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May 2, 2006

VIA EMAIL

David R. Tuthill, Jr., P.E.
Adjudications Bureau Chief
Idaho Department of Water Resources
1301 N. Orchard St.
P.O. Box 83720
Boise, ID 83720-0098

Re: Double C Farms and Lambert Produce Co., Inc.
2006 Irrigation Season

Dear Dave:

As we discussed on the telephone last week, I am writing to summarize a proposal for obtaining legal coverage for acreage Lambert Produce, Inc. and Double C Farms plan to irrigate during the 2006 season. The water rights involved are numerous and complex. I am happy to sit down with you to provide further explanation if necessary.

I. PROCEDURAL HISTORY

By way of background, recall that last year IDWR issued NOV's to Lambert Produce for irrigating approximately 549 acres (477 acres by Lambert Produce and 77 acres by Double C) not covered by any valid water right. The NOV's also alleged that acres were irrigated using four wells not identified as points of diversion in any authorized water rights.

Double C and Lambert (collectively Double C) hired Givens Pursley to represent them in responding to the NOV's. Our evaluation determined that Double C's water rights currently do not accurately reflect water uses on the farm, and that transfer applications and new SRBA claims were necessary.

4/5-168

II. OVERVIEW OF DOUBLE C FARM

The Double C farm is an approximately 9,000-acre farm. The attached Exhibit A shows the irrigated areas within the Double C farm. The majority is irrigated through a common, pressurized irrigation system fed by both ground and surface water. We refer to that portion of the farm served by this common delivery system as the "Main Farm." The attached Exhibit B shows the boundary of the Main Farm. By comparing the two exhibits, you can see that in addition to the Main Farm, Double C irrigates three areas north of the Main Farm. Each is irrigated with ground water via independent systems and pursuant to independent water rights.

The Main Farm includes approximately 7,844 acres. Using GIS analysis on a 2004 aerial photograph (representative of Double C's current farming practice), we calculated that Double C irrigates 6,558 acres within this 7,844-acre area. Exhibit A shows the location of these irrigated acres. Exhibit C shows the sum of these acres in the column "irrigated acres."

During typical spring runoff, Double C irrigates the entire 6,558 acres by rotating surface water. As the surface water recedes, Double C will bring on ground water sources to supplement.

Exhibit D shows the areas where Double C's water rights authorize irrigation, but in which Double C does not currently irrigate. Exhibit C shows a tally of these acres in the column labeled "authorized not irrigated." Double C has, in effect, operated the entire Main Farm as a permissible place of use, shifting authorized acres to more efficient locations that currently are not authorized by any water right.

III. SUMMARY OF PENDING APPLICATIONS

Double C has filed two sets of applications as a result of the water right evaluation.¹ These are discussed below.

A. BENEFICIAL USE CLAIMS IN THE SRBA

Double C prepared two new SRBA claims to cover use of surface water from Willow Creek, Land Creek and Land Ranch Spring. Our motions to file late claims have been granted by the Court, and Department is now processing the claims. Double C has existing, senior-priority decreed water rights to irrigate from these sources, but the combined total irrigated

¹ This does not include water bank applications filed in August 2005 meant to cover ground water used on acres identified as unauthorized in the NOV's. The Department's response to these applications was never finalized, and there does not appear to be any reason to do so at this point.

acreage authorized under these rights is only 1,077 acres.² This is only a fraction of the 6,536 acres that Double C and its predecessors have irrigated with these sources.

To address this we filed a beneficial use claim in the SRBA for 4,953 acres with a 1968 priority based on an aerial photograph from that year. We also filed an enlargement claim to account for another 1,168 acres Double C's predecessors developed prior to the 1987 commencement of the adjudication. Between the two new claims, Double C has claimed a total of 6,121 acres.

A significant portion of these claimed acres overlap with the place of use decreed for the 1,077 acres allowed by senior rights; however, the claimed place of use includes 844 acres on the northern part of the Main Farm not included within the decreed permissible place of use in which the 1,077 acres can be used. We therefore figure that the total overlap between the decreed rights and the new claims is 233 acres (1077-844). Thus, total irrigated acreage under surface water rights and claims is $6121 + 1077 - 233 = 6,965$ acres. This is 407 acres more than the 6,536 acres Double C irrigates on the Main Farm.

B. TRANSFER APPLICATIONS

Finally, Double C filed an application for transfer that seeks to create a permissible place of use for all of the water rights used to irrigate the Main Farm.³ The application includes the existing surface water rights and 15 ground water rights. The transfer application seeks to take Double C's decreed ground water rights that are appurtenant to different portions of the Main Farm and combine them into a single, 7,844-acre permissible place of use, 6,536 acres of which can be irrigated in any given year.

The application also seeks to update the list of wells used to supply the irrigation system. Current water rights collectively identify 14 wells. The transfer seeks authorization to divert from 16 wells.

Southern Region currently is processing the application. Although Double C would like to have its application processed as soon as possible, it likely is most efficient to delay processing until after IDWR and the SRBA court process Double C's late claims, because these rights are included within the Main Farm permissible place of use and will need to be incorporated in to combined use limitations.

² This total is the sum of the authorized acres from water rights 45-168, 45-169, 45-695, 45-696, 45-701, 45-2053, and 45-4258A.

³ Double C also filed an amendment to a previously filed transfer application that changed irrigated acres into year-round stockwater use for Double C's feedlot. Southern Region processed the amendment, and it has been approved.

IV. PROPOSAL FOR 2006

All of the discussion above does not address the issue of avoiding violations during 2006, and possibly future years, while processing of the current application and claims is ongoing. As discussed above, Double C's existing water rights more than cover the 6,558 acres actually irrigated within the Main Farm. However, if Double C irrigates this number of acres, and in the areas it would like this summer, approximately 480 acres technically would be outside of any authorized place of use.

Under normal circumstances we would file water bank rental and lease applications as a way to move acres to these areas and to authorize the correct wells. However, through conversations with Department staff, we are aware of the Department's resource allocation towards completing SRBA recommendations. Consequently we are seeking guidance from the Department on how to proceed. We can very quickly prepare the water bank applications if necessary. All of the technical legwork for this is complete.

Rather than go through this process, we propose under the circumstances that the Department recognize Double C's good faith effort to address all the issues raised by the Department, and the pendency of the existing transfer application and claims, and issue a letter indicating it will not pursue any enforcement action against Double C while its claims and transfer are being processed. Of course, we would expect such a letter to qualify that it does not serve as any kind of approval of the transfer application or lock the Department in to any recommendation.

Please contact me as soon as possible to discuss how the Department would like to proceed.

Sincerely,



John M. Marshall

JMM

cc: Client

S:\CLIENTS\JMM\25JUN11\1010\WR to amended claims DOC

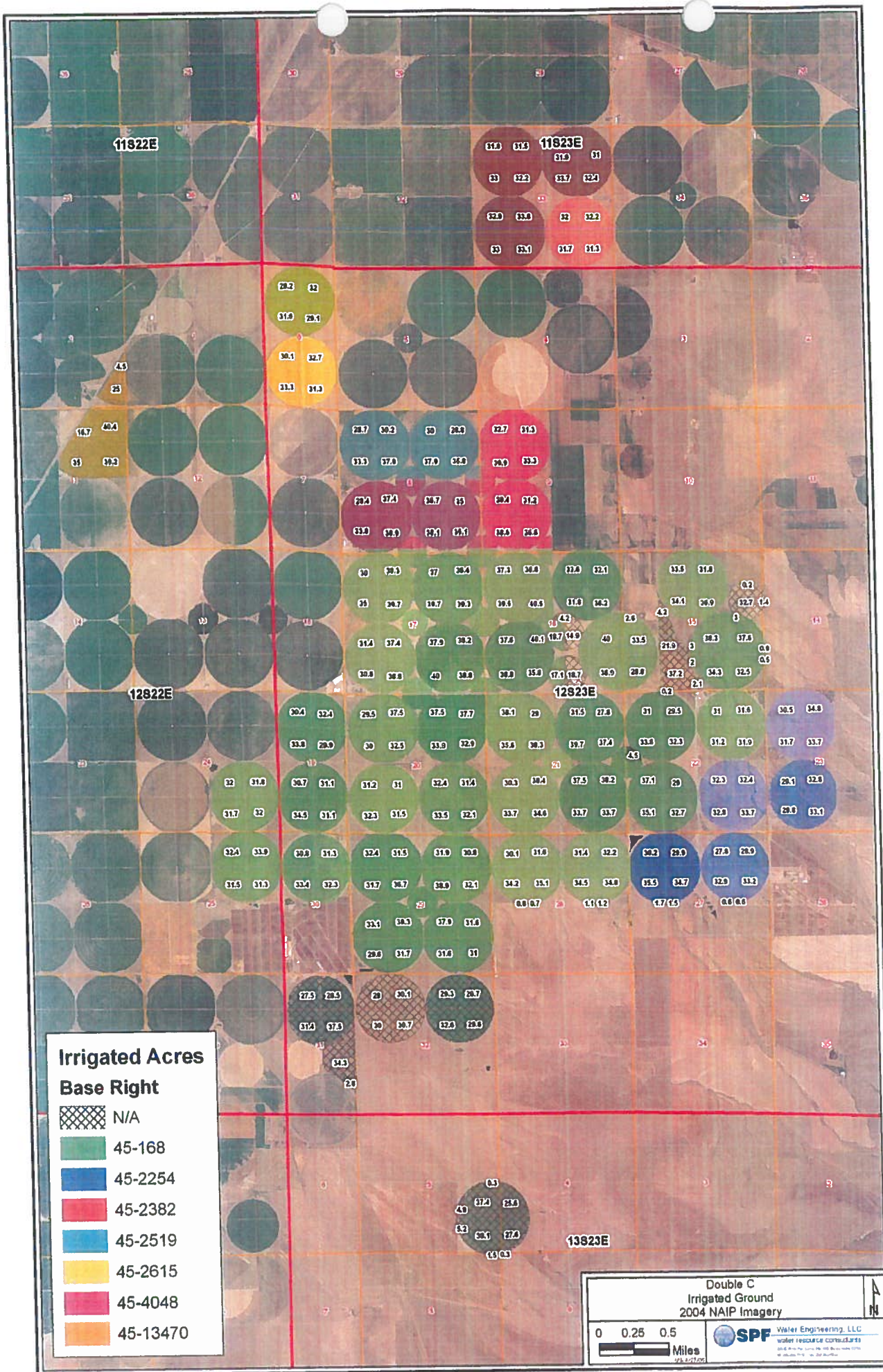


EXHIBIT A

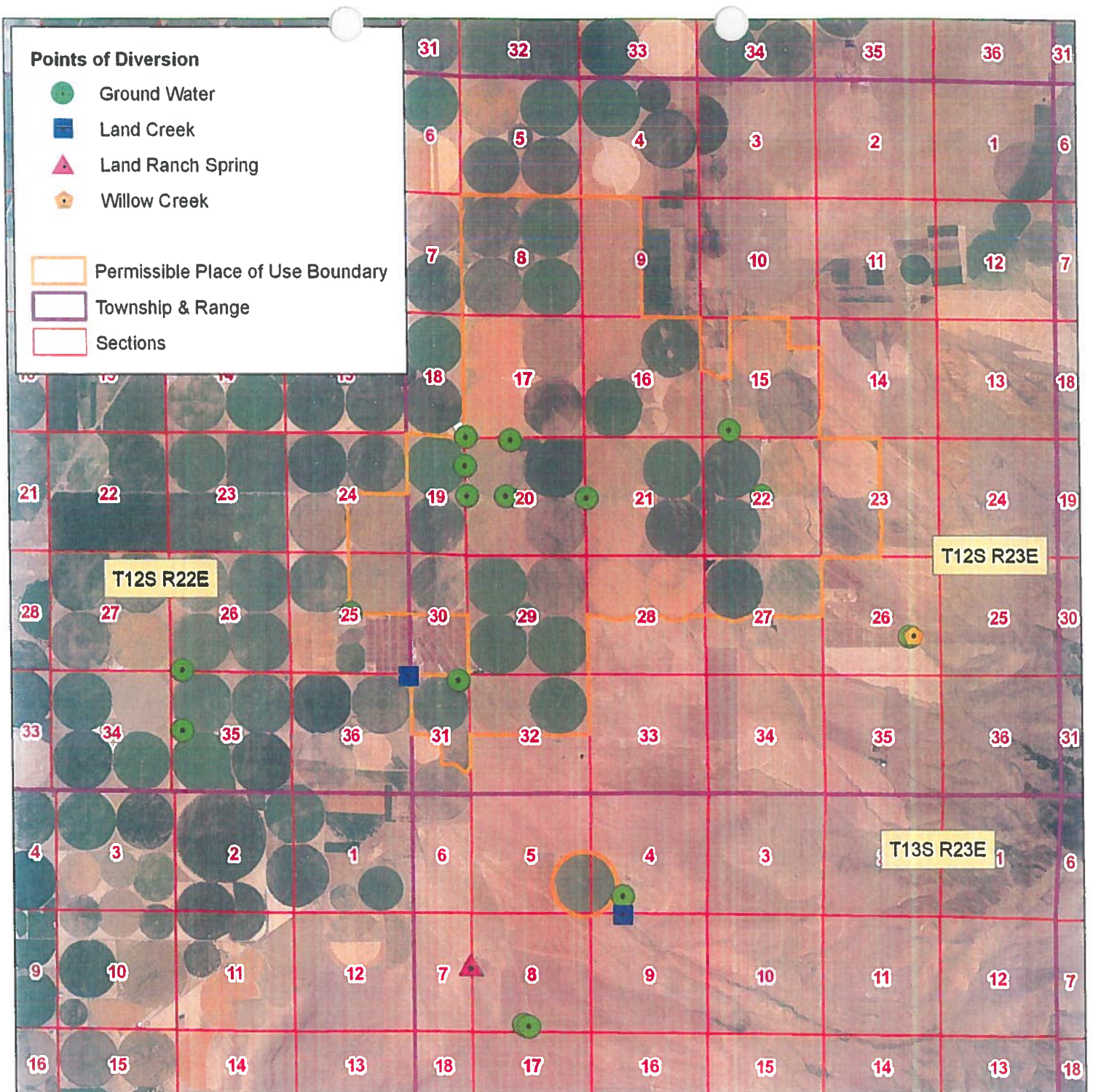


EXHIBIT B

BASIN	SEQNO	SUF	Irrigated		TOWNSHIP	RANGE	SEC	QQ	TOWN		RANG	SEC	QQ	Authorized	
			acres											Not Irrigated	
45	168		31.8	12S	22E	24	NESE	12S	22E	24	NESE		8.2		
45	168		32.0	12S	22E	24	NWSE	12S	22E	24	SESE		8.9		
45	168		32.0	12S	22E	24	SESE	12S	22E	24	SWSE		6.9		
45	168		31.7	12S	22E	24	SWSE	12S	22E	25	NENE		7.0		
45	168		33.9	12S	22E	25	NENE	12S	22E	25	NWNE		6.3		
45	168		32.4	12S	22E	25	NWNE	12S	22E	25	SWNE		4.8		
45	168		31.3	12S	22E	25	SENE	12S	22E	25	SWNE				
45	168		31.5	12S	22E	25	SWNE	12S	22E	25	SWNE				
45	2519		28.8	12S	23E	8	NENE	12S	23E	8	NENE		7.2		
45	2519		30.0	12S	23E	8	NWNE	12S	23E	8	NWNE		9.4		
45	2519		35.8	12S	23E	8	SENE	12S	23E	8	SENE		3.0		
45	2519		37.9	12S	23E	8	SWNE	12S	23E	8	SWNE		2.8		
45	2519		30.2	12S	23E	8	NENW	12S	23E	8	NENW		9.4		
45	2519		28.7	12S	23E	8	NWNW	12S	23E	8	NWNW		9.6		
45	2519		37.9	12S	23E	8	SENW	12S	23E	8	SENW		2.8		
45	2519		33.3	12S	23E	8	SWNW	12S	23E	8	SWNW		6.3		
45	4048 G		35.0	12S	23E	8	NESE	12S	23E	8	NESE		3.6		
45	4048 G		36.7	12S	23E	8	NWSE	12S	23E	8	NWSE		3.9		
45	4048 G		35.1	12S	23E	8	SESE	12S	23E	8	SESE		2.2		
45	4048 G		38.1	12S	23E	8	SWSE	12S	23E	8	SWSE		1.7		
45	4048 G		37.4	12S	23E	8	NESW	12S	23E	8	NESW		3.4		
45	4048 G		28.4	12S	23E	8	NWSW	12S	23E	8	NWSW		4.5		
45	4048 G		38.9	12S	23E	8	SESW	12S	23E	8	SESW		0.9		
45	4048 G		33.8	12S	23E	8	SWSW	12S	23E	8	SWSW		5.0		
45	4048 G		31.3	12S	23E	9	NENW	12S	23E	9	NENW		7.7		
45	4048 G		32.7	12S	23E	9	NWNW	12S	23E	9	NWNW		7.0		
45	4048 G		33.3	12S	23E	9	SENW	12S	23E	9	SENW		6.4		
45	4048 G		39.9	12S	23E	9	SWNW	12S	23E	9	SWNW		0.6		
45	4048 G		31.2	12S	23E	9	NESW	12S	23E	9	NESW		8.2		
45	4048 G		38.4	12S	23E	9	NWSW	12S	23E	9	NWSW		2.1		
45	4048 G		36.6	12S	23E	9	SESW	12S	23E	9	SESW		1.5		
45	4048 G		38.5	12S	23E	9	SWSW	12S	23E	9	SWSW		0.9		
0	0		1.4	12S	23E	14	SWNW								

45	168	0.9 12S	23E	14 NWSW	12S	23E	15 SWNE	3.4
45	168	0.5 12S	23E	14 SWSW				
0	0	0.2 12S	23E	15 NENE				
45	168	31.8 12S	23E	15 NWNE				
45	168	3.0 12S	23E	15 SENE				
0	0	32.7 12S	23E	15 SENE				
45	168	36.9 12S	23E	15 SWNE				
45	168	33.5 12S	23E	15 NENW				
45	168	34.1 12S	23E	15 SENW				
0	0	4.2 12S	23E	15 SENW				
45	168	2.6 12S	23E	15 SWNW	12S	23E	15 SWNW	1.4
45	168	37.6 12S	23E	15 NESE				
45	168	38.3 12S	23E	15 NWSE				
45	168	32.5 12S	23E	15 SESE				
45	168	34.3 12S	23E	15 SWSE				
0	0	2.1 12S	23E	15 SWSE				
45	168	3.0 12S	23E	15 NESW				
0	0	21.9 12S	23E	15 NESW	12S	23E	15 NWSW	1.8
45	168	33.5 12S	23E	15 NWSW				
45	168	2.0 12S	23E	15 SESW				
0	0	37.2 12S	23E	15 SESW	12S	23E	15 SWSW	0.9
45	168	28.8 12S	23E	15 SWSW				
45	168	32.1 12S	23E	16 NENE				
45	168	33.6 12S	23E	16 NWNE	12S	23E	16 SENE	1.5
45	168	36.2 12S	23E	16 SENE				
45	168	31.8 12S	23E	16 SWNE				
0	0	4.2 12S	23E	16 SWNE				
45	168	36.8 12S	23E	16 NENW	12S	23E	16 NENW	3.7
45	168	37.3 12S	23E	16 NWNW	12S	23E	16 NWNW	3.3
45	168	40.5 12S	23E	16 SENW				
45	168	39.5 12S	23E	16 SWNW	12S	23E	16 SWNW	1.1
45	168	40.0 12S	23E	16 NESE	12S	23E	16 NESE	0.3
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0	0	14.9 12S	23E	16 NWSE				
45	168	36.9 12S	23E	16 SESE				
45	168	17.1 12S	23E	16 SWSE	12S	23E	16 SWSE	0.6
0	0	18.7 12S	23E	16 SWSE	12S	23E	16 NESW	0.4
45	168	40.1 12S	23E	16 NESW	12S	23E	16 NWSW	2.9
45	168	37.6 12S	23E	16 NWSW	12S	23E	16 SESW	4.9
45	168	35.6 12S	23E	16 SESW	12S	23E	16 SWSW	1.8
45	168	38.8 12S	23E	16 SWSW				

45	168	36.4 12S	23E	17 NENE	12S	23E	17 NENE	4.4
45	168	37.0 12S	23E	17 NWNE	12S	23E	17 NWNE	4.0
45	168	39.3 12S	23E	17 SENE	12S	23E	17 SENE	1.5
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45	168	30.0 12S	23E	17 NWNW	12S	23E	17 NWNW	11.3
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45	168	35.0 12S	23E	17 SWNW	12S	23E	17 SWNW	6.4
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45	168	31.5 12S	23E	21 NWNE	12S	23E	21 NWNE	8.8
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45	168	39.7 12S	23E	21 SWNE	12S	23E	21 SWNE	0.6
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45	168	38.3 12S	23E	21 SENW	12S	23E	21 SENW	1.9
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45	168	38.2 12S	23E	21 NESE	12S	23E	21 NESE	2.1
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45	168	31.0 12S	23E	22 NWNE				
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0	0	4.5 12S	23E	22 SWNW				
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45	2254 B	33.7 12S	23E	22 SESE	12S	23E	22 SWSE	6.7
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45	168	37.1 12S	23E	22 NWSW				
45	168	32.7 12S	23E	22 SESW	12S	23E	22 SWSW	4.9
45	168	35.1 12S	23E	22 SWSW				
45	2254 B	34.8 12S	23E	23 NENW	12S	23E	23 NWNW	8.7
45	2254 B	30.5 12S	23E	23 NWNW	12S	23E	23 SENW	6.2
45	2254 B	33.7 12S	23E	23 SENW				
45	2254 B	31.7 12S	23E	23 SWNW	12S	23E	23 NESW	7.2
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45	2254 B	33.1 12S	23E	23 SESW	12S	23E	23 SWSW	9.6
45	2254 B	29.8 12S	23E	23 SWSW				

45	2254 B	28.9 12S	23E	27 NENE	12S	23E	26 SWNW	32.0
45	2254 B	27.8 12S	23E	27 NWNE	12S	23E	26 NWSE	30.6
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45	2254 B	29.9 12S	23E	27 NENW	12S	23E	27 NENE	5.3
45	2254 B	30.2 12S	23E	27 NWNW	12S	23E	27 NWNE	12.1
45	2254 B	34.7 12S	23E	27 SENW	12S	23E	27 SENE	6.8
45	2254 B	35.5 12S	23E	27 SWNW	12S	23E	27 SWNE	7.0
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45	2254 B	0.6 12S	23E	27 NWSE	12S	23E	27 NWNW	9.7
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45	168	31.4 12S	23E	28 NWNE	12S	23E	27 NESW	39.4
45	168	34.8 12S	23E	28 SENE	12S	23E	27 NWSW	38.5
45	168	34.5 12S	23E	28 SWNE	12S	23E	28 NENE	38.3
45	168	31.6 12S	23E	28 NENW	12S	23E	28 NENE	8.0
45	168	30.1 12S	23E	28 NWNW	12S	23E	28 NWNE	8.8
45	168	35.1 12S	23E	28 SENW	12S	23E	28 SENE	5.4
45	168	34.2 12S	23E	28 SWNW	12S	23E	28 SWNE	5.7
0	0	1.2 12S	23E	28 NESE	12S	23E	28 NENW	8.5
0	0	1.1 12S	23E	28 NWSE	12S	23E	28 NWNW	10.1
0	0	0.7 12S	23E	28 NESW	12S	23E	28 SENW	5.1
0	0	0.8 12S	23E	28 NWSW	12S	23E	28 SWNW	6.0
45	168	30.8 12S	23E	29 NENE	12S	23E	29 NENE	9.3
45	168	31.9 12S	23E	29 NWNE	12S	23E	29 NWNE	8.2
45	168	32.1 12S	23E	29 SENE	12S	23E	29 SENE	8.0
45	168	38.9 12S	23E	29 SWNE	12S	23E	29 SWNE	1.2
45	168	31.5 12S	23E	29 NENW	12S	23E	29 NENW	8.7
45	168	32.4 12S	23E	29 NWNW	12S	23E	29 NWNW	7.8
45	168	36.7 12S	23E	29 SENW	12S	23E	29 SENW	3.5
45	168	31.7 12S	23E	29 SWNW	12S	23E	29 SWNW	8.5
45	168	31.6 12S	23E	29 NESE	12S	23E	29 NESE	8.5
45	168	37.9 12S	23E	29 NWSE	12S	23E	29 NWSE	2.3
45	168	31.0 12S	23E	29 SESE	12S	23E	29 SESE	6.8
45	168	31.6 12S	23E	29 SWSE	12S	23E	29 SWSE	6.2
45	168	39.3 12S	23E	29 NESW	12S	23E	29 NESW	0.9

45	168	33.1 12S	23E	29 NWSW	12S	23E	29 NWSW	7.1
45	168	31.7 12S	23E	29 SESW	12S	23E	29 SESW	6.0
45	168	29.6 12S	23E	29 SWSW	12S	23E	29 SWSW	5.5
45	168	31.3 12S	23E	30 NENE	12S	23E	30 NENE	8.7
45	168	30.8 12S	23E	30 NWNE	12S	23E	30 NWNE	9.1
45	168	32.3 12S	23E	30 SENE				
45	168	33.4 12S	23E	30 SWNE				
45	168	28.5 12S	23E	31 NENE				
0	0	27.5 12S	23E	31 NWNE				
0	0	37.5 12S	23E	31 SENE				
0	0	31.4 12S	23E	31 SWNE				
0	0	34.3 12S	23E	31 NESE				
0	0	2.8 12S	23E	31 SESE				
0	0	26.7 12S	23E	32 NENE				
0	0	29.3 12S	23E	32 NWNE				
0	0	29.6 12S	23E	32 SENE				
0	0	32.6 12S	23E	32 SWNE				
0	0	30.1 12S	23E	32 NENW				
0	0	29.0 12S	23E	32 NWNW				
0	0	30.7 12S	23E	32 SENW				
0	0	30.0 12S	23E	32 SWNW				
0	0	25.6 13S	23E	4 NWSW				
0	0	27.6 13S	23E	4 SWSW				
0	0	0.3 13S	23E	5 SENE				
0	0	37.4 13S	23E	5 NESE				
0	0	4.9 13S	23E	5 NWSE				
0	0	38.1 13S	23E	5 SESE				
0	0	5.2 13S	23E	5 SWSE				
0	0	1.5 13S	23E	8 NENE				
0	0	0.3 13S	23E	9 NWNW				
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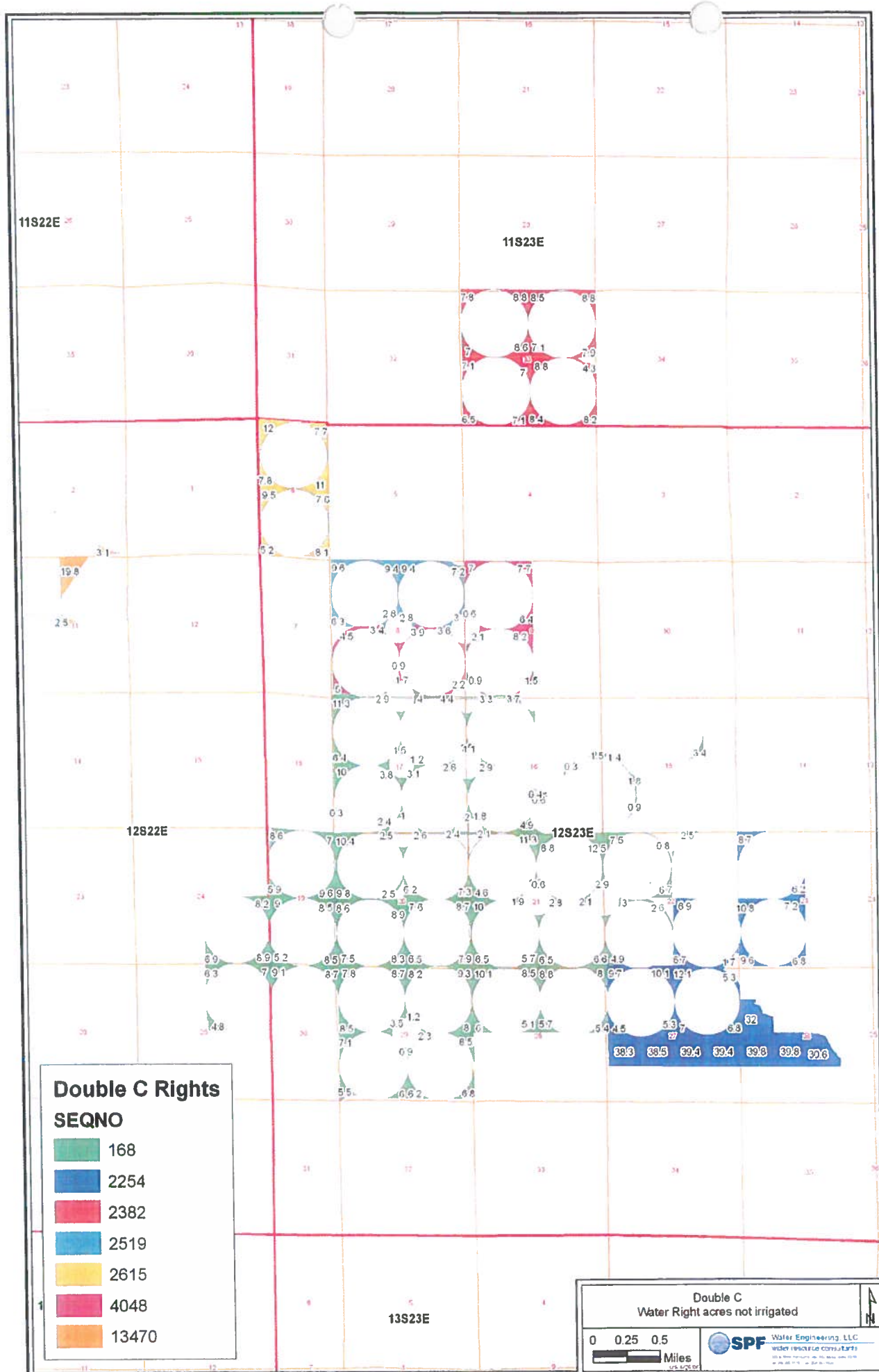


EXHIBIT D