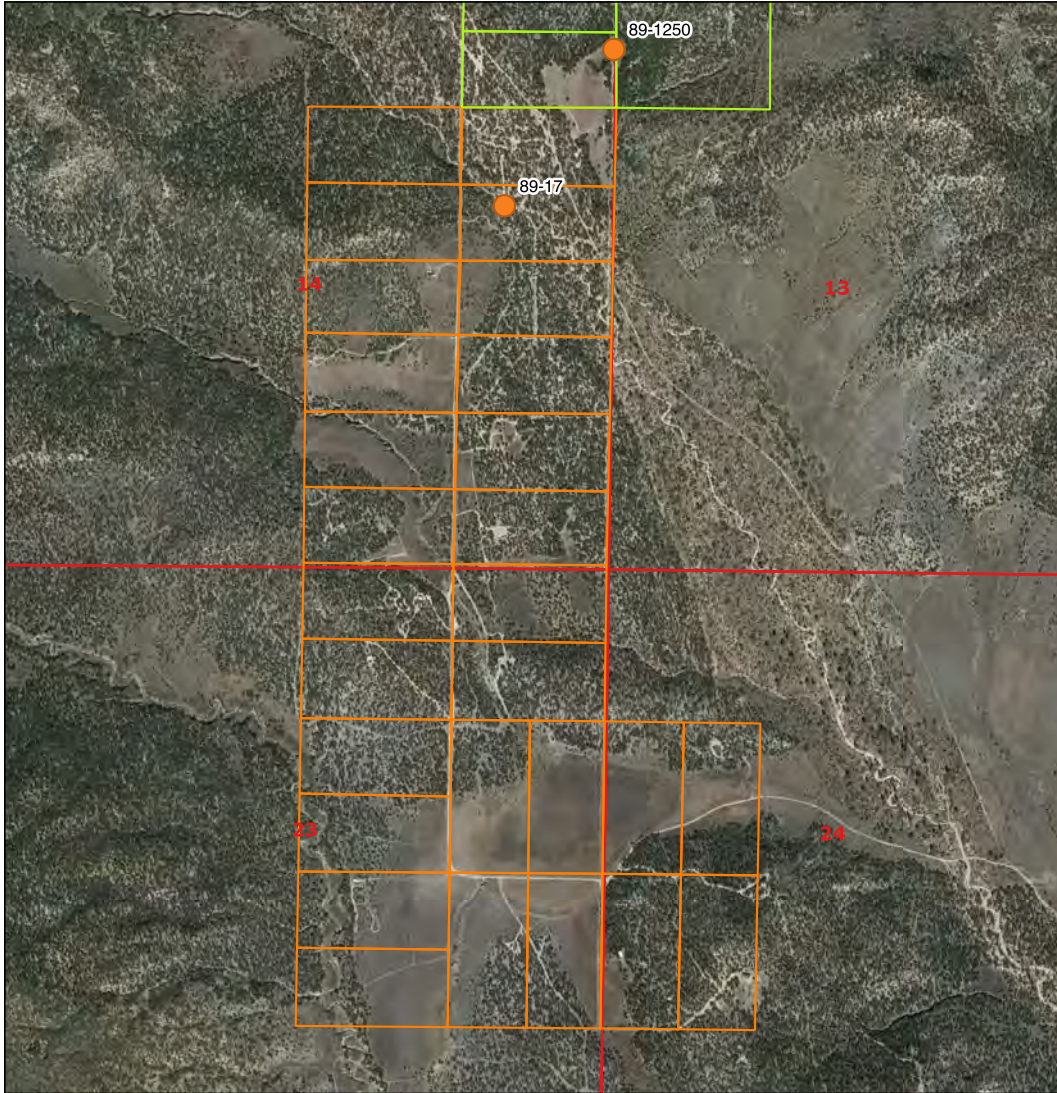
Deer Springs Ranch Owners Association Water Right Map

- Points of Diversion
- ⬜ Other Map Locations
- ▭ DSR Association Parcels
- ▭ DSR Parcels



721 N Main Street / Suite 209 / Layton, UT 84041  
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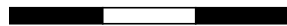




Deer Springs Ranch Owners Association Water Right Map - 1

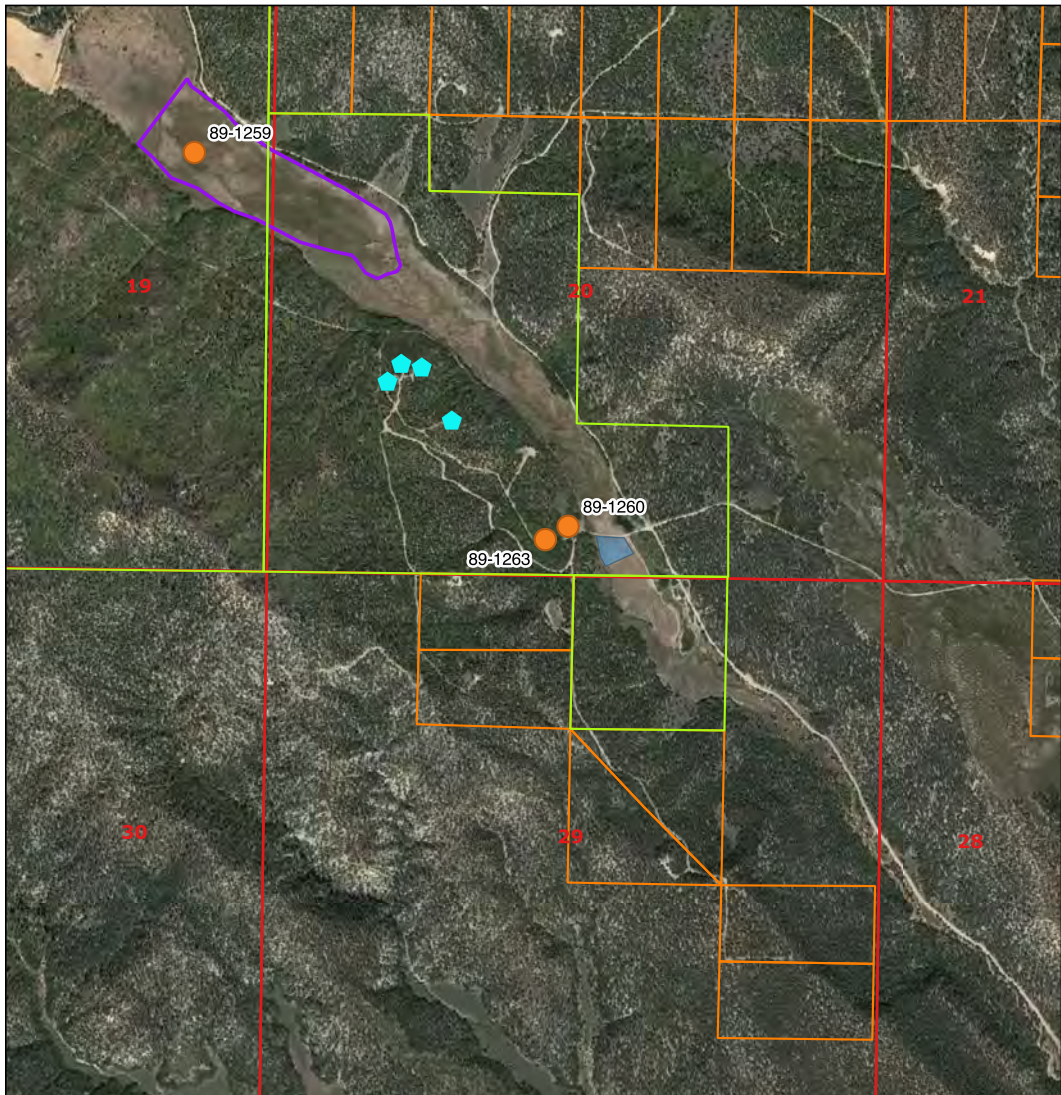
- Section Lines
- Points of Diversion
- 89-17 - 32.82 acres
- 89-1250 - 1.322 acres
- DSR Association Parcels
- DSR Parcels

0 800 1,600 2,400 ft



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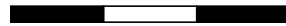




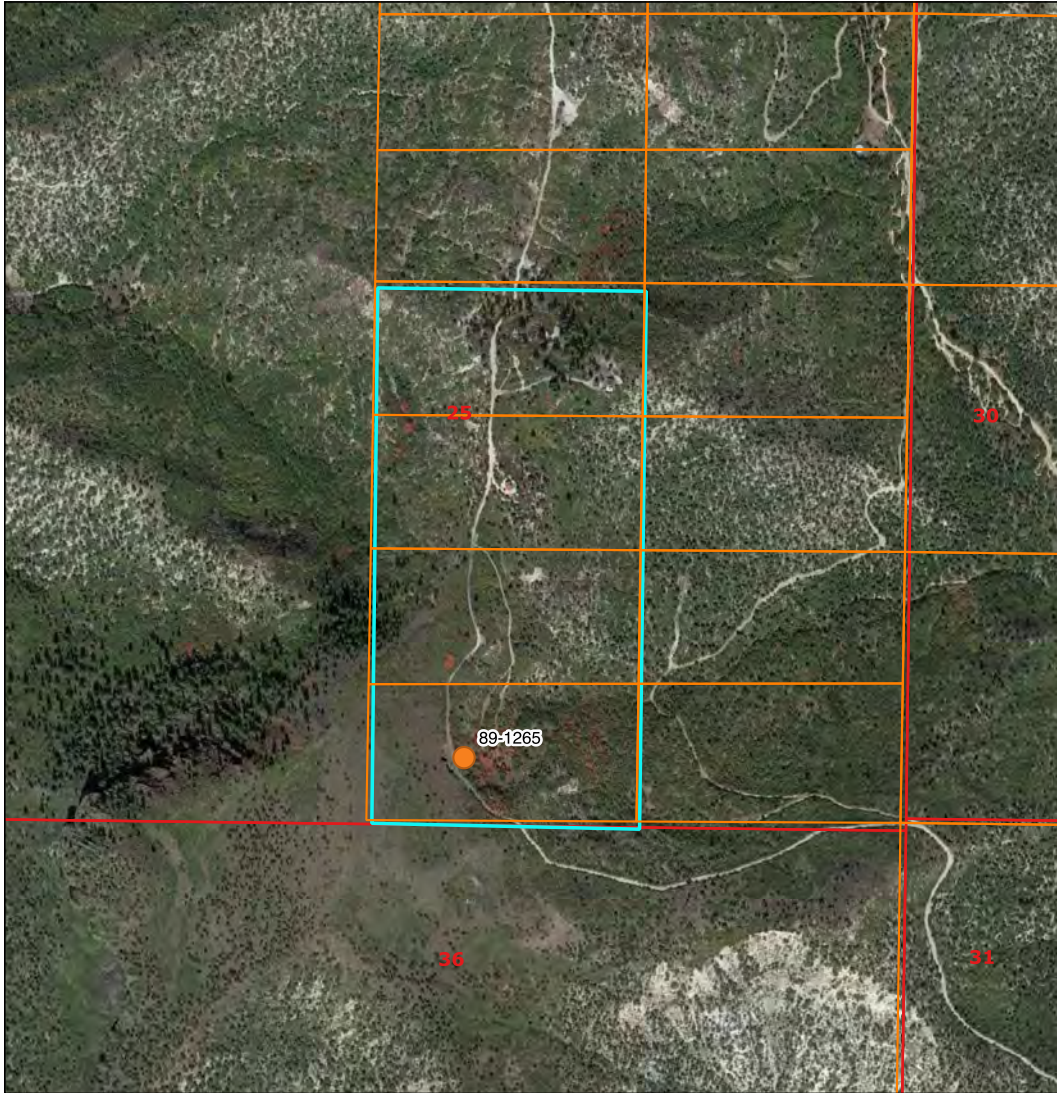
Deer Springs Ranch Owners Association Water Right Map - 2

- Section Lines
- Points of Diversion
- ⬠ 89-1263 - 4 Cabins
- 89-1259 - 33.038 acres
- 89-1263 - 1.0 acre
- DSR Association Parcels
- DSR Parcels






0 800 1,600 2,400 ft



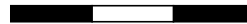
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Deer Springs Ranch Owners Association Water Right Map - 3

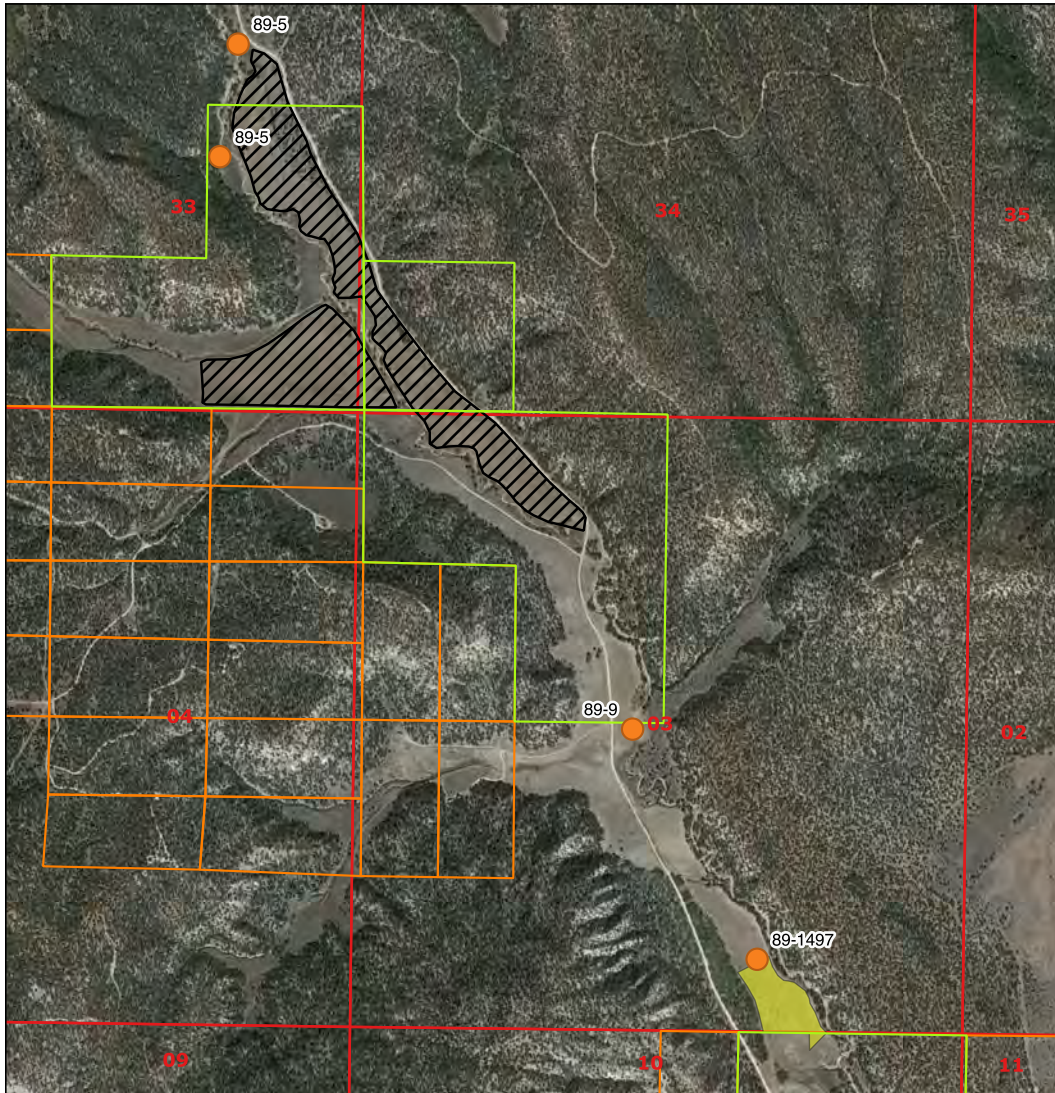
-  Section Lines
-  Points of Diversion
-  89-1265 - Camp Use Location
-  DSR Association Parcels
-  DSR Parcels

0 400 800 1,200 ft



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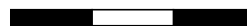




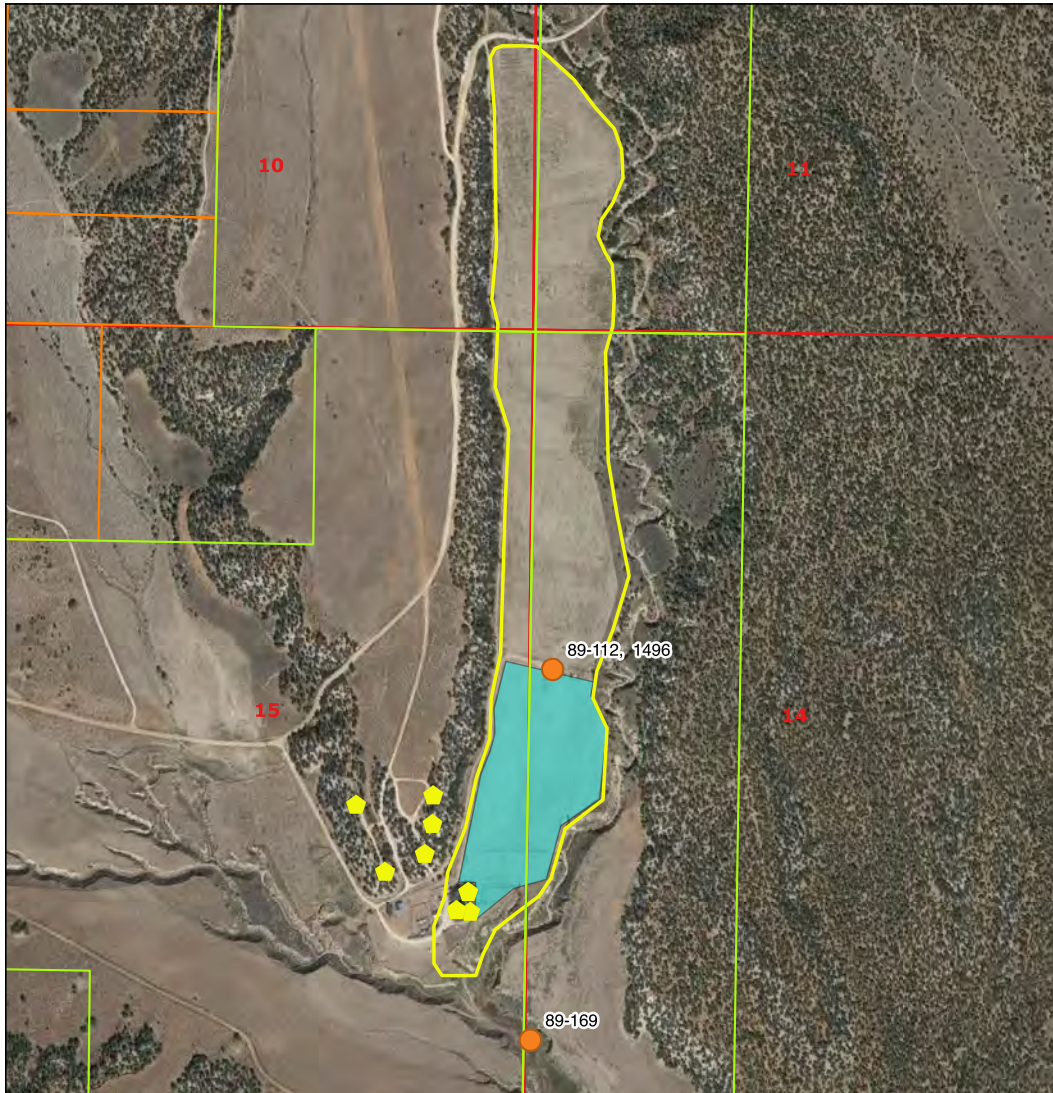
Deer Springs Ranch Owners Association Water Right Map - 4

- Section Lines
- Points of Diversion
- 89-5 - 61.6 acres
- 89-1497 - 6.875 acres
- DSR Association Parcels
- DSR Parcels

0 700 1,400 2,100 ft



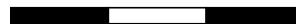
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Deer Springs Ranch Owners Association Water Right Map - 5

- Section Lines
- Points of Diversion
- ⬠ 89-1496 - 8 Cabins
- 89-9 - 105.55 acres
- 89-1496 - 18.975 acres
- DSR Association Parcels
- DSR Parcels

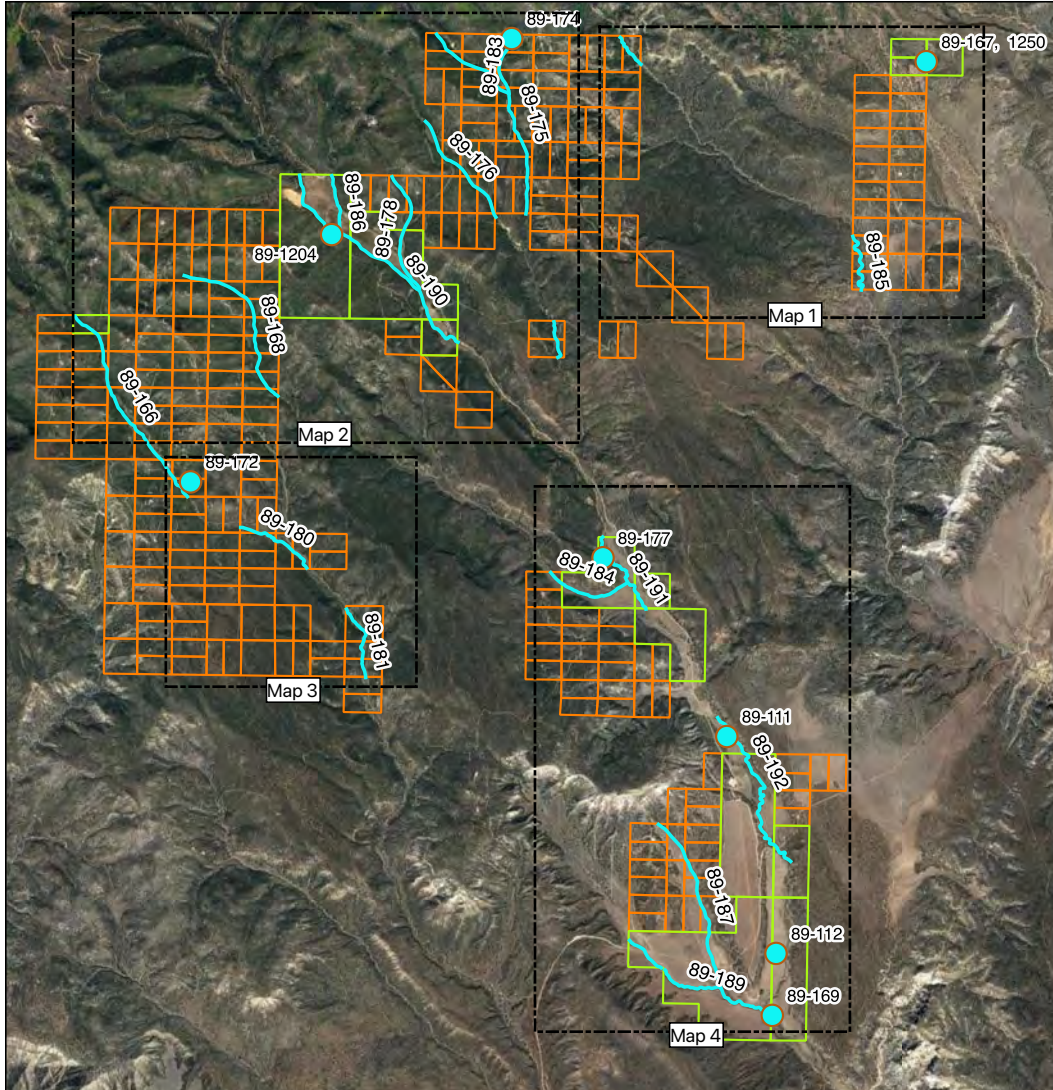
0      600      1,200      1,800 ft



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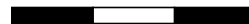
## Exhibit B – Stock Watering Rights



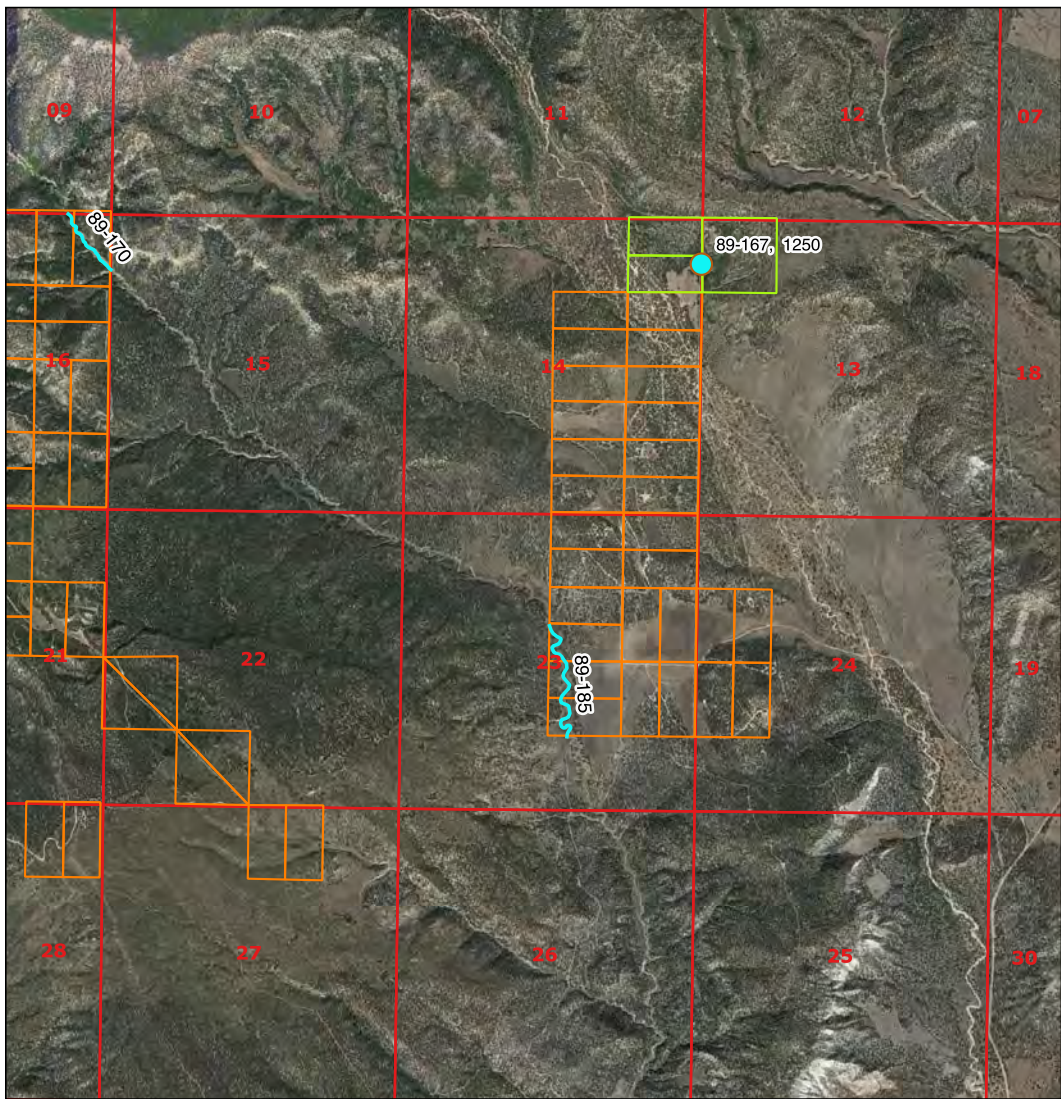
Deer Springs Ranch Owners Association Water Right Map

- Townships
- Stockwatering PODs
- Stockwatering Point to Points
- Other Map Locations
- DSR Association Parcels
- DSR Parcels

0    3,000    6,000    9,000 ft



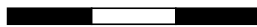
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Deer Springs Ranch Owners Association Water Right Map - 1

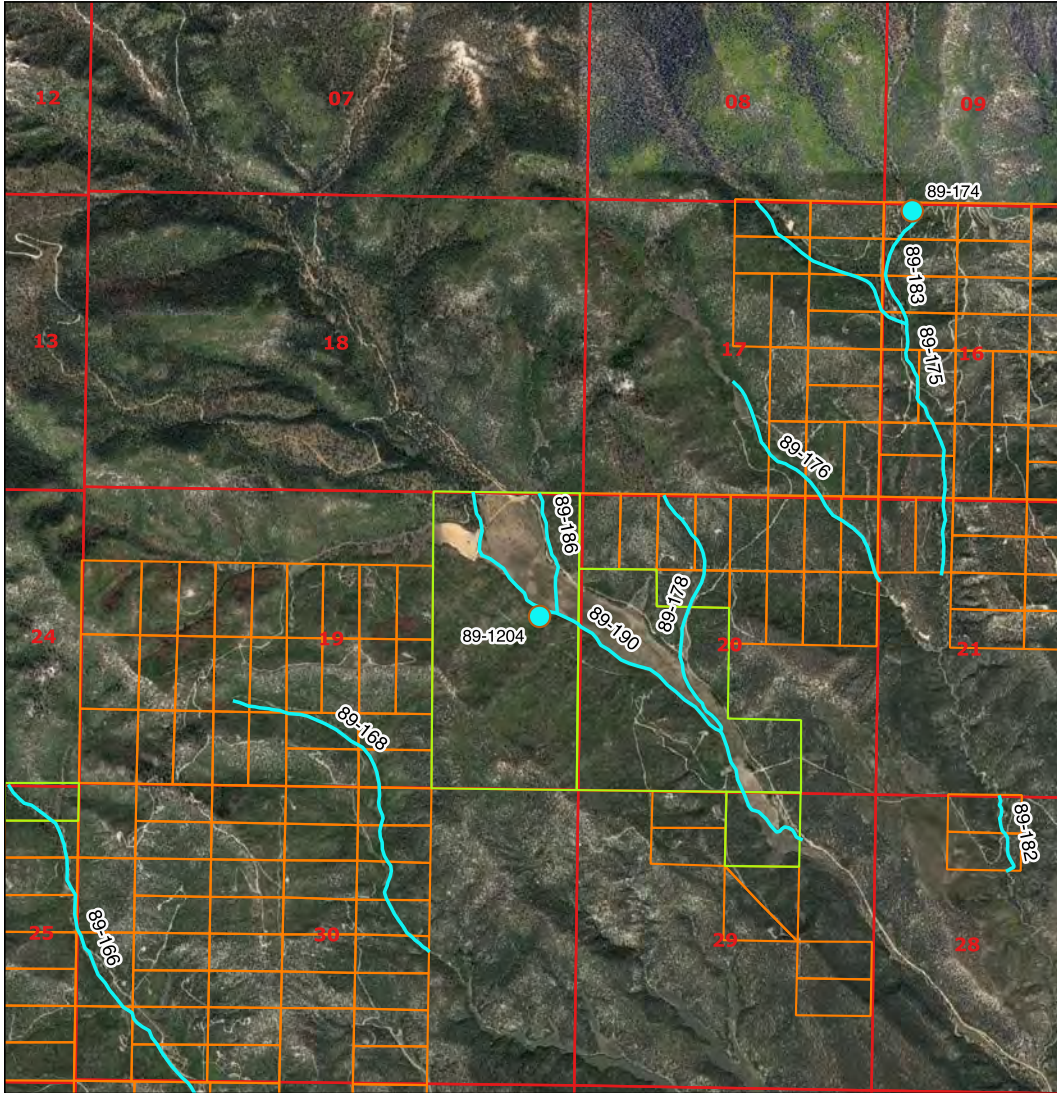
- Section Lines
- Stockwatering PODs
- Stockwatering Point to Points
- DSR Association Parcels
- DSR Parcels

0 1,500 3,000 4,500 ft



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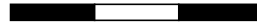




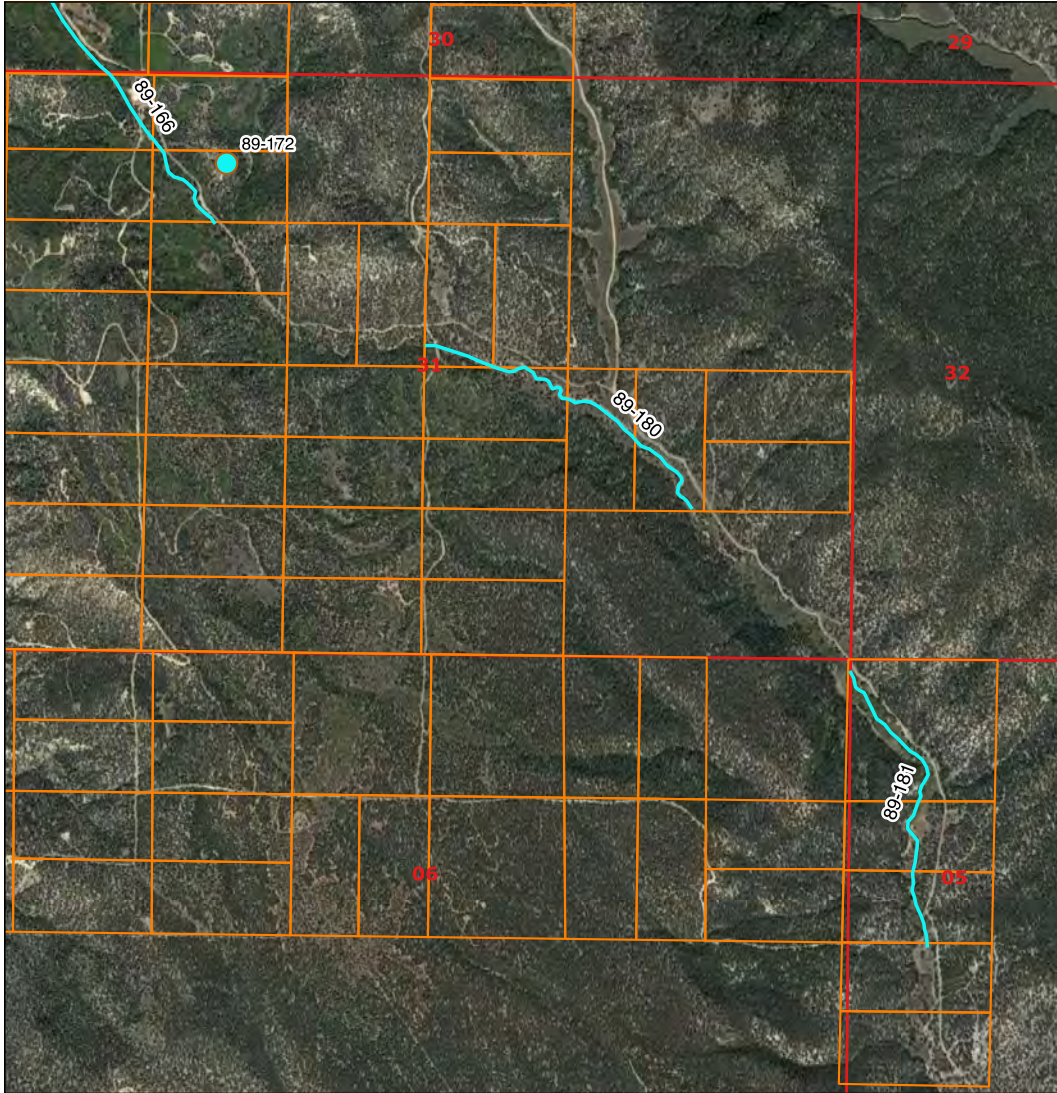
Deer Springs Ranch Owners Association Water Right Map - 2

- Section Lines
- Stockwatering PODs
- Stockwatering Point to Points
- DSR Association Parcels
- DSR Parcels

0 1,500 3,000 4,500 ft



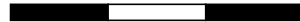
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Deer Springs Ranch Owners Association Water Right Map - 3

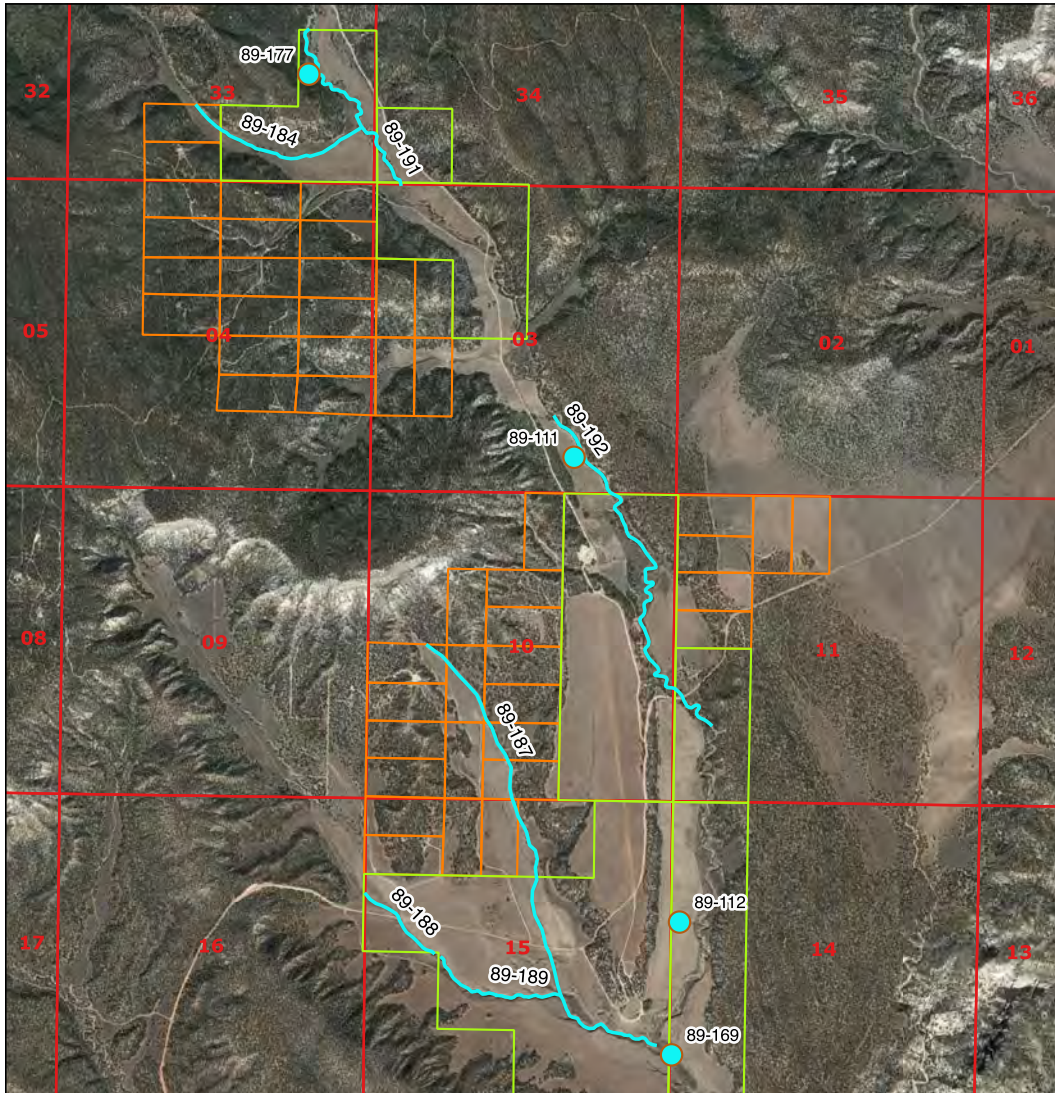
- Section Lines
- Stockwatering PODs
- Stockwatering Point to Points
- DSR Association Parcels
- DSR Parcels

0      900      1,800      2,700 ft



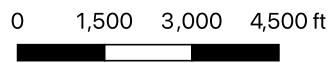
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Deer Springs Ranch Owners Association Water Right Map - 4

- Section Lines
- Stockwatering PODs
- Stockwatering Point to Points
- DSR Association Parcels
- DSR Parcels



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