

RECEIVED

AUG 24 2015

DEPARTMENT OF
WATER RESOURCES**WATER SUPPLY BANK LEASE CONTRACT**

This Lease Contract ("**Lease**") is between the Idaho Water Resource Board ("**Board**"), and

Lessor: THE EDWARD & KAREN GILHULY TRUST
376 MOUNTAIN HOME CT
WOODSIDE CA 94062-2559
(650) 851-5441

RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.
2. The Lessor has filed an application on April 22, 2015 to lease the water rights described below into the Water Supply Bank.
3. The Director of the Idaho Department of Water Resources has reviewed the application for compliance with the Water Supply Bank rules and has approved the Lease subject to the conditions listed below.

NOW, THEREFORE, in consideration of the mutual covenants and contracts herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. **WATER RIGHTS:** The Lessor shall lease and the Board shall accept into the Bank the Applicant's water rights described as follows:

Summary of Water Rights or Portions Leased to the Bank

Water Right	Priority Date	Source	Tributary	Leased Rate	Annual Leased Volume	Total Leased Acres
37-2165B	09/01/1928	Adams Gulch Creek	Big Wood River	0.14 cfs	Not Stated	6.4 ac

Annual Combined Lease Totals**0.14 cfs****Not
Stated****6.4 ac**

2. **COMPENSATION:** The Lessor shall accept and the Board shall pay compensation determined by the amount of water rented under the following rental rate during such times as the water is rented from the Bank over the term of this Lease.

Minimum Payment Acceptable: Current Rental Rate

3. **TERM OF LEASE:** This Lease shall take effect when both parties have signed it and shall continue in effect until December 31, 2015.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.

5. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

IN WITNESS WHEREOF, the parties have executed this Contract on the date following their respective signatures.

THE EDWARD & KAREN GILHULY TRUST
376 MOUNTAIN HOME COURT
WOODSIDE CA 94062
(650) 851-5441

By 
Printed Name Edward A. Gilhuly

Date 8/19/15
Title Trustee

IDAHO WATER RESOURCE BOARD
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

By 
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 8/25/2015

Lease approved by IDWR 

Date 8-25-2015

ATTACHMENT A
WATER RIGHT NO. 37-2165B
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

The water right or portion thereof leased to the bank is described as follows:

Lessor: THE EDWARD & KAREN GILHULY TRUST
376 MOUNTAIN HOME COURT
WOODSIDE CA 94062
(650) 851-5441

LOCATION OF POINT(S) OF DIVERSION

ADAMS GULCH CREEK SWSWSW

Sec. 1, Twp 04N, Rge 17E, BLAINE County

BENEFICIAL USE
IRRIGATION

SEASON OF USE

04/15 to 10/15

PLACE OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	17E	1											6.4						6.4

Total Acres: 6.4

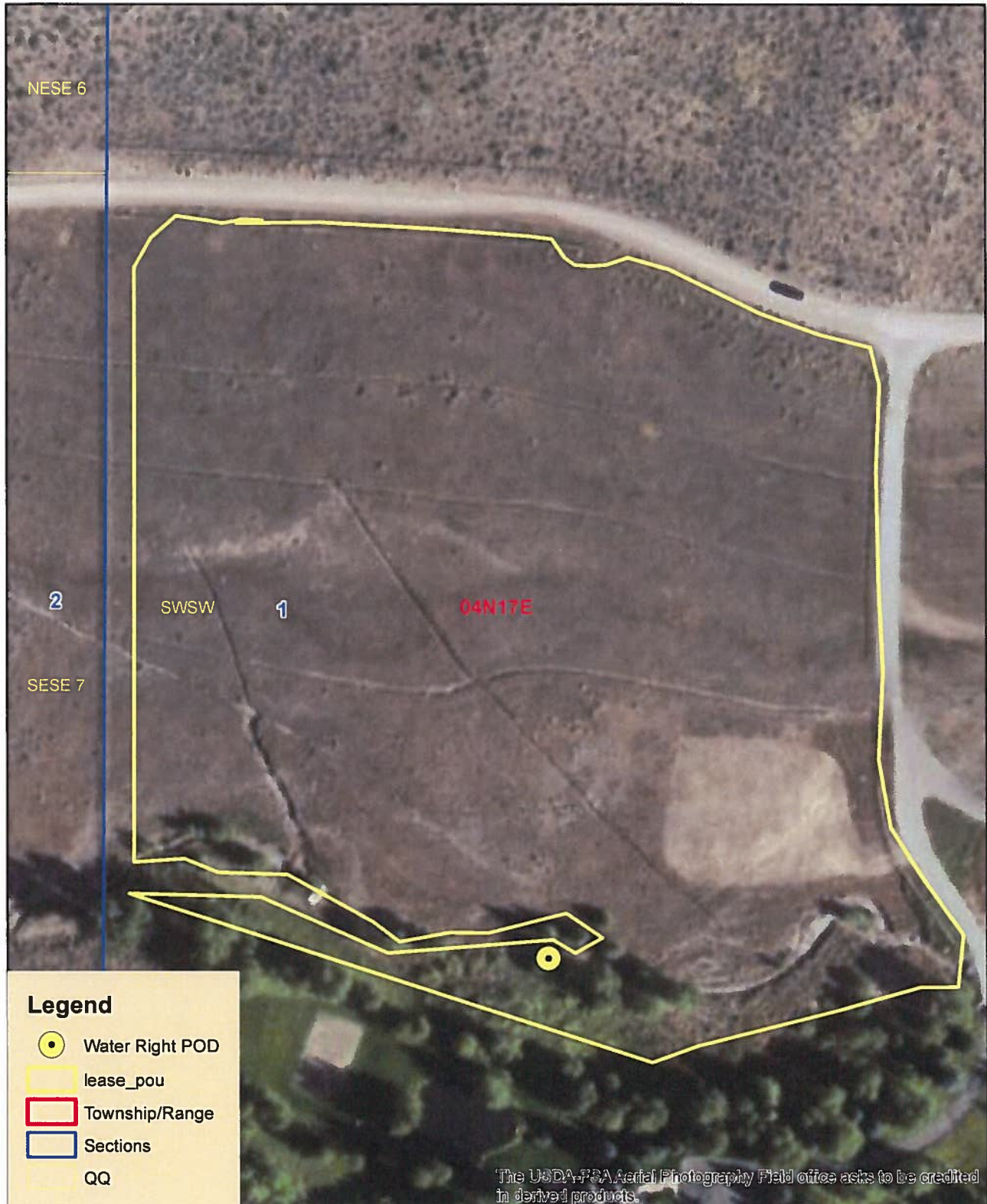
CONDITIONS APPLICABLE TO ALL LEASED WATER RIGHTS

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department, even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, or the lease term expires. A right may be released from the bank upon request, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.
5. While a water right is in the bank, forfeiture provisions are stayed pursuant to Idaho Code § 42-223(5).
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, nor does it improve the status of the right or accomplish the resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.

9. In accordance with Idaho Code §§ 42-248 and 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
 - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season, even if the Department processes a Notice of Change in Water Right Ownership during the rental season.
 - b. New lessor(s) of record will receive payment after the following rental season.
11. The water right leased to the bank 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.
12. Use of water under this right is 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.
13. When combined with all other rights, the leased rights shall provide not more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
14. Un-leased portion of right 37-2165B is limited to the irrigation of 0.3 acres in a single irrigation season and a diversion rate of 0.01 cfs.

Attachment To 2015 Water Right Lease 37-2165B

This map depicts the Leased 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.



RECEIVED

APR 22 2015

DEPARTMENT OF
WATER RESOURCES

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

An application to lease or sell a water right into the Water Supply Bank must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. 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. **Incomplete applications will be returned to applicants for completion.**

Designated Applicant The Edward & Karen Gilhuly Trust
(Select one owner – see item 1A on the application)

Water Right No. 37-2165B
(One water right per application)

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

YES

- ☒ Completed *Water Supply Bank Lease or Sale Application Checklist* (this form).
- ☒ Completed *Application to Sell or Lease a Water Right to the Water Supply Bank* (pages 2-3).
- ☒ 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.

Attachment N/A YES

- | | | | |
|----|-------------------------------------|-------------------------------------|--|
| 1A | ☒ | ☐ | Contact information for <i>all owners</i> of the water right that is being leased or sold on this application. |
| 1B | ☐ | ☒ | An <u>Internal Revenue Service (IRS) Form W-9</u> for the Designated Applicant. |
| 1C | ☒ | ☐ | <i>Notice of Change in Water Right Ownership</i> form (accessible from www.idwr.idaho.gov). |
| 1D | ☒ | ☐ | Written consent from irrigation district or water delivery company. |
| 1E | ☐ | ☒ | 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. |
| 3E | ☒ | ☐ | Evidence demonstrating that a water right has not been lost through abandonment or forfeiture pursuant to <u>Section 42-222(2), Idaho Code</u> . |
| 4 | ☐ | ☒ | 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 . |

Department Use Only

Fee Amount \$ <u>250.00</u>	Received By: <u>LSH</u>	Date Received: <u>4-22-15</u>	Receipt # <u>C100334</u>
W-9 received? Yes ☒ No ☐	(Route W-9 to Fiscal)	Name on W-9: <u>Edward A. Gilhuly</u>	

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

1. CONTACT INFORMATION

- A. An application to sell or lease a water right to the Water Supply Bank must be completed by a Designated Applicant who is a recognized owner of the water right being sold or leased to the Water Supply Bank. If there are additional owners recorded for the property to which the water right is appurtenant, 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 The Edward & Karen Gilhuly Trust Email Address karengilhuly@gmail.com
Mailing Address 376 Mountain Home Court, Woodside, CA 94062 Phone Number (650) 851-5441

☒ 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 completed an IRS Form W-9 (Attachment 1B)? Yes ☒ No ☐

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 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 1D).

E. 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 1E).

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

Water Right Number 37-2165B ☐ 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 a water right is being offered, complete Attachment 2)

3. GENERAL INFORMATION

- A. Please provide a description of the current water diversion system.

Flood irrigation

- B. 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

- C. Are any of the water rights identified in question 3B stacked with the water right proposed for lease? Yes ☐ No ☒

Stacked water rights are water rights that are utilized 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.

D. Will the present place of use continue to receive water from any other source? Yes ☒ No ☐

If yes, describe. Approximately 0.1A of trees will continue to be drip irrigated

E. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes ☐ No ☒

If yes, describe and attach Watermaster records or other evidence to demonstrate that the water right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code.

F. 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. _____

4. MAP

Plat map, survey map, or aerial photograph clearly showing the specific acres proposed to be idled by this lease application.

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: 2015 to 2015 (maximum lease period 5 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 provisions are stayed.
5. Acceptance of a water right into the Bank does not, in itself, confirm the validity of the water right or any elements of the water right.


Signature of Designated Applicant

Edward A. Gilhuly, Trustee
Printed Name

4/17/15
Date


Signature of Authorized Representative

KAREN GILHULY, Trustee
Printed Name

4/17/15
Date

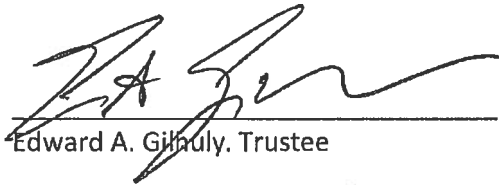
Mail to:

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

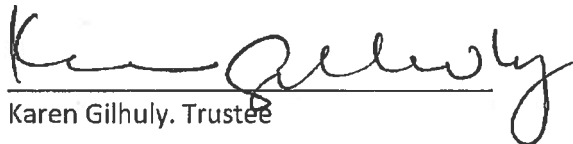
AUTHORITY TO REPRESENT

The undersigned hereby authorize their attorney, James P. Speck of the law firm of Speck & Aanestad, A Professional Corporation, to represent The Edward & Karen Gilhuly Trust in all matters relating to the leasing of its Water Right No. 37-2165B to the Idaho Water Supply Bank.

Dated this 17 day of April, 2015.



Edward A. Gilhuly, Trustee



Karen Gilhuly, Trustee

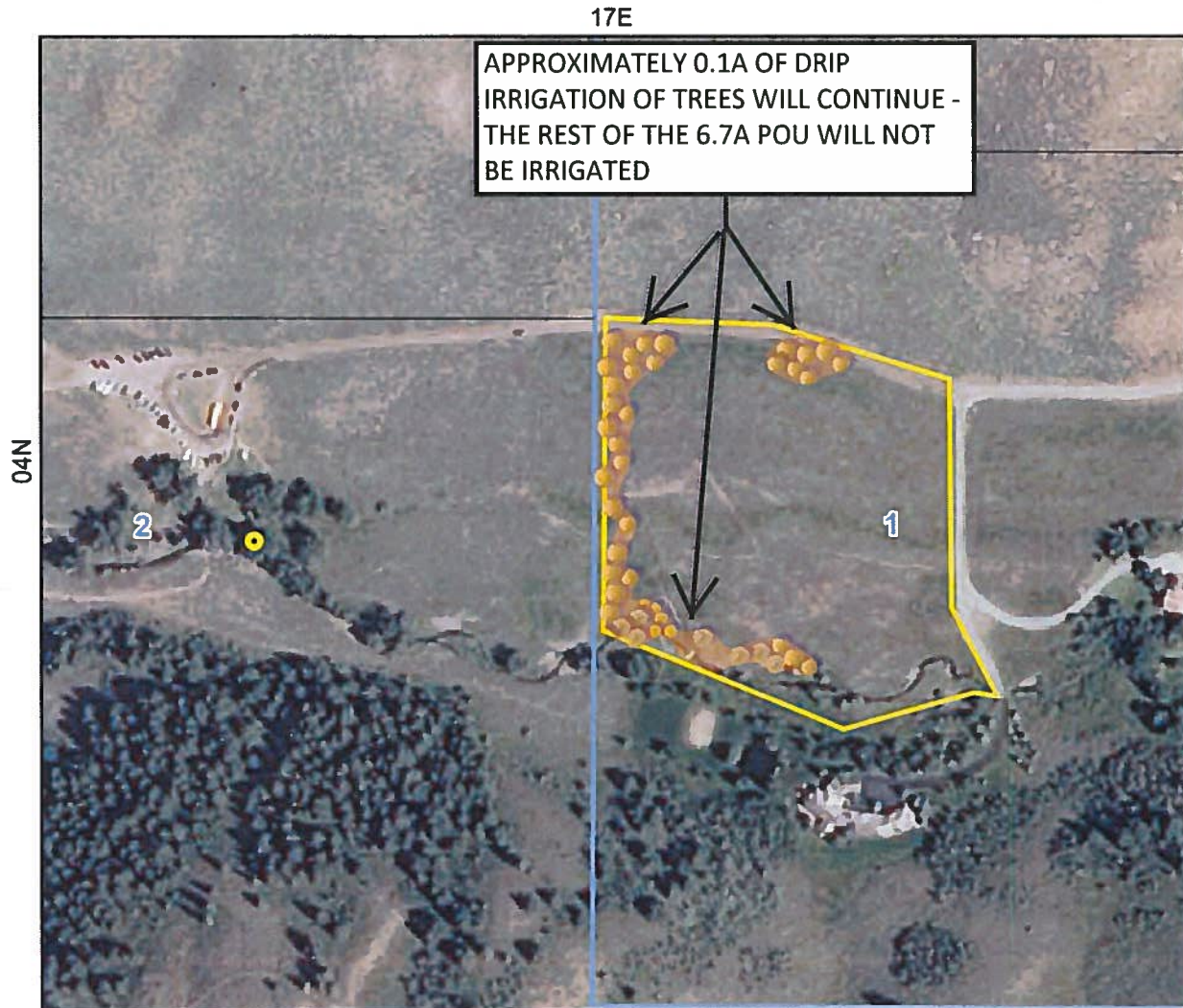
THE EDWARD AND KAREN GILHULY TRUSY
APPLICATION TO LEASE WATER RIGHT
37-2165B
ATTACHMENT 1E

State of Idaho
Department of Water Resources

Water Right 37-2165B

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.



- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters
- Taxlots

0 0.0325 0.065 0.13 Miles

THE EDWARD AND KAREN GILHULY TRUSY
APPLICATION TO LEASE WATER RIGHT
37-2165B
ATTACHMENT 4





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

August 26, 2015

THE EDWARD & KAREN GILHULY TRUST
376 MOUNTAIN HOME COURT
WOODSIDE CA 94062

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHT 37-2165B

Dear Lessor:

Water Right **37-2165B** was leased into the Water Supply Bank on August 25, 2015 in accordance with the executed original Lease Contract enclosed. **Your water rights as described on the Lease Contract are considered leased into the Bank and should remain unused until they are formally released from the Bank.**

The rights will automatically be released from the Bank on **December 31, 2015**, unless the rights are released earlier by the Board, or upon your request. **Please note your rights may not be available for immediate release if they have been rented.** To release the right from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available from our public website at www.idwr.idaho.gov.

Please review the conditions of acceptance listed on the Lease Contract, including #3 which says:

"While a right is in the bank, **the lessor may not use the right** without approval of the department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B."

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

Sincerely,

Clay Webster
Water Resource Agent
WSB Process Point of Contact

Enclosure: Executed Lease Contract

c: James Speck
Allen Merritt - IDWR Southern Regional Manager
Kevin Lakey



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

August 11, 2015

THE EDWARD & KAREN GILHULY TRUST
376 MOUNTAIN HOME CT
WOODSIDE CA 94062-2559

RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 37-02165B TO THE WATER SUPPLY BANK

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

Dear Applicant:

The Department of Water Resources has completed its review of your application to lease the above-mentioned water right(s) to the Water Supply Bank. **I have enclosed two original Water Supply Bank Lease Contracts for your review and signature. Please sign and return ALL Lease Contracts within 14 days.** Upon signature and return of the contracts, the Department will also sign the original contracts and return an executed copy to you. The Lease Contract is not considered final until you and the Department have both signed.

The rights will automatically be released from the Bank on **December 31, 2015**, unless the rights are released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. To propose a new lease period, submit a new Application to Sell or Lease a Water Right to the Water Supply Bank form along with applicable fees to the Department. These forms are available from any IDWR office or from our public website at <http://www.idwr.idaho.gov>. Please note your rights may not be available for immediate release if they have been rented.

Please review the conditions of acceptance listed on the Lease Contract, including #3 which says:

"While a right is in the bank, **the lessor may not use the right** without approval of the department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B."

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: Proposed Lease Contracts
Receipt # C100334

c. James Speck – Speck & Aanestad

MEMORANDUM

To: Water Right No. 37-2165B
From: Clay Webster
Date: 8/04/2015
Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE: This application was received from Jim Speck for The Edward & Karen Gilhuly Trust on April 22, 2015. The application proposes to place 6.6 acres and 0.14 cfs of the right into the water supply bank. They wish to keep the remaining portion of the right out of the bank to run a drip-line for trees on the property. The Map showed the old POD from the water right. The attached map from the approved transfer application shows the water right's current POD location.

In order to keep the .01 cfs out of the bank that they are proposing, they can only lease 6.4 acres into the bank.

AUTHORITY TO FILE: The application was signed by Edward and Karen Gilhuly. They are the trustees for this trust.

WATER RIGHT VALIDITY: This right was decreed in 2010. Forfeiture is not an issue, according to Admin. Memo, Multiple Programs No. 2, which established the forfeiture period for water rights.

INJURY TO OTHER WATER RIGHTS: This right is diverted from Adams Gulch Creek. No injury is apparent.

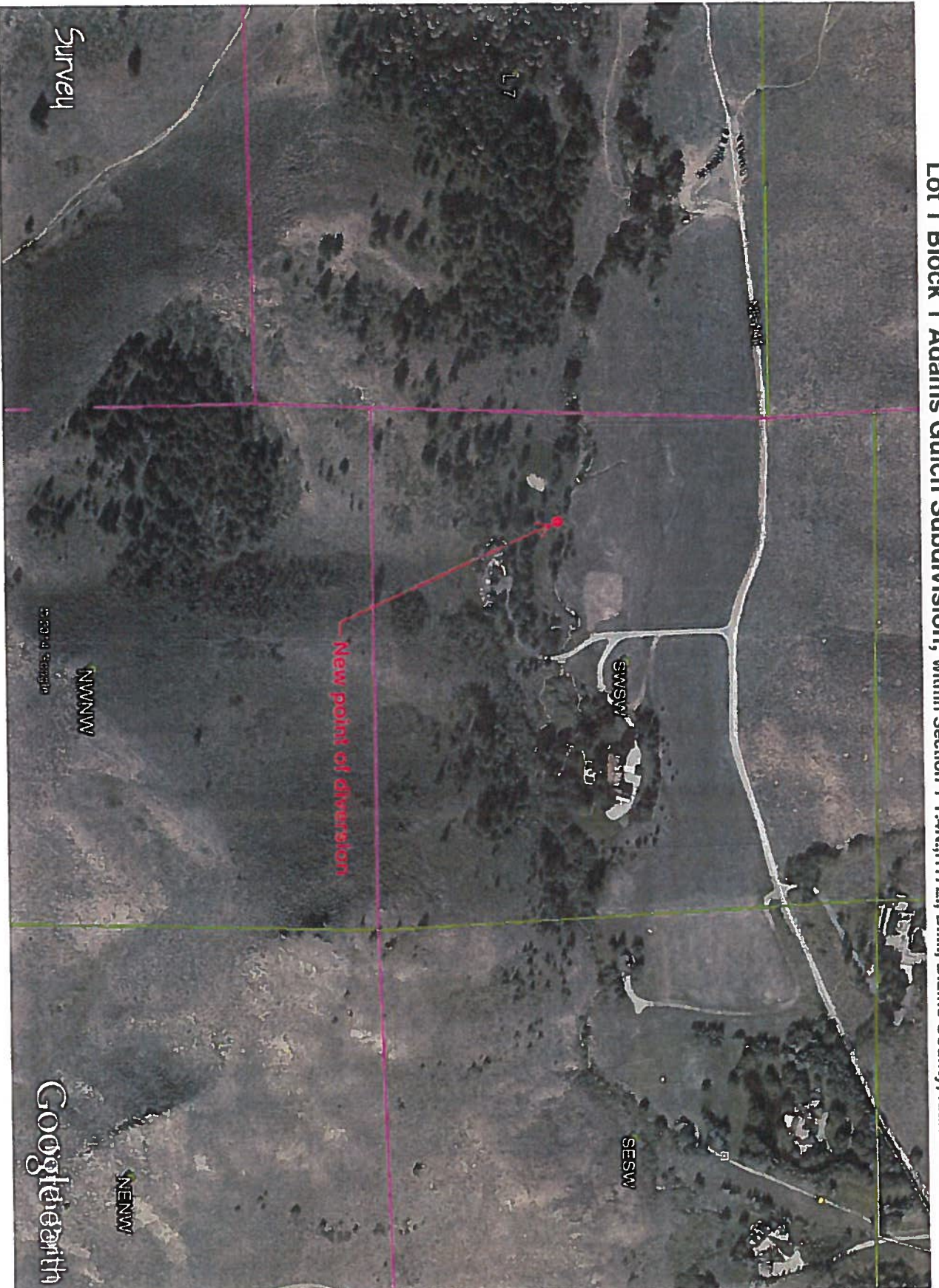
ENLARGEMENT OF USE: No enlargement is evident through the lease alone. Proper rental review should protect against enlargement.

LOCAL PUBLIC INTEREST: Review staff has no information to suggest this application is inconsistent with the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: The lease appears consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: The leased right is subject to Water District # 37. Comments were requested from the Watermaster. The Southern region office noticed that the map showed the wrong POD. See map attached.

Lot 1 Block 1 Adams Gulch Subdivision, within Section 1 T.4N.,R.17E., B.M., Blaine County, Idaho



TRANSFER 79710

Google earth



Webster, Clay

From: Merritt, Allen
Sent: Tuesday, August 04, 2015 9:59 AM
To: Webster, Clay; Kevin Lakey
Subject: RE: Region and Watermaster Comments on WSB Lease Application for The Edward an Karen Gilhuly Trust 37-2165B

I do not have an issue with this lease but note that the right was recently involved in a transfer and the P/D shown on the map is not correct as transferred.

From: Webster, Clay
Sent: Thursday, July 30, 2015 4:57 PM
To: Merritt, Allen; Kevin Lakey
Subject: FW: Region and Watermaster Comments on WSB Lease Application for The Edward an Karen Gilhuly Trust 37-2165B

Allen and Kevin,

We are processing this application for lease of most of this water right. Do you have any concerns? Thanks.

Sincerely,

Clay Webster

Water Resource Agent
clay.webster@idwr.idaho.gov
208-287-4910
Idaho Department of Water Resources (IDWR)
322 E. Front Street
P.O. Box 83720
Boise, ID 83720-0098
208-287-4800
www.idwr.idaho.gov

RECEIVED

APR 22 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

April 20, 2015

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

Re: *The Edward & Karen Gilhuly Trust- Applications to Lease Water Right No. 37-2165B to the Water Supply Bank*

Dear Remington:

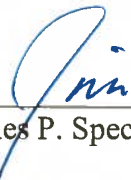
Enclosed you will find the original and one copy of the above-referenced Application together with my firm's check payable to the Department for the \$250 filing fee.

Please receipt date-stamp the copy and return it to me in the postage prepaid self-addressed envelope I have included for that purpose. Kindly call me right away if you have any questions about these Applications.

Thank you.

Sincerely,

SPECK & AANESTAD
A Professional Corporation

By: 
James P. Speck

Enclosures
cc: Clients w/encl.