

MEMORANDUM

To: Water Right File No(s). 47-7090, 47-7126 and 47-7127
From: Monica Van Bussum
Date: November 22, 2010
Re: Review of Application to Lease a Water Right to the State Water Supply Bank

PURPOSE/NARRATIVE: On August 19, 2010, the Department received applications to lease the entirety of all three rights to the Water Supply Bank. The rights are for a total of 16.02 cfs of ground water for fish propagation.

There is a condition on the water right noting an agreement between Twin Falls Canal Company (TFCC) and Brubaker. I spoke with TFCC's attorney, Paul Arrington, on November 22nd about the agreement. The agreement governs water in what are known as "seep tiles." According to the agreement, TFCC's rights in the tiles are senior to the individual right holders. I proposed putting a condition on the lease acceptance that says before rental occurs we will need more information as to water availability in the tiles and any rentals will need to draw from the tiles. We will probably also need an okay from TFCC on any rentals. I do not anticipate this being a lease where we have a lot of rentals but the right does need protection from forfeiture.

AUTHORITY TO FILE: Barbara Brubaker, one of the right holders, signed the applications.

WATER RIGHT VALIDITY: Partial decrees were filed by the SRBA Court in August 2009, so there is no evidence of forfeiture and the SRBA verified the rights.

INJURY TO OTHER WATER RIGHTS: No injury is apparent.

ENLARGEMENT OF USE: No enlargement is apparent. Prior to rental, we will need additional evidence of volume historically used; I put a condition on the acceptance to this regard.

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 leases appear to be consistent with conservation of water resources in Idaho. The applicant/owner has been operating under an approved permit and a right licensed with the State of Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS:

None.