



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 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

December 7, 2016

H PHILLIP CASH
607 E 200 S
FAIRFIELD ID 83327

**RE: WATER SUPPLY BANK LEASE APPLICATION(S) FOR WATER RIGHT
NO(S). 37-444 AND 37-7636A**

Dear Applicant:

On December 31, 2015 the Idaho Department of Water Resources (Department) received your application(s) to lease a portion of water right no(s) 37-444 and 37-7636A to the Water Supply Bank (Bank) for a period ending December 31, 2016. The Department is returning your lease application(s) per written request received December 6, 2016. A refund of your application fee has been requested and will be sent to Barker Rosholt & Simpson LLP separately.

You can reapply to lease the water right(s) in the future by submitting new application form(s) from the Department's website at www.idwr.idaho.gov along with applicable fees.

If you have questions regarding this matter, please contact me at 287-4910.

Sincerely,

for Clay Webster
Water Resource Agent
WSB Process Point of Contact

Enclosure(s): Lease Application(s)

c: Travis Thompson – Barker Rosholt & Simpson LLP

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

DEC 31 2015

APPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDEPT OF WATER RESOURCES
SOUTHERN REGIONDesignated Applicant H Philip Cash

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

Water Right No. 37-444

(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.

MINIMUM 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-Received By: DMDate Received: 12.31.15Receipt # 5035180W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)Name on W-9: H. Philip Cash

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

RECEIVED

DEC 31 2015

DEPT OF WATER RESOURCES
SOUTHERN REGION

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 H Philip Cash

Mailing Address 607 E 200 S Fairfield ID 83327
Street City State Zip Code

Email Address amthpc@aol.com Phone Number 916-207-2663 (cell)

☒ 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 Travis L. Thompson Organization Barker Rosholt & Simpson LLP

Professional Title Attorney Email Address tlt@idahowaters.com

Mailing Address 195 River Vista Pl., Ste 204, Twin Falls, ID 83301 Phone Number 733-0700

☐ 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.

Diversion structure on Camas Creek, divert to pond where it is pumped to sprinklers

- 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. Shares from Twin Lakes Irrigation Company and water right 37-2541, however, not used on the area where the portion of the water right to be leased from.

- 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. Only seeking to lease a portion of the water rights. Need to lease 0.89 cfs for use on 158.4 acres for water right 37-444, and volume of 373.4 af and 150.4 acres for water right 37-7636A.

- 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. Seeking extension of time to avoid forfeiture as well (on file with IDWR)

- 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. Seeking extension of time to avoid forfeiture as well (on file with IDWR)

- 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 ☐

Seeking extension of time to avoid forfeiture as well (on file with IDWR)

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 12/15 to 12/16 (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.

H. Philip Cash
Signature of Designated Applicant

H Philip Cash

Printed Name

12-30-15
Date

Travis L. Thompson
Signature of Authorized Representative

Travis L. Thompson

Printed Name

12/31/15
Date

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

**STATE OF IDAHO
WATER RESOURCE BOARD**

Complete Attachment 2 if only a portion of the water right is offered to the Bank.

ATTACHMENT 2

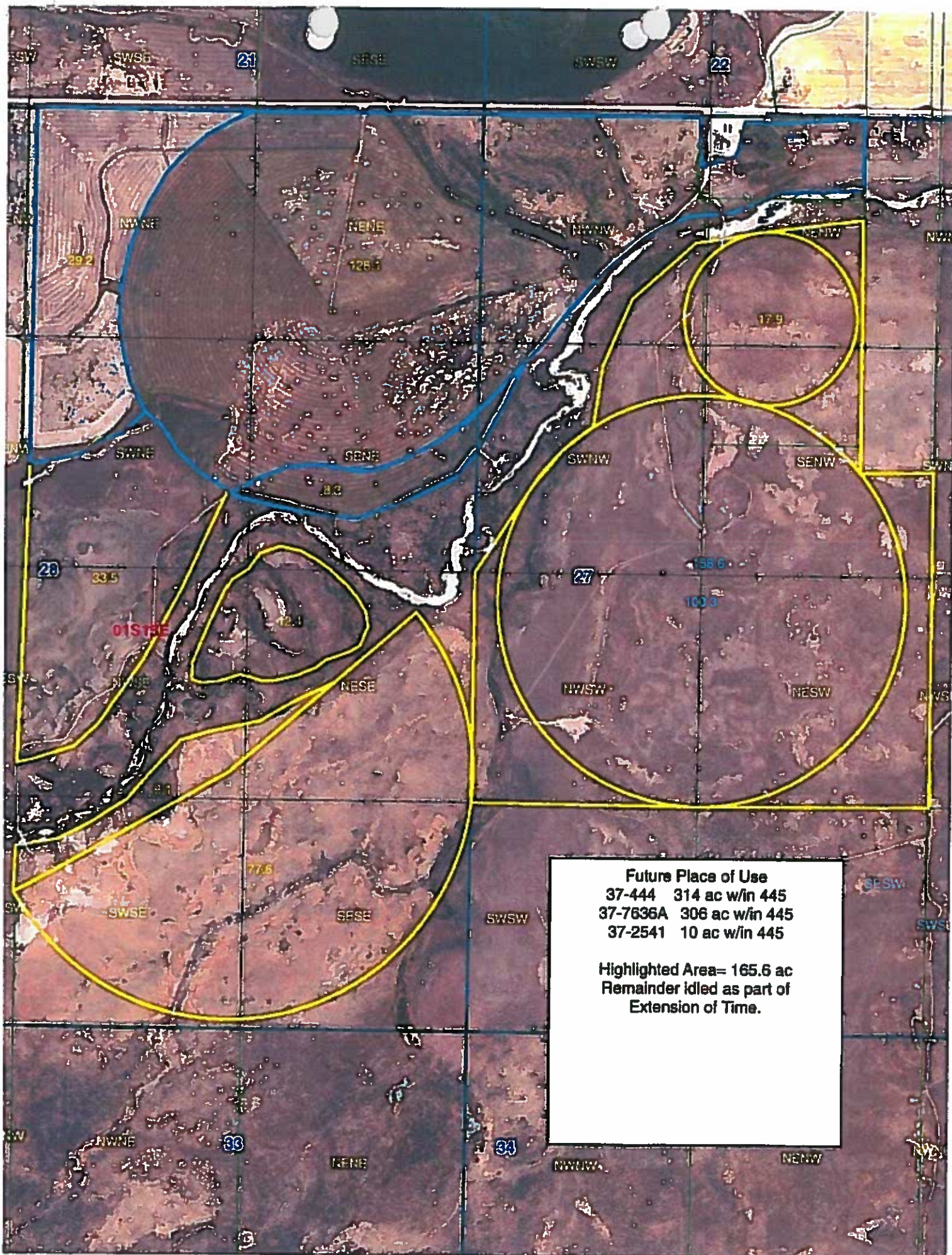
DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

<u>1. Water Right Number</u>	<u>Nature of Use</u>	<u>Leased Rate</u> (cfs)	<u>Leased Volume</u> (af)	<u>Leased Acres</u> (ac)
<u>37-444</u>	<u>Irrigation</u>	<u>0.89 cfs</u>	<u>N/A</u>	<u>158.4</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
	Total Amounts:	<u>0.89 cfs</u>	<u>N/A</u>	<u>158.4</u>

2. Source of water Camas Creek tributary to Big Wood River

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
1S	15E	27			NW	NW	Camas



Future Place of Use
37-444 314 ac w/in 445
37-7636A 306 ac w/in 445
37-2541 10 ac w/in 445

Highlighted Area= 165.6 ac
Remainder idled as part of
Extension of Time.

Hersley, Jean

From: Hersley, Jean
Sent: Tuesday, December 06, 2016 12:34 PM
To: 'Travis Thompson'
Subject: RE: Cash Water Supply Bank Leases

Thank you for getting back to me. The department will issue a refund for the Water Supply Bank Lease Applications. The fee for the transfer needs to be included when Mr. Cash files the transfer. It keeps our records cleaner.

Jean

From: Travis Thompson [mailto:tlt@idahowaters.com]
Sent: Tuesday, December 06, 2016 8:50 AM
To: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Subject: Re: Cash Water Supply Bank Leases

Jean,

Thank you for contacting me. My client would like to withdraw the application filed last year. As discussed, he has a transfer application that needs filed, is it possible to have the water bank application fee transferred over for that purpose?

Thanks,

Travis

From: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Sent: Tuesday, December 6, 2016 8:18 AM
To: Travis Thompson
Cc: Webster, Clay
Subject: Cash Water Supply Bank Leases

Travis,

I am reviewing Mr. Cash's request to lease water rights 37-444 and 37-7636A to the Bank. It appears the amounts and acres offered to the Bank on both lease applications are the same as the recently approved Extensions of Time to Avoid Forfeiture. Since the extension of time was approved and this action already protects his rights from forfeiture, did your client still want to proceed with the WSB Leases?

If your client decides to continue with the Bank leases, the amounts on the application will not be the final amounts on the lease contract. For water right 37-444, Mr. Cash offered 158.4 acres and 0.89 cfs. If this right is accepted into the Bank, the rate accepted would be 2.02 cfs. The Department needs to keep the amounts proportionate to the acres. And for water right 37-7636A, Mr. Cash offered 150.4 acres and 373.4 af. If this right is accepted into the Bank, the volume accepted would be 451.2 af and the rate would be 1.2 cfs.

Please remember with an Extension of Time to Avoid Forfeiture, a water right holder can resume use of the water as soon as they want to. If these rights are in the Bank and they are rented by someone else, the water right holder cannot resume use of the water until the rental expires.

According to Idaho Code § 42-222, in his approval of an extension of time to avoid forfeiture the director of the department of water resources shall set the date when the use of water is to be resumed. The resumption date for these rights was set as September 24, 2020.

According to Idaho Code § 42-223 A water right shall not be lost or forfeited by failure of the owner of the right to divert and apply the water to beneficial use while the right is placed in the water supply bank or is retained in or rented from the water supply bank. The department has allowed water rights to be placed in the water supply bank prior to the resumption of use date. However, this practice has not been challenged in court as of the date of this e-mail.

Please let me know how you want to proceed.

*Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942*

MEMORANDUM

To: Sascha Marston
From: Christine Field
Date: December 6, 2016
Re: Water Supply Bank Refund Needed

Please issue a Refund in the amount of \$500.00 for lease application fees for W/R 37-444 and 37-7636A. Lease applications for 2016 for W/R 37-444 and 37-7636A were withdrawn.

Receipt: S035180

Issue Refund to:

Barker Rosholt & Simpson LLP
195 River Vista Pl Ste 204
Twin Falls ID 83301