

MEMORANDUM

TO: Water Right File ³⁶~~36~~-2156, ³⁶~~36~~-2735B, and ³⁶~~36~~-7648

FROM: Daniel A. Nelson

DATE: May 31, 2011

SUBJECT: The Notch Butte Farms LLC. Water Supply Bank Rental Application

SUMMARY

Greg Sullivan of Brockway Engineering filed on behalf of his client Notch Butte Farms LLC to place the same 77.2 acres from water rights 36-2156, 36-2735B, and 36-7648 into the water supply bank for an indefinite term on October 22, 2009. Water rights 36-2156, 36-2735B, and 36-7648 when combined allow 667 acres of irrigation. Water right 36-2156 allows the irrigation of the 618 acres, 36-2735B allows 648 acres, and water right 36-7648 allows 49 acres within a common 667 acre permissible place of use. The permissible place of use would also need to be reduced by 77.2 acres. The applicant filed a water bank lease on all four water rights, so the 77.2 acres will need to be taken out of each water right as well as the combined conditions. Water rights 36-2156 and 36-7648 were decreed on August 27, 2001 and water right 36-2735B was decreed on December 12, 2001.

Water rights ³⁷⁻~~36~~-2592D, ³⁷⁻~~36~~-2592F, ³⁷⁻~~36~~-2527B, and ³⁷⁻~~36~~-7533B overlap the place of use for these ground water irrigation rights. These water rights use this ground for commercial land application of dairy wastewater. Even if these irrigation rights were removed from this ground, they could continue to irrigated this ground using dairy wastewater.

The LanSat Satellite photos show that only 608 acres have been historically irrigated under these water rights since they were decreed in late in 2001. Therefore, an administrative review of these water rights should be done prior to proceeding with this application.

AUTHORITY TO FILE

The application is in the name of Notch Butte Farms LLC, and was signed by John Lezamiz as the managing member. The Departments tax lot information does show Notch Butte Farms LLC as the owner of the property. The Secretary of State Business Search information lists John Lezamiz as a member of the corporation.

SUFFICIENCY OF SUPPLY

There is no evidence to suggest that there are any issues with the sufficiency of water for this water bank lease.

INJURY

There is evidence to suggest that the full water right has not been put into use since the water rights were decreed. There has been more than 5 years since the water rights have been decreed, therefore, injury could result if we move forward with this water bank lease package.

ENLARGEMENT

No enlargement is being proposed on the face of the water rights, but the historic non-use of a portion of these water rights could result in an actual enlargement. The continued use of land application of dairy wastewater could also result in an enlargement of the water right.

BENEFICIAL USE

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

LOCAL PUBLIC INTEREST

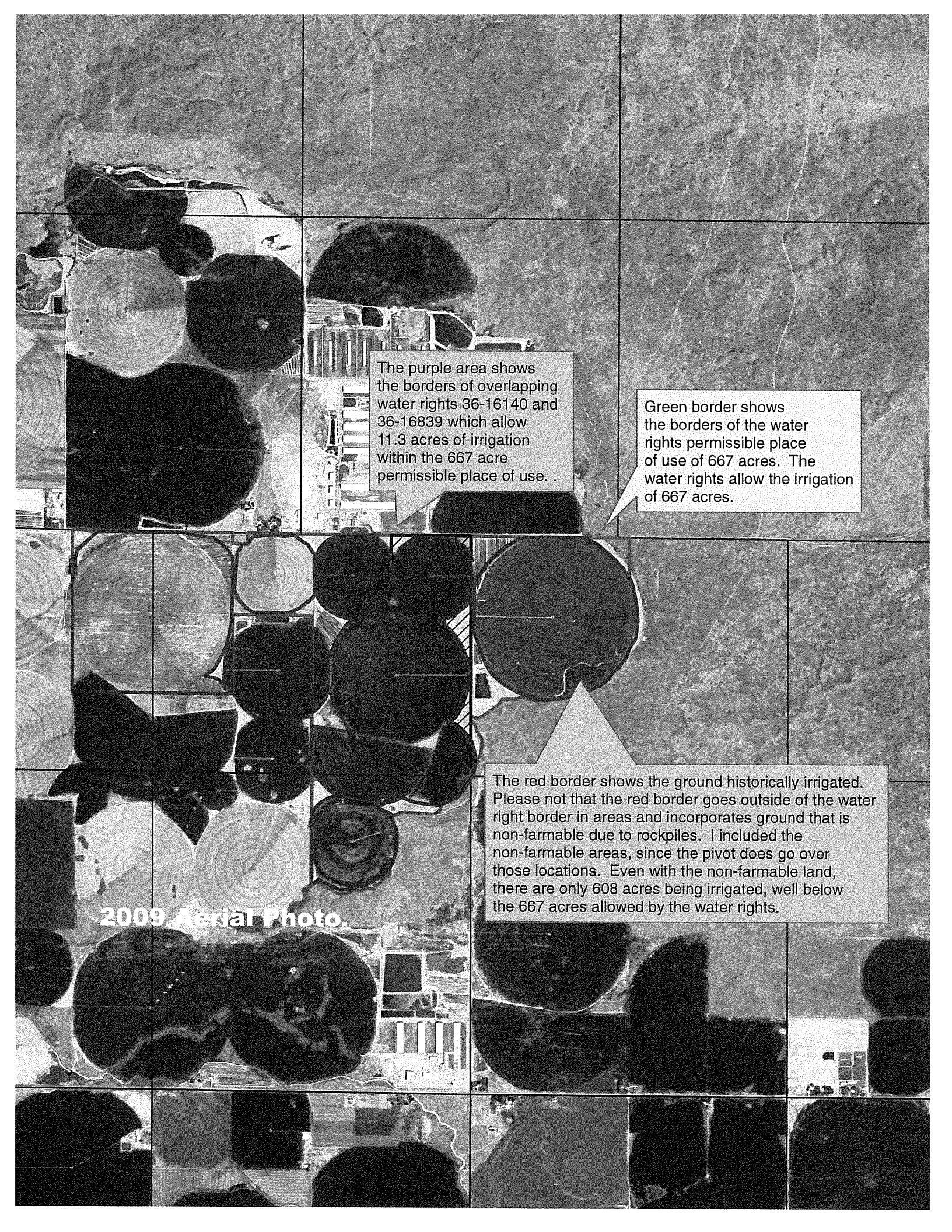
There is no evidence that this lease application is not within the local public interest.

WATER DISTRICT

This water right is within the borders of Water District 130. Until the forfeiture issues are resolved, no contact with the watermaster has been made.

RECOMMENDATION

I recommend that this water right not be accepted in the water bank until an administrative proceeding can resolve the possible forfeiture issues.



The purple area shows the borders of overlapping water rights 36-16140 and 36-16839 which allow 11.3 acres of irrigation within the 667 acre permissible place of use. .

Green border shows the borders of the water rights permissible place of use of 667 acres. The water rights allow the irrigation of 667 acres.

The red border shows the ground historically irrigated. Please not that the red border goes outside of the water right border in areas and incorporates ground that is non-farmable due to rockpiles. I included the non-farmable areas, since the pivot does go over those locations. Even with the non-farmable land, there are only 608 acres being irrigated, well below the 667 acres allowed by the water rights.

2009 Aerial Photo.

$$BPU = 674.5 + 11.3 = 685.8$$

16140-16839

$$667 + 11.3 = 678.3$$

2156
2735B
7648

> 667

16140
16839

> 11.3 ACRE
IN NESE : SESE SENE

Retiring 77.2 ACRES IN 667 ACRES
PPU.

2156 6.4 CFS - 618 ACRES
2735B 2.04 CFS - 648 ACRES
7648 0.44 CFS - 49 ACRES

When combined - 2156-2735B - 7648 Limited
TO - 8.29 CFS - 2,168 AF - 667 ACRES.

When 2156-2735B - 7648 are combined
with - 16140 & 16839 Limited TO
8.42 CFS - 2,713.2 AF & 678.3 ACRES.

MAX GROUND IRRIGATED SINCE
2001 = 608 ACRES.

Shape File 16's = 12.9
11.3
1.6 ACRES Added

Over lap

2592D

2592F

2527B

7533B

Commercial

LAND APP

2592D

2592F