



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

June 9, 2015

ANN S MC CAW REVOCABLE TRUST
ANN HOLDEN SCOTT TRUSTEE
3701 SACRAMENTO ST # 174
SAN FRANCISCO CA 94118

RE: DENIAL OF APPLICATION(S) TO LEASE WATER RIGHT NO(S). 37-8435 TO THE WATER SUPPLY BANK

Dear Applicant:

The Department of Water Resources ("Department") has completed its review of your application to lease water right to the Water Supply Bank ("Bank"). Based on that review, the Department cannot accept water right 37-8435 into the Bank.

This letter is notice that the attached application to lease water to the Bank is denied. The Bank rules provide criteria to be considered when determining whether to accept a water right into the Bank. One of the criteria for consideration is Water Supply Bank Rule 25 (also known as IDAPA 37.02.03.025) requires the Department to evaluate whether the water right has been lost through abandonment or forfeiture as defined by Section 42-222(2), Idaho Code. Section 42-222(2) states, in part, "All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated."

A review of aerial photography between 1994 when the right was licensed and 2013 shows no evidence of irrigation on the acres proposed to be leased to the Bank.

Department resources were expended in order to provide a full review of your applications. Therefore, the lease application filing fees will not be refunded.

Lastly 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.

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

Sincerely,

for Clay Webster
Water Resource Agent
WSB Process Point of Contact

Enclosure: Lease Application(s)

c: Speck & Aanestad

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

RECEIVED

MAY 13 2015

DEPARTMENT OF
WATER RESOURCES

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 Ann S. McCaw Revocable Trust
(Select one owner – see item 1A on the application)

Water Right No. 37-8435
(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 *all owners* of the water right that is being 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 ☒ ☐ 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 Section 42-222(2), Idaho Code.
- 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</u>	Received By: <u>gmh</u>	Date Received: <u>5-13-15</u>	Receipt # <u>C100446</u>
W-9 received? Yes ☐ No ☐	(Route W-9 to Fiscal)	Name on W-9: <u>Ann Holden Scott</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 Ann S. McCaw Revocable Trust Email Address annholdenscott@gmail.com
Mailing Address 3701 Sacramento St., #174, San Francisco, CA 94118 Phone Number 310-456-5373

☒ 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 P.O. 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 37-8435 ☐ 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.

Well, pump, underground sprinkler residential irrigation system

- 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. _____

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.

Ann Holden Scott, IWRB
Signature of Designated Applicant

Ann Holden Scott,
Printed Name

5-5-15
Date

Signature of Authorized Representative

Printed Name

Date

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

AUTHORITY TO REPRESENT

The undersigned hereby authorizes its attorney, James P. Speck of the law firm of Speck & Aanestad, A Professional Corporation, to represent the Ann S. McCaw Revocable Trust in all matters relating to the leasing of its Water Right No. 37-8435 to the Idaho Water Supply Bank.

Dated this 5 day of April, 2015.

ANN S. MCCA W REVOCABLE TRUST

By: Ann Holden Scott, Trustee
Ann Holden Scott, Trustee

Ann S. McCaw Revocable Trust
Application to Lease Water Right to Water Supply Bank
Attachment 1E

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

3. Point(s) of diversion:

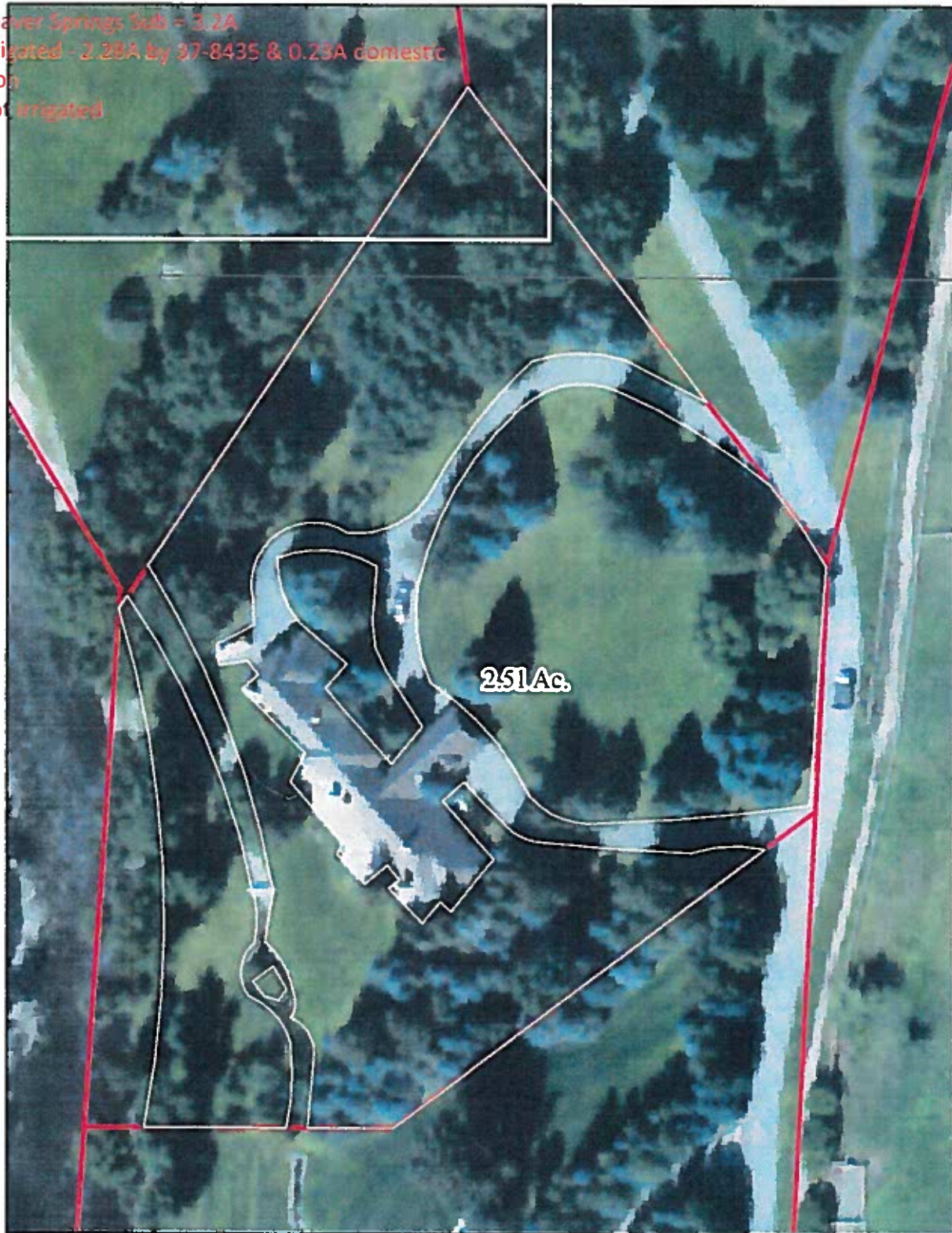
[illegible]

4. Acres to be idled within the place of use:

[illegible]

If the water right is for irrigation, show total number of acres offered to the Bank. **Total Acres** 0.7

Lot 1, Beaver Springs Sub = 3.2A
2.51A irrigated - 2.28A by 37-8435 & 0.23A domestic
exemption
0.72A not irrigated



0 20 40 80 Feet

**RICHARD & ANN SCOTT
BEAVER SPRINGS LOT 1 ANALYSIS
NAIP 2013 AERIAL PHOTO.**

**Ann S. McCaw Revocable Trust
Application to Lease Water Right
to Water Supply Bank**

Legend

- Irrigation=2.51 Ac
- BEAVER_SPRINGS_SUB
- township
- Sections

N

RECEIVED

MAY 13 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

May 12, 2015

TRANSMISSION BY FEDERAL EXPRESS

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

Re: Ann S. McCaw Revocable Trust - Application to Lease a Portion of Water Right No. 37-8435 to the Water Supply Bank and Jeffrey & Judith Greenstein - Application to Rent Water From the Water Supply Bank

Dear Remington:

Enclosed you will find the original and one copy of the above-referenced Application to Lease a Portion of Water Right No. 37-8435 to the Water Supply Bank by the Ann S. McCaw Revocable Trust together with the \$250 filing fee.

This lease application will be a companion to the previously submitted Application to Rent Water from the Water Supply Bank in the names of Jeffrey & Judith Greenstein. I have enclosed a copy of that submitted rental application on which, as the Greenstein's representative, I have made and initialed the changes that reflect the request to rent all of the leased portion of 37-8435. Note that the remaining portion of the water the Greenstein's are requesting to rent is from the Gordon's water right 37-2619, and you should have received that lease application by Federal Express.

Please contact me right away if you have any questions or comments about the Ann S. McCaw Revocable Trust lease application and our revised and companion rental application for Mr. and Mrs. Greenstein. Kindly have your staff receipt date stamp the copies of the lease application and return it to me in the postage prepaid and self-addressed envelope I have also included.

Thank you.

Sincerely yours,

SPECK & AANESTAD
A Professional Corporation

Dictated by Attorney and
sent in his absence to avoid delay.

By: _____
James P. Speck

Enclosures

cc: clients w/encl.