

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 81877**

This is to certify that: JANE LODATO TRUST
C/O JANE K LODATO
106 ELDERBERRY LN
BELLEVUE, ID 83313

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
37-23060	WR/DECREED	7/25/1966	0.040 cfs	3.9 af	N/A	1.1	GROUND WATER

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
37-23060	NO	YES	NO	NO	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
37-23060	37-23060	0.040 cfs	3.9 af	N/A	1.1	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.040 cfs	3.9 af	N/A	1.1		N/A	N/A	N/A	N/A

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this 6th day of November, 2017.



Southern Region Manager

Transfer No. 81877

WATER RIGHT NO. 37-23060
As Modified by Transfer No. 81877

In accordance with the approval of Transfer No. 81877, Water Right No. 37-23060 is now described as follows:

Right Holder: JANE LODATO TRUST
C/O JANE K LODATO
106 ELDERBERRY LN
BELLEVUE, ID 83313

Priority Date: 7/25/1966

Source: GROUND WATER

BENEFICIAL USE
IRRIGATION

From 04/01 **To** 11/01

Diversion Rate
0.040 cfs
0.040 cfs

Diversion Volume
3.9 af
3.9 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NWNENE Sec 35 Twp 02N Rge 18E BLAINE County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N	18E	35	1.1																1.1

POU Total Acres: 1.1

CONDITIONS OF APPROVAL

1. Rights 37-22124 and 37-23060 when combined shall not exceed the irrigation of 1.5 acres.
2. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37.
3. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.

Transfer No. 81877

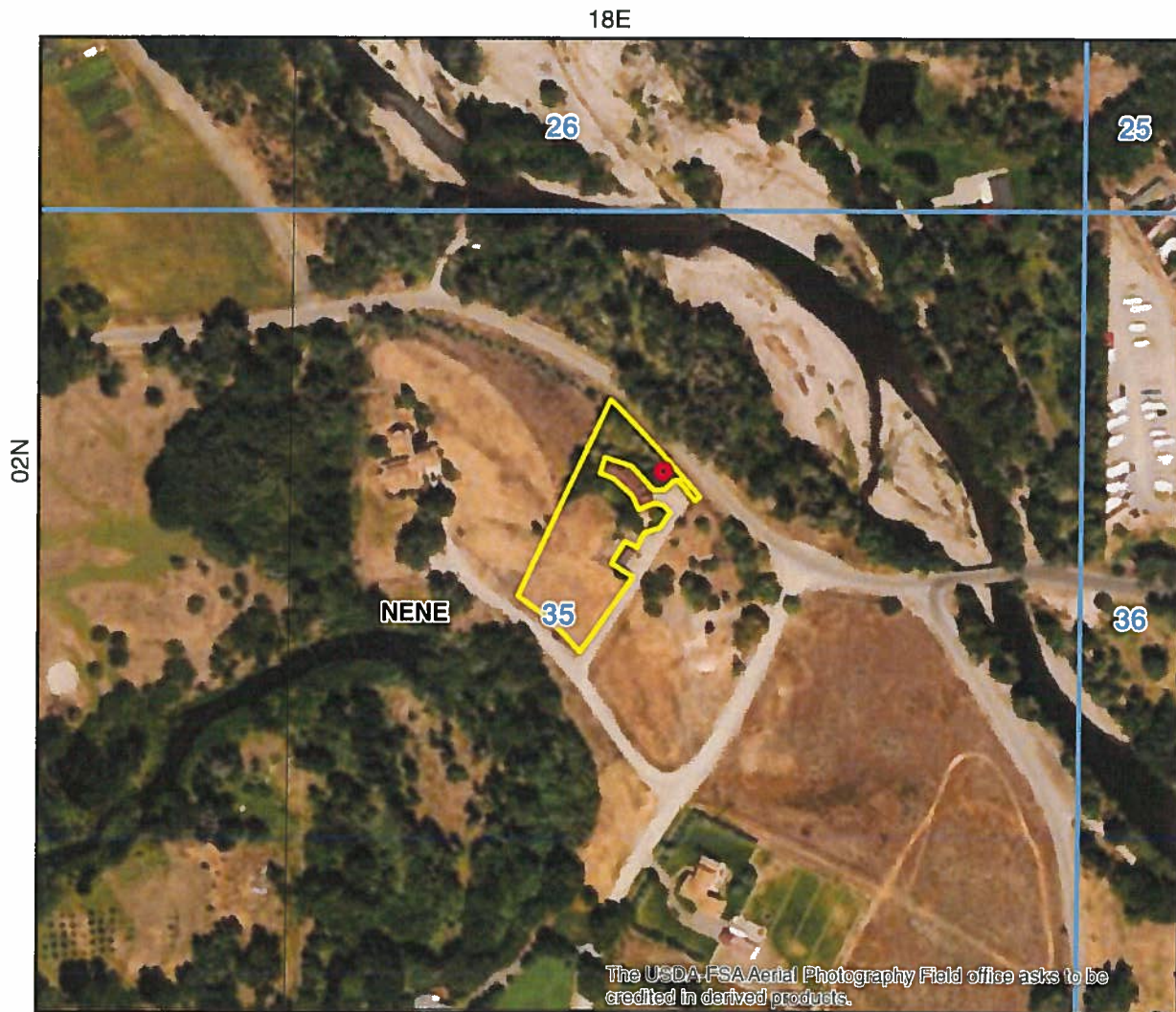
WATER RIGHT NO. 37-23060
As Modified by Transfer No. 81877

CONDITIONS OF APPROVAL

4. The right holder shall make full beneficial use of all surface water available to the right holder for irrigation of lands within the authorized place of use for this right. The right holder may divert ground water under this right to irrigate land with appurtenant surface water rights when the surface water supply is not reasonably sufficient to irrigate the place of use for this water right or is not available due to drought, curtailment by priority, or the seasonal startup and shutoff or maintenance schedule for canal company deliveries. The right holder shall not divert ground water for irrigation purposes under this right if use of the surface water supply is intentionally discontinued or reduced (for example abandoned, forfeited, sold, disallowed by court decree, or leased to the Water Supply Bank), or is not deliverable due to non-payment of annual assessments, without an approved transfer pursuant to Section 42-222, Idaho Code, or other Department approval.
5. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

State of Idaho
Department of Water Resources
Attachment to Transfer # 81877
37-23060

This map depicts the IRRIGATION place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections

0 0.035 0.07 0.14 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

November 7, 2017

JANE LODATO TRUST
C/O JANE K LODATO
106 ELDERBERRY LN
BELLEVUE ID 83313

Re: Transfer No: 81877
Water Right No(s): 37-23060

Transfer Approval Notice

Dear Water Right Holder and other Interested Persons:

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

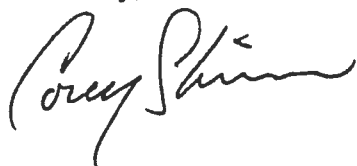
ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208) 736-3033.

Sincerely,

A handwritten signature in black ink, appearing to read "Corey Skinner". The signature is fluid and cursive, with the first name "Corey" being more prominent than the last name "Skinner".

Corey Skinner
Southern Regional Manager

Enclosure

cc:

JANE K LODATO (*Trustee*)
106 ELDERBERRY LN
BELLEVUE ID 83313

KEVIN LAKEY
WATER DISTRICT 37
107 W 1ST ST
SHOSHONE ID 83352

CERTIFICATE OF SERVICE

I hereby certify that on November 7, 2017 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Transfer) to the person(s) listed below:

Re: Transfer No.: 81877
Water Right No(s): 37-23060

JANE LODATO TRUST
C/O JANE K LODATO
106 ELDERBERRY LN
BELLEVUE ID 83313

JANE K LODATO (Trustee)
106 ELDERBERRY LN
BELLEVUE ID 83313

KEVIN LAKEY
WATER DISTRICT 37
107 W 1ST ST
SHOSHONE ID 83352

via e-mail



Denise Maline
Administrative Assistant

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

MEMORANDUM

Date: October 5, 2017
To: Transfer 81877 File
From: Bill Mills
Re: Evaluation of Sufficiency of Information Submitted

Application for transfer proposes changing the point of diversion (POD) for a 0.04 cfs ground water irrigation right to an existing well located approximately 0.4 miles west and 0.1 mile north of the Broadford Road and Highway 75 in Bellevue. Current POD is located approximately 0.1 miles northwest of the proposed POD.

Water right place of use (POU) overlaps with Big Wood River right 37-22124. Combined limits limiting both rights when combined to the irrigation of 1.5 acres and 3.5 afa per acre will be added to the water right in the transfer process.

Proposed POD, current POD and POU are located in Water District 37, and watermaster comments will be solicited.

- **Authority to File:** IDWR records indicate the applicant currently owns the water right in this transfer.
- **Water Right Validity:** Water right was decreed in the SRBA on 9/24/2010. Recent aerial and satellite imagery indicate the property involved with this transfer appears irrigated.
- **Injury to Other Water Rights:**
None anticipated.
- **Enlargement of Use:**
None anticipated.
- **Local Public Interest:**
No issues anticipated.
- **Beneficial Use/Conservation of Water Resources:**
Proposed use is recognized as a beneficial use of water.
- **Effect on the Economy of the Local Area:**
None Anticipated.
- **Effect on Agricultural Base of the Local Economy:**
None Anticipated.

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing

RECEIVED

SEP 18 2017

COPY OF NOTICE

AFFIDAVIT of PUBLICATION

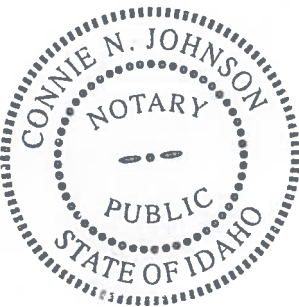
State of Idaho
County of BlaineDEPT OF WATER RESOURCES
SOUTHERN REGION

Pam Morris, being the first duly sworn, deposes and says that she is the printer (publisher) of the Idaho Mountain Express, a newspaper published every week in Ketchum, County of Blaine, State of Idaho; that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once

each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first

publication of said advertisement was on the 6th day of September, 20 17, and the date of the last publication was on the 13th day of September, 20 17

Subscribed and sworn to before me this 13 day of Sept., 20 17.



Connie N. Johnson
NOTARY PUBLIC

RESIDING AT HAILEY, IDAHO
MY COMMISSION EXPIRES ON 7/10/2018

IDAHO MOUNTAIN EXPRESS
P.O. Box 1013
Ketchum, Idaho 83340
COST OF PUBLICATION

Number of Picas per Line 11.5
Number of Lines in Notice 45
Number of Insertions 2

Lines tabular at 9.0 cents/pica
45 Lines straight at \$41.40 8.0 cents/pica
45 Subsequent lines at \$36.23 7.0 cents/pica
TOTAL COST \$77.63

Legal Notice

TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

IDWR

BILL TO

**NOTICE OF PROPOSED CHANGE
OF WATER RIGHT
TRANSFER NO. 81877**

JANE LODATO TRUST, C/O JANE K LODATO, 106 ELDERBERRY LN, BELLEVUE, ID 83313; has filed Application No. 81877 for changes to the following water rights within BLAINE County(s): Right No(s). 37-23060; to see a full description of these rights and the proposed transfer, please see www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx. The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes changing the point of diversion (POD) for a 0.04 cfs ground water irrigation right to an existing well located approximately 0.4 miles west and 0.1 mile north of the Broadford Road and Highway 75 in Bellevue. Current POD is located approximately 0.1 mile northwest of the proposed POD (existing well).

For additional information concerning the property location, contact Southern Region office at (208) 736-3033. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222. Any protest against the proposed change must be filed with the Department of Water Resources, Southern Region, 650 Addison Ave W Ste 500, Twin Falls ID 83301 together with a protest fee of \$25.00 for each application on or before **September 25, 2017**. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

**PUBLISH
IDAHO MOUNTAIN EXPRESS
SEPTEMBER 6 & 13, 2017**

✓ OK DM
9-20-17

Mills, William

From: Mills, William
Sent: Tuesday, September 12, 2017 3:14 PM
To: 'janelodato@gmail.com'
Subject: RE: Jane K. Lodato Trust Ground Water Transfer Application

Hi Jane,
So you know, we did contact Jim to make sure he was in agreement. His response is included below.
Thank you for letting me know about the change. Jim is no longer listed as your representative on this transfer application and
all future correspondence will go directly to you. I'll be in contact after the protest deadline of 9/25.
Thanks again,
Bill Mills
Senior Water Resource Agent
IDWR Southern Region

From: James Speck [mailto:jim@speckandaanestad.com]
Sent: Tuesday, September 12, 2017 1:54 PM
To: Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Cc: Maline, Denise <Denise.Maline@idwr.idaho.gov>; Mills, William <William.Mills@idwr.idaho.gov>
Subject: RE: FW: RE: Jane K. Lodato Trust Ground Water Transfer Application

Corey,

Thanks for the note. Jane and I agreed she will handle the rest of the process on her own, so NO issues!

Jim

From: Skinner, Corey [mailto:Corey.Skinner@idwr.idaho.gov]
Sent: Tuesday, September 12, 2017 1:50 PM
To: James Speck
Cc: Maline, Denise; Mills, William
Subject: RE: FW: RE: Jane K. Lodato Trust Ground Water Transfer Application

Jim,

Pursuant to Jane Lodato's request (see e-mail below), we will be removing you as an attorney/representative for Transfer # 81877. This will result in you no longer receiving copies of correspondence relating to this matter.

If you have any issues with this, let me know.

Thanks,

Corey Skinner, PE
IDWR Southern Region Manager

From: Mills, William
Sent: Tuesday, September 12, 2017 1:41 PM

To: Skinner, Corey <Corey.Skinner@idwr.idaho.gov>

Subject: FW: FW: RE: Jane K. Lodato Trust Ground Water Transfer Application

From: jane lodato [<mailto:jane.lodato@gmail.com>]

Sent: Tuesday, September 12, 2017 12:22 PM

To: Mills, William <William.Mills@idwr.idaho.gov>

Cc: janelodato@gmail.com

Subject: Fwd: FW: RE: Jane K. Lodato Trust Ground Water Transfer Application

Hi Bill,

You have been in correspondence with Jim Speck regarding my application to move ground water rights to my well (see below) which is in progress.

First of all, thank you for your time on this, much appreciated.

I am writing to let you know you can correspond directly with me from here on out. Barring any unforeseen protests I am going to handle this as I have simply depleted my "water rights attorney" budget and then some. Jim is supportive and very understanding.

Thanks and please let me know if you have any questions, I look forward to hearing from you after 9/25 hopeful this will be approved.

Many thanks,

Jane Lodato

415-987-9677

<https://www.linkedin.com/in/janelodato>

State of Idaho
Department of Water Resources
Transfer of Water Right(s)
RECOMMENDATION FORM

RECEIVED
SEP 11 2017
DEPT OF WATER RESOURCES
SOUTHERN REGION

Transfer Application No.: 81877

Water Right No(s): 37-23060

Transfer Applicant's Name: JANE LODATO TRUST
C/O JANE K LODATO
106 ELDERBERRY LN
BELLEVUE ID 83313

Water master's Recommendation:

- a) X I do not oppose approval of this application.
- b) _____ I do not oppose approval of this application if it is conditioned as follows:
- c) _____ I oppose approval of this application for the following reasons:
- d) _____ Additional comments:

Dated this 11 day of September, 2017

Water District No. 37

Kevin Lakey
Water master's Signature

Kevin Lakey
Printed Name