

Webster, Clay

From: Baxter, Garrick
Sent: Wednesday, April 13, 2016 11:24 AM
To: Jim Speck
Cc: Webster, Clay; Keen, Shelley; Luke, Tim; Peppersack, Jeff
Subject: RE: 37-8431

Jim,

I've had the chance to discuss your questions with the Department. In response to your first question, because irrigation is not included in the domestic component of 37-8431, a strict interpretation would lead to the conclusion that no, your client cannot continue to irrigate 0.5 acres under the CM rule 20.11 domestic exemption in a delivery call. The domestic component of 37-8431 specifically excludes irrigation. In response to your second question, again, because irrigation is not part of the domestic component of 37-8431, a strict interpretation would lead to the conclusion that your client must mitigate for the full 1.3 acres. This is the Department's initial position on these issues based upon current information although the Department may conclude otherwise if/when the issues arise in a delivery call.

Finally, as I previously explained to you, your questions were tangentially related to other domestic water right questions the Department was working through at the same time. Thank you for your patience while we worked through the questions.

Garrick

Garrick Baxter
Deputy Attorney General
Idaho Department of Water Resources
322 East Front Street
PO Box 83720
Boise, Idaho 83720-0098
garrick.baxter@idwr.idaho.gov
Phone: (208) 287-4811
Fax: (208) 287-6700

From: Jim Speck [<mailto:jim@speckandaanestad.com>]
Sent: Friday, January 29, 2016 2:58 PM
To: Keen, Shelley; Luke, Tim; Baxter, Garrick
Cc: Webster, Clay
Subject: 37-8431

Shelley, Tim & Garrick,

I'm sure you know that IDWR has taken the position that this water right provides the ONLY source of irrigation water for Lot 20 in Beaver Springs Subdivision. As I stated in previous e-mails, we thought this right did not preclude the use of the domestic well to irrigate the 0.5A entitled under 42-111 and my client could, therefore, lease the unused portion of 37-8431 to the Water Supply Bank. Your position on this raises another question related to the pending conjunctive management delivery calls. If this water right is curtailed, can my client continue to irrigate 0.5A under the exemption for "domestic purposes"? And a related question is whether he would have to mitigate for injury caused by the full 1.3A of 37-8431, or only 0.8A under that right if he gets to continue to irrigate the 0.5A for "domestic purposes"? What is IDWR's position on these points?

Thank you.

Jim

James P. Speck
SPECK & AANESTAD
A Professional Corporation
120 East Avenue North
P.O. Box 987
Ketchum, ID 83340
208.726.4421
208.726.0752 (fax)
jim@speckandaanestad.com

CONFIDENTIAL COMMUNICATION

This email message and any attachments are intended only for the use of the addressee named above and may contain information that is privileged and confidential. If you are not the intended recipient, any dissemination, distribution, or copying is strictly prohibited. If you received this email message in error, please immediately notify the sender by replying to this email message or by telephone. Thank you.



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

February 26, 2016

JAMES P SPECK
SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340

RE: WITHDRAWAL OF APPLICATION TO LEASE WATER RIGHT NO(S). 37-8431 TO THE WATER SUPPLY BANK

Dear Applicant:

Per your written request received on February 23, 2016 the Department of Water Resources ("Department") acknowledges your request to withdraw your Lease Applications and the associated the Rental 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 \$250.00 for receipt C101345 for the withdrawal of lease application for Water Right 37-8431.

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

Sincerely,

 Clay Webster
Water Resource Agent
WSB Process Point of Contact

Enclosure: Lease Application(s)

c: Aquarius SAW LLC

MEMORANDUM

TO: Sascha Marston
FROM: Christine Field
RE: **WATER SUPPLY BANK REFUND REQUEST – WATER RIGHT NO(S).
37-8431**
DATE: February 25, 2016

Please process a refund in the amount of \$250.00 payable to Speck & Aanestad. Lease Application receipt # C101345. The applicant has withdrawn his lease application from the Water Supply Bank.

Please send the \$250.00 to the address below:

**SPECK & AANESTAD
ATTN: JIM SPECK
PO BOX 987
KETCHUM ID 83340**

Webster, Clay

From: Jim Speck [jim@speckandaanestad.com]
Sent: Tuesday, February 23, 2016 4:34 PM
To: Webster, Clay
Cc: Cindy Mitchum
Subject: Re: Application to Lease 37-8431 (portion) to Wate Supply Bank

Clay,

Confirming our phone call this morning, please withdraw and return to me the above-referenced Application in the name of Aquarius SAW LLC together with a check payable to my firm for the \$250 filing fee. We understand the Application can be re-filed at any time if the current irrigated acre issue is resolved to IDWR's satisfaction.

The Application to Rent filed by DAMO, LLC is not being withdrawn. Let me know when you might be able to begin processing it if another water right becomes available.

Thank you.

Jim

James P. Speck
SPECK & AANESTAD
A Professional Corporation
120 East Avenue North
P.O. Box 987
Ketchum, ID 83340
208.726.4421
208.726.0752 (fax)
jim@speckandaanestad.com

CONFIDENTIAL COMMUNICATION

This email message and any attachments are intended only for the use of the addressee named above and may contain information that is privileged and confidential. If you are not the intended recipient, any dissemination, distribution, or copying is strictly prohibited. If you received this email message in error, please immediately notify the sender by replying to this email message or by telephone. Thank you.

Webster, Clay

From: Webster, Clay
Sent: Wednesday, February 03, 2016 2:15 PM
To: 'Jim Speck'
Subject: RE: RE: RE: 37-8431

Jim,

The deadline is Monday Feb 22, 2016.

Clay

-----Original Message-----

From: Jim Speck [<mailto:jim@speckandaanestad.com>]
Sent: Wednesday, February 03, 2016 1:56 PM
To: Webster, Clay
Subject: RE: RE: RE: 37-8431

Clay,

OK. Please confirm the "deadline" is Monday, Feb. 22 (30 days from your Jan. 21 letter is a Saturday, Feb. 20). Thanks.

Jim

-----Original Message-----

From: Webster, Clay
Sent: Wednesday, February 03, 2016 1:45 PM
To: Jim Speck

Jim,

I will not be able to extend the deadline for this application's consideration. If the information that you are seeking comes after the deadline, and this information supports your stance, you can always resubmit the lease application at that time.

Clay

-----Original Message-----

From: Jim Speck [<mailto:jim@speckandaanestad.com>]
Sent: Wednesday, February 03, 2016 9:32 AM
To: Webster, Clay
Subject: FW: RE: 37-8431

Clay,

I would like to get the IDWR position on the issues I have raised before finalizing our decision on the WSB lease application for this water right. Please confirm this will be OK. Thank you.

Jim

-----Original Message-----

From: Baxter, Garrick
Sent: Wednesday, February 03, 2016 7:56 AM

To: Jim Speck; Keen, Shelley, Luke, Tim
Cc: Webster, Clay

Jim,
A number of issues related to domestic water rights have arose recently and the Department is currently in the process of evaluating the issues in order to provide a uniform and considered response. This means that the Department is not able to provide guidance regarding your question at this time. We will circle back to you once the Department has reached a conclusion on the issues.
Garrick

Garrick Baxter
Deputy Attorney General
Idaho Department of Water Resources
322 East Front Street
PO Box 83720
Boise, Idaho 83720-0098
garrick.baxter@idwr.idaho.gov
Phone: (208) 287-4811
Fax: (208) 287-6700

From: Jim Speck [<mailto:jim@speckandaanestad.com>]
Sent: Tuesday, February 02, 2016 11:52 AM
To: Keen, Shelley; Luke, Tim; Baxter, Garrick
Cc: Webster, Clay
Subject: RE: 37-8431

Shelley, Tim & Garrick,

I'm just following up on my e-mail below. Please get back to me as soon as possible on these questions. Thank you.

Jim

From: Jim Speck [<mailto:jim@speckandaanestad.com>]
Sent: Friday, January 29, 2016 2:58 PM
To: Shelley W. Keen
(Shelley.Keen@idwr.idaho.gov<<mailto:Shelley.Keen@idwr.idaho.gov>>); Timothy Luke
(Tim.Luke@idwr.idaho.gov<<mailto:Tim.Luke@idwr.idaho.gov>>); 'Baxter, Garrick'
(Garrick.Baxter@idwr.idaho.gov<<mailto:Garrick.Baxter@idwr.idaho.gov>>)
Cc: Clay Webster
(clay.webster@idwr.idaho.gov<<mailto:clay.webster@idwr.idaho.gov>>)
Subject: 37-8431

Shelley, Tim & Garrick,

I'm sure you know that IDWR has taken the position that this water right provides the ONLY source of irrigation water for Lot 20 in Beaver Springs Subdivision. As I stated in previous e-mails, we thought this right did not preclude the use of the domestic well to irrigate the 0.5A entitled under 42-111 and my client could, therefore, lease the unused portion of 37-8431 to the Water Supply Bank. Your position on this raises another question related to the pending conjunctive management delivery calls. If this water right is curtailed, can my client continue to irrigate 0.5A under the exemption for "domestic purposes"? And a related question is whether he would have to mitigate for injury caused by the full 1.3A of 37-8431, or only 0.8A under that right if he gets to continue to irrigate the 0.5A for "domestic purposes"? What is IDWR's position on these points?

Thank you.

Jim

James P. Speck
SPECK & AANESTAD
A Professional Corporation
120 East Avenue North
P.O. Box 987
Ketchum, ID 83340
208.726.4421
208.726.0752 (fax)
jim@speckandaanestad.com<mailto:jim@speckandaanestad.com>

CONFIDENTIAL COMMUNICATION

This email message and any attachments are intended only for the use of the addressee named above and may contain information that is privileged and confidential. If you are not the intended recipient, any dissemination, distribution, or copying is strictly prohibited. If you received this email message in error, please immediately notify the sender by replying to this email message or by telephone. Thank you.

STATE OF IDAHO
WATER RESOURCE BOARD

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

RECEIVED

DEC 23 2015

DEPARTMENT OF
WATER RESOURCESDesignated Applicant Aquarius SAW, LLC

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

Water Right No. 37-8431

(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.4C ☒ ☐ Evidence demonstrating the water right has not been forfeited pursuant to Section 42-222(2), Idaho Code.

Department Use Only

Fee Amount \$ 250.00 Received By: AO Date Received: 12/23/15 Receipt # C101345W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)Name on W-9: Stephen Wynn

3131 Las Vegas Blvd
Las Vegas, NV 89109

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 Aquarius SAW, LLC

Mailing Address 3131 Las Vegas Blvd, Las Vegas, NV, 89109

Street City State Zip Code

Email Address cindy.mitchum@wynnresorts.com

Phone Number (702) 770-7700

☒ 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 James P. Speck

Organization Speck & Aanestad, A Professional Corp.

Professional Title attorney

Email Address jim@speckandaanestad.com

Mailing Address PO Box 987, Ketchum, ID 83340

Phone Number (208) 726-4421

☐ 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.
Well, pump, underground residential sprinkler irrigation system
- 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. None
- 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. One well serves the home and irrigation for Lot 20A, Beaver Springs Sub. An extensive remodel has just finished, reducing the irrigated area on the lot. A meter was not in place prior to the remodel so no well diversion information is available from the period when the entire right was being used.
- 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? Yes ☐ No ☒
If yes, describe.

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: 2016 to 2016 (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.

Stephen A. Wynn
Signature of Designated Applicant

Stephen A. Wynn, managing member
Printed Name

12-21-15
Date

Signature of Authorized Representative

Printed Name

Date

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

AQUARIUS SAW, LLC

Business Entity Information

Status:	Active	File Date:	9/21/2009
Type:	Domestic Limited-Liability Company	Entity Number:	E0504542009-6
Qualifying State:	NV	List of Officers Due:	9/30/2016
Managed By:	Managing Members	Expiration Date:	
NV Business ID:	NV20091380310	Business License Exp:	9/30/2016

Additional Information

Central Index Key:	
--------------------	--

Registered Agent Information

Name:	CINDY MITCHUM	Address 1:	3131 LAS VEGAS BOULEVARD SOUTH
Address 2:		City:	LAS VEGAS
State:	NV	Zip Code:	89109
Phone:		Fax:	
Mailing Address 1:		Mailing Address 2:	
Mailing City:		Mailing State:	NV
Mailing Zip Code:			
Agent Type:	Noncommercial Registered Agent		

Financial Information

No Par Share Count:	0	Capital Amount:	\$ 0
No stock records found for this company			

☒ Officers

☐ Include Inactive Officers

Managing Member - STEPHEN A WYNN

Address 1:	3131 LAS VEGAS BOULEVARD SOUTH	Address 2:	
City:	LAS VEGAS	State:	NV
Zip Code:	89109	Country:	USA
Status:	Active	Email:	

☒ Actions\Amendments

Action Type:	Articles of Organization		
Document Number:	20090690702-05	# of Pages:	2

AQUARIUS SAW, LLC - APPLICATION TO LEASE WATER RIGHT - Attachment 1D

File Date: 9/21/20		Effective Date:	
(No notes for this action)			
Action Type: Initial List			
Document Number: 20100723313-32	# of Pages: 1		
File Date: 9/27/2010	Effective Date:		
(No notes for this action)			
Action Type: Annual List			
Document Number: 20100729410-36	# of Pages: 1		
File Date: 9/28/2010	Effective Date:		
(No notes for this action)			
Action Type: Registered Agent Change			
Document Number: 20100804526-28	# of Pages: 1		
File Date: 10/22/2010	Effective Date:		
(No notes for this action)			
Action Type: Annual List			
Document Number: 20110704634-38	# of Pages: 1		
File Date: 9/29/2011	Effective Date:		
(No notes for this action)			
Action Type: Annual List			
Document Number: 20120665960-67	# of Pages: 1		
File Date: 9/27/2012	Effective Date:		
(No notes for this action)			
Action Type: Annual List			
Document Number: 20130633827-95	# of Pages: 1		
File Date: 9/27/2013	Effective Date:		
(No notes for this action)			
Action Type: Annual List			
Document Number: 20140663345-14	# of Pages: 1		
File Date: 9/15/2014	Effective Date:		
(No notes for this action)			
Action Type: Annual List			
Document Number: 20150422564-81	# of Pages: 1		
File Date: 9/24/2015	Effective Date:		
(No notes for this action)			

**STATE OF IDAHO
WATER RESOURCE BOARD**

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

ATTACHMENT 2

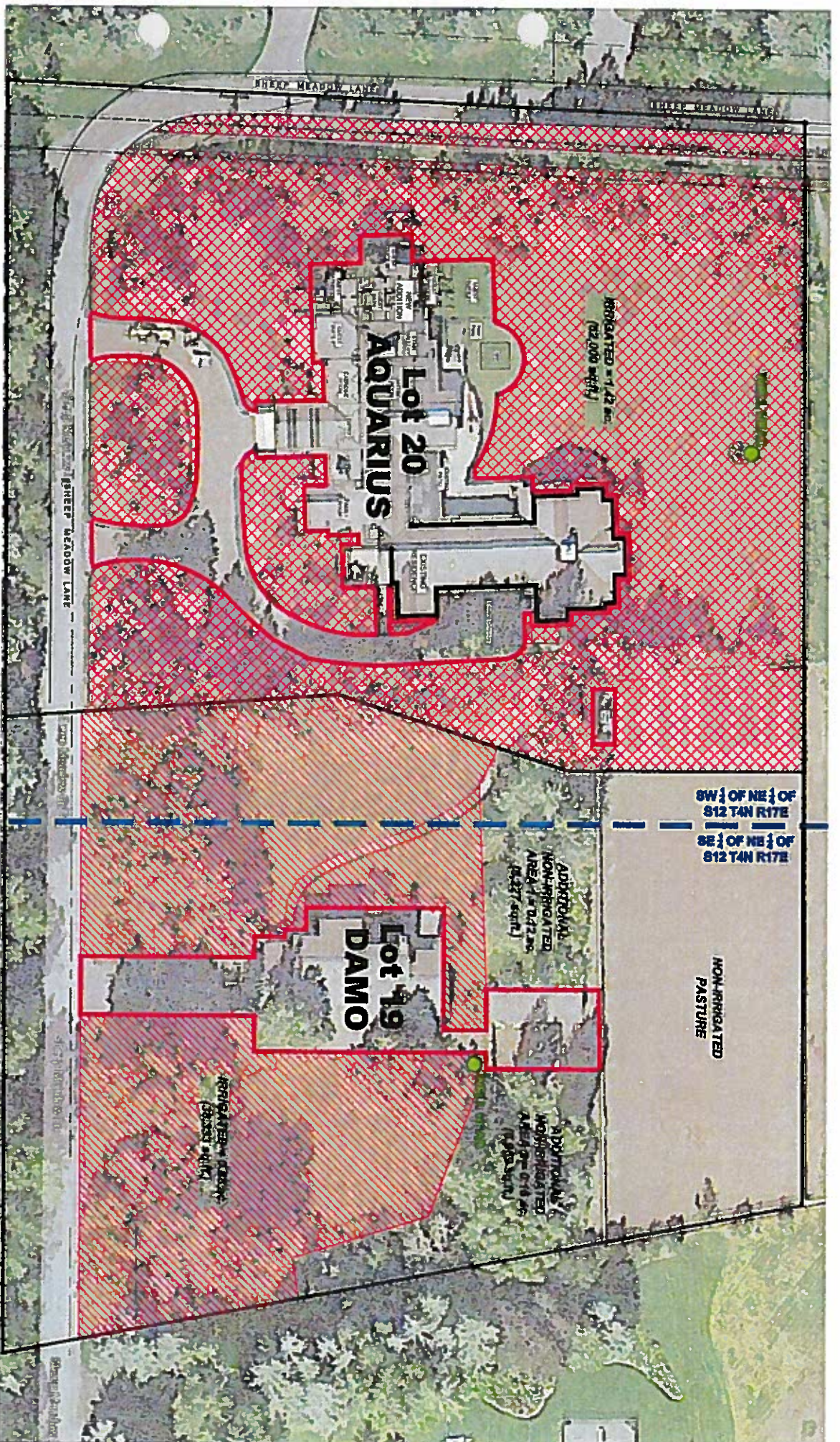
DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

<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>37-8431</u>	<u>irrigation</u>	<u>0.01 cfs</u>	<u>1.4 AF</u>	<u>0.4 acres</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
	Total Amounts:	<u>0.01 cfs</u>	<u>1.4 AF</u>	<u>0.4 acres</u>

2. Source of water ground water tributary to _____

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
4N	17E	12			SW	NE	Blaine



TOTAL PLS CALCULATIONS	
SW 1/4 OF NE 1/4 OF S12	1.84 acres
SE 1/4 OF NE 1/4 OF S12	0.88 acres
TOTAL IRRIGATED	2.30 acres

PLS CALCULATIONS BY LOT	
LOT 20 (SW 1/4 OF NE 1/4 OF S12)	1.42 acres
LOT 19 (SW 1/4 OF NE 1/4 OF S12)	0.22 acres
LOT 19 (SE 1/4 OF NE 1/4 OF S12)	0.68 acres
TOTAL IRRIGATED	2.30 acres

	Current	Proposed
LOT 20	1.42 acres	1.42 acres
LOT 19	1.16 acres	0.88 acres
TOTAL IRRIGATED	2.58 acres	2.30 acres

Beaver Springs Lots 19 & 20
 Base Map Survey
 Benchmark Associates: 04/10/2014
 Scale: 0" = 40'
 Plan Dated: 12/08/15



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 21, 2016

JAMES SPECK
SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340

**RE: ADDITIONAL INFORMATION REQUEST FOR PROCESSING APPLICATION TO LEASE
WATER RIGHT NO. 37-8431 TO THE WATER SUPPLY BANK**

*****TIME SENSITIVE RESPONSE REQUIRED*****

Dear Applicant:

The Idaho Department of Water Resources (Department) acknowledges receipt of the application to lease the above referenced water right to the Idaho Water Resource Board's Water Supply Bank (Bank). The Department will review your application as resources allow.

During our initial evaluation of this lease application, we have determined that the Water Right License included domestic beneficial use. Additionally, condition 9 excludes irrigation from the domestic use. The aerial imagery and the application map shows that the applicant is fully utilizing their irrigation component of this water right (1.3 acres). In order to avoid an enlargement of this water right, this leaves no irrigation component of this right for lease into the Bank at this time.

If the right is determined to be eligible for acceptance into the Bank, the right will be entered as of the date of receipt of the application. The acceptance date may be adjusted when additional information is required. A preliminary review of your application has been completed and it has been determined that additional information is required to continue processing.

Please provide any additional information for further evaluation or request withdrawal of your application within 30 days of this letter. If you request a withdrawal of this application within 30 days, the applicable filing fee will be refunded.

If the lease is withdrawn or found to be un-approvable, we need to know how you wish to proceed with the rental. Do you want it to be placed in the queue or do you want it returned?

The department will continue processing your application once you have submitted the requested information. Water right forms are available from the Department's website at www.idwr.idaho.gov. If you have any questions, please contact me at (208) 287-4910.

Sincerely,

Clay Webster
Water Resource Agent
WSB Process Point of Contact

c: AQUARIUS SAW LLC
3131 LAS VEGAS BLVD
LAS VEGAS NV 89109

Edl, Michele

From: Jim Speck [jim@speckandaanestad.com]
Sent: Wednesday, January 13, 2016 10:45 AM
To: Edl, Michele
Cc: Keen, Shelley; Buyer, Remington; Baxter, Garrick; 'Cindy Mitchum'
Subject: RE: Aquarius lease-Damo rental

Michele,

It has always been my understanding that irrigation under water rights such as this one is in addition to the 0.5A allowed to be irrigated by a domestic well. That is certainly how the owners of this right have interpreted and used it since it was licensed. In obtaining this additional water right for the property they did not intend to give up the rights they already had for the well and home in place at that time.

Aquarius SAW LLC should have the right to irrigate 1.8A on Lot 20 and therefore have additional water it can lease to the Bank. Please discuss this with Remington and Shelley and get back to me. Thank you.

Jim

-----Original Message-----

From: Edl, Michele
Sent: Tuesday, January 12, 2016 9:41 AM
To: jim@speckandaanestad.com

Mr. Speck,

I have been assigned to review the lease-rental package of water right 37-8431 which involves your clients Aquarius Saw, LLC and Damo, LLC. I have found that Aquarius Saw, LLC does appear to own water right 37-8431. And I have found that water right 37-8431 is limited to irrigation of 1.3 acres.
(License condition 9. excludes irrigation from the domestic component of the right.)

However, if I am reading the lease-rental package maps correctly, Aquarius is exceeding the authorized irrigation under the right; Aquarius appears to be irrigating 1.42 acres even after their remodel.

In conclusion:

- 1) Aquarius does not appear to have any water available to lease into the Water Supply Bank. And the proposed lease-rental package of 37-8431 cannot be processed.
- 2) Both Aquarius and Damo need to either shrink their irrigated acreage so that it is covered by their water rights, or they both need to rent water from the Water Supply Bank.

Do you prefer that we return the entire lease-rental package to you? Or do you prefer that we retain the rental request by Damo, adding it to the rental queue?

Sincerely,
Michele Edl
208-287-4946

RECEIVED

DEC 23 2015

DEPARTMENT OF
WATER RESOURCES

TELEPHONE
(208) 726-4421
FACSIMILE
(208) 726-0752

SPECK & AANESTAD

A PROFESSIONAL CORPORATION

ATTORNEYS

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340

JAMES P. SPECK
jim@speckandaanestad.com

DOUGLAS J. AANESTAD
doug@speckandaanestad.com

December 22, 2015

Remington Buyer
Water Supply Bank Coordinator
Idaho Department of Water Resources
322 E. Front St.
Boise, Idaho 83720-0098

Re: *Aquarius SAW, LLC - Application to Lease A Portion of Water Right No. 37-8431;*
Damo, LLC - Application to Rent A Portion of Water Right No. 37-8431

Dear Remington:

Enclosed you will find the original and one copy each of the two above-referenced Applications for lease and rental, respectively, of a portion of Water Right 37-8431 owned by Aquarius SAW, LLC. I have also included a copy of the printout from the Nevada Secretary of State for Damo, LLC, which establishes that Stephen A. Wynn is the manager of that Nevada limited liability company. Last, I have included my firm's check payable to the Department for the \$250 filing fee for the lease application.

Please receipt date-stamp the copies and return them to me in the postage prepaid, self-addressed envelope I have included for that purpose. If you have any questions, comments or concerns about either of these Applications, kindly call me right away.

Thank you and best wishes for a wonderful holiday season.

Sincerely yours,

SPECK & AANESTAD
A Professional Corporation

By: 
James P. Speck

Enclosures

cc: Client w/encl.