

MEMORANDUM

TO: Water Right File 37-8409
FROM: Daniel A. Nelson
DATE: July 12, 2011
SUBJECT: Silver Sage Owner's Association Water Supply Bank Lease Application

SUMMARY

John J. Galgano, the president of Silver Sage Owners Association Inc. filed 5 water bank leases on behalf of his corporation on water rights 37-8409, 37-20843, 37-21240, 37-21242 and 37-2507. Due to overlapping conditions with a contested case for water right 37-2507, the water bank leases for 37-20843, 37-21240, 37-21242 and 37-2507 have been returned unprocessed. However, the Water Supply Bank lease for water right 37-8409 can be processed. They are requesting that the entire 0.10 cfs and 6 af for 1.7 acres within the 15.8 acre permissible place of use be placed into the water supply bank.

A water right transfer was filed on water right 37-8409 to move this water right into the portfolio of water rights for the subdivision. However, the water right transfer has not been accomplished. Originally water right 37-8409 was a primary water right for the irrigation of a nursery. Since the water right has not been put to use on the subdivision, it is safe to assume that this water right will remain a primary water right until it is actually used in conjunction with the other water rights for the subdivision. Once this water right is used on the property described in water rights 37-20843, 37-21240, 37-21242 and 37-2507, this water right will be tied into these water rights, and should be included in any future combined use conditions. Right now, this water right should be considered a standalone water right.

An application to avoid forfeiture was filed in January of 2005 that protected the water right until July 1, 2010. This Water Supply Bank lease was submitted on November 10, 2009, so there should not be any forfeiture issues for this water right.

Ownership of this water right also seems to be a bit confusing. This subdivision was originally developed by Silver Sage Ranch LLC. The plat map for this subdivision is dated November 1999, and has a Health Certificate sign off of November 11, 1999 by the South Central District Health Department. A Quitclaim Deed assigning the water right over to Silver Sage Owners Association Inc. was signed on December 10, 1999. It is highly unlikely that any of the lots were sold from the time the Plat Map was approved and the time when the water rights were assigned to the Silver Sage Owners Association. Therefore, Silver Sage Owners Association is the legal owners of the water rights, and not the individual lot owners.

The Idaho Secretary of State shows the actual corporate name was Silver Sage Association Inc. The water right records reflect the Idaho Secretary of State's ownership information. In August of 2009, the Silver Sage Association Inc. officially changed their name to Silver Sage Owners Association, Inc. It also appears that the homeowner association neglected to correct the address with the Idaho Secretary of State's office, and the mailing for the 2010 corporate reinstatement form was returned as undeliverable. The Secretary of State office dissolved the corporation due to lack of contact in January of 2011. I contacted the homeowner's representative, Johnny Galgano, and informed him of the situation. Mr. Galgano stated that he has sent the check to the Idaho Secretary of State, and is in the process of working with them to correct this situation. Mr. Galgano is also named as the president for both Silver Sage Association Inc. and Silver Sage Owners Inc. I recommend that we move forward with the Water Supply Bank lease and make it clear the Mr. Galgano has 90 days to clear up the ownership issues.

AUTHORITY TO FILE

The Quitclaim deed supplied shows that the Silver Sage Owners Association, Inc. is the legal owners of the water rights. The water rights show that Silver Sage Association Inc. is the legal owner of the water rights. The Secretary of State Business web page shows that Silver Sage Association Inc. changed its name to Silver Sage Owners Association in 2009. The Secretary of State web page also shows that both corporations have been dissolved. Mr. Galgano has been the main contact for both organizations and is currently working on trying to clear up these discrepancies. It does appear as though either way, Mr. Galgano has the authority to sign this Water Supply Bank lease.

SUFFICIENCY OF SUPPLY

There is no evidence to suggest that the sufficiency of water supply would be an issue for this Water Supply Bank lease.

INJURY

There is nothing to suggest that putting these water rights into the water bank would cause injury to other water users.

ENLARGEMENT

No enlargement is being proposed.

BENEFICIAL USE

The application proposes beneficial use consistent with conservation of water resources in Idaho.

LOCAL PUBLIC INTEREST

There is nothing to suggest that these are not in the local public interest

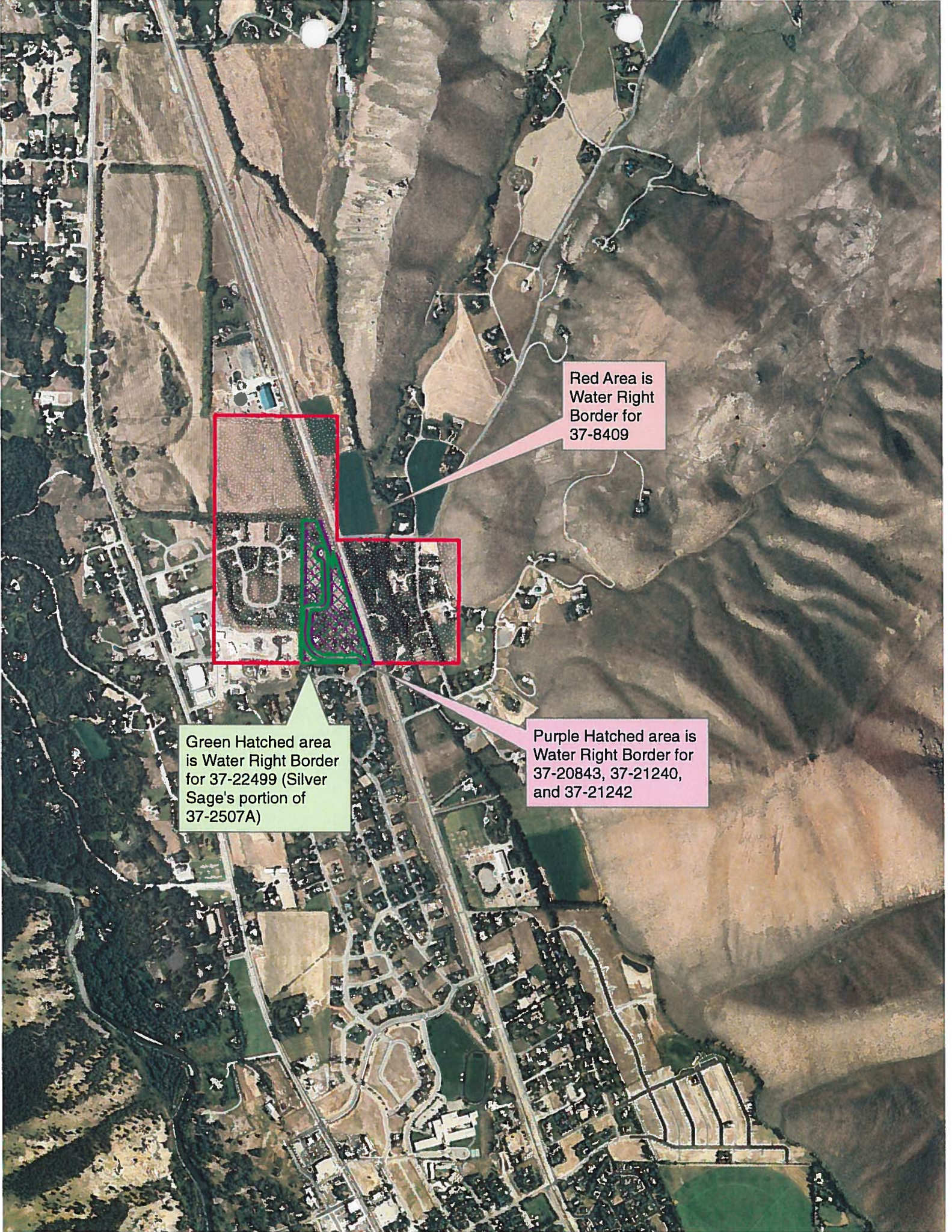
WATER DISTRICT

Ground water in the area described by this water right is not currently being regulated by the watermaster.

RECOMMENDATION

I recommend that all of water right 37-8409 be leased to the Water Supply Bank with a term from November 10, 2009 to November 10, 2014. The applicant will also need to clarify the ownership of this water right within the next 90 days, or the Water Supply Bank lease should be rejected.

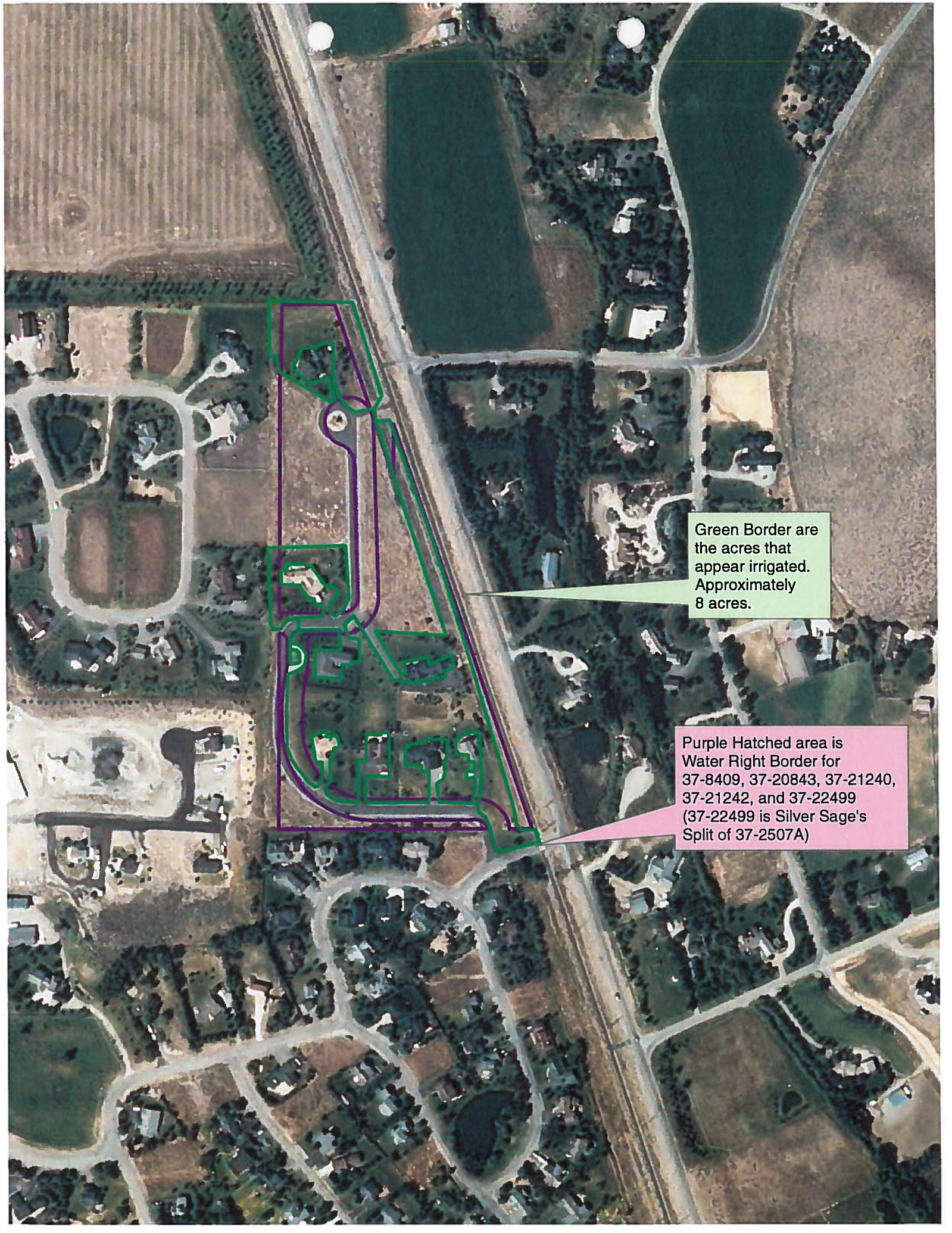
Right 37-8409 is limited to 0.10 cfs, 6 af, and 1.7 acres.



Red Area is
Water Right
Border for
37-8409

Green Hatched area
is Water Right Border
for 37-22499 (Silver
Sage's portion of
37-2507A)

Purple Hatched area is
Water Right Border for
37-20843, 37-21240,
and 37-21242



Green Border are the acres that appear irrigated. Approximately 8 acres.

Purple Hatched area is Water Right Border for 37-8409, 37-20843, 37-21240, 37-21242, and 37-22499 (37-22499 is Silver Sage's Split of 37-2507A)