

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1354

This Lease Contract ("Lease") is between the Idaho Water Resource Board ("Board"), and

LESSOR: SHOSHONE BANNOCK TRIBES
PO BOX 306
FORT HALL, ID 83203-0306

RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.
2. The Lessor has filed a completed application to lease water rights described below into the Water Supply Bank on forms supplied by the Idaho Department of Water Resources and received by the Department on December 30, 2020.
3. The Director of the Idaho Department of Water Resources has reviewed the application for compliance with the Water Supply Bank rules and has approved the Lease subject to conditions listed below.

NOW, THEREFORE, in consideration of the mutual covenants and contracts herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. **WATER RIGHTS:** The Lessor shall lease and the Board shall accept into the Bank the Applicant's water rights described as follows:

Summary of Water Rights or Portions Leased to the Bank

Water Right No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)
29-13941	10/3/1977	GROUND WATER, tributary to	0.18	41.8	10.5
Combined Lease Totals			0.18	41.8	10.5

2. **COMPENSATION:** The Lessor shall accept and the Board shall pay compensation determined by the amount of water rented under the following rental rate during such times as the water is rented from the Bank over the term of this Lease.

Minimum Payment Acceptable: Current Rental Rate

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2021 to December 31, 2025. This Lease shall bind the parties and take effect when both parties have signed it.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.

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5. **CHANGE OF WATER RIGHT:** This lease specifies water right elements including but not limited to: diversion rates; diversion volumes; number of acres authorized to be irrigated; places of use; points of diversion; beneficial uses; and seasons of use. During the term of this lease, if a water right is administratively changed due to a water right split and renumbering, this lease may be reduced by an equal amount to reflect the water right elements as legally defined under the water right. If a lease contract cannot be reduced sufficient to reflect the legal definition of a water right as amended through a water right split and/or water right transfer, the Board may release the water right from the Water Supply Bank.
6. **ASSIGNMENT OF CONTRACT:** This lease is between the Board and the Lessor, who is the recognized owner or designated representative of the recognized owners of water rights described herein. Should ownership of any part of a water right herein described change during the term of this lease, either through a water right split, a water right transfer, sale of property to which the water right is appurtenant, or through any other recognized water right reassignment, the lease benefits and obligations to the conditions of acceptance for any such water rights will be assigned to the new owners.
7. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

STATE OF IDAHO
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IN WITNESS WHEREOF, the parties have executed this Contract on the date following their respective signatures.

LESSOR: SHOSHONE BANNOCK TRIBES

PO BOX 306

FORT HALL, ID 83203-0306

By 

Title Monte Gray, Asst General Counsel

Date 8-17-2021

IDAHO WATER RESOURCE BOARD

322 East Front Street

P.O. Box 83720

Boise, ID 83720-0098

By 

Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 12/27/21

Lease approved by IDWR 

Date 12/27/21

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1354

**ATTACHMENT A
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE**

The water rights or portions thereof leased to the bank are described as follows:

Source and Location of Point(s) of Diversion for Water Right No(s): 29-13941

GROUND WATER SWSESW Sec. 31 Twp 05S Rge 33E POWER County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
29-13941	IRRIGATION	04/01	to	11/01	0.18 cfs	41.8 AF
Totals:					0.18 cfs	41.8 AF

PLACES OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05S	33E	31												10.5					10.5

Total Acres: 10.5

ADDITIONAL CONDITIONS OF ACCEPTANCE

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, or the lease term expires. A right may be released from the bank upon request, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.
5. While a water right is in the bank, forfeiture provisions are stayed pursuant to Idaho Code § 42-223(5).
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1354

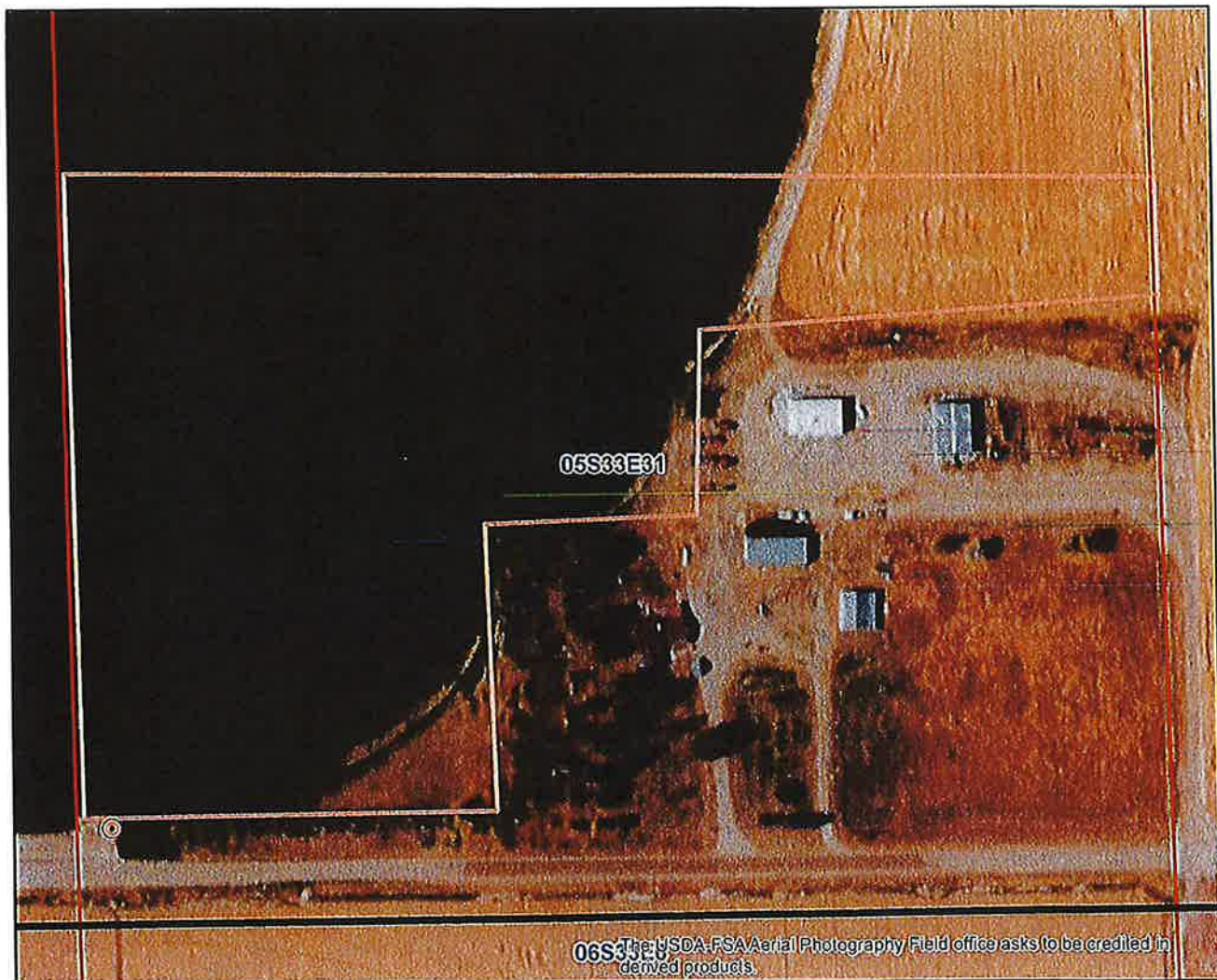
9. In accordance with Idaho Code § 42-248 and § 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
 - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season, even if the Department processes a Notice of Change in Water Right Ownership during the rental season.
 - b. New lessor(s) of record will receive payment for any subsequent rental seasons.
11. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1354

29-13941

Effective until December 31, 2025

This map depicts the **place of use to be idled** pursuant to the lease contract and is attached to the contract solely for illustrative purposes.



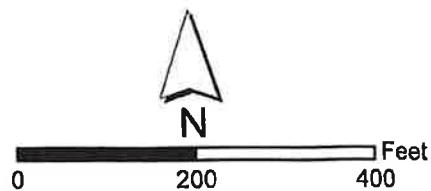
① Approved Lease Point of Diversion

Approved Lease Place of Use

Township/Range

Sections

QQ



**STATE OF IDAHO
WATER RESOURCE BOARD**

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

Designated Applicant Shoshone-Bannock Tribes
(Select one owner – see item 1A on the application)

Water Right No. 29-13941
(One water right per application)

Is this application being submitted with a rental application as a lease/rental package?

Yes ☐ No ☒

This application must be prepared in accordance with the minimum requirement checklist below. Use this checklist to ensure all necessary documentation has been provided. This checklist is part of the lease application and must be included with the lease application. **Applications that do not meet the minimum requirements will not be processed and may be returned or denied.**

MINIMUM REQUIREMENT CHECKLIST

All items must be checked as either *Attached (Yes)* or *Not Applicable (N/A)*

Yes

- ☒ Completed *Application to Sell or Lease a Water Right to the Water Supply Bank*.
- ☒ Application filing fee of \$250.00 per water right. If you are submitting more than one lease application and the water rights have an overlapping, common place of use, or a common diversion rate or volume, the total fee for all water rights is \$500.00. For places of use, multiple water rights must be used to irrigate the same lands in order to qualify for the joint filing fee. Individual filing fees are required for water rights that share a common permissible place of use but which cover separate acres within the permissible place of use.
- ☒ Confirmation this form has been printed **single sided**, per requirement of the Water Supply Bank.

Attachment N/A Yes

- | | | | |
|-----------|-------------------------------------|-------------------------------------|--|
| 1A | ☐ | ☒ | Signatures and contact information for <i>all owners</i> of the water right to be leased or sold on this application. |
| 1B | ☐ | ☒ | An <u>Internal Revenue Service (IRS) Form W-9</u> for the Designated Applicant. |
| 1C | ☒ | ☐ | <i>Notice of Change in Water Right Ownership</i> form (accessible from www.idwr.idaho.gov). |
| 1D | ☐ | ☒ | Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity. |
| 2 | ☐ | ☒ | Description of a water right portion offered to the Water Supply Bank. |
| 3 | ☐ | ☒ | A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. You have the option of printing a map using the map tool on IDWR's website at: www.idwr.idaho.gov . |
| 4A | ☒ | ☐ | Written consent from irrigation district or water delivery company. |
| 4G | ☐ | ☒ | Evidence demonstrating the water right has not been forfeited pursuant to <u>Section 42-222(2), Idaho Code</u> . |

Department Use Only

Fee Amount \$	Received By:	Date Received:	Receipt #
W-9 received? Yes ☐ No ☐	(Route W-9 to Fiscal)	Name on W-9:	

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

1. CONTACT INFORMATION

- A. This application must be completed by a Designated Applicant who is a current owner of the water right being sold or leased to the Water Supply Bank. If there are additional current owners, those individuals must authorize the Designated Applicant to represent them on this application by completing and signing Attachment 1A of this application package.

Designated Applicant Shoshone-Bannock Tribes
Mailing Address P.O. Box 306 Fort Hall Idaho 83203
Street City State Zip Code
Email Address bbacon@sbtribes.com/mgray@sbtribes.co Phone Number (208)478-3815/3781

☒ The Designated Applicant is the sole owner of the water right being sold or leased to the Water Supply Bank.

OR

☐ The Designated Applicant is representing additional water right holders who have completed Attachment 1A.

- B. Has the Designated Applicant submitted an IRS Form W-9 to this Department within the last 2 years? Yes ☐ No ☒
If no, complete the form and attach to this application (Attachment 1B).
- C. Are all applicants on this form listed in IDWR's records as the current owners of the water right? Yes ☒ No ☐
If no, attach a *Notice of Change in Water Right Ownership* form along with the required documentation and fee (Attachment 1C).
- D. Is this application being completed by an authorized representative of the Designated Applicant? Yes ☒ No ☐
If yes, representatives (includes employees of Designated Applicant companies) must complete this section and submit documentary proof of their authority to represent the Designated Applicant (Attachment 1D).

Name of Representative William Bacon/Monte Gray Organization Shoshone-Bannock Agri-Business Corp.
Professional Title General Counsel Email Address bbacon@sbtribes.com/mgray@sbtribes.co
Mailing Address P.O. Box 306, Fort Hall, Idaho 83203 Phone Number 208)478-3815/3781

☒ Send all correspondence for this application to the representative and not to the Designated Applicant.

OR

☐ Send original correspondence to the Designated Applicant and copies to the representative.

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

☒ The full water right is being offered to the Bank.

OR

☐ A part of the water right is being offered to the Bank.

If a portion of the water right is being offered, complete Attachment 2.

3. MAP

Attach a map of the point(s) of diversion and place(s) of use proposed to be idled by this lease application. Make sure the idled place of use is outlined and annotated with legal land descriptions (Township, Range, Section and Quarter-Quarters) or with GPS coordinates. For irrigation purposes, mark the number of acres you desire to idle. If the water right proposed for lease is located within a permissible place of use (PPU) and portions of the PPU will continue to receive water from non-leased water rights, clearly outline on a map the acres within the PPU that will continue to be irrigated, as well as acres that will be idled during the lease term. Label the map **Attachment 3**.

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

4. GENERAL INFORMATION

- A. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☒
If yes, provide written consent from the company, corporation or irrigation district authorizing the proposed sale or lease (Attachment 4A).

If your water right is delivered through a canal, lateral or ditch operated by a canal company, irrigation district, or similar delivery entity, your lease request must include written consent from the company, district, or similar entity for your removal of water from its system pursuant to Section 42-108, Idaho Code and IDAPA WSB Rule 37.02.03.25.02e.

- B. Please provide a description of the current water diversion and delivery system.
Well and Pump

- C. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank. This land is within the Fort Hall Reservation and has been assigned a portion of Shoshone-Bannock Tribes Water Rights 27-11376.

- D. Are any of the water rights identified in Section 4C stacked with the water right proposed for lease? Yes ☐ No ☒
Stacked water rights are used together to achieve a common beneficial use, such as irrigation of the same lands. Stacked water rights cannot be separated and must be jointly leased to the Water Supply Bank. Stacked water rights qualify for the multiple fee payment of \$500.

- E. Will the present place of use continue to receive water from any other source? Yes ☒ No ☐
If yes, explain the relationship between the different water sources and how enlargement of the authorized use will not occur if this water right is leased. This land is within the Fort Hall Reservation and has been assigned a portion of Shoshone-Bannock Tribes Water Rights 27-11376.

- F. Identify annual volumes and/or rates of water diverted in the last 5 years to accomplish the beneficial use authorized by this water right. 41.8 AF Annual has been diverted per year for agricultural use.

- G. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes ☐ No ☒
If yes, describe the circumstances and attach evidence to demonstrate how the water right has not been lost through forfeiture (Attachment 4G). See Section 42-223, Idaho Code for exceptions to forfeiture. Your application may be denied if forfeiture concerns are not addressed.

- H. Is this water right involved in any other IDWR process, such as an application for transfer or a mitigation plan?
If yes, describe.

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

5. SALE/LEASE AGREEMENT

- A. Is the water right, or portion thereof, offered to the Idaho Water Resource Board (IWRB) for sale ☐ or lease ☒?

If lease, specify the years when the use of water will be suspended: 2021 to 2025 (maximum lease period 5 calendar years).
(Year) (Year)

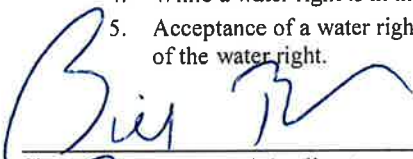
- B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.

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 water right for sale or lease to the Idaho Water Resource Board.

The Designated Applicant acknowledges the following:

1. Payment to the Designated Applicant is contingent upon the sale or rental of the water right from the Bank.
2. While a water right is in the Bank, the seller/lessor of the water right may not use the water right, even if the water right is not rented from the Bank.
3. A water right accepted into the Bank stays in the Bank until the Designated Applicant receives written confirmation from the Board or Water Supply Bank that the water right has been released from the Bank.
4. While a water right is in the Bank, forfeiture is stayed.
5. Acceptance of a water right into the Bank does not, in itself, confirm the validity of the water right or any element of the water right.



Signature of Designated Applicant

William Bacon/Monte Gray

Printed Name

12.22.20

Date



Signature of Authorized Representative

William Bacon/Monte Gray

Printed Name

12.22.20

Date

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

**STATE OF IDAHO
WATER RESOURCE BOARD**

ATTACHMENT 1A

Additional Water Right Holders Party to the Lease Application

For the water right on this application, list all owners (individuals or business entities) of the right or the property to which it is appurtenant. All water right holders must sign a Water Supply Bank Lease Application. However, only the Designated Applicant needs to provide a completed IRS Form W-9 (Attachment 1B). **All correspondence and any financial payment associated with the rental of this water right will be directed to the Designated Applicant.** If additional space is needed to list any other water right holders, attach a second copy of Attachment 1A.

If submitting multiple applications, it is only necessary to complete one Attachment 1A for the group of applications. List each water right below.

Water Right No(s). _____

	Designated Applicant	Applicant #2	Applicant #3
Name	Shoshone-Bannock Tribes		
Mailing Address	P.O. Box 306, Fort Hall, Idaho 83203		
Phone Number	(208) 478-3815/3781		
Email Address	bbacon@sbtribes.com/mgray@s		
Applicant Declaration	As Designated Applicant, I submit this lease application on behalf of all other water right holders.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

	Applicant #4	Applicant #5	Applicant #6
Name			
Mailing Address			
Phone Number			
Email Address			
Applicant Declaration	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

**STATE OF IDAHO
WATER RESOURCE BOARD**

Complete Attachment 2 if only a portion of the water right is offered to the Bank.

ATTACHMENT 2

DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

1. <u>Water Right Number</u>	<u>Nature of Use</u>	<u>Leased Rate</u> (cfs)	<u>Leased Volume</u> (af)	<u>Leased Acres</u> (ac)
_____	_____	_____	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____
	Total Amounts:	_____	_____	_____

2. Source of water _____ tributary to _____

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County



IDAHO DEPARTMENT OF
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

December 28, 2021

SHOSHONE BANNOCK TRIBES
PO BOX 306
FORT HALL, ID 83203-0306

**RE: WATER SUPPLY BANK LEASE CONTRACT 1354
FOR WATER RIGHTS 29-13941**

Dear Lessor:

Water right **29-13941** was leased into the Water Supply Bank (Bank) as of January 1, 2021, in accordance with the enclosed executed lease contract. **Your water rights, as described on the lease contract, are considered leased into the Bank and should remain unused until they are formally released from the Bank.** More information and further restrictions placed on your water rights while leased can be found in conditions of acceptance of the lease contract. Read the conditions of acceptance carefully.

The rights will automatically be released from the Bank on **December 31, 2025**, unless the rights are released earlier by the Water Resource Board (Board). On behalf of the Board, the Department of Water Resources (Department) can evaluate an early release of the lease contract upon your request. To release the water rights from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available on our public website at www.idwr.idaho.gov. **Please note your water rights may not be available for immediate release if they have been rented or are being considered for a future rental. Furthermore, it is at the discretion of the Department whether or not a water right can be released early from a lease contract.**

If you have questions regarding this matter, please contact this office at bank@idwr.idaho.gov or 208-287-4800.

Sincerely,

Amanda Johnson-Veibell

for
Water Supply Bank

Enclosure: Executed Lease Contract



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

July 19, 2021

SHOSHONE BANNOCK TRIBES
PO BOX 306
FORT HALL, ID 83203-0306

**RE: APPLICATION TO LEASE WATER RIGHTS 29-13941 TO THE WATER SUPPLY BANK
CONTRACT 1354**

******TIME SENSITIVE RESPONSE REQUIRED******

Dear Applicant:

The Department of Water Resources has completed its review of your application to lease the above-mentioned water right to the Water Supply Bank. **I have enclosed two original Water Supply Bank Lease Contracts for your review and signature. Please sign and return ALL Lease Contracts within 14 days.** Upon signature and return of the contracts, the Department will also sign the original contracts and return an executed copy to you. The Lease Contract is not considered final until you and the Department have both signed.

The right will automatically be released from the Bank on **December 31, 2025**, unless the right is released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. To propose a new lease period, submit a new Application to Sell or Lease a Water Right to the Water Supply Bank form along with applicable fees to the Department. These forms are available from any IDWR office or from our public website at <http://www.idwr.idaho.gov>. Please note your right may not be available for immediate release if it has been rented.

Please review the conditions of acceptance listed on the Lease Contract, including #3 which says:

"While a right is in the bank, **the lessor may not use the right** without approval of the department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B."

If you have questions regarding this matter, please contact this office at bank@idwr.idaho.gov or 208-287-4800.

Sincerely,

Amanda Johnson-Veibell

for
Water Supply Bank

Enclosures: Proposed Lease Contracts

Memorandum

To: Water Rights 29-2489A, 29-2489B, 29-2489C, 29-10053, 29-10054 & 29-13941
From: Justin Ferguson
Date: April 15, 2021
Re: Water Supply Bank Lease Application 1907, 1908, 1909, 1919

Purpose/Narrative: An application was received by the Department on December 22, 2020 on behalf of Shoshone-Bannock Agri-Business Corporation (SBABC) from Ms. Heather Larsen of Echo, Hawk & Olson, offering the entirety of water rights 29-2489A, 29-2489B, 29-2489C, 29-10053, 29-10054 & 29-13941 for lease to the Bank through the end of 2025.

Note: through review of these lease applications, it was observed that there are clerical errors in IDWR's electronic records for water rights 29-2489B and 29-10053. Specifically, an acre limit of 36.3 acres is specified in database records for water right 29-2489B, water right condition K06 affirms the acre limit as 36.0 acres. This review will consider the lease of 36 acres under water right 29-2489B. Further, the acre limit database field for water right 29-10053 specifies a value of 5.4 acres, however condition K09 affirms the acre limit should be 8.5 acres. This review will consider the lease of 8.5 acres under water right 29-10053.

Authority to File: The applications were prepared by the applicant's representatives at Echo, Hawk & Olsen and signed by Mr. Mark Wadsworth. Per a Tribal resolution (WATR-2019-0950) submitted as part of the application package, Mr. Wadsworth as Agri-Business Manager, is the designated applicant for these applications. No concerns at this time.

Water Right Validity/Forfeiture Evaluation: Review of both satellite and aerial imagery confirm irrigation has taken place on the historic place of use for these water rights as recently as 2019.

Injury Evaluation: No injury is apparent through these applications.

Enlargement of Use: Per information provided in the application package under question 4E, the acreage authorized to be irrigated under the above listed water rights, will continue to receive irrigation water under water right 27-11376, currently held by the Tribe. Because the water rights proposed for lease have not previously been comingled with the Tribe's water right portfolio, there should be no enlargement of these water rights if the underlying acres associated with these water rights are irrigated during the term of the lease.

The figures below outline, for each lease package, the combined limits shared by the water rights that will be carried over to the approval documents:

Application	Water Right	Priority	Use	Div. Rate	Div. Volume	Acres	Combo Limit Acres	PPU Acres	Rate / AC	Vol / AC
1908	29-2489B	4/13/1964	Irrigation	0.63		36	41.4	41.4	0.018	0.0
	29-10054	7/28/1968	Irrigation	0.1		5.4	41.4	41.4	0.019	0.0
	combo		Irrigation	0.63	145	41.4	41.4	41.4	0.015	3.5
1909	29-2489C	4/13/1964	Irrigation	0.63		36	44.5	41.4	0.018	0.0
	29-10053	7/28/1968	Irrigation	0.13		8.5	44.5	44.5	0.015	0.0
			Irrigation	0.63	156	44.5	44.5	44.5	0.014	3.5
1907	29-2489A	4/13/1964	Irrigation	1.23	299	85.4	85.4	85.4	0.014	3.5
1919	29-13941	10/3/1977	Irrigation	0.18	41.8	10.5	10.5	10.5	0.017	4.0

Local Public Interest: Staff are unaware of any local public interests that are averse to the lease.

Beneficial Use/Conservation of Water Resources: The lease appears consistent with the conservation of water resources in Idaho.

Department/Watermaster Comments: Comments were requested from IDWR Eastern Region along with Watermaster for District 120 on April 15, 2021. No concerns were received.

Water Supply Bank Evaluation: Based on the information presented by the applicant, staff recommend the proposal be approved for the Shoshone-Bannock Ari-Business Corporation through the end of 2025.

Memorandum

To: Water Right 29-13941
From: Justin Ferguson
Date: April 15, 2021
Re: Water Supply Bank Lease Application 1919

Purpose/Narrative: An application was received by the Department on December 22, 2020 on behalf of Shoshone-Bannock Agri-Business Corporation (SBABC) from their representatives at Echo, Hawk & Olson, offering the full portion of water right 29-13941 for lease to the Bank through the end of 2025.

The rights were acquired by the Shoshone-Bannock Tribe in 2010 and used for irrigation and appear to have been irrigated in full as recently as 2013. Based on the lease proposal received by the Department, it appears that as this is the sixth year some of the acreage has not been irrigated, the applicant is seeking to protect the acreage from forfeiture.

Keeping with the conclusions reached for the review of lease applications 1907, 1908 & 1909, because the water right was no way developed pursuant to congressional legislation for the reservation, nor was it licensed or decreed for any such purpose, there does not appear to be a reason it would be precluded from being offered to the Bank.

Water Right Validity/Forfeiture Evaluation: In line with the other applications received by the Department from this applicant for 2021, this water right was not initially decreed for the Tribe but was acquired through an ownership change. Keeping with the findings of the lease application reviews for applications 1907, 1908 & 1909, the water rights are precluded from the "Fort Hall Indian Water Rights Act of 1990" in that the department is afforded the jurisdiction to determine the validity of the water right.

Review of 2013 aerial data shows that irrigation has taken place on the historic place of use for these water rights. Additionally, based on the interpretation of sec. 6.g of the Fort Hall Indian Water Rights Act of 1990, it may not be possible for the Department to find forfeiture without Tribal consent.

Injury Evaluation: No injury is apparent through these applications. The acreage will continue to receive irrigation however, per their representative at Echo, Hawk & Olson, shares of the Tribal water rights have been allocated to the acreage so it can be irrigated using the SBABC water portfolio. Because the water rights have not been comingled with the SBABC water portfolio and appears to have been used in full, there are no concerns both under these lease applications or should the water rights be the subject of a rental.

Enlargement of Use: No enlargement is evident through the lease proposals as the water rights do not appear to have been comingled with water held by the SBABC.

Basin	Sequence	Suffix	Priority Date	Source	Rate	Volume	Acres
29	13941		10/3/1977	Ground Water	0.180	41.8	10.5

There is a question as to an overall enlargement of water use within the Basin now that the acreage will be covered under the SBABC water rights portfolio. As the acreage can now be covered by an allotment from the SBABC portfolio, it can be inferred that sufficient volume exists such that the acreage can continue to be irrigated. That said, there remains the question as to the impacts to the underlying aquifer given that the portion of the water right being used by SBABC to irrigate may not have previously been used. While this may not constitute an enlargement, it may be prudent should the water right be rented, to further investigate the impacts.

Local Public Interest: Staff are unaware of any local public interests that are averse to the lease.

Beneficial Use/Conservation of Water Resources: The lease appears consistent with the conservation of water resources in Idaho.

Department/Watermaster Comments: Comments were requested from IDWR Eastern Region along with Watermaster for District 120 on April 15, 2021

Water Supply Bank Evaluation: Based on the information presented by the applicant, staff recommend the proposal be approved for the Shoshone-Bannock Ari-Business Corporation through the end of 2025.