

STATE OF IDAHO
WATER RESOURCE BOARD

**WATER SUPPLY BANK
REQUEST TO RELEASE A WATER RIGHT FROM THE BANK**

RECEIVED
DEC 16 2013
DEPT OF WATER RESOURCES

ONE FORM PER WATER RIGHT

This form is a statement that the lessor requests the termination 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 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: 61-12148 Telephone No: (208) 590-2312
Name(s) of Lessor(s): Kimberlee Jo + Daniel Lowry West
Mailing Address: 10294 SW Mint Farm Road
City: Mtn Home State: ID Zip: 83647

Requested Release Date: 12-16-2013 (For 2016 when no longer under a rental agreement)

<u>Kimberlee Jo West</u> Signature of Lessor	<u>Kimberlee Jo West-owner</u> Printed Name and Title*	<u>12-16-2013</u> Date
<u>Dan West</u> Signature of Lessor	<u>Daniel Lowry West</u> Printed Name and Title*	<u>12-16-2013</u> 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

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**CHANGE IN ADDRESS**This form can be used to notify the Department of a change in
address of the owners of record for the listed water rights.
(Please print or type)**RECEIVED**
DEC 16 2013
DEPT OF WATER RESOURCES

- [] Water Right Number(s): 61-12148
- [] Name(s): Kimberlee Jo West
Daniel Lowry West
- [] Old Mailing Address: HC 85 Box 20A
Mtn Home ID 83647
- [] New Mailing Address: 10294 SW Mint Farm Road
Mtn Home ID 83647
- Telephone Number: (208) 590 - 2312
- Email: jo_gowest@yahoo.com
- [] Signature(s) of Owner(s) Kimberlee Jo West
Daniel Lowry West
(Include your title if on behalf of company or organization)
- Date: 12-16-2013

Send a signed original to your closest regional office:

IDWR Northern Region
7600 Mineral Dr., Suite 100
Coeur d'Alene, ID 83815
(208) 762-2800IDWR Western Region
2735 Airport Way
Boise, ID 83705-5082
(208) 334-2190IDWR Eastern Region
900 N. Skyline Dr., Suite A
Idaho Falls, ID 83402-1718
(208) 525-7161IDWR Southern Region
1341 Fillmore St., Suite 200
Twin Falls, ID 83301-3380
(208) 736-3033

Keen, Shelley

From: Palmer, Cherie
Sent: Monday, November 18, 2013 3:48 PM
To: Keen, Shelley
Subject: West Lease Acceptance

File 61-12148

FYI

Cherie

From: Palmer, Cherie
Sent: Monday, November 18, 2013 3:47 PM
To: 'jo_gowest@yahoo.com'
Subject: Lease Acceptance

Jo,

Shelley has forwarded me your telephone message today. In your phone message you ask that we email a copy of your lease agreement that was issued in 2007. Within this email please find your lease acceptance, acknowledgment letter of the lease, and a reminder letter that was issued in 2013 that states your water is still leased to the bank. Please let me know if you have any other questions regarding this matter.

*Cherie Palmer, Sr. Water Resource Agent
Idaho Dept of Water Resources
Water Allocation Bureau
322 E. Front Street (Front St. & Broadway Ave)
Mail: PO BOX 83720 Boise, ID 83720-0098
email: cherie.palmer@idwr.idaho.gov
phone: (208) 287-4944
fax: (208) 287-6700*



West Reminder.pdf



West Ack.pdf



West Lease.pdf

Keen, Shelley

From: Jo West [jo_gowest@yahoo.com]
Sent: Friday, October 25, 2013 6:24 PM
To: Keen, Shelley
Subject: Re: Change of ownership for Water Right 61-7081A

Dan and Kimberlee Jo West
10294 SW Mint Farm Road
Mountain Home, ID 83647
208-590-2312

Will send off change with signature as well.

Jo

From: "Keen, Shelley" <Shelley.Keen@idwr.idaho.gov>
To: Jo West <jo_gowest@yahoo.com>
Sent: Friday, October 25, 2013 11:20 AM
Subject: RE: Change of ownership for Water Right 61-7081A

Jo,

Thanks. We will need something with your signature on it to officially change your address in our records. Meantime, could you send me an email with your address?

Thanks.

Shelley Keen
Idaho Department of Water Resources
Shelley.Keen@idwr.idaho.gov
208-287-4947

From: Jo West [mailto:jo_gowest@yahoo.com]
Sent: Friday, October 25, 2013 11:03 AM
To: Keen, Shelley
Subject: Re: Change of ownership for Water Right 61-7081A

Hi Shelley,

Thank you so much for your help yesterday on phone. I have received both your emails and will get started on them this weekend. Will have water right lease application in mail by Monday with other information as well.

Jo

From: "Keen, Shelley" <Shelley.Keen@idwr.idaho.gov>
To: jo_gowest@yahoo.com
Sent: Thursday, October 24, 2013 4:59 PM
Subject: Change of ownership for Water Right 61-7081A

Jo,

The attached PDF file contains two pages from the Water Right File for Right 61-7081A. The Special Warranty Deed for Water Rights shows that in 2007 you sold to Idaho Water Company LLC (Del Kohtz) all of the portion of the water right appurtenant to the NE¼ of Section 26, T4S, R5E, even though you retained

Keen, Shelley

From: Keen, Shelley
Sent: Thursday, October 24, 2013 4:59 PM
To: 'jo_gowest@yahoo.com'
Subject: Change of ownership for Water Right 61-7081A
Attachments: Ownership Change of Water Right 61-7081A.pdf

Jo,

The attached PDF file contains two pages from the Water Right File for Right 61-7081A. The Special Warranty Deed for Water Rights shows that in 2007 you sold to Idaho Water Company LLC (Del Kohtz) all of the portion of the water right appurtenant to the NE¼ of Section 26, T4S, R5E, even though you retained ownership of the land in the SE¼NE¼ of Section 26, T4S, R5E. Essentially, you still own the 40 acres of land you asked about, but Del Kohtz acquired the water right.

Sincerely,

Shelley Keen
Idaho Department of Water Resources
Shelley.Keen@idwr.idaho.gov
208-287-4947

In addition to the two emails I sent Jo West today, I ~~also~~ also spoke with her via telephone. Besides the information in my 3:02 p.m. email, I also shared with her that I could find no evidence that IDWR ever received a request to withdraw Right 61-12148 from the Water Supply Bank. I also found no evidence, either paper or electronic, that IDWR had received an address change notice from her. Mrs. West had asserted that she sent a withdrawal notice and an address change in the spring of 2013.

Shelley Keen
10-24-2013

Keen, Shelley

From: Keen, Shelley
Sent: Thursday, October 24, 2013 3:02 PM
To: 'jo_gowest@yahoo.com'
Subject: Water Supply Bank Rental Application
Attachments: Water_Supply_Bank_Rental_Application.pdf

Jo,

Thank you for returning my call this morning. I've attached the rental application form you requested. We will begin processing rental applications for 2014 shortly. I know there is at least one ahead of yours in Basin 61, so there may not be water available to rent. We will inform you as soon as we know.

IDWR will look into the ownership change notice processed on Right 61-7081A to be sure it was done correctly. As we discussed, it would be helpful if you would submit a letter to me describing your understanding of the 2007 land sale and how the water right should have been split. The rental fee will be \$17 per acre-foot for about 4 acre-feet per acre.

IDWR has reviewed aerial imagery showing irrigation of the place of use for Right 61-12148 in 2011, 2012, and 2013. As we discussed, since Right 61-12148 was leased to the Water Supply Bank during that time (and remains leased to the Water Supply Bank), it does not appear that you were authorized to irrigate with that water right. You may receive a Pending Notice of Violation from IDWR in connection with the use of Water Right 61-12148 while it was in the Water Supply Bank.

Please call or email if you have additional questions.

Sincerely,

Shelley Keen
Idaho Department of Water Resources
Shelley.Keen@idwr.idaho.gov
208-287-4947

MEMORANDUM

TO: Water Right File 61-12148
FROM: Daniel A. Nelson
DATE: October 21, 2013
SUBJECT: 2013 Irrigation Review of Water Right 61-12148

I have been asked to review the LanSat Satellite Photos to determine the irrigated use of water right 61-12148. I have created a timeline below showing the leases and rentals of this water right into the Water Supply Bank (WSB).

1. November 7, 2007 – Daniel L. and Kimberlee Jo West Leased all of water right 61-12148 to the WSB.
2. April 1, 2008 – Sunview Dairy LLC Rented 0.99 cfs, 304 af, and 76 acres of water right 61-12148 from the WSB.
3. December 3, 2008 -- A warrant request memo was composed to pay for the 2008 WSB rental.
4. December 10, 2010 – Sunview Dairy LLC sent a letter to the Department stating that they didn't need the rental any longer, and didn't use the water in 2009 and 2010.
5. December 10, 2010 – A letter was sent by Department staff terminating the WSB rental with Sunview Dairy LLC.
6. May 13, 2013 – A WSB rental agreement was signed to allow water use from water right 61-12148 and other water rights to lease all of water right 61-12148 from March 25, 2013 to December 31, 2016.
7. September 13, 2013 – A revised WSB rental agreement was signed to allow water use from water right 61-12148 and other water rights to lease all of water right 61-12148 from January 1, 2014 to December 31, 2016.

My review of the LanSat Satellite photos are as follows:

2007—No irrigation appears to have occurred in 2007.

2008 – The LanSat satellite photos are inconclusive in 2008. It does appear as though some irrigation did occur, but it doesn't appear as prominent as irrigation on surrounding fields. The full 160 acres could have been planted in grain, and minimal irrigation used.

2009 – The LanSat photos suggest that irrigation occurred in 2009. The NAIP aerial photography suggest that the land wasn't irrigated. However, this land could have been planted in grain which would show up as un-irrigated ground in the NAIP aerial photo, but would in show up in the LanSat. I believe the land under the pivot of 127 acres was irrigated in 2009.

2010 – The LanSat photos in 2010 suggest that the pivot or 127 acres was irrigated in June, but was not irrigated in July. The owner may have used the pivot to start a cover crop early in the year to avoid weeds, but the irrigation system was not used year round.

2011 – There is no doubt that the pivot was used and land was irrigated under the pivot in 2011. The pivot covers 127 acres of ground. The corners weren't irrigated.

2012 – There is no doubt that the pivot was used and land was irrigated under the pivot in 2012. The pivot covers 127 acres of ground. The corners weren't irrigated.

2013 – There is no doubt that the pivot was used and land was irrigated under the pivot in 2013. The pivot covers 127 acres of ground. The corners weren't irrigated.

Crop records should be sought for 2008 and 2013, since these are the only years that it appears that the WSB water was used when land may have been irrigated. I am confident that the land was irrigated in 2013, but there is some doubt about the irrigation in 2008.

Irrigation Review – 61-12148
By Dan Nelson

Review of the 2007 LanSat shows that no land was irrigated in 2007.

2007 LanSat Satellite – Taken 6/30/2007
Yellow Border is Water Right shape File for 61-12148
Green Border is Irrigation in 2013

Irrigation Review – 61-12148
By Dan Nelson

Review of the 2008 LanSat shows that all of the land could have been irrigated in 2008. It is difficult to tell from the LanSat photos, but they were taken in July when grain crops were just about done.

2008 LanSat Satellite – Taken 7/2/2008
Yellow Border is Water Right shape File for 61-12148
Green Border is Irrigation in 2013

Irrigation Review – 61-12148
By Dan Nelson

Review of the 2009 LanSat shows that approximately 127 of the 160 acres under the water right could have been irrigated in 2009. It is difficult to tell from the LanSat photos, but they were taken in July when grain crops were just about done. The aerial photos are hard to decipher as well. They look like grain could have been planted in 2009.

2009 LanSat Satellite – Taken 7/5/2009
Yellow Border is Water Right shape File for 61-12148
Green Border is Irrigation in 2013

Irrigation Review – 61-12148
By Dan Nelson

Review of the 2009 LanSat shows that approximately 127 of the 160 acres under the water right could have been irrigated in 2009. It is difficult to tell from the LanSat photos, but they were taken in July when grain crops were just about done. The aerial photos are hard to decipher as well. They look like grain could have been planted in 2009.

2009 NAIP Aerial Photo
Yellow Border is Water Right shape File for 61-12148
Green Border is Irrigation in 2013

Irrigation Review – 61-12148

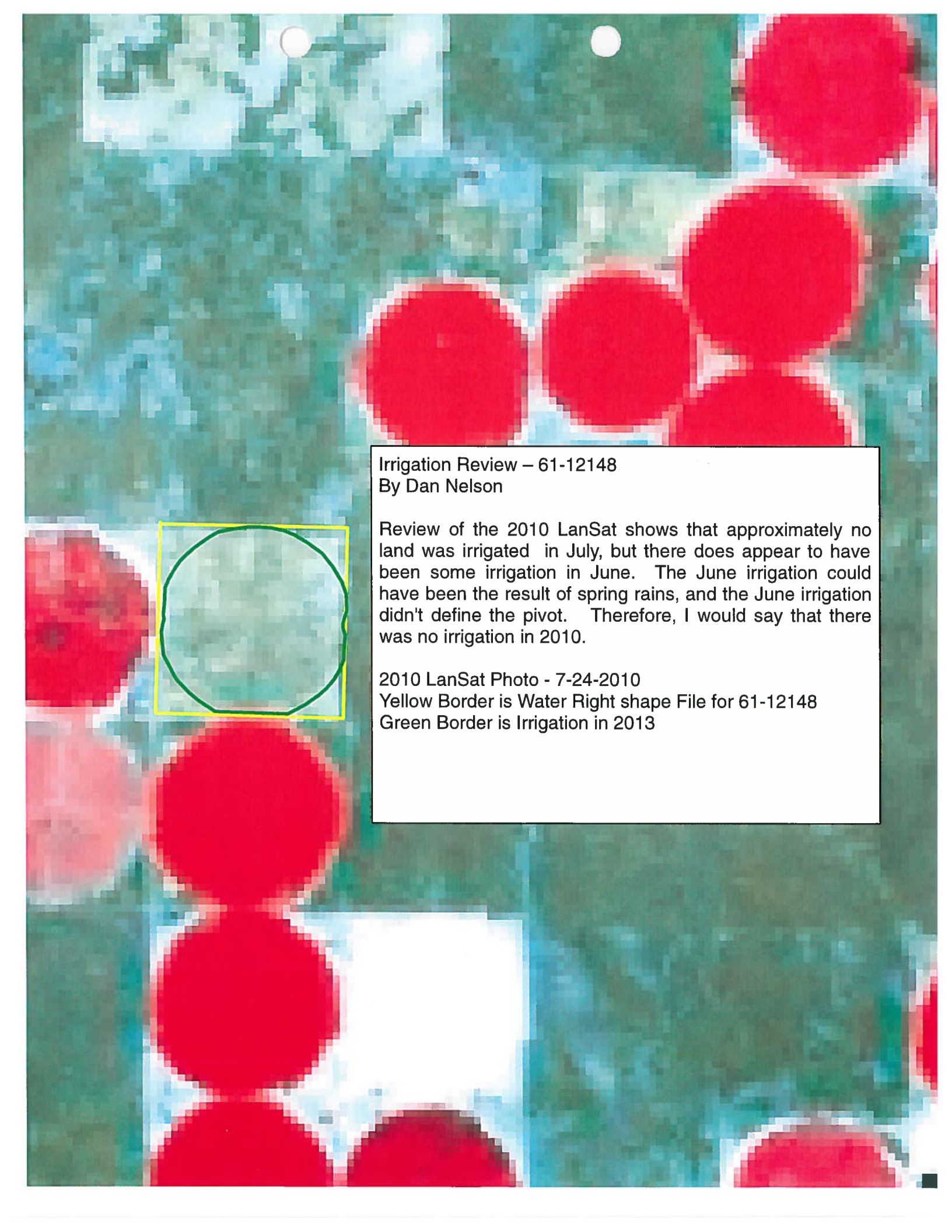
By Dan Nelson

Review of the 2009 LanSat shows that approximately 127 of the 160 acres under the water right could have been irrigated in 2009. It is difficult to tell from the LanSat photos, but they were taken in July when grain crops were just about done. The aerial photos are hard to decipher as well. They look like grain could have been planted in 2009.

2009 NAIP Aerial Photo

Yellow Border is Water Right shape File for 61-12148

Green Border is Irrigation in 2013

An aerial photograph of a landscape, likely agricultural, showing a mix of green and brownish-yellow areas. A yellow rectangular border is drawn around a specific area in the lower-left quadrant. Within this yellow border, there is a green circular border. The background image is somewhat pixelated and has a low resolution.

Irrigation Review – 61-12148

By Dan Nelson

Review of the 2010 LanSat shows that approximately no land was irrigated in July, but there does appear to have been some irrigation in June. The June irrigation could have been the result of spring rains, and the June irrigation didn't define the pivot. Therefore, I would say that there was no irrigation in 2010.

2010 LanSat Photo - 7-24-2010

Yellow Border is Water Right shape File for 61-12148

Green Border is Irrigation in 2013

Irrigation Review – 61-12148

By Dan Nelson

Review of the 2010 LanSat shows that approximately no land was irrigated in July, but there does appear to have been some irrigation in June. The June irrigation could have been the result of spring rains, and the June irrigation didn't define the pivot. Therefore, I would say that there was no irrigation in 2010.

2010 LanSat Photo - 6-14-2010

Yellow Border is Water Right shape File for 61-12148

Green Border is Irrigation in 2013

An aerial photograph of a farm, likely a golf course or large estate, showing various green and brown patches. A yellow square border is drawn around a specific area, and a green circle border is drawn within that area.

Irrigation Review – 61-12148
By Dan Nelson

Review of the 2011 LanSat shows that approximately 127 acres of the 160 acre farm was irrigated. The NAIP aerial photo also shows irrigation of the property.

2011 LanSat Photo - 7-11-2011
Yellow Border is Water Right shape File for 61-12148
Green Border is Irrigation in 2013

Irrigation Review – 61-12148
By Dan Nelson

Review of the 2011 LanSat shows that approximately 127 acres of the 160 acre farm was irrigated. The NAIP aerial photo also shows irrigation of the property.

2011 NAIP Aerial Photo
Yellow Border is Water Right shape File for 61-12148
Green Border is Irrigation in 2013

An aerial satellite photograph of agricultural land, likely a farm. The image is heavily pixelated and shows a grid-like pattern of fields. Several large, solid red circles are overlaid on the image, primarily in the right half. A specific area on the left is highlighted with a yellow rectangular border and a green circular border.

Irrigation Review – 61-12148
By Dan Nelson

Review of the 2012 LanSat shows that approximately 127 acres of the 160 acre farm was irrigated.

2012 LanSat Satellite Photo 8-6-2012
Yellow Border is Water Right shape File for 61-12148
Green Border is Irrigation in 2013

Irrigation Review – 61-12148

By Dan Nelson

Review of the 2013 LanSat Satellite photos shows that approximately 127 acres were irrigation in 2013 with the borders of water right 61-12148. 61-12148 is allowed to irrigate 160 acres, so 33 acres were not irrigated in 2013.

2013 LanSat Satellite – Taken 8/1/2013

Yellow Border is Water Right shape File for 61-12148

Green Border is Irrigation in 2013

MEMO

TO: 61-12148

FROM: Cherie Palmer

DATE: October 18, 2013

RE: Bank Activity

On Tuesday October 15, 2013, I received an office day phone call from Kimberlee Jo West. She asked me whether IDWR sends lessors a letter notifying them that their water right has been rented. I told her that is not part of our process. She told me that Del Kohtz is going to use their water and they have a deal with them. She thought there was a document from IDWR that acknowledged their agreement and was not happy that IDWR rented the water to another individual. Mrs. West thought the document was from 3/2013 but didn't really know what kind of document it was but, thought it was from IDWR.

I researched the 61-12148 and could not find such a document. I suggested to her that the document might be a private agreement between her and Mr. Kohtz, who does represent Idaho Water Co.

She will have Mr. Kohtz call IDWR.