

MEMORANDUM

TO: Water Right File 34-467, 34-468, 34-469, and 34-471
FROM: Daniel A. Nelson
DATE: June 9, 2011
SUBJECT: Warm Springs Creek Ranch LLC Water Supply Bank Lease Applications

SUMMARY

Jim Gregory, Ranch Manager, for Warm Springs Creek Ranch LLC filed four applications to lease water rights 34-467, 34-468, 34-469, and 34-471 for an indefinite term on October 9, 2009. Water right 34-467 is from Warm Springs Creek for 2.40 cfs, for 120 acres. Water right 34-468 is from Warm Springs Creek for 0.80 cfs, for 160 acres. When water rights 34-467 and 34-468 are combined they are limited to the irrigation of 160 acres. Water right 34-469 is from Warm Springs Creek for 3.20 cfs, for 213 acres. Water right 34-471 is from Warm Springs Creek for 0.80 cfs, for the same 213 acres described in 34-469. When water rights 34-469 and 34-471 are combined they are limited to the irrigation of 213 acres and 750.2 acre feet. The 160 acres described in 34-467 and 34-468 are completely different acres than the 213 acres described in 34-469 and 34-471, but all four water rights use the same irrigation system. Therefore, I am including all four water rights in the same review memo.

All 160 acres of water rights 34-467 and 34-468 will be leased into the Water Supply Bank. Only 176 acres of the 213 acres described in water rights 34-469 and 34-471 will be leased into the Water Supply Bank. 32 acres will remain in production in the NENW and 5 acres will remain in the SENW of Section 6, Township 7 North, Range 23 East for a total of 37 acres remaining on the property for both water rights. There will be 2.64 cfs placed into the water bank from water right 34-469, and 0.56 cfs will remain on the property. There will be 0.66 cfs placed into the water bank from water right 34-471, and 0.14 cfs will remain on the property. When two water rights are combined the total volume being leased to the Water Supply Bank will be 619.8 acre feet, and the amount of volume remaining will be 130.3 acre feet.

There is a stipulated agreement attached to these water rights through a water right transfer on other water rights. The stipulated agreement deals with ditch loss in the Upper Fish Hatchery Canal that carries the water for the water rights involved in for these leases. In Section 12 of the stipulated agreement, it state the following: "the undersigned parties stipulate and agree that this stipulation shall apply only to the water right matters specifically listed herein, and shall not apply to future applications for transfer, applications for permit, applications for amendment of permit, or any other applications or other documents pertaining to water rights." Therefore, this stipulation agreement should not affect any Water Supply Bank lease or future rental of these water rights, **but I would recommend that any rental agreement that would move the water out of the Upper Fish Hatchery Canal be advertised to allow comments from the other water users using that canal.**

An extension of time to avoid forfeiture was approved on 8/20/2010, so forfeiture of these water rights is not an issue.

AUTHORITY TO FILE

The tax lot information and other ownership information suggest that Mark Gates is one of the owner of the property. Mark Gates signed all of the water bank leases as the Managing Member of Warm Springs Creek LLC. The Idaho Secretary of State Business Search website shows that Mark Gates is the Manager of Warm Springs Creek Ranch, LLC. Therefore Mr. Gates has the authority to sign these applications.

SUFFICIENCY OF SUPPLY

There is no evidence to suggest that the sufficiency of water supply would be an issue with this water bank lease.

INJURY

There is nothing to suggest that this water bank lease will 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 in the file to suggest that this water bank lease is not within the local public interest.

WATER DISTRICT

Water District 34 watermaster has been contacted, and no response was received.

RECOMMENDATION

I recommend that these water rights be accepted into the water bank for a term of 6/9/2011 to 6/9/2016. The water rights splits and conditions for this water bank lease will need to be as follows:

All of water rights 34-467 and 34-468 should be leased to the Water Supply Bank with a condition that states, when combined 34-467 and 34-468 should not irrigate more than 160 acres.

Water Right 34-469 – Portion being Leased to the Water Bank should be 2.64 cfs for 176 acres.

Water Right 34-471 – Portion being Leased to the Water Bank should be 0.66 cfs for 176 acres.

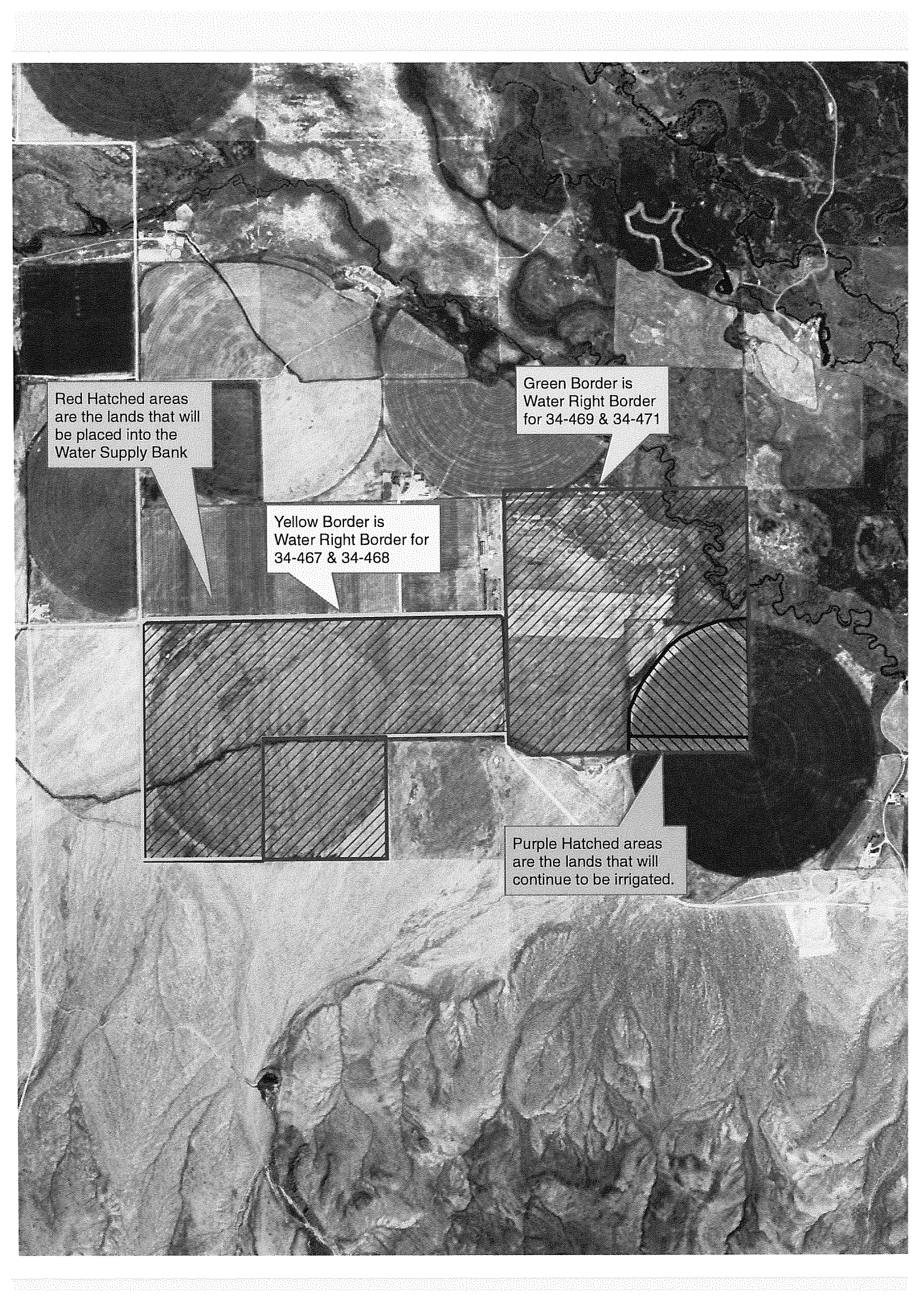
When combined the portion of water rights 34-469 and 34-471 being leased to the water supply bank should be limited to 176 acres and 619.8 acre feet.

Water Right 34-469 – Portion remaining on the property should be 0.56 cfs for 37 acres.

Water Right 34-471 – Portion remaining on the property should be 0.14 cfs for 37 acres.

When combined the portion of water rights 34-469 and 34-471 remaining on the property should be limited to 37 acres and 130.3 acre feet.

32 acres will remain in production in the NENW and 5 acres will remain in the SENW of Section 6, Township 7 North, Range 23 East for a total of 37 acres remaining on the property for both water rights. The 176 acres being leased to the Water Supply Bank are described as 40 acres in the SWNE Section 1, 10 acres in the NENW Lt3, 41 acres in the NWNW Lt4, and 5 acres in the SWNW Lt8 in Township 7 North Range 23 East, and 80 acres in the S1/2 of the SW of Section 31, Township 8 North, Range 23 East.

An aerial photograph of a landscape with various land parcels. Some parcels are marked with diagonal hatching. Four callout boxes with pointers identify specific areas: 'Red Hatched areas are the lands that will be placed into the Water Supply Bank' (pointing to a small area on the left), 'Yellow Border is Water Right Border for 34-467 & 34-468' (pointing to a central area), 'Green Border is Water Right Border for 34-469 & 34-471' (pointing to an area on the right), and 'Purple Hatched areas are the lands that will continue to be irrigated.' (pointing to a large area on the right).

Red Hatched areas
are the lands that will
be placed into the
Water Supply Bank

Yellow Border is
Water Right Border for
34-467 & 34-468

Green Border is
Water Right Border
for 34-469 & 34-471

Purple Hatched areas
are the lands that will
continue to be irrigated.

WARM SPRINGS

APP TO AVOID FORTIFIED

467 - 468

Approved

8/20/2010

OK

160 ACRES ALLOWED.

160 ACRES FOUND IRRIG.

160 ACRES TO BE PLACED INTO
WSB -

469 - 471

176 ACRES TO BE PLACED INTO
THE WSB.

37 ACRES TO REMAIN -

WRS ALLOW 213 ACRES.

153.4 ACRES APPEAR FARMABLE.

33.7 ACRES REMAINING

187.1 - REASONABLE.

OK

MAKE
IT
870 BOLD
/

STIPULATION DOES NOT
APPLY TO FUTURE

31.7 AC - NENW-56.
5.3 AC -

Nelson, Dan

From: Nelson, Dan
Sent: Thursday, June 09, 2011 11:55 AM
To: 'WATERDIST34@ATCNET.NET'
Subject: Water Bank Lease Warms Springs Creek Ranch
Attachments: Warm Springs Map.pdf

Roger;

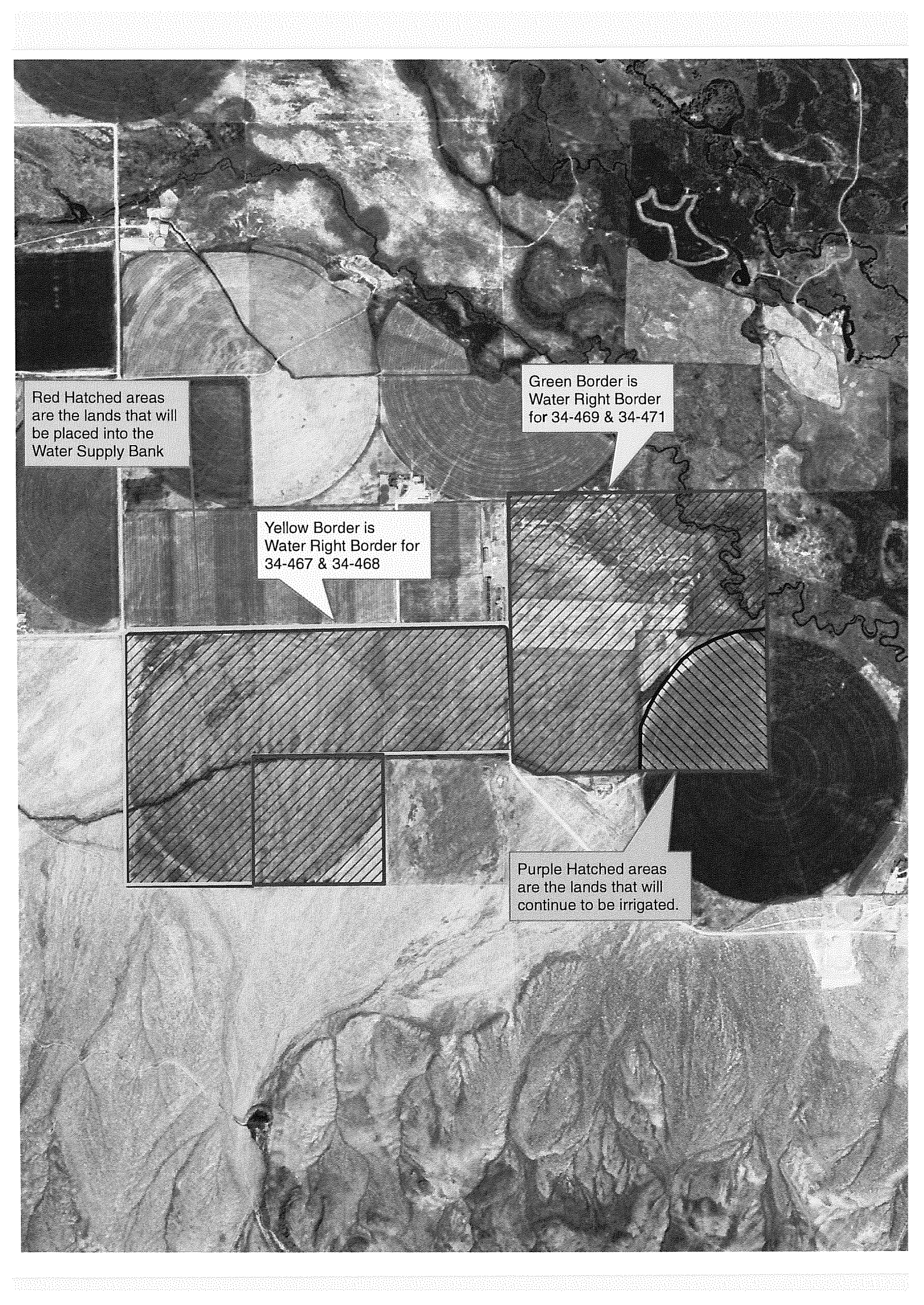
The Idaho Water Supply Bank has received four applications to lease water rights 34-467, 34-468, 34-469, and 34-471 to the Water Supply Bank. All of water rights 34-467 and 34-468 will be leased to the Water Supply Bank, and 176 acres from water rights 34-469 and 34-471 will be leased to the Water Supply Bank. That will leave 37 acres being irrigated from 34-469 and 34-471. I have attached a copy of a map created to show the water right locations and the location of the land that will continue to be irrigated. Warm Springs Creek is listed as the source on all four water rights.

Please submit any comments you may have as soon as possible. If you have any questions, please don't hesitate to contact me.

Thank you for your time.

Daniel A. Nelson
Staff Hydrologist
Planning Bureau
(208) 287-4856

No. W 31056	Due no later than Jun 30, 2011 Annual Report Form		2. Registered Agent and Address (NO PO BOX)			
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE	1. Mailing Address: Correct in this box if needed. WARM SPRINGS CREEK RANCH, LLC MARK T GATES 700 EMERSON ST PALO ALTO CA 94301 USA		CHRISTOPHER J BEESON 601 W BANNOCK ST BOISE ID 83701			
			3. <u>New</u> Registered Agent Signature:*			
4. Limited Liability Companies: Enter Names and Addresses of at least one Member or Manager.						
Office Held	Name	Street or PO Address	City	State	Country	Postal Code
MANAGER	MARK GATES	5436 W 4800 NORTH	MACKAY	ID	USA	83251
5. Organized Under the Laws of: ID W 31056		6. Annual Report must be signed.* Signature: Mark T. Gates Name (type or print): Mark T. Gates Date: 05/13/2011 Title: Manager				
Processed 05/13/2011		* Electronically provided signatures are accepted as original signatures.				



Red Hatched areas
are the lands that will
be placed into the
Water Supply Bank

Green Border is
Water Right Border
for 34-469 & 34-471

Yellow Border is
Water Right Border for
34-467 & 34-468

Purple Hatched areas
are the lands that will
continue to be irrigated.



