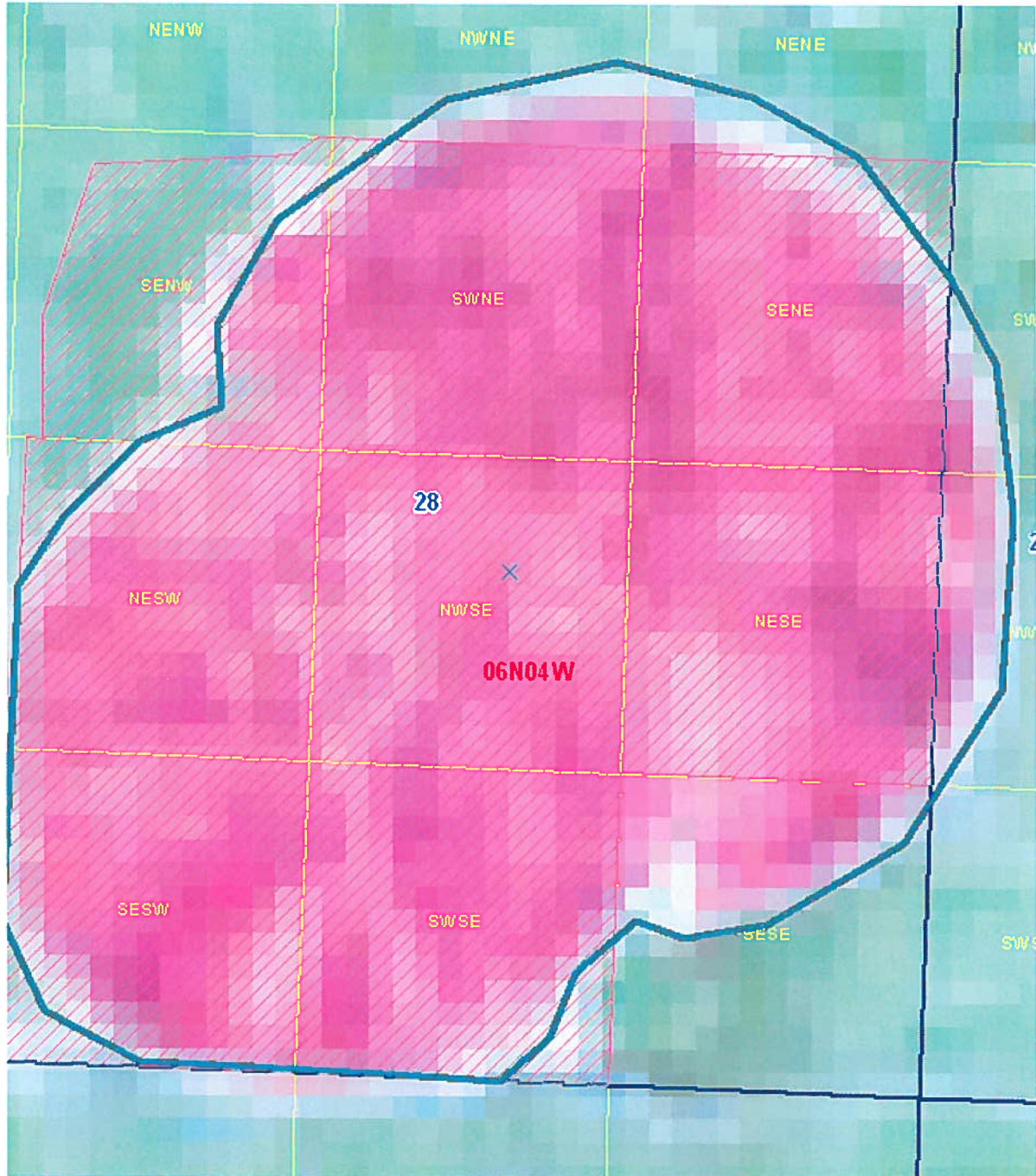


MEMORANDUM

To: Water Right File No(s). 63-7867
From: Monica Van Bussum
Date: February 1, 2013
Re: Possible use of Water Right No. 63-7867 during 2012 Water Supply Bank lease

63-7867 is a water right for 300 acres of irrigation from a well. From April 1 to December 31, 2012, 19.1 acres of this water right was leased to the Water Supply Bank and should not have been irrigated during the lease term. From reviewing the map accompanying the lease application, it appears mostly pivot corners were leased in. A review of 2012 Landsat imagery indicates the rightholder was irrigating outside the water right POU, however.

The water right POU is the pink hatched area. The blue outline is my representation of what was irrigated in 2012 (I did not use this image exclusively; the blue outline is a best representation of irrigation during several months of images). The rightholder appears to be irrigating outside the water right POU to the north and east, covering a mix of BLM- and privately-owned ground.



I used ArcGIS to calculate the number of acres within the blue outline and the result was 310, above what is allowed by the water right. In addition to what the water right authorizes, there is also the Water Supply Bank lease to consider. The lease term was for 19.1 acres and Condition 3 of the lease 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.

Additionally, we rented 14.4 acres of the leased water to the BLM to cover a trespass issue that Basin and Range had in another area.

There appear to be several issues:

- Irrigation outside the authorized POU
- Irrigation in excess of authorized number of acres
- Irrigation on BLM ground, which the BLM will likely address
- Irrigation of acres to be idled under the lease
- Enlargement of use through excess irrigation, irrigation under lease, and rental of leased acres elsewhere
- Leasing water to the Bank to address a violation elsewhere and then no commensurate reduction in beneficial use