



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 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

February 26, 2010

CHARLES E BROCKWAY
BROCKWAY ENGINEERING
2016 N WASHINGTON ST STE 4
TWIN FALLS ID 83301

RE: APPLICATION(S) TO LEASE WATER RIGHT(S) TO THE WATER SUPPLY BANK
WATER RIGHT NO(S). 37-481D, 37-482J, 37-483D, 37-577BP, 37-917, 37-2713, 37-7356,
37-11975, 37-11976, 37-11977, AND 37-11978

Dear Mr. Brockway:

The Department of Water Resources ("Department") received the application to lease the above described water right(s) to the Water Supply Bank ("Bank"). However, the Department is returning the application since it was not signed by the applicant and was not completed on the current lease application form. If you would like to lease water right(s) to the Bank, please submit a new application for each water right signed by the applicant. I have enclosed a copy of the current lease application form for your convenience. A typeable version of this form is available from the Department's web site at:

http://www.idwr.idaho.gov/water/rights/water_rights_forms.htm

Please note that applications to lease a water right to the Bank must be reviewed in accordance with Idaho Code § 42-1762(2) and the Department's Water Supply Bank Rule 25 (IDAPA 37.02.03.025). This includes consideration of whether the applicant is the current owner of the water right, whether the water right has been abandoned or forfeited, whether the requested rental rate is reasonable, whether acquisition of the water right will be contrary to the State Water Plan, whether the application is in the local public interest, the probability of renting the right from the Bank, and such other factors as determined to be appropriate by the Idaho Water Resource Board.

If you have any questions, please contact me at (208) 287-4943.

Sincerely,

Aaron Marshall
Sr. Water Resource Agent

Enclosure(s)

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

RECEIVED

FEB 17 2010

DEPARTMENT OF
WATER RESOURCES

Water Supply Bank No. _____

Water Right No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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

Name of Seller/Lessor Eccles Flying Hat Ranch LLC

Phone 801-246-5329 Post office address P.O. Box 3028 Salt Lake City, UT 84110

1. DESCRIPTION OF RIGHT:

Right as evidenced by:

- a. Decree No. (see table) Decreed to _____
(Name)
in case of _____ vs _____
dated _____ in _____ county of _____
(Name of Court)
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Permit No. _____ issued by the Idaho Department of Water Resources.

2. DESCRIPTION OF PORTION OF RIGHT FOR SALE OR LEASE: (If the entire right is for sale or lease, show "all" on line
a. below and skip the remainder of part 2.)

- a. Amount of water under right: 1.22 cubic feet per second
& / or
189.7 acre-feet per annum
- b. Point of diversion SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 16 Township 02N Range 18E
B.M. in BLAINE County
Additional points NESW SEC.23 T.02N R.18E, NWSW SEC.23 T.02N R.18E, SWSE SEC.23 T.02N
R.18E, SWSE SEC.15 T.02N R.18E, 02N 18E SEC 22 SENE, 02N 18E SEC 20 SWNW.

c. Place of use: Irrigation

TWP	RGE	SEC	N.E.				N.W.				S.W.				S.E.				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N	18E	22													16.0				16.0
02N	18E	26						11.1											11.1

If the right is for irrigation, show the number of acres for the part of the right to be put into the bank.

Total number of acres 27.1

NOTE: _____

3. ADDITIONAL INFORMATION ABOUT RIGHT, OR PORTION THEREOF, FOR SALE OR LEASE

a. Explain how the seller/lessor acquired the right, or portion thereof, and attach a copy of the deed to the land to which it is appurtenant or other evidence of ownership of the right. If the right is not recorded in the name of the seller/lessor, attach a copy of a change of ownership form as required by Section 42-248 or 42-1409(6), Idaho Code, together with required documentation.

see partial decree

b. Describe the frequency of water use under the right, or portion thereof, during the past five (5) years of use. Attach watermaster records, pumping power bills, or other evidence to demonstrate that the right has not been lost through abandonment or forfeiture. (This information is not required if a partial decree has been issued on the right within the last 5 years.)

in SRBA court

c. If the right is from a surface water source, describe the period of the year that water is typically available to satisfy the right.

4/15 to 10/31

d. Describe any other water rights with the same purpose and place of use as the right, or portion thereof, offered for lease. Will the present place of use continue to receive water from any source? If so, describe.

Water Rights 37-481D, 37-482J, 37-483D, 37-577BP, 37-917, 37-11975, 37-11976, 37-11977, 37-11978, 37-2713, 37-7356 All have the same place of use and acre limits of 596 Acres Eccles would like to place 27.1 of the 596 Acres in the water bank.

e. If the water right is a permit, describe the work accomplished toward developing the right.

N/A

f. If the right to use the water or the use of the diversion works or irrigation system is represented by shares of stock in a company or corporation, or if such works or system is owned or managed by an irrigation district, a written consent of the sale or lease must be attached.

4. Remarks: none

5. SALE/LEASE AGREEMENT

1. The water right, or portion thereof, described above is offered to the Idaho Water Resource Board:

_____ For Sale;

 x For Lease for period from 3/01/2010 to Indefinite
(Month, Day, Year) (Month, Day, Year)

(The lease period may be shown as "indefinite", if the total duration of lease is unknown); or

_____ As a gift to the State of Idaho

2. Show the minimum payment acceptable to the Seller/Lessor. Include the method of determining the minimum payment. The minimum payment may be shown as the "current rental rate".

 standard 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 the sale or lease of this right 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 of the right may not use the right even if the right is not rented.
3. A right accepted into the bank stays in the bank until the Board releases it or until the lease term expires.
4. While a water 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.

Date Signature

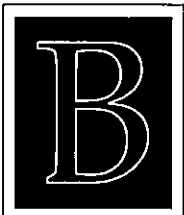
FOR DEPARTMENT USE ONLY

Received by _____ Date _____ Preliminary check by _____

Watermaster recommendation requested on _____ Received _____

Recommended for _____ approval _____ denial by _____

Eccles Flying Hat Ranch LLC				
Water Bank List				
Brockway Engineering, PLLC.				
ALR - April 30, 2008				
WATER RIGHTS	<u>PPU</u>	<u>LIMIT</u>	<u>CURRENT IRRIGATION</u>	<u>AC. FOR WATER BANK</u>
	acres			
37-481D	675 AC	596 AC.	568.9 AC	27.1 AC
37-482J				
37-483D				
37-577BP				
37-917				
37-11975				
37-11976				
37-11977				
37-11978				
37-2713				
37-7356				



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

RECEIVED

FEB 17 2010

DEPARTMENT OF
WATER RESOURCES

February 12, 2010

Gary Spackman
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

Re: Flying Hat Ranch Water Rights

Dear Mr. Spackman:

On behalf of Flying Hat Ranch, Brockway Engineering is submitting this application to lease 27.1 acres to the Idaho Water Supply Bank. We are aware that there is limited staff available to process lease and rental agreements turned into the Idaho Water Supply Bank. Our client desires to insure protection against any forfeiture issues. This application has been submitted to you upon the request of our client.

Please copy our office on all correspondence regarding this application.

Sincerely,

Charles E. Brockway, PhD., P.E.

CHARLES E.
BROCKWAY,
PH.D., P.E.

CHARLES G.
BROCKWAY,
PH.D., P.E.

2016 NORTH
WASHINGTON
STREET • SUITE 4

TWIN FALLS,
IDAHO 83301

208•736•8543

FAX: 736•8506

Cc: Flying Hat Ranch
Enc: Idaho Water Supply Bank Lease Application

Water Supply Bank No. _____
(For Department Use Only)

STATE OF IDAHO
WATER RESOURCE BOARD

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

Name of Seller/Lessor _____ Phone _____

Mailing address _____ Email _____

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. <u>Water Right Number</u>	<u>Amount (cfs/ac-ft)</u>	<u>Nature of Use</u>	<u>Period of Use</u>
_____	_____	_____	_____ to _____
_____	_____	_____	_____ to _____
_____	_____	_____	_____ to _____

Total Amount: _____

2. Source of water _____ tributary to _____

3. Point(s) of Diversion:

Twsp	Rge	Sec	Lot	¼	¼	¼	County

4. Lands irrigated or place of use:

Twsp	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.

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

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 _____ to _____ 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. _____

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

Printed Name and Title*

Date

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