



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

November 25, 2015

KIRK S EGBERT
KATHRYN H EGBERT
1402 E 1300 N
PO BOX 87
TERRETON ID 83450

RE: RELEASE OF WATER RIGHT NO(S). 31-7569, 31-7267A and 31-10964A FROM THE WATER SUPPLY BANK

Dear Mr. and Mrs. Egbert:

On September 18, 2014 the Department of Water Resources ("Department") executed lease contracts that accepted water rights 31-7084, 31-7569, 31-7267A and 31-10964A into the Water Supply Bank ("Bank") through December 31, 2018.

We received your request to release water rights 31-7267A and 31-10964A from the water supply bank on November 24, 2015. Upon review of this request we found that acres identified in the lease contract were not being idled under 31-7569.

This letter is notice that your lease contract is being cancelled and acceptance of water rights 31-7569, 31-7267A and 31-10964A into the Bank has been rescinded.

I have enclosed two original Water Supply Bank Lease Contracts for the remaining water right 31-7084, **for your review and signature. Please sign and return both Lease Contracts within 14 days.** Upon signature and return of the contracts, the Department will also sign the original contracts and return an executed copy to you. The Lease Contract is not considered final until you and the Department have both signed.

The right will automatically be released from the Bank on **December 31, 2018**, unless the rights are released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. To propose a new lease period, submit a new Application to Sell or Lease a Water Right to the Water Supply Bank form along with applicable fees to the Department. These forms are available from any IDWR office or from our public website at <http://www.idwr.idaho.gov>. Please note your rights may not be available for immediate release if they have been rented.

Please review the conditions of acceptance listed on the Lease Contract, including #3 which says:

"While a right is in the bank, the lessor may not use the right without approval of the department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B."

If you have any questions, please contact me at (208) 287-4910.

Sincerely,

Clay Webster
Water Resource Agent
Enclosure:

WATER SUPPLY BANK LEASE CONTRACT

This Lease Contract ("Lease") is effective January 1, 2014, between the Idaho Water Resource Board ("Board"), and

Lessor: KIRK S EGBERT
KATHRYN H EGBERT
KIRK S EGBERT RANCHES INC
1402 E 1300 N
PO BOX 87
TERRETON ID 83450
208-663-4505

RECEIVED

SEP 17 2014

DEPARTMENT OF
WATER RESOURCES

RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.
2. The Lessor has filed a completed application to lease water rights described below into the Water Supply Bank on forms supplied by the Idaho Department of Water Resources.
3. The Director of the Idaho Department of Water Resources has reviewed the application for compliance with the Water Supply Bank rules and has approved the Lease subject to conditions listed below.

NOW, THEREFORE, in consideration of the mutual covenants and contracts herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. **WATER RIGHTS:** The Lessor shall lease and the Board shall accept into the Bank the Applicant's water rights described as follows:

Summary of Water Rights or Portions Leased to the Bank

Water Right	Lease Rate	Lease Volume	Acre Limit	Total Leased Acres
31-7084	0.17 CFS	39.0 AF	NA	13.0 AC
31-7569	0.08 CFS	17.5 AF	NA	5.0 AC
31-7267A*	0.54 CFS	Not Stated	NA	53.0 AC
31-10964A*	0.63 CFS	185.5 AF	NA	53.0 AC
*Combined Lease Totals:	0.92 CFS	185.5 AF	NA	53.0 AC
Combined Lease Totals:	1.17 CFS	242.0 AF	NA	71.0 AC

The water rights described herein shall be available for rental from the Bank as follows:

Authorized Period of Use under Lease: See Individual water rights

2. **COMPENSATION:** The Lessor shall accept and the Board shall pay compensation determined by the amount of water rented under the following rental rate during such times as the water is rented from the Bank over the term of this Lease.

Minimum Payment Acceptable: Current Rental Rate

SUPPORT DATA

IN FILE # 31-7084

RELEASED
NOV 21 2015

SCANNED

SEP 18 2014

3. **TERM OF LEASE:** This Lease shall take effect when both parties have signed it and shall continue in effect until December 31, 2018.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.
5. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

IN WITNESS WHEREOF, the parties have executed this Contract on the date following their respective signatures.

KIRK S EGBERT
KATHRYN H EGBERT
KIRK S EGBERT RANCHES INC
1402 E 1300 N
PO BOX 87
TERRETON ID 83450

By

Printed Name


Kirk S. Egbert

Date

9/13/14
President

IDAHO WATER RESOURCE BOARD
322 East Front Street
P.O. Box 83720
Boise, ID 83720-9098

By

Brian Patton, Acting Administrator
Idaho Water Resource Board

Date

September 18, 2014

Lease approved by IDWR



Date

September 18, 2014

ATTACHMENT A
WATER RIGHT NO. 31-7084
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

The water right or portion thereof leased to the bank is described as follows:

Lessor: KIRK S EGBERT
KATHRYN H EGBERT
KIRK S EGBERT RANCHES INC
1402 E 1300 N
PO BOX 87
TERRETON ID 83450
208-663-4505

Priority Date: 03/26/1973

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	to 10/31	0.17 CFS	39.0 AF
	Total:		0.17 CFS	39.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec.32 Twp 06N Rge 34E JEFFERSON County

PLACE OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	34E	32					2.5	1.0	1.0	2.5	2.0	1.0	1.0	2.0					13.0

Total Acres: 13.0

ADDITIONAL CONDITIONS OF ACCEPTANCE

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, the lease term expires, or upon request from the lessor to change the term of the lease, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.
5. While a water right is in the bank, forfeiture provisions are stayed.
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.

8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.
9. In accordance with Idaho Code §§ 42-248 and 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
 - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season.
 - b. If a change in ownership is processed by the Department during a rental season, rental payment will be made to the person or entity who is the lessor of record at the beginning of that rental season.
 - c. New lessor(s) of record will receive payment after the following rental season.
11. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

ATTACHMENT A
WATER RIGHT NO. 31-7569
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

The water right or portion thereof leased to the bank is described as follows:

Lessor: KIRK S EGBERT
KATHRYN H EGBERT
KIRK S EGBERT RANCHES INC
1402 E 1300 N
PO BOX 87
TERRETON ID 83450
208-663-4505

Priority Date: 12/12/1975

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	to 11/01	0.08 CFS	17.5 AF
	Total:		0.08 CFS	17.5 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NW¼SE¼ Sec. 28 Twp 06N Rge 35E JEFFERSON County

PLACE OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	35E	28													2.5			2.5	5.0

Total Acres: 5.0

ADDITIONAL CONDITIONS OF ACCEPTANCE

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, the lease term expires, or upon request from the lessor to change the term of the lease, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.
5. While a water right is in the bank, forfeiture provisions are stayed.
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.

8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.
9. In accordance with Idaho Code §§ 42-248 and 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
 - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season.
 - b. If a change in ownership is processed by the Department during a rental season, rental payment will be made to the person or entity who is the lessor of record at the beginning of that rental season.
 - c. New lessor(s) of record will receive payment after the following rental season.
11. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

ATTACHMENT A
WATER RIGHT NO. 31-7267A
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

The water right or portion thereof leased to the bank is described as follows:

Lessor: KIRK S EGBERT
KATHRYN H EGBERT
KIRK S EGBERT RANCHES INC
1402 E 1300 N
PO BOX 87
TERRETON ID 83450
208-663-4505

Priority Date: 09/07/1977

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	04/01	to 11/01	0.54 CFS
	Total:		0.54 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER L1(SW¼SE¼NE¼) Sec. 6 Twp 05N Rge35E JEFFERSON County

PLACE OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N	35E	5							3.0 L3			5.0							8.0
05N	35E	6			12.0 L2	6.0 L1				6.0 L3	5.0				7.0	9.0			45.0

Total Acres: 53.0

COMBINED LIMITS OF LEASED RIGHT:

<u>Combined Rights</u>	<u>Lease Rate</u>	<u>Lease Volume</u>	<u>Acre Limit</u>	<u>Total Leased Acres</u>
31-7267A and 31-10964A	0.92 CFS	185.5 AF	53.0 AC	53.0 AC

ADDITIONAL CONDITIONS OF ACCEPTANCE

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.

4. A right accepted into the bank stays in the bank until the Board releases it, the lease term expires, or upon request from the lessor to change the term of the lease, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.
5. While a water right is in the bank, forfeiture provisions are stayed.
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.
9. In accordance with Idaho Code §§ 42-248 and 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
 - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season.
 - b. If a change in ownership is processed by the Department during a rental season, rental payment will be made to the person or entity who is the lessor of record at the beginning of that rental season.
 - c. New lessor(s) of record will receive payment after the following rental season.
11. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.
12. The unleased portion of this right is limited to the irrigation of 232.0 acres within the place of use described above in a single irrigation season.
13. The unleased portion of this right with the unleased portion of right no. 31-10964A is limited to the irrigation of a combined total of 249.0 acres in a single irrigation season.
14. The unleased portions of water rights 31-7267A and 31-10964A are limited to a total combined diversion rate of 4.32 cfs and combined diversion volume of 871.5 af in a single irrigation season.

ATTACHMENT A
WATER RIGHT NO. 31-10964A
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

The water right or portion thereof leased to the bank is described as follows:

Lessor: KIRK S EGBERT
KATHRYN H EGBERT
KIRK S EGBERT RANCHES INC
1402 E 1300 N
PO BOX 87
TERRETON ID 83450
208-663-4505

Priority Date: 02/25/1959

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	to 10/31	0.63 CFS	185.5 AF
Total:			0.63 CFS	185.5 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER L1(SW¼SE¼NE¼) Sec. 6 Twp 05N Rge 35E JEFFERSON County

PLACE OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N	35E	5							3.0 L4			5.0							8.0
05N	35E	6			12.0 L2	6.0 L1				6.0 L3	5.0				7.0	9.0			45.0

Total Acres: 53.0

Limited to acres within place of use described above: NA

COMBINED LIMITS OF LEASED RIGHT:

<u>Combined Rights</u>	<u>Lease Rate</u>	<u>Lease Volume</u>	<u>Acre Limit</u>	<u>Total Leased Acres</u>
31-7267A and 31-10964A	0.92 CFS	185.5 AF	53.0 AC	53.0 AC

ADDITIONAL CONDITIONS OF ACCEPTANCE

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.

4. A right accepted into the bank stays in the bank until the Board releases it, the lease term expires, or upon request from the lessor to change the term of the lease, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.
5. While a water right is in the bank, forfeiture provisions are stayed.
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.
9. In accordance with Idaho Code §§ 42-248 and 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
 - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season.
 - b. If a change in ownership is processed by the Department during a rental season, rental payment will be made to the person or entity who is the lessor of record at the beginning of that rental season.
 - c. New lessor(s) of record will receive payment after the following rental season.
11. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.
12. The unleased portion of this right is limited to the irrigation of 177.0 acres within the place of use described above in a single irrigation season.
13. The unleased portions of this right with the unleased portions of right no. 31-7267A is limited to the irrigation of a combined total of 249.0 acres in a single irrigation season.
14. The unleased portions of water rights 31-7267A and 31-10964A are limited to a total combined diversion rate of 4.32 cfs and a total combined diversion volume of 871.5 af in a single irrigation season.

STATE OF IDAHO
WATER RESOURCE BOARD
WATER SUPPLY BANK
REQUEST TO EXTEND LEASE TERM

RECEIVED
DEC 26 2013
DEPARTMENT OF
WATER RESOURCES

ONE FORM PER WATER RIGHT

This form is a statement that the lessor requests an extension of a Water Supply Bank ("Bank") lease for the water right identified below. A water right remains in the Bank for the accepted lease period unless released earlier by the Water Resource Board or until the lessor submits a request in writing to the Department of Water Resources to release the right from the Bank. However, if a water right is currently rented, the portion of the right being rented must remain in the Bank for the duration of the rental agreement.

If requesting a change in lease amounts (reducing or increasing acreage, etc.), you must file an Application to Sell or Lease a Water Right to the Water Supply Bank. This form can be found on IDWR's website at: www.idwr.idaho.gov.

Water Right No: 31-10964A
31-7084, 31-7267A Telephone No: 208-663-4505
Name(s) of Lessor(s): Kirk Egbert
Mailing Address: 1402 E 1300 N
City: Terveton State: ID Zip: 83450
Current Expiration Date: 12/31/13
Requested Expiration Date: 12/31/18
Lease term not to exceed 5 years.

All lease extension request forms must be signed and submitted with the following REQUIRED items:

1. Plat map, survey map or aerial photograph clearly showing the specific acres proposed to be idled for the duration of this lease.
2. Filing fee of \$250.00. If you are submitting more than one lease application and the rights have a common place of use or common diversion rate or common diversion volume, the combined maximum fee is \$500.00.
3. A completed Internal Revenue Service (IRS) Form W-9 (attached). If your water right is rented, we will be unable to issue payment to you without a current W-9 form.

The lessor requests that the above water right remain in the Bank through the date referenced above.

Signature of Lessor: [Signature] Printed Name and Title*: Kirk Egbert President Date: 12/21/13
Signature of Lessor: _____ Printed Name and Title*: _____ Date: _____

*Please provide title of signatory if signing on behalf of a company or organization or with power of attorney

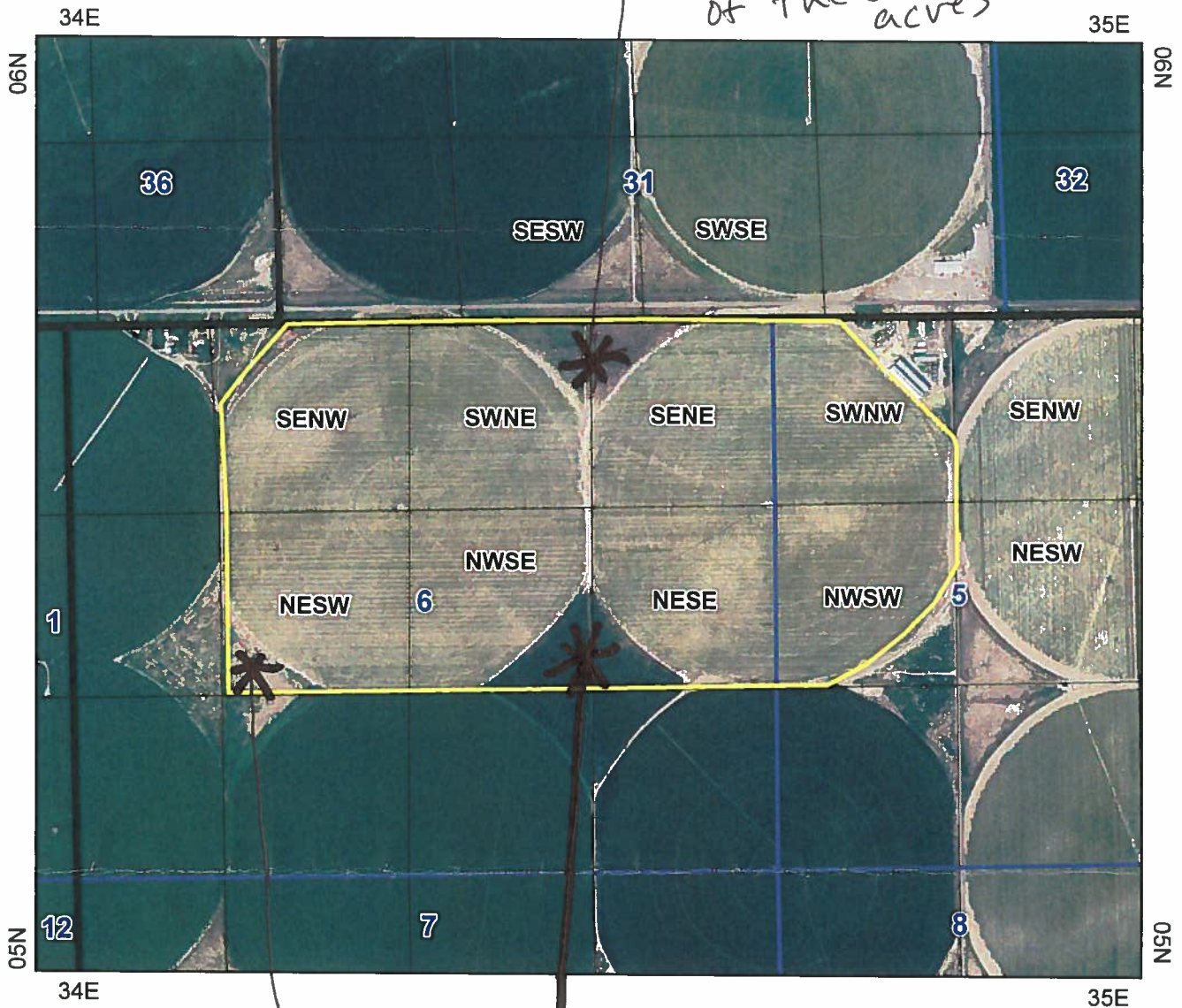
Mail to: Idaho Department of Water Resources, P.O. Box 83720, Boise, ID 83720-0098

FOR OFFICE USE ONLY

Filing fee received by: [Signature] Date: 12-26-13 Receipt No: 2098115

State of Idaho
Department of Water Resources
Water Right License
31-7267A

These 2 corners
are dry and part
of the set aside
acres



-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

This
corner
is dry
and part
of the
water bank
set aside acres

These 2 corners
are dry and part
of the set aside
acres





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

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GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
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September 18, 2014

KIRK S EGBERT
KATHRYN H EGBERT
KIRK S EGBERT RANCHES INC
1402 E 1300 N
TERRETON ID 83450

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHTS 31-7084, 31-7569, 31-7267A and 31-10964A

Dear Lessor:

Water Rights 31-7084, 31-7569, 31-7267A and 31-10964A were leased into the Water Supply Bank on January 1, 2014 in accordance with the executed original Lease Contract enclosed. **Your water rights as described on the Lease Contract are considered leased into the Bank and should remain unused until they are formally released from the Bank.**

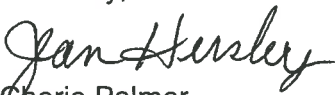
The rights will automatically be released from the Bank on **December 31, 2018**, unless the rights are released earlier by the Board, or upon your request. **Please note your rights may not be available for immediate release if they have been rented.** To release the right from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available from our public website at www.idwr.idaho.gov.

Please review the conditions of acceptance listed on the Lease Contract, including #3 which says:

"While a right is in the bank, **the lessor may not use the right** without approval of the department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B."

If you have questions regarding this matter, please contact me at 287-4944.

Sincerely,


for Cherie Palmer

Water Rights Supervisor
WSB Process Point of Contact

Enclosure: Executed Lease Contract

c: James Cefalo – IDWR Eastern Region and Water District No. 110



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

September 9, 2014

KIRK S EGBERT
1402 E 1300 N
PO BOX 87
TERRETON ID 83450

**RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 31-7084, 31-7569, 31-7267A and 31-10964A
TO THE WATER SUPPLY BANK**

******TIME SENSITIVE RESPONSE REQUIRED******

Dear Applicant:

The Department of Water Resources has completed its review of your application to lease the above-mentioned water right to the Water Supply Bank. **I have enclosed two original Water Supply Bank Lease Contracts for your review and signature. Please sign and return BOTH Lease Contracts within 14 days.** Upon signature and return of the contracts, the Department will also sign the original contracts and return an executed copy to you. The Lease Contract is not considered final until you and the Department have both signed.

The rights will automatically be released from the Bank on **December 31, 2018**, unless the rights are released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. To propose a new lease period, submit a new Application to Sell or Lease a Water Right to the Water Supply Bank form along with applicable fees to the Department. These forms are available from any IDWR office or from our public website at <http://www.idwr.idaho.gov>. Please note your rights may not be available for immediate release if they have been rented.

Please review the conditions of acceptance listed on the Lease Contract, including #3 which says:

"While a right is in the bank, **the lessor may not use the right** without approval of the department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B."

If you have questions regarding this matter, please contact me at 287-4944.

Sincerely,

 Cherie Palmer
Water Rights Supervisor
WSB Process Point of Contact

Enclosure: Proposed Lease Contracts

MEMORANDUM

TO: Water Right Files 31-7084, 31-7267A, 31-7569 & 31-10964A

FROM: Pam Skaggs

SUBJECT: Phone conversation with Kirk Egbert regarding lease acres

DATE: 05-12-2014

I spoke on the telephone today with Kirk Egbert right holder and lease applicant for the rights referenced above. Review and evaluation of these rights during the previous lease years found that while acres dried-up were roughly equivalent to the leased acres in numbers, they were not accurately described. (See Dan Nelson's 04-07-2014 memo.) Mr. Egbert noted that he has no plans to change his system this year from 2013 irrigation practices and is comfortable with the leases representing the 71 non-irrigated acres identified by Dan in his review. Leases will be drafted to reflect the 71 acres retired in 2013. A map will be sent to Mr. Egbert along with the Lease contracts to clearly define the location of the leased acres.

MEMORANDUM

TO: Water Right Files 31-7084, 31-7569, 31-7267A, and 31-10964A
FROM: Daniel A. Nelson
DATE: April 7, 2014
SUBJECT: Kirk Egbert Water Supply Bank Lease

SUMMARY

I have been asked to review an existing Water Supply Bank Lease on water rights 31-7084, 31-7569, 31-7267A, and 31-10964A. I compiled a memo on January 24, 2012 on this same lease, and this memo is an updated version of my earlier memo. I have also included maps with this memo. During this review, I reviewed the 2013 NAIP aerial photography and the 2013 LandSat satellite photos. According to the September 17th 2010 lease application, a total of 74 acres were to be leased to the Water Supply Bank, and the lands formerly irrigated ground was supposed to have been retired. In 2011, I found that majority of the acres had not been retired under the lease, and the full amount was being used at the place where the water was moved to under the rental agreement. The existing Water Supply Bank lease would retire 20 acres from water right 31-7084, 38 acres from water rights 31-7267A and 31-10964A, and 16 acres from water right 31-7569. My evaluation from 2012 and my evaluation of the 2013 aerial photography shows the following:

Water Right	Water Right Acres	Acres Actually Irrigated in 2011	Acres Actually Irrigated in 2013	Acres From Original Water Right Not irrigated 2011	Acres From Original Water Right Not irrigated 2013	Acres Required To Be Retired For Water Supply Bank Lease
31-7084	272	262	259	10	13	20
31-7569	142	140	137	2	5	16
31-7267A & 31-10964A When Combined.	302	284	249	18	53	38
TOTALS				30	71	74

As you can see from the above table, I determined that of the 74 acres that were to be retired under this lease, only 30 acres were actually retired in 2011 and 71 acres retired in 2013.

This water right has been rented. The rental was used to cover approximately 287 acres of irrigation in Section 1 and Section 2 of Township 7 North, Range 37 East. The existing water rights on this land allowed the following:

Water Rights	Acres Allowed
31-11954	11.1
31-11947	42.9
31-11410, 31-11414, and 31-11428 When Combined for 2011.	140
TOTAL	194 ACRES ALLOWED BY WATER RIGHTS

The table above shows that the water rights allowed 194 acres to be irrigated. The Water Supply Bank rental allowed an additional 74 acres for a total of 268 acres of irrigation. However, only 30 acres under the lease were actually retired in 2011 and 71 acres under the lease were actually retired in 2013. If we only allowed the acres that were retired under the lease to be moved to the new place of use, then the acres allowed would be 224 acres in 2011 and 265 acres in 2013. I am not sure we can allow only a partial lease or not, but I want to show the relationship between actual irrigated ground and the water rights both in and out of the Water Supply Bank.

My 2012 memo was given to Rob Whitney, and there was some confusion over the actual acres irrigated per the USDA Farm Service Agency (FSA) maps, which only showed 247.1 acres being irrigated. The FSA maps did remove the rock piles from the underneath of the pivot, even though they were being irrigated. While working with Mr. Whitney, Denise Kidman of our eastern region office tried to duplicate the FSA maps and came up with 262.4 acres in 2009 and 273 acres in 2011. The discrepancy between Ms. Kidman's maps and the FSA maps were never resolved, and a Notice of Violation or Pending Notice of Violation was never issued. I spoke with Rob Whitney, and he agreed that it appears that this file needs to be researched further. I will send a copy of this memo to Mr. Whitney.

I reviewed the acres irrigated on the rental property in 2013 and found that not much had changed. The following is a listing of my findings:

Water Rights and Water Supply Bank Rentals allow =	268 acre (With Full 74 acre Rental)
Water Rights and 2011 Actual Retired acres allow =	224 acres (only 30 acres retired)
Water Rights and 2013 Actual Retired acres allow =	265 acres (only 71 acres retired)

Acres actually irrigated on rental acres (Sections 1 and 2) per the different sources:

Dan Nelson's 2011 map including rock piles =	287 acres
2010 FSA map excluding rock piles =	247.1 acres
Denise Kidman's 2009 map excluding rock piles =	262.4 acres
Denise Kidman's 2012 map excluding rock piles =	273 acres
Dan Nelson's 2013 map including rock piles =	276 acres
Dan Nelson's 2013 map excluding rock piles =	269 acres

From the information above, if the Mr. Egbert had retire the full 74 acres, and the Department agreed to remove the rock piles from the acres being irrigated, Mr. Egbert would have been pretty close to being in compliance in 2013. However, Mr. Egbert retired 71 acres of the 74 acre lease agreement, so there is a bit larger discrepancy in the number of acres that can be irrigated. From my review, the full 74 acres has not been retired, and the full amount of ground irrigated with or without the rock piles was irrigated.

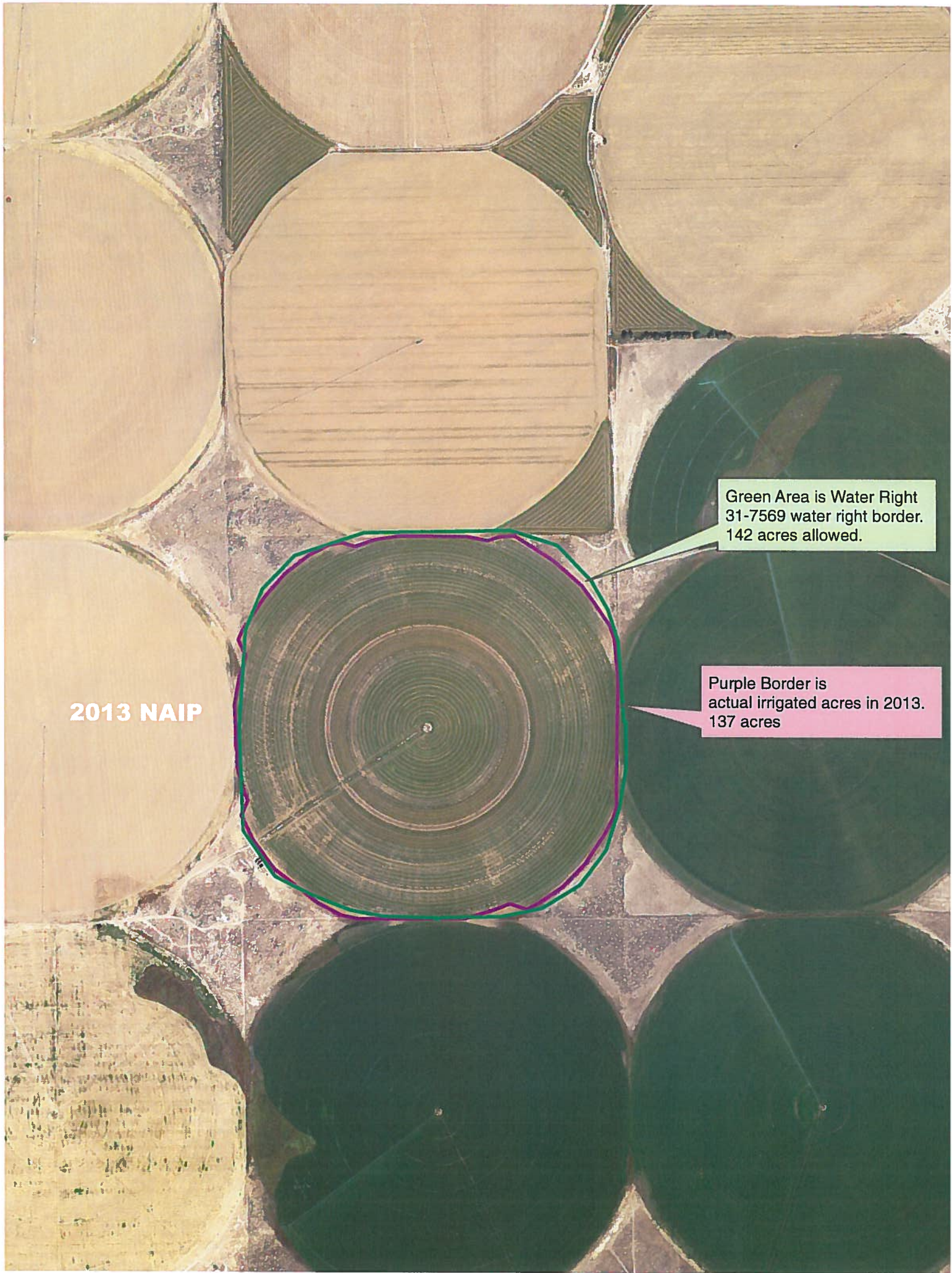
In conclusion, the full 74 acres under the lease agreement has never been retired. The maximum number of acres that have been retired under the lease agreement is 71 acres in 2013. The proper number of acres were not retired in 2011, so it wasn't until we started the investigation in 2012 that a fairly close number of acres were retired. The acres irrigated at the place of use for the rental portion of this agreement have been fully irrigated, so the full 74 acres under the lease would be required to legally irrigate these acres. The amount of discrepancy between the numbers is dependent on whether or not the Department includes the rock piles in the number of acres irrigated or not and the determination of the validity of the lease agreement with the reduced number of acres that were retired. The final question is whether the Water Supply Bank lease can allow a somewhat permissible place of use type of retirement on water rights that are not physically connected together.

- the answer to this question is NO. Individual water rights are under contract which include acres to be idled, within their place of use (as designated on water right). -cp

2013 NAIP

Green Area is Water Right
31-7569 water right border.
142 acres allowed.

Purple Border is
actual irrigated acres in 2013.
137 acres





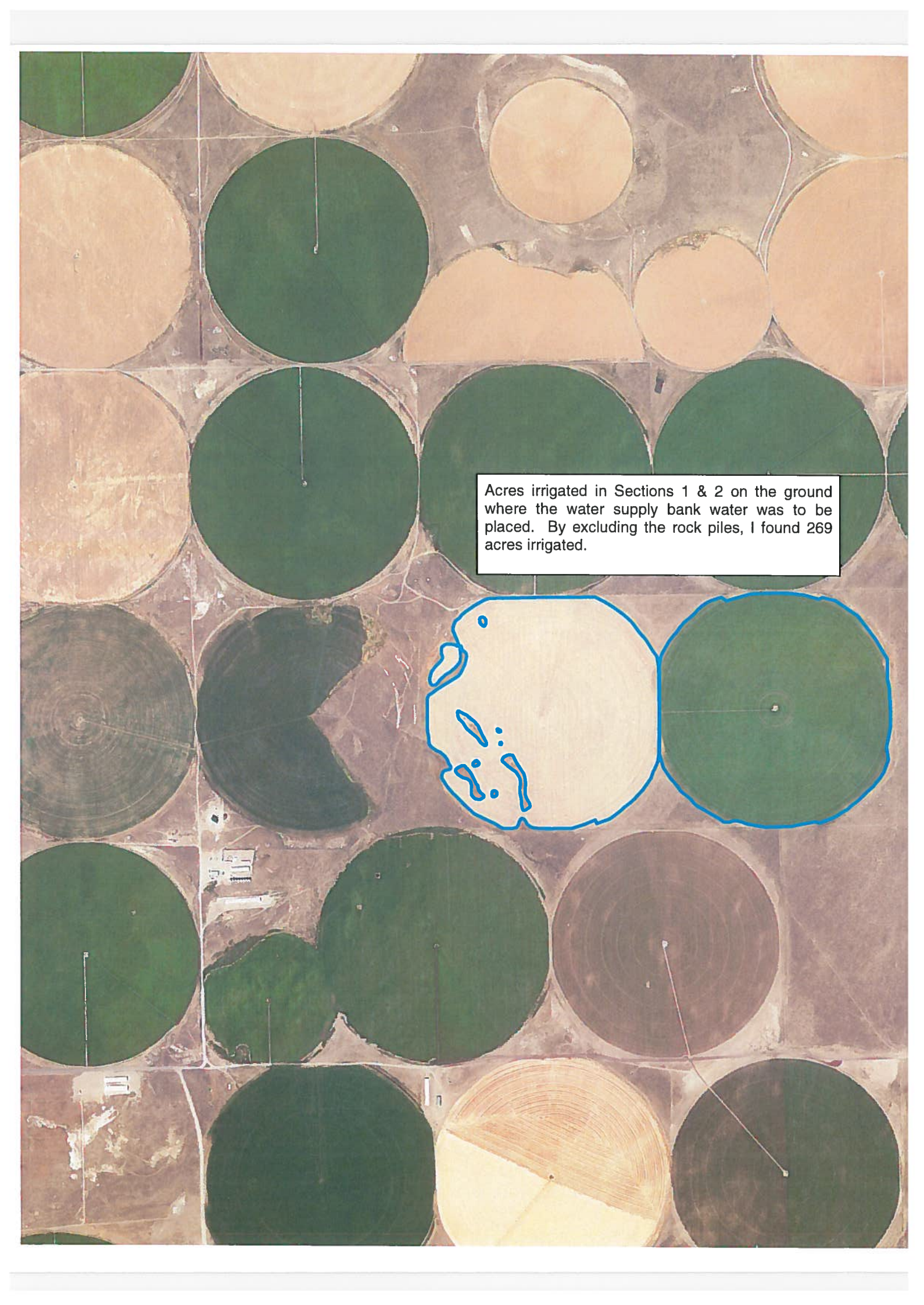
2013 NAIP

Green Area is Water Rights
31-7267A and 31-10964A
Water Right Border
302 acres allowed

Purple Border is
actual irrigated acres in 2013.
249 acres



Acres irrigated in Sections 1 & 2 on the ground where the water supply bank water was to be placed. Actual total irrigation including rock piles equals 276 acres.



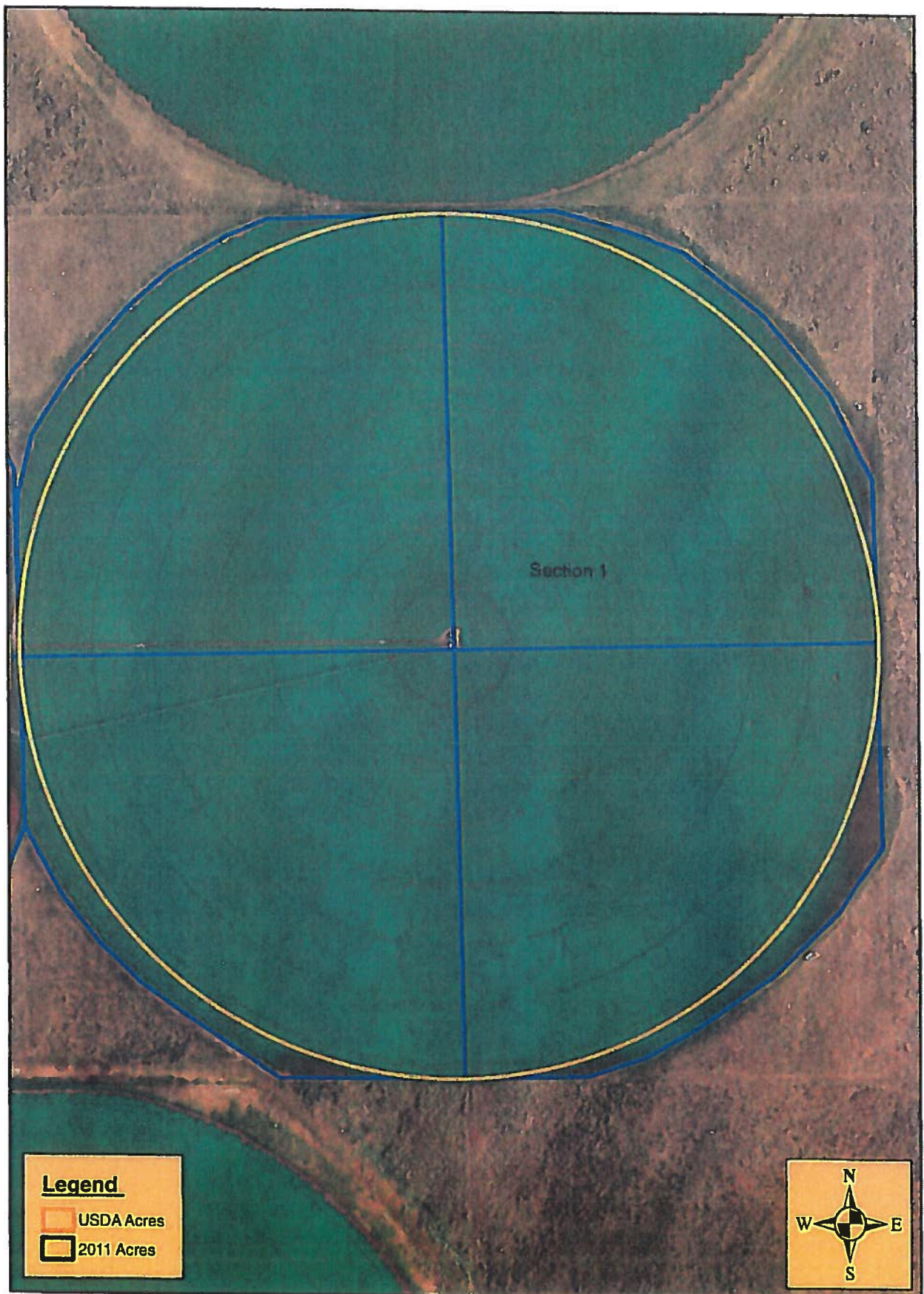
Acres irrigated in Sections 1 & 2 on the ground where the water supply bank water was to be placed. By excluding the rock piles, I found 269 acres irrigated.

**WRs: 31-11410, 31-11414, 31-11428, 31-11947 and 31-11954
273 Irrigated Acres- Kirk Egbert**



*Denise Kidman's map
DAN*

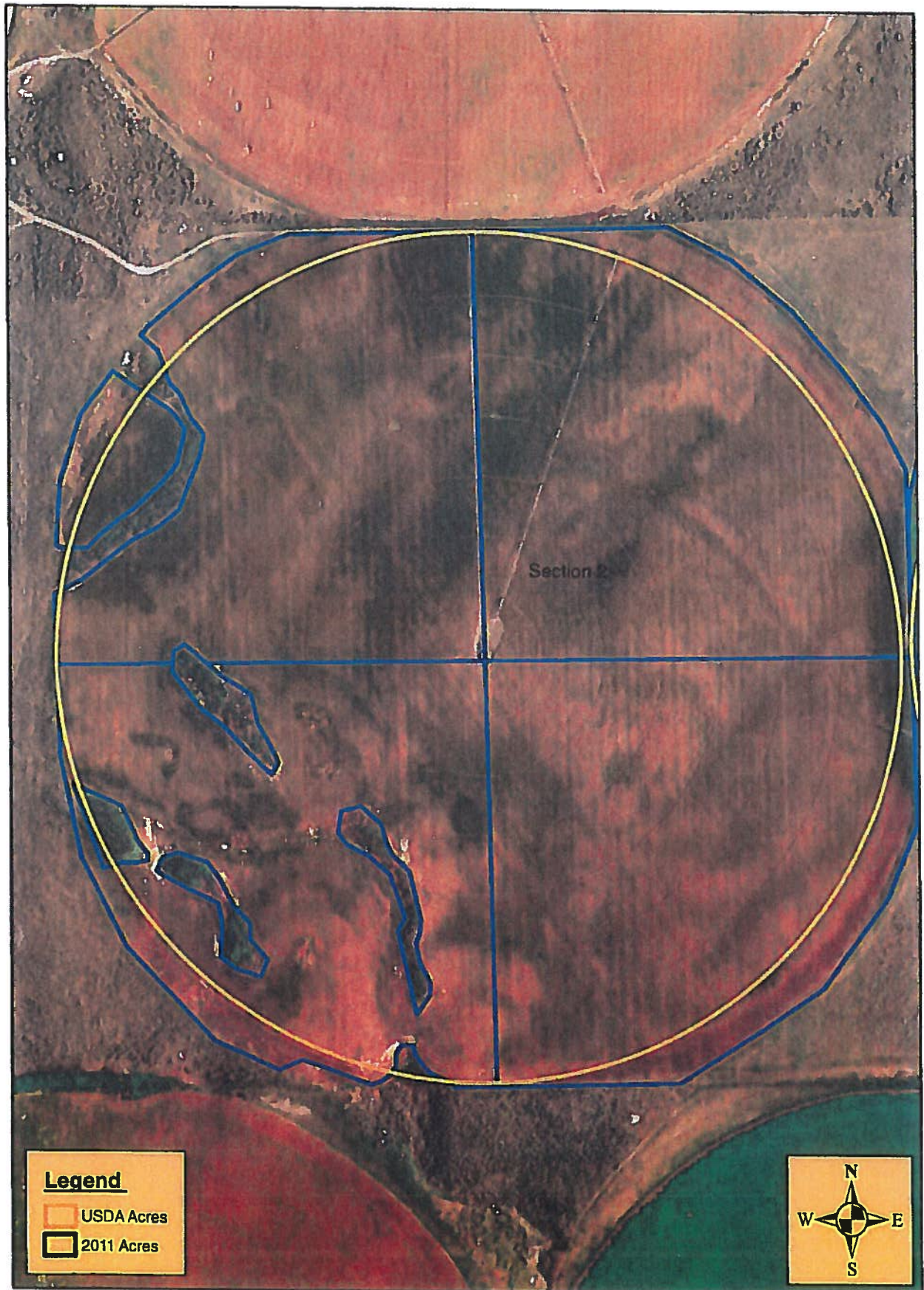
Kirk Egbert- USDA Acres vs. Actual Irrigated Acres Section 1- 2011 Imagery



138.8 Acres

Dewige Kidman's Map
DAN

Kirk Egbert- USDA Acres vs. Actual Irrigated Acres Section 2- 2011 Imagery



134 Acres

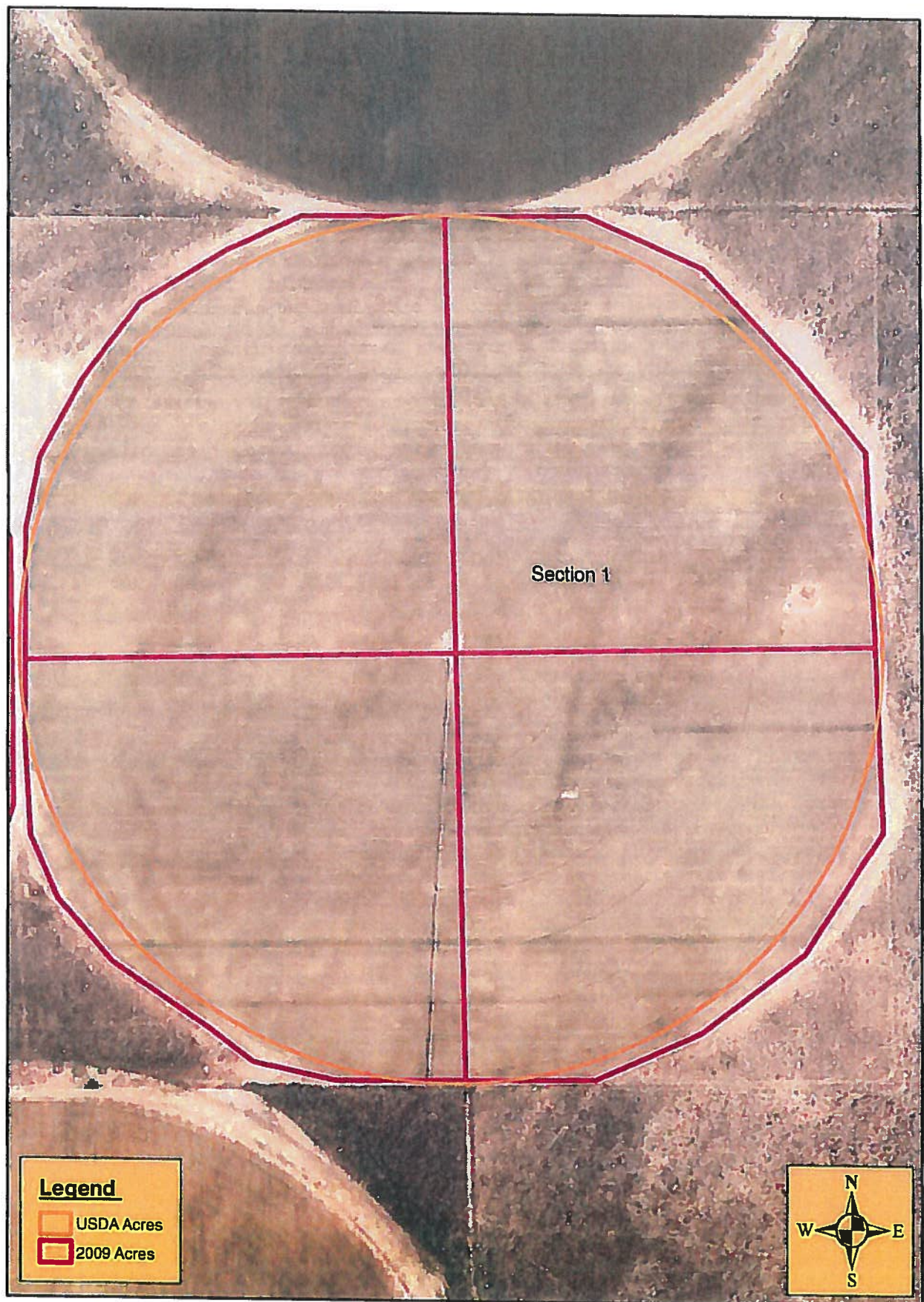
Denise Kidman's map
DAN

**WRs: 31-11410, 31-11414, 31-11428, 31-11947 and 31-11954
262.4 Irrigated Acres- Kirk Egbert**



*Denise Kidman's maps
DAN.*

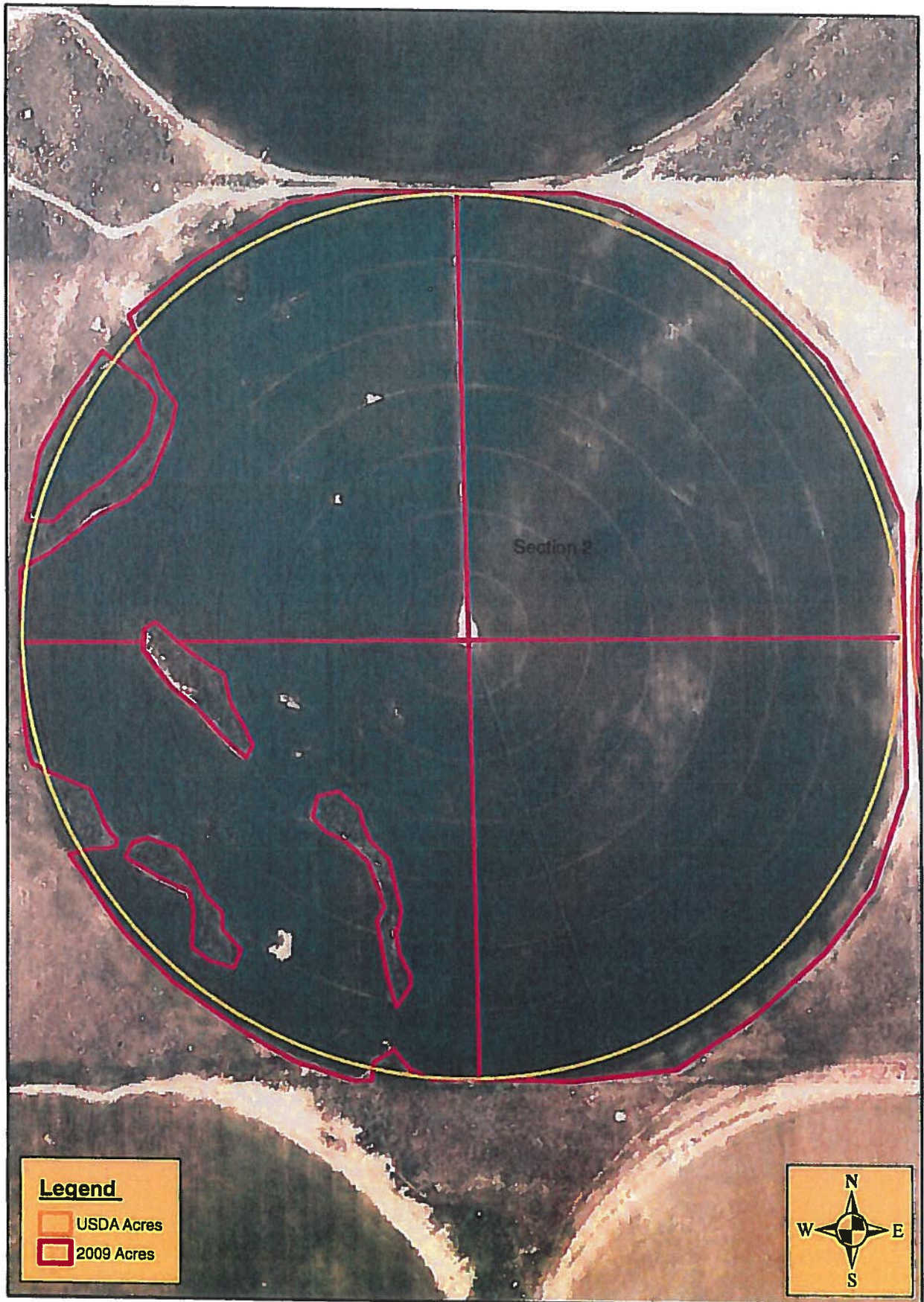
Kirk Egbert- USDA Acres vs. Actual Irrigated Acres Section 1- 2009 Imagery



136 Acres

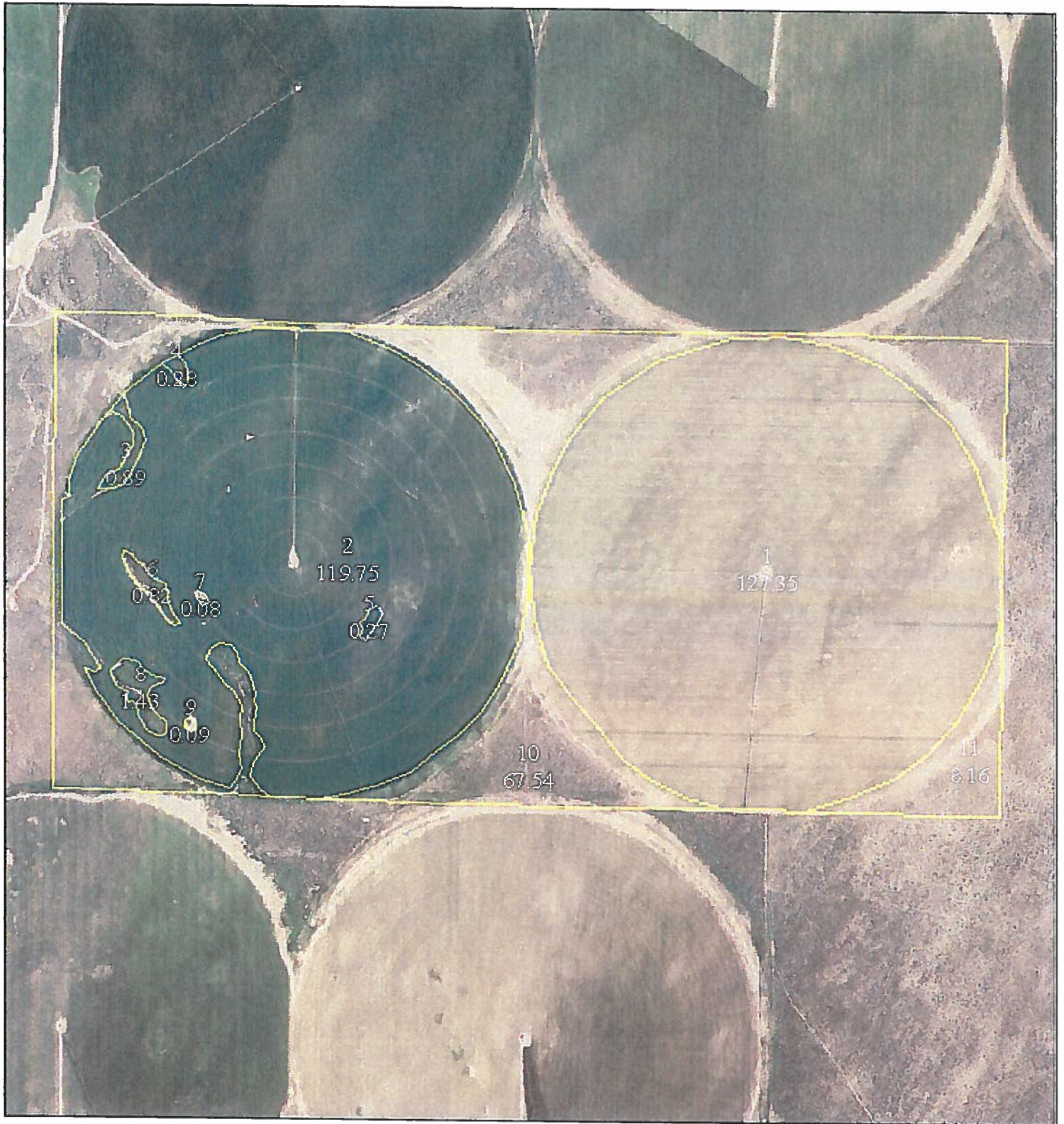
Denise Kidman's maps
DAN

Kirk Egbert- USDA Acres vs. Actual Irrigated Acres Section 2- 2009 Imagery



126.4 Acres

Denise Kidman's map
Oaks



USDA United States Department of Agriculture
Farm Service Agency



January 25, 2010

Digital Orthophotography
Not to Scale

FARM 4106
TRACT 10324
KIRK S EGBERT RANCHES INC-OP
KIRK & KATHRYN EGBERT-OW
1,2-7-37

Disclaimer: Wetland identifiers do not represent the size, shape or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact wetland boundaries and determinations, or contact NRCS.



2013 NAIP

Green Area is Water Right
31-7084 Water Right Border
272 acres allowed.

Purple Border is
actual irrigated acres in 2013.
259 acres

RECEIVED

MAR 26 2014

DEPARTMENT OF
WATER RESOURCES

3-24-2014

Cherie,

Here are the maps you are looking for.

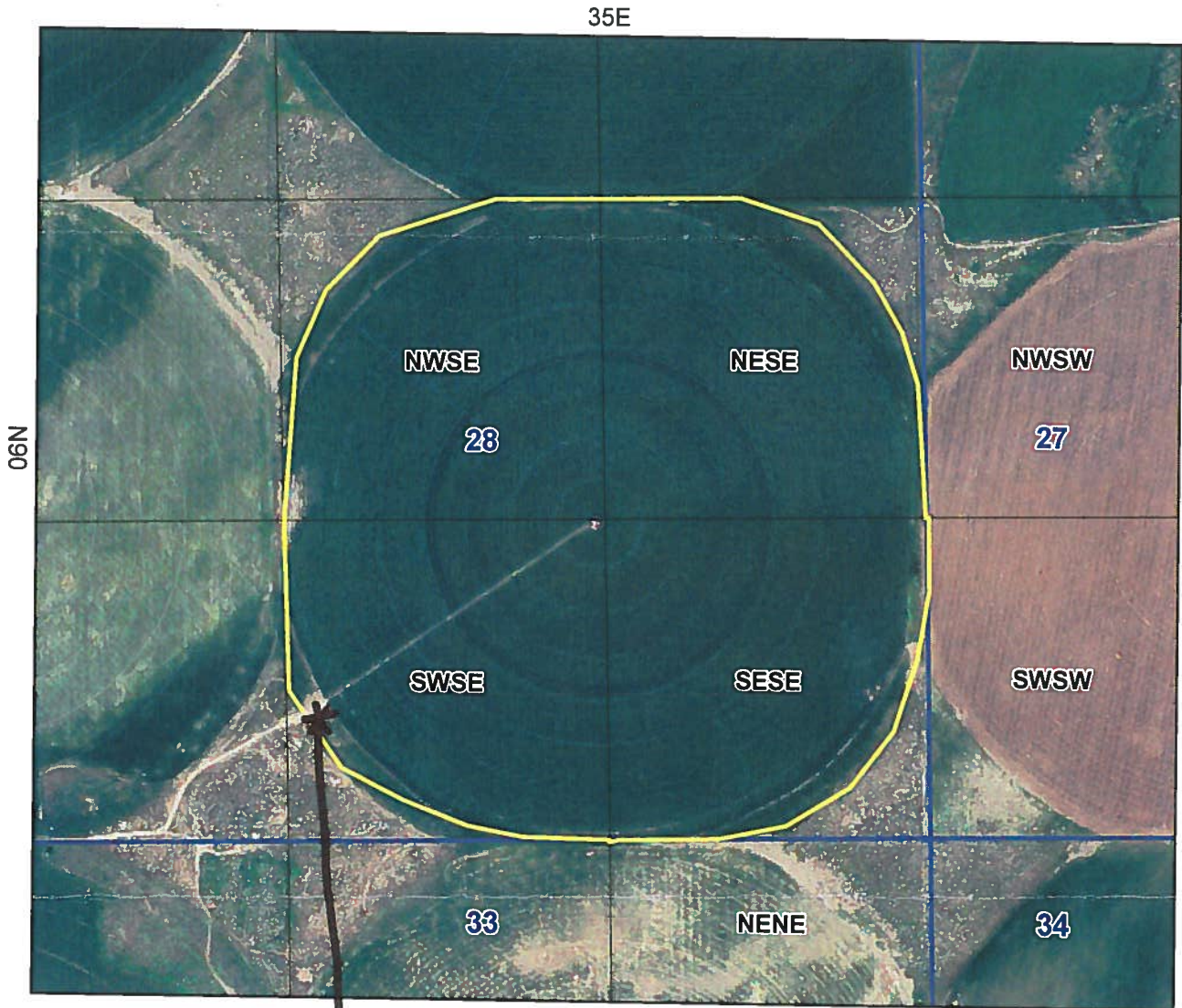
If you have anymore questions, you can call me at 208-663-4505. I know some of those corners look irrigated but they aren't. I must have been the spring rains that made them look irrigated. We also have a stepped up water right involved with this that expands at 5 acres per year.

Thank you,

Kirk Egbert

My cell phone is
208-716-2750

State of Idaho
Department of Water Resources
Water Right License
31-7569



- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters

This corner is dry, but the other corners we've started watering again because of our stepped up water right that we get 5 ^{additional} acres to water every year



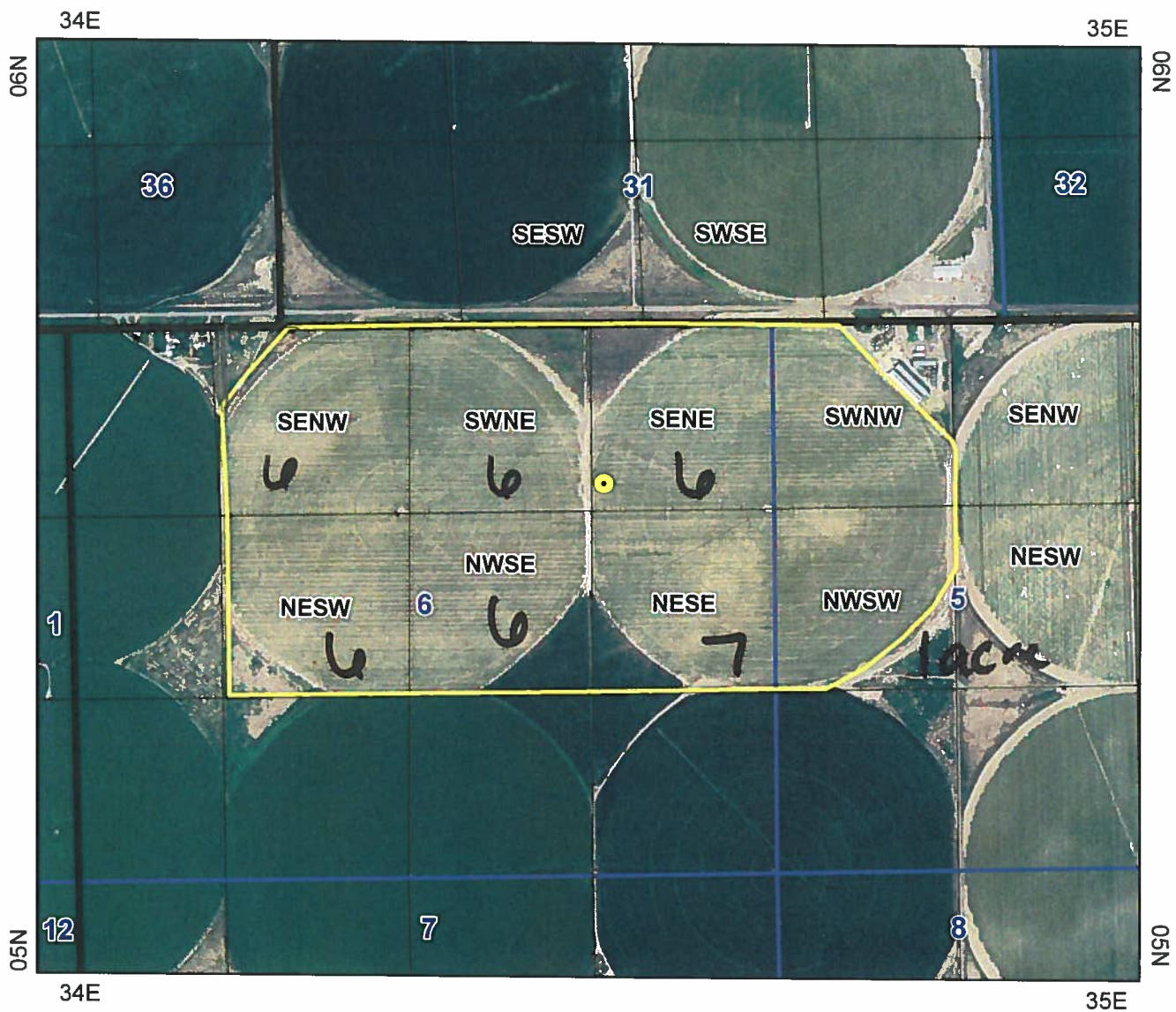
Case 38 acres

Sec 6
40 each QQ

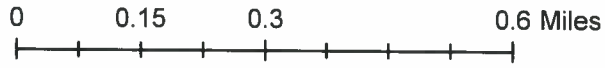
Sec 5
SWNW- 30
NWSW 32

State of Idaho
Department of Water Resources
Water Right License

31-7267A & 31-10964A



- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters



State of Idaho
Department of Water Resources
Water Right License

31-7084



- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters

0.175 0.35 0.7 Miles

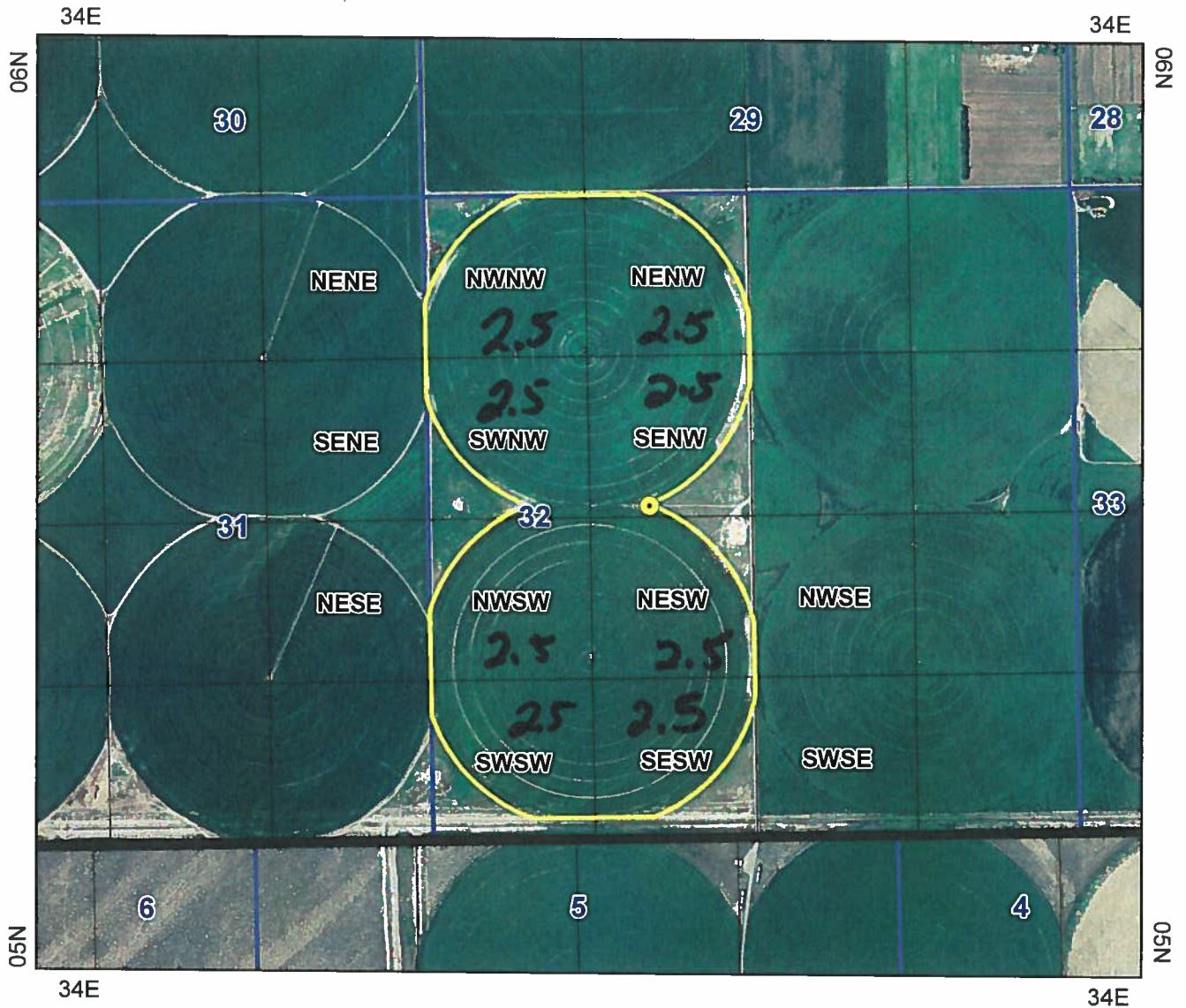


State of Idaho
Department of Water Resources
Water Right License

31-7084

34 acres each QQ

*Wants to lease
20 acres
pivot corners
2.5 acres in each QQ*



- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters

0 0.175 0.35 0.7 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

March 20, 2014

KIRK EGBERT
1402 E 1300 N
TERRETON ID 83450

RESPONSE DEADLINE

APRIL 4, 2014

2ND NOTICE

RE: ADDITIONAL INFORMATION REQUEST FOR PROCESSING APPLICATION(S) TO LEASE WATER RIGHT NO(S). 31-7084, 31-7569, 31-7267A and 31-10964A TO THE WATER SUPPLY BANK

*****TIME SENSITIVE RESPONSE REQUIRED*****

Dear Applicant:

The Idaho Department of Water Resources (Department) acknowledges receipt of the application(s) to lease the above referenced water right(s) to the Idaho Water Resource Board's Water Supply Bank (Bank). The Department will review your application as resources allow.

If the right(s) is determined to be eligible for acceptance into the Bank, the right will be entered as of the date of receipt of the application. The acceptance date may be adjusted when additional information is required. A preliminary review of your application(s) has been completed and it has been determined that additional information is required to continue processing.

Please provide the following information within 14 days of the date of this letter or the application will be returned:

- a Plat map, survey map or aerial photograph clearly showing the specific acres proposed to be idled for the duration of this lease

The department will continue processing your application(s) once you have submitted the requested information. Water right forms are available from the Department's web site at www.idwr.idaho.gov. If you have any questions, please contact me at (208) 287-4944.

Sincerely,

Cherie Palmer
Senior Water Resource Agent
WSB Process Point of Contact

c: Keith Wilson- Rocky Mt Environmental



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

January 30, 2014

KIRK S EGBERT
1402 E 1300 N
TERRETON ID 83450

**RE: ADDITIONAL INFORMATION REQUEST FOR PROCESSING APPLICATION(S) TO LEASE
WATER RIGHT NO(S). 31-7084, 31-7267A, 31-7569 and 31-10964A TO THE WATER
SUPPLY BANK**

*****TIME SENSITIVE RESPONSE REQUIRED*****

Dear Applicant:

The Idaho Department of Water Resources (Department) acknowledges receipt of the application(s) to extend the leases of the above referenced water right(s) to the Idaho Water Resource Board's Water Supply Bank (Bank). The Department will review your applications as resources allow.

If the right(s) is determined to be eligible for acceptance into the Bank, the right will be entered as of the date of receipt of the application. The acceptance date may be adjusted when additional information is required. A preliminary review of your application(s) has been completed and it has been determined that additional information is required to continue processing.

Please provide the following information within 14 days of the date of this letter or the applications will be returned:

- Additional filing fee. If you are submitting more than one lease application and the rights have a common place of use or common diversion rate or common diversion volume, the combined maximum fee is **\$500.00**. You sent a payment of \$250.00 for three (3) water rights so we need an additional \$500.00. Water right 31-7569 was paid for separately.
- Plat map, survey map or aerial photograph clearly showing the specific acres proposed to be idled for the duration of this lease.

The department will continue processing your application(s) once you have submitted the requested information. Water right forms are available from the Department's web site at www.idwr.idaho.gov. If you have any questions, please contact me at (208) 287-4944.

Sincerely,

for Cherie Palmer
Senior Water Resource Agent
WSB Process Point of Contact

Enclosure: Receipt #C098115