

MEMORANDUM

TO: Water Rights File 37-481D, 37-482J, 37-483D, 37-577BP, 37-917, 37-11975, 37-11976, 37-11977, 37-11978, 37-2713, and 37-7356

FROM: Daniel A. Nelson

DATE: June 10, 2011

SUBJECT: Eccles Flying Hat Ranch Water Supply Bank Rental Application

SUMMARY

Charles Brockway of Brockway Engineering filed 11 water bank leases on behalf of his client Eccles Flying Hat Ranch on water rights 37-481D, 37-482J, 37-483D, 37-577BP, 37-917, 37-11975, 37-11976, 37-11977, 37-11978, 37-2713, and 37-7356. The water bank leases request to place 27.1 acres from each of these water rights into the Water Supply Bank. A review of these water rights revealed several issues that should be resolved prior to moving forward with a water bank lease.

The first issue found deals with water right 37-577BP. This water right has been objected to in the Snake River Basin Adjudication (SRBA). Whereas water right 37-577BP is involved in a contested case in the SRBA, it would not be prudent to move forward with a water bank lease until the validity and/or extent of this water right is determined.

The second issue revolves around a water right transfer on all of these water rights that is currently being held in the Southern Region office. The reason the transfer is being held is to wait until all of the water rights have been decreed in the SRBA. The water right transfer being held includes these water rights and several more, so there are additional issues that may arise once the water right transfer process has begun. To move forward without having a good idea what the water right transfer is proposing could create problems with any water right lease or rental.

I believe that we might be able to work through either one of these issues, but when both of these issues are combined, any approval of water bank lease could result in problems with the other processes already being considered for these water rights.

All of the water rights involved in the Water Bank lease except for 36-577BP were decreed in 2010, so forfeiture shouldn't be an issue. A more prudent avenue to preserving the validity of this water right would probably be an extension of time to avoid forfeiture. If the forfeiture is the reasoning behind placing these water rights into the water bank, then the extension of time to avoid forfeiture would be the better process at this time.

I recommend that these applications be returned unprocessed. The applicant can then resubmit the applications once the water right transfer has been completed for the portions of the water rights not needed for the water right transfer.