



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E FRONT ST STE 648 • PO BOX 83720 • BOISE ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

February 15, 2018

JUDY MARKEL LIVING TRUST
16902 LIGGETT ST
NORTHRIDGE CA 91343

RE: WITHDRAWAL OF APPLICATION TO LEASE WATER RIGHT NO(S). 37-21852, 37-21869, 37-21886, 37-21903 ns 37-21920 TO THE WATER SUPPLY BANK

Dear Applicant:

Per your written request received on February 13, 2018 the Department of Water Resources ("Department") acknowledges your request to withdraw your Lease Applications for the rights listed above.

Please note the forfeiture period is not tolled unless a right is accepted into the Bank, or unless an exception or defense to forfeiture applies as described under Idaho Code § 42-223. If forfeiture is a concern, you may consider filing an Application for Extension of Time to Avoid Forfeiture of a Water Right form. This and other water right forms are available from the Department's web site at www.idwr.idaho.gov.

I have requested a refund of \$500.00 for receipt C104498 for the withdrawal of lease applications for Water Rights 37-21852, 37-21869, 37-21886, 37-21903 and 37-21920.

If you have any questions, please contact me at (208) 287-4910.

Sincerely,

for Clay Webster
Water Resource Agent
WSB Process Point of Contact

Enclosure: Lease Application(s)

c: Brockway Engineering

Smith, Rachael

From: Greg Sullivan <greg.sullivan@brockwayeng.com>
Sent: Tuesday, February 13, 2018 4:10 PM
To: Smith, Rachael
Cc: judy44410s@gmail.com
Subject: Markel Water Rights

Rachael,

After reviewing your January 24, 2018 letter it is apparent that the lease applications for water rights 37-21852, 37-21869, 37-21886, 37-21903 and 37-21920 cannot be leased into the Idaho Water Supply Bank at this time. Please withdraw the lease applications and refund the \$500 processing fee.

Thank you,

Greg Sullivan
Brockway Engineering
2016 North Washington Street, Suite 4
Twin Falls, Idaho 83301
208-736-8543

TO: Sascha Marston

FROM: Rachael Smith

DATE: February 14, 2018

RE: Refund- Water Supply Bank Lease of Rights 37-21852, 37-21869, 37-21886,
37-21903 and 37-21920

Please refund the \$500 water supply bank lease processing fee for these water rights. These applications were withdrawn due to concerns of forfeiture. The owner is Judy Markel Living Trust and the fee was provided by Brockway Engineering.

Please issue a refund of \$500 to:

BROCKWAY ENGINEERING
2016 NORTH WASHINGTON ST STE 4
TWIN FALLS ID 83301

RECEIPT #

C104498

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

JAN 02 2018

DEPARTMENT OF
WATER RESOURCES

**APPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANK**

Designated Applicant Judy Markel Living Trust

(Select one owner – see item 1A on the application)

Water Right No. 37-21852

(One water right per application)

Is this application being submitted with a rental application as a lease/rental package?

Yes ☐ No ☒

This application must be prepared in accordance with the minimum requirement checklist below. Use this checklist to ensure all necessary documentation has been provided. This checklist is part of the lease application and must be included with the lease application. Applications that do not meet the minimum requirements will not be processed and may be returned or denied.

MIMUMUM REQUIREMENT CHECKLIST

All items must be checked as either *Attached (Yes)* or *Not Applicable (N/A)*

Yes

- ☒ Completed *Application to Sell or Lease a Water Right to the Water Supply Bank*.
- ☒ Application filing fee of \$250.00 per water right. If you are submitting more than one lease application and the water rights have an overlapping, common place of use, or a common diversion rate or volume, the total fee for all water rights is \$500.00. For places of use, multiple water rights must be used to irrigate the same lands in order to qualify for the joint filing fee. Individual filing fees are required for water rights that share a common permissible place of use but which cover separate acres within the permissible place of use.
- ☒ Confirmation this form has been printed **single sided**, per requirement of the Water Supply Bank.

Attachment N/A Yes

- 1A ☐ ☒ Signatures and contact information for **all owners** of the water right to be leased or sold on this application.
- 1B ☐ ☒ An Internal Revenue Service (IRS) Form W-9 for the Designated Applicant.
- 1C ☒ ☐ *Notice of Change in Water Right Ownership* form (accessible from www.idwr.idaho.gov).
- 1D ☐ ☒ Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity.
- 2 ☐ ☒ Description of a water right portion offered to the Water Supply Bank.
- 3 ☐ ☒ A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. You have the option of printing a map using the map tool on IDWR's website at: www.idwr.idaho.gov.
- 4A ☐ ☒ Written consent from irrigation district or water delivery company.
- 4G ☐ ☒ Evidence demonstrating the water right has not been forfeited pursuant to [Section 42-222\(2\), Idaho Code](#).

Department Use Only

Fee Amount \$ 500.00Received By: TDDate Received: 1/2/2018 Receipt # C104498W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)Name on W-9: Judy Markel Living Trust

967

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

1. CONTACT INFORMATION

- A. This application must be completed by a Designated Applicant who is a current owner of the water right being sold or leased to the Water Supply Bank. If there are additional current owners, those individuals must authorize the Designated Applicant to represent them on this application by completing and signing Attachment 1A of this application package.

Designated Applicant Judy Markel Living Trust

Mailing Address 16902 Liggett St Northridge, CA 91343

Street

City

State

Zip Code

Email Address _____

Phone Number 818-216-9112

- ☒ The Designated Applicant is the sole owner of the water right being sold or leased to the Water Supply Bank.

OR

- ☐ The Designated Applicant is representing additional water right holders who have completed Attachment 1A.

- B. Has the Designated Applicant submitted an IRS Form W-9 to this Department within the last 2 years? Yes ☐ No ☒

If no, complete the form and attach to this application (Attachment 1B).

- C. Are all applicants on this form listed in IDWR's records as the current owners of the water right? Yes ☒ No ☐

If no, attach a *Notice of Change in Water Right Ownership* form along with the required documentation and fee (Attachment 1C).

- D. Is this application being completed by an authorized representative of the Designated Applicant? Yes ☒ No ☐

If yes, representatives (includes employees of Designated Applicant companies) must complete this section and submit documentary proof of their authority to represent the Designated Applicant (Attachment 1D).

Name of Representative Greg Sullivan

Organization Brockway Engineering

Professional Title Engineer

Email Address greg.sullivan@brockwayeng.com

Mailing Address 2016 N Washington St. Ste 4 Twin Falls, ID 83301

Phone Number 208-736-8543

- ☐ Send all correspondence for this application to the representative and not to the Designated Applicant.

OR

- ☒ Send original correspondence to the Designated Applicant and copies to the representative.

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

- ☒ The full water right is being offered to the Bank.

OR

- ☐ A part of the water right is being offered to the Bank.

If a portion of the water right is being offered, **complete Attachment 2.**

3. MAP

Attach a map of the point(s) of diversion and place(s) of use proposed to be idled by this lease application. Make sure the idled place of use is outlined and annotated with legal land descriptions (Township, Range, Section and Quarter-Quarters) or with GPS coordinates. For irrigation purposes, mark the number of acres you desire to idle. If the water right proposed for lease is located within a permissible place of use (PPU) and portions of the PPU will continue to receive water from non-leased water rights, clearly outline on a map the acres within the PPU that will continue to be irrigated, as well as acres that will be idled during the lease term. Label the map **Attachment 3.**

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

4. GENERAL INFORMATION

- A. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☒ No ☐
If yes, provide written consent from the company, corporation or irrigation district authorizing the proposed sale or lease (Attachment 4A).
If your water right is delivered through a canal, lateral or ditch operated by a canal company, irrigation district, or similar delivery entity, your lease request must include written consent from the company, district, or similar entity for your removal of water from its system pursuant to [Section 42-108, Idaho Code](#) and [IDAPA WSB Rule 37.02.03.25.02e](#).
- B. Please provide a description of the current water diversion and delivery system.
Existing diversion structure, delivery canals and headgates.

- C. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank. 37-21852, 37-21869, 37-21886, 37-21903 and 37-21920

- D. Are any of the water rights identified in Section 4C stacked with the water right proposed for lease? Yes ☒ No ☐
Stacked water rights are used together to achieve a common beneficial use, such as irrigation of the same lands. Stacked water rights cannot be separated and must be jointly leased to the Water Supply Bank. Stacked water rights qualify for the multiple fee payment of \$500.
- E. Will the present place of use continue to receive water from any other source? Yes ☐ No ☒
If yes, explain the relationship between the different water sources and how enlargement of the authorized use will not occur if this water right is leased. _____

- F. Identify annual volumes and/or rates of water diverted in the last 5 years to accomplish the beneficial use authorized by this water right. Water rights 37-21852, 37-21869, 37-21886, 37-21903 and 37-21920 were decreed in 2010.

- G. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes ☐ No ☒
If yes, describe the circumstances and attach evidence to demonstrate how the water right has not been lost through forfeiture (Attachment 4G). See [Section 42-223, Idaho Code](#) for exceptions to forfeiture. Your application may be denied if forfeiture concerns are not addressed. _____

- H. Is this water right involved in any other IDWR process, such as an application for transfer or a mitigation plan?
If yes, describe. Yes ☐ No ☒

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

5. SALE/LEASE AGREEMENT

A. Is the water right, or portion thereof, offered to the Idaho Water Resource Board (IWRB) for sale ☐ or lease ☒.

If lease, specify the years when the use of water will be suspended: 2017 to 2019 (maximum lease period 5 calendar years).
(Year) (Year)

B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.

Current rental rate _____

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this water right for sale or lease to the Idaho Water Resource Board.

The Designated Applicant acknowledges the following:

1. Payment to the Designated Applicant is contingent upon the sale or rental of the water right from the Bank.
2. While a water right is in the Bank, the seller/lessor of the water right may not use the water right, even if the water right is not rented from the Bank.
3. A water right accepted into the Bank stays in the Bank until the Designated Applicant receives written confirmation from the Board or Water Supply Bank that the water right has been released from the Bank.
4. While a water right is in the Bank, forfeiture is stayed.
5. Acceptance of a water right into the Bank does not, in itself, confirm the validity of the water right or any element of the water right.

Judy Markel
Signature of Designated Applicant

JUDY MARKEL
Printed Name

12/1/17
Date

Signature of Authorized Representative

Printed Name

Date

Mail to:
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

12/1/2017

WATER RIGHT NO. 37-21852

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	JUDY MARKEL LIVING TRUST 16902 LIGGETT ST NORTHRIDGE, CA 91343 8188927787
Original Owner	BELLEVUE FARMS LANDOWNERS ASSN PO BOX 774 BELLEVUE, ID 83313

Priority Date: 03/24/1883
Basis: Decreed
Status: Active

<u>Source</u>	<u>Tributary</u>
BIG WOOD RIVER	MALAD RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	10/31	0.08 CFS	
Total Diversion			0.08 CFS	

Location of Point(s) of Diversion:

BIG WOOD RIVER|NESWNW|Sec. 36|Township 02N|Range 18E|BLAINE County

Place(s) of use:

Place of Use Legal Description: IRRIGATION BLAINE County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
01N	19E	7	3	NWSW	5									

Total Acres: 5

Conditions of Approval:

1. C18
- This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
2. Property is also known as Lot 7, Blk 1, Bellevue Farms Subdivision.
3. Right Nos. 37-21852, 37-21869, 37-21886, 37-21903 and 37-21920 are limited to the irrigation of a combined total of 5 acres in a single irrigation season.
4. This right is a split from former right 37-577.
5. Point of diversion described above is the headgate for District 45 canal.

Dates:

Licensed Date:

Decreed Date: 03/31/2010

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close

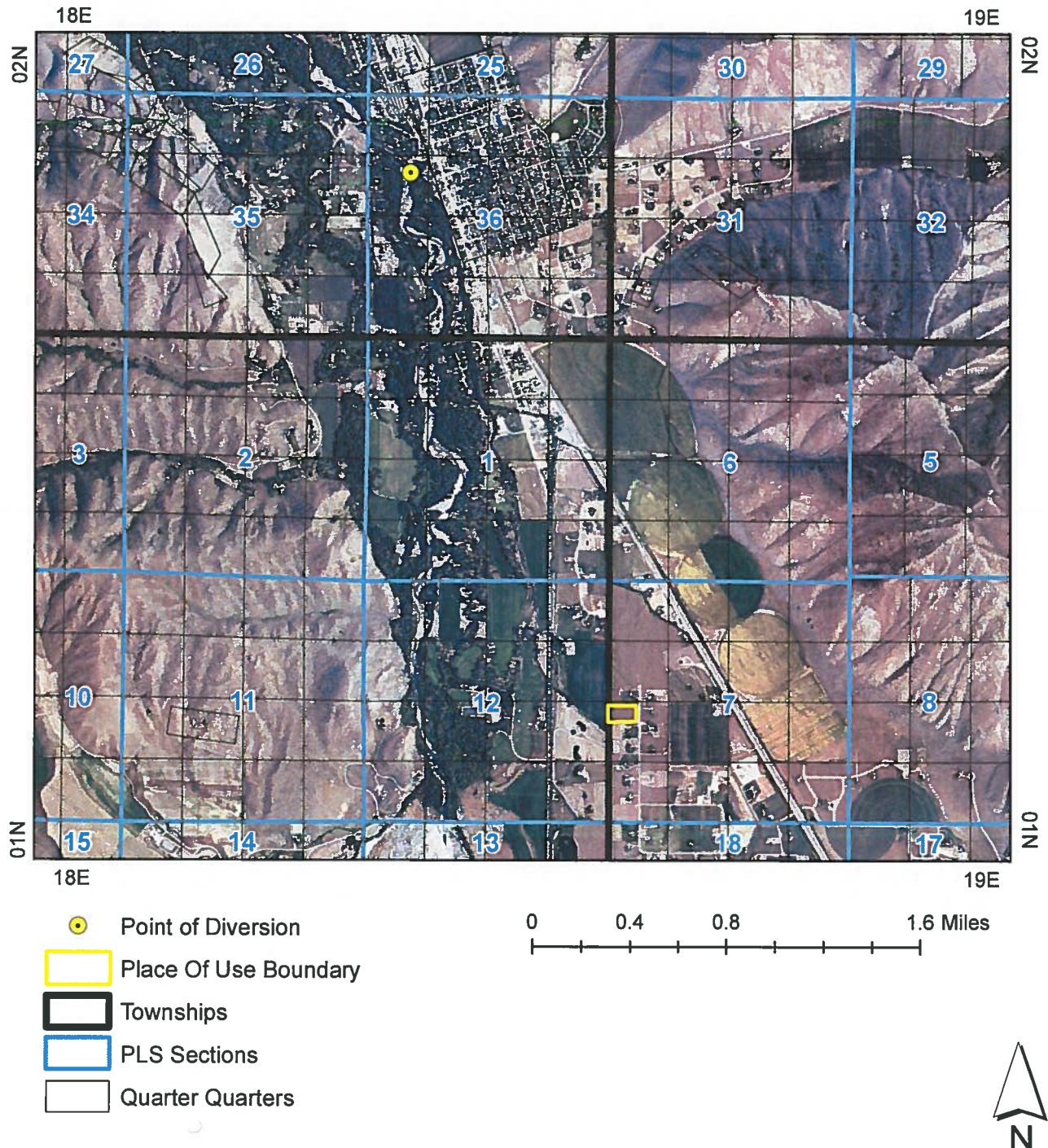
State of Idaho
Department of Water Resources

Water Right

37-21852

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

January 24, 2018

JUDY MARKEL LIVING TRUST
3015 SOUTH GENTRY LN
ST GEORGE UT 84790

**RE: Water Supply Bank Lease Applications For Water Rights 37-21852, 37-21869, 37-21886,
37-21903 and 37-21920**

Dear Applicant:

On January 2, 2018, the Department of Water Resources (Department) received your application(s) to lease water rights 37-21852, 37-21869, 37-21886, 37-21903 and 37-21920 to the Water Supply Bank (Bank). Water Supply Bank Rule 25 (also known as IDAPA 37.02.03.025) requires the Department to evaluate whether the water right has been lost through abandonment or forfeiture as defined by Idaho Code § 42-222(2) which states, in part, "All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated."

A review of Landsat imagery between 2013 and 2017 shows no evidence of irrigation for the 5 acres proposed to be leased to the Bank. Because of the evidence of more than five years of non-use, the requirements of Water Supply Bank Rule 25 cannot be met. If you can provide additional information to show beneficial use has occurred on these 5 acres or that they were protected from forfeiture under Idaho Code § 42-223, please provide the evidence within 30 days.

Please note that a water right is not protected from forfeiture unless it is accepted into the Bank or unless an exception or defense to forfeiture applies as described under Idaho Code § 42-223.

If you have any questions regarding this matter, please contact me at (208) 287-4912.

Sincerely,

Rachael Smith
Water Resource Agent Sr.

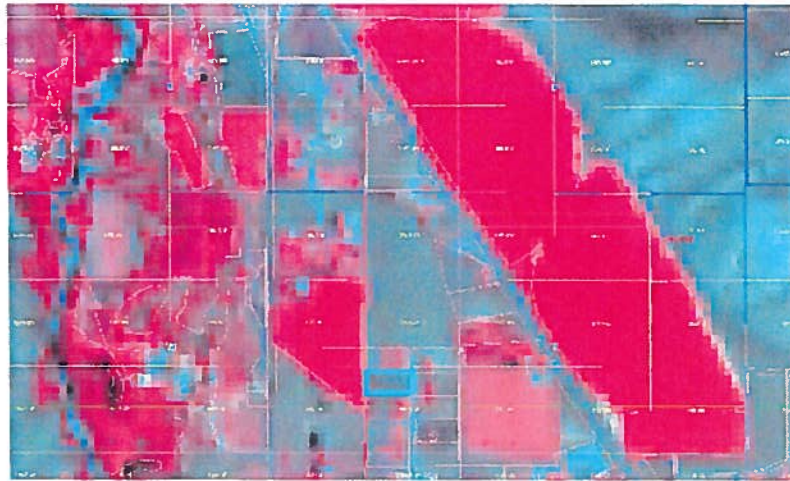
Cc: Greg Sullivan, Brockway Engineering

Enclosure: Review of Landsat Imagery

Review of Landsat Imagery

Water Rights 37-21852, 37-21869,
37-21886, 37-21903 and 37-21920

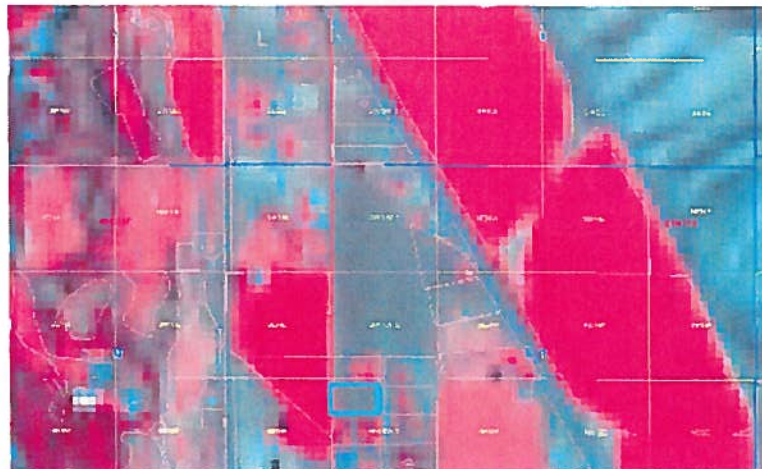
2013



2014

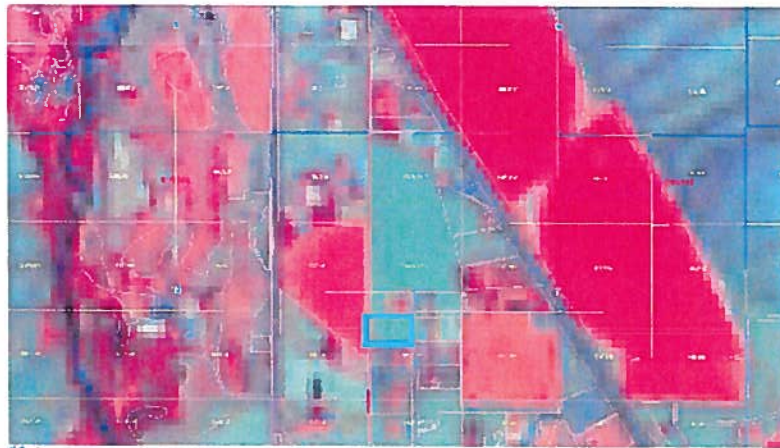


2015



 Place of use

2016



2017



 Place of use



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

RECEIVED

JAN 02 2018

DEPARTMENT OF
WATER RESOURCES

December 21, 2017

Remington Buyer
Idaho Water Supply Bank
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

Re: Judy Markel Living Trust

Dear Mr. Buyer:

Judy Markel Living Trust desires to lease the full amount of water rights 37-21852, 37-21869, 37-21886, 37-21903 and 37-21920 to the Idaho Water Supply Bank for 2017, 2018 and 2019.

Consent letters from The Wood River Valley Irrigation District #45 and the Triangle Irrigation District have been obtained and are attached to this letter.

It is necessary to update the address for the Judy Markel Living Trust and the change of address request form is attached to this letter.

Please copy our office on all correspondence regarding this application.

Sincerely,

Greg Sullivan, M.S., Engineer

CHARLES E.
BROCKWAY,
PH.D., P.E.

CHARLES G.
BROCKWAY,
PH.D., P.E.

Cc: Judy Markel

Enc: Lease Applications, Water Right Report, Aerial Maps, W-9 Form, Change in Address Form, Brockway Engineering Check # 14423 for \$500.00

2016 NORTH
WASHINGTON
STREET • SUITE 4

TWIN FALLS,
IDAHO 83301

208•736•8543

FAX: 736•8506