

Water Supply Bank No.
(For Department Use Only)

RECEIVED

AUG 09 2010

DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO
WATER RESOURCE BOARD

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

Name of Seller/Lessor Gulch Trust Phone (208) 726-8882
Mailing address c/o T. Mason COM Investments, LLC Email tmason@cominv.com
2300 Carillon Pt., Kirkland, WA 98033

A. DESCRIPTION OF WATER RIGHT, OR PORTION THEREOF, OFFERED TO THE BANK

If the entire right is for sale or lease, show "ALL" below and skip the remainder of part A. Attach a copy of the water right report.

1. Water Right Number 37-20865 Amount (cfs/ac-ft) Nature of Use Period of Use
_____ to _____
_____ to _____
_____ to _____
Total Amount: All

2. Source of water _____ tributary to _____

3. Point(s) of Diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County

4. Lands irrigated or place of use:

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

If the right is for irrigation, show total number of acres offered to the bank. Total Acres _____

B. OWNERSHIP

1. Are you currently listed in IDWR's records as the owner of the water right being offered to the bank? Yes ☒ No ☐
If no, provide documentation of your authority to sign on behalf of the right holder OR attach a Notice of Change in Water Right Ownership form along with the required documentation and fee.
2. Is the water right appurtenant to land subject to any liens, deeds of trust, mortgages, or contracts? Yes ☐ No ☒
If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes and list name of entity: _____

C. GENERAL INFORMATION

1. Please provide a description of the current diversion system.

Diversion from the creek was shut down by the USFS and no alternative has been approved.

2. Describe any other water rights used for the same purpose or at the same place of use as described above.

None.

3. Will the present place of use continue to receive water from any source?

Yes ☐ No ☒

If yes, describe.

4. 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 right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code.

5. Is this water right involved in any other Department process such as an application for transfer or a mitigation plan? Yes ☐ No ☒

If yes, describe.

D. SALE/LEASE AGREEMENT

1. Is the water right, or portion thereof, described above offered to the Idaho Water Resource Board for sale ☐ or lease ☒?

If Lease, for a period from 8/15/10 to 10/31/13 OR Indefinite
(Month / Day / Year) (Month / Day / Year)

2. Show the minimum payment acceptable to the Seller/Lessor. The minimum payment may be shown as the "current rental rate" as established by the Idaho Water Resource Board. 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 right for sale or lease to the Idaho Water Resource Board.

The owner/lessor acknowledges the following:

1. Payment to the owner/lessor is contingent upon the sale or rental of the right from the bank.
2. While a right is in the bank, the owner/lessor of the right may not use the right even if the right is not rented from the bank.
3. A right accepted into the bank stays in the bank until the Board releases it or the lease term expires.
4. While a right is in the bank, forfeiture provisions are stayed.
5. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right.

Signature of Applicant

GULCH TRUST

By: Teresa Mason, Trustee
Printed Name and Title*

Date

7/29/2010

Signature of Applicant

Printed Name and Title*

Date

*Please provide title of signatory if signing on behalf of a company or organization or with power of attorney

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

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 37-20865

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JUN 29 2010	
By _____	Clerk
	Deputy Clerk

NAME AND ADDRESS: THE GULCH TRUST
ARTHUR HARRIGAN TRUSTEE
C/O T MASON COM INVEST LLC
2300 CARILLON PT
KIRKLAND, WA 98033

SOURCE: ADAMS GULCH CREEK TRIBUTARY: BIG WOOD RIVER

QUANTITY: 0.11 CFS

PRIORITY DATE: 11/26/1909

POINT OF DIVERSION: T04N R17E S02 SESE Within Blaine County

PURPOSE AND			
PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-31	0.11 CFS

PLACE OF USE: Irrigation Within Blaine County
T04N R17E S01 SESE 3.7
3.7 Acres Total

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The remainder of this right was forfeited for non-use from 1910 to 1987.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment, upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

MEMORANDUM

TO: Water Rights File 37-20865 and 37-20866
FROM: Daniel A. Nelson
DATE: June 10, 2011
SUBJECT: Gulch Trust Water Supply Bank Rental Application

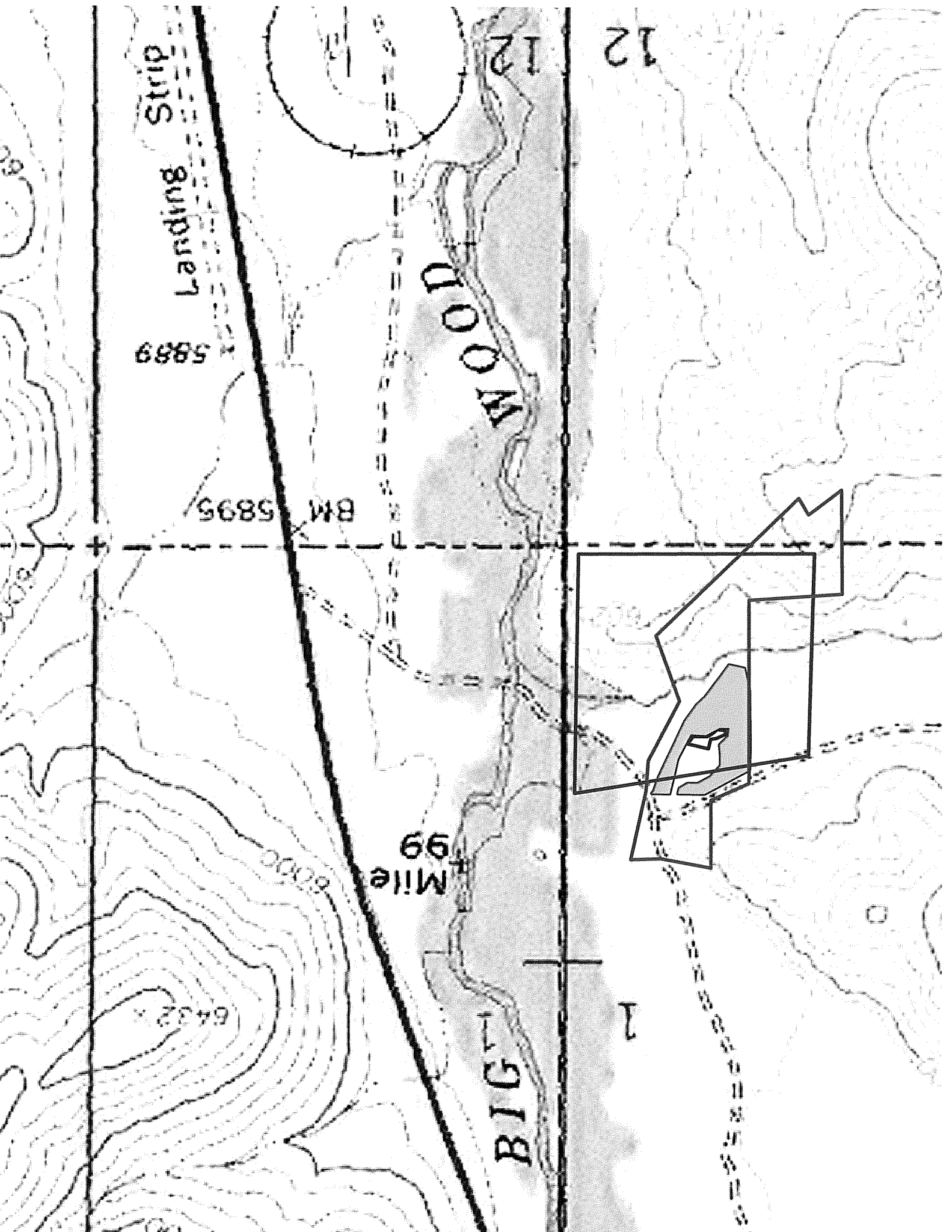
SUMMARY

James P. Speck of Speck and Aanestad filed 2 water bank leases on behalf of his client Gulch Trust on water rights 37-20865 and 37-20866. These two Water Supply Bank lease applications request to place all of both of these water rights into Water Supply Bank. A review of these water rights revealed overlapping water right issues that should be resolved prior to moving forward with a water bank lease.

The shape files for both 37-20865 and 37-20866 completely overlap each other, except for approximately 0.7 acres described in water right 37-20865 that is not included in water right 37-20866. Both of these water rights are in tax lot 4 of Adams Gulch Subdivision. A third water right, 37-8400, is also described as being in the same tax lot. Water right 37-20866 has a condition that states that when 37-20866 and 37-8400 are combined they are limited to the same 3 acres. Therefore, the 3.0 acres shared by water rights 37-20865 and 37-20866 are also shared with ground water right 37-8400.

In order to proceed with this Water Supply Bank lease application, all three water rights would need to be submitted as a package. If we removed the two surface water rights from this ground and leave the ground water right in place it would result in an enlargement the ground water right, and an enlargement the surface water rights would occur if they are rented from the Water Supply Bank.

Therefore, I recommend that the Water Supply lease applications for 37-20865 and 37-20866 be denied. Reacceptance into the Water Supply Bank could occur if the applicant included water right 37-8400 into the lease package.



Landing Strip

5889

BM 5895

WOOD

1 Mile 99

BIG

12

1

