



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

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June 14, 2011

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

ECCLES FLYING HAT RANCH LLC
PO BOX 3028
SALT LAKE CITY UT 84110

RE: WATER SUPPLY BANK LEASE APPLICATION FOR WATER RIGHT NOS. 37-481D, 37-482J, 37-483D, 37-577BP, 37-917, 37-2713, 37-7356, 37-11975, 37-11976, 37-11977, AND 37-11978

Dear Applicant:

On March 22, 2010, the Idaho Department of Water Resources (Department) received your application to lease portions of the above-mentioned water rights to the Water Supply Bank (Bank). The Department has completed its review and must deny your lease.

37-577BP is at issue in the Snake River Basin Adjudication (SRBA). The other water rights for which you filed applications are considered uncontested overlaps to 37-577BP. Uncontested overlaps are identified as recommendations to which no objections were filed but may still be affected by the outcome of SRBA proceedings. 37-577BP is scheduled for trial November 9-10, 2011. We cannot process an application which is pending action in the SRBA because we must know the extent of historical use, which is determined in the SRBA. Once all of your water rights are partially decreed in the SRBA and are no longer at issue, you can file new lease applications with the Bank.

Additionally, a transfer is currently pending for the above-mentioned water rights at our Southern Regional office that is likely to change the elements of the water rights, which would require a subsequent review for Bank acceptance. The Water Supply Bank Rules require the Department review applications for the potential for enlargement or injury. Without knowing the extent of change under the pending transfer, we cannot adequately protect against enlargement and/or injury with any subsequent rentals.

Please note that a water right is not protected from forfeiture unless it is currently in the SRBA, 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 also consider filing an Application for Extension of Time to Avoid Forfeiture of a Water Right. Please contact me at (208) 287-4907 if you have questions.

Sincerely,

Monica Van Bussum
Sr. Water Resource Agent

Enclosures: Lease Applications (copies)
C: Charles E Brockway – Brockway Engineering PLLC