

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1383

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

LESSOR: SALMON FALLS LAND & LIVESTOCK CO INC
MICHAEL J HENSLEE
95A BELL RAPIDS RD
HAGERMAN, ID 83332-6039

RECEIVED

SUPPORT DATA

APR 16 2021

IN FILE # 2-7249 DEPARTMENT OF
WATER RESOURCES

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 February 12, 2021.
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)
2-7462	9/29/1969	SNAKE RIVER, tributary to COLUMBIA RIVER	1.25	Not Stated	63.0
2-7249	2/7/1977	SNAKE RIVER, tributary to COLUMBIA RIVER	1.87	Not Stated	101.6
Combined Lease Totals			3.12	Not Stated	164.6
Combined Limit Totals			1.87	Not Stated	152.1

Summary of Water Rights Elements Rentable From the Bank

Water Right	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (Limited) (AC)	Rate Per Acre (CFS/AC)	Volume Per Acre (AF/AC)
2-7462	1.25	252	63.0	0.02	4.0
2-7249	1.87	406	101.5	0.02	4.0
Combined Limit Totals	1.87	608	152.1	0.01	4.0

** The water right elements rentable have been reduced from the water right elements leased to account for a headgate standard of 4 af/ac*

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1383

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, 2021. 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.
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.

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DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1383

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

LESSOR: SALMON FALLS LAND & LIVESTOCK CO INC
MICHAEL J HENSLEE
95A BELL RAPIDS RD
HAGERMAN, ID 83332-6039

By Michael J. Henslee
Title Vice President
Date 4/13/2021

IDAHO WATER RESOURCE BOARD

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

By Brian Patton
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 4/21/21

Lease approved by IDWR Patton

Date 4/21/21

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1383

**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): 2-7462, 2-7249

SNAKE RIVER NESE Sec. 7 Twp 08S Rge 14E TWIN FALLS County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
2-7462	IRRIGATION	4/01	to	10/31	1.25 cfs	Not Stated
2-7249	IRRIGATION	4/01	to	10/31	1.87 cfs	Not Stated
Totals:					1.87 cfs	Not Stated

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	
08S	13E	11											23	12			16	10.6	61.6
08S	13E	13		14.5				20	14										48.5
08S	13E	14	10			18	14												42

Total Acres: 151.2

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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

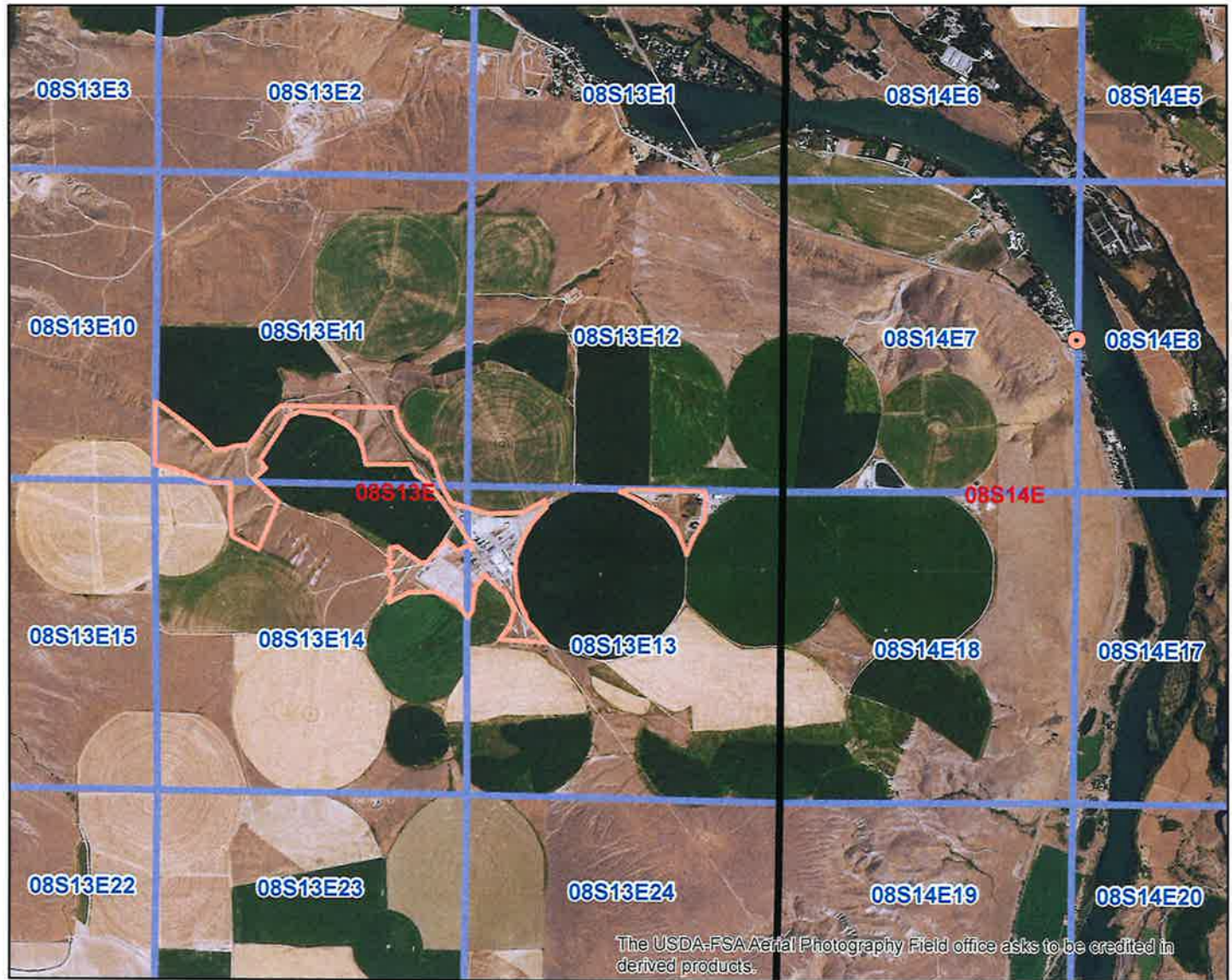
WATER SUPPLY BANK LEASE CONTRACT No. 1383

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.
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.
12. The unleased portions of Rights 2-7249, and 2-7462 are limited to the irrigation of a specific 2279.9 acres within the 2279.9 acre place of use authorized by these rights in a single irrigation season. The specific 2280 acres to be irrigated by the right holder shall be identified prior to use by submittal of a land list and a representative electronic shape file or by submittal of a land list and a map sufficiently detailed to allow creation of an electronic shape file to be associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 2279.9 acres to be irrigated within the 2662.8 acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.
13. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/15 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 and after 10/31 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than originating approval/SRBA partial decree date.
14. The unleased portions of water rights 02-7249 and 02-7462 when combined shall not exceed a total diversion rate of 28.0 cfs, a total annual maximum diversion volume of 9120 af at the field headgate for the irrigation of 2,280 acres in a single season
15. Place of use does not include federal public lands.
16. Water shall not be diverted under this right unless the flow of the Snake River exceeds flows required by prior downstream minimum stream flow rights.

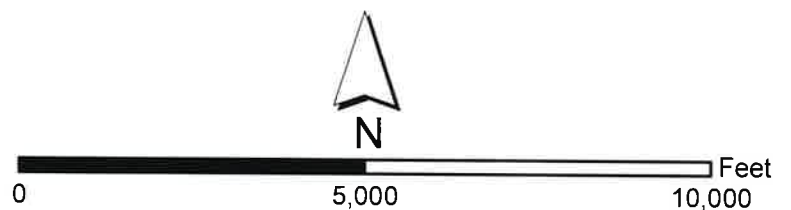
Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1383

2-7249 & 2-7462
Effective until December 31, 2021

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.



-  Approved Lease Point of Diversion
-  Approved Lease Place of Use
-  Township/Range
-  Sections



STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

FEB 12 2021

DEPARTMENT OF
WATER RESOURCES

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

Designated Applicant Salmon Falls Land & Livestock Co. INC

(Select one owner – see item 1A on the application)

Water Right No. 2-7249

(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 Section 42-222(2), Idaho Code . |

Department Use Only

Fee Amount \$ <u>500</u>	Received By: <u>Kn</u>	Date Received: <u>2.12.21</u>	Receipt # <u>C109917</u>
W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)		Name on W-9: <u>Salmon Falls Land & Livestock Co</u>	

inc

1980

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 Salmon Falls Land & Livestock Co. Inc

Mailing Address 95A Bell Rapids Rd. Hagerman, ID 83332

Street

City

State

Zip Code

Email Address _____

Phone Number 208-837-6053

☒ 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 Zach Latham Organization Brockway Engineering PLLC

Professional Title Hydrologist Email Address zach.latham@brockwayeng.com

Mailing Address 2016 Washington Ave. N Suite #4 Twin Falls ID 83301 Phone Number 208-736-8543

☐ 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.
Existing pump station and buried mainlines convey water water to place of use.

- 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. Portions of 2-7249 and 7462 are being offered for lease to the Water Supply Bank.

- 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. Un-leased portions of 2-7249 and 2-7462 will continue to be used at present POU.

- 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. See approved IDWR lease contract no. 966.

- 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. N/A.

- H. Is this water right involved in any other IDWR process, such as an application for transfer or a mitigation plan?
If yes, describe. Yes ☐ No ☒
N/A.

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 2021 (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.

Salmon Falls Land & Livestock Co. Inc. Salmon Falls Land & Livestock Co. Inc.
by Michael J. Henslee V.P. *by Michael J. Henslee V.P.* *12/30/2020*
Signature of Designated Applicant Printed Name Date

Signature of Authorized Representative Printed Name Date

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

**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)
2-7249	Irrigation	1.87	406.0	101.5
	Total Amounts:	1.87	406.0	101.5

2. Source of water Snake River tributary to Columbia River

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
08S	14E	7	6	NE	NE	SE	TWIN FALLS



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

April 29, 2021

SALMON FALLS LAND & LIVESTOCK CO INC
MICHAEL J HENSLEE
95 A BELL RAPIDS RD
HAGERMAN, ID 83332-6039

**RE: WATER SUPPLY BANK LEASE CONTRACTS 1383
FOR WATER RIGHTS 2-7462 & 2-7249**

Dear Lessor:

Water right **2-7462 & 2-7249** were 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

c: IDWR- Southern Region
Zach Latham – Brockway Engineering



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

April 8, 2021

SALMON FALLS LAND & LIVESTOCK
MICHAEL J HENSLEE
59A BELL RAPIDS RD
HAGERMAN, ID 83332-6039

RE: APPLICATION TO LEASE WATER RIGHTS 2-7249 & 2-7249 TO THE WATER SUPPLY BANK CONTRACT 1383

****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, 2021**, 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

C: Zach Latham – Brockway Engineering

Memorandum

To: Water Rights 2-7249 & 2-7462
From: Justin Ferguson
Date: March 22, 2021
Re: Water Supply Bank Lease Application 1979

Purpose/Narrative: Two applications were received by the Department from Salmon Falls Land & Livestock (SFL) on February 12, 2021 offering portions of both water right 2-7249 & water right 2-7462 for lease to the Bank through the end of the year. The applications are effectively a continuation of two prior lease contracts 755 & 966, allowing SFL to reconfigure their irrigable acreage through the companion rental application. The purpose of these packages is allowing the use of water rights held by SFL on land held by the Bureau of Land Management that would otherwise not be irrigable while protecting a portion of the remaining acreage from forfeiture.

Authority to File: The applications were prepared by the applicant's representative at Brockway Engineering PLLC and signed by Mr. Michael Henslee as Vice President for Salmon Falls Land & Livestock. Idaho Secretary of State Data shows Mr. Henslee as an authorized agent for Salmon Falls. No concerns of applicant's authority at this time.

Water Right Validity/Forfeiture Evaluation: Portions of these water rights have been protected from forfeiture via the Bank beginning in 2017 through the end of 2020. During a prior review it was found that 26.3 acres may have been subject to forfeiture through non-use and, at the request of the applicant's repetitive, removed from the proposal. The same acreage was excluded from the subsequent lease application from 2018 through the end of 2020.



Figure 1. Observed Irrigation for 2019

For this proposal the review staff used both aerial and satellite imagery to determine the actual, observed extent of acreage held by SFL. The figure left illustrates the extent of the observed

irrigation for 2019 with parcels held by SFL outlined in green and the observed irrigation outlined in yellow while the table below calls out the specific acreage observed. Based on the observed irrigation it appears that a portion of the acreage is now covered with permanent structures or has topography that would not allow for commercial irrigation.

Observed Irrigation - 2019																		
T	R	S	NE				NW				SW				SE			
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
08S 13E 10																	9.5	18
08S 13E 11			20	14	39	40					33	40	16	27	21	17	25	28
08S 13E 12			0.2	20	21	0.4					34	36	40	37	28	38	39	36
08S 13E 13			36	24	37	39	39	22	25	40	27	37	39	18	40	36	25	39
08S 13E 14			28	22	6.6	21	10	36	38	37	39			30	37	36	30	24
08S 13E 15			41	31	8.5	16												
08S 13E 24							0.1											
08S 14E 7									0.1		0.1	31	31	28		15	34	
08S 14E 18				28	30		39	31	23	34	32	26	31	30		29	7.8	
																	Sub Total	Total
																	27.5	2171.3
																	320	
																	329.6	
																	523	
																	394.6	
																	96.5	
																	0.1	
																	139.2	
																	340.8	

Table 1. Observed Irrigation for 2019

Per a condition on each decree for both water right 2--7249 & 2-7462, when combined, a total of 2,432 acres are authorized to be irrigated. Specifically, the tables below outline both the acreage that can be irrigated under each right and the acre limit associated:

Decreed Place of Use for 2-7249																		
T	R	S	NE				NW				SW				SE			
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
08S 13E 10																	20	20
08S 13E 11			20	20	40.1	40.2					33.2	40	40.1	36.6	29.9	18.5	27.3	29.7
08S 13E 12							20	20			40.5	36	40.5	40.6	39.9	39.9	40.5	36.5
08S 13E 13			39.2	37.3	40.3	40.4	40.4	21.8	32.9	40.4	40.2	40.2	40.1	40.1	40.1	40.1	40	40.1
08S 13E 14			34.4	40	40	29	40	40	39.8	39.8	39.6			39.5	39.9	39.9	39.8	39.8
08S 13E 15			40.8	40.8	20	20												
08S 13E 24																		
08S 14E 7											31.4	31.8	39.9		28.2	39.8		
08S 14E 18				39.8	39.8		39.9	31.8	31.8	40	39.9	31.6	31.3	39.7		39.7	39.7	
																	Sub Total	Total
																	40	1624
																	375.6	
																	354.4	
																	613.6	
																	541.5	
																	121.6	
																	0	
																	171.1	
																	445	

Decreed Place of Use for 2-7462																		
T	R	S	NE				NW				SW				SE			
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
08S 13E 10																	20	20
08S 13E 11			20	20	40.1	40.2					33.2	40	40.1	36.6	29.9	18.5	27.3	29.7
08S 13E 12							20	20			40.5	36	40.5	40.6	39.9	39.9	40.5	36.5
08S 13E 13			39.2	37.3	40.3	40.4	40.4	21.8	32.9	40.4	40.2	40.2	40.1	40.1	40.1	40.1	40	40.1
08S 13E 14			34.4	40	40	29	40	40	39.8	39.8	39.6			39.5	39.9	39.9	39.8	39.8
08S 13E 15			40.8	40.8	20	20												
08S 13E 24																		
08S 14E 7											31.4	31.8	39.9		28.2	39.8		
08S 14E 18				39.8	39.8		39.9	31.8	31.8	40	39.9	31.6	31.3	39.7		39.7	39.7	
																	Sub Total	Total
																	40	1007.2
																	375.6	
																	354.4	
																	613.6	
																	541.5	
																	121.6	
																	0	
																	171.1	
																	445	

Table 2. Specific Acreage Authorized Under Water Rights 2-7249 & 2-7462 (above)

Decreed Values					
	Rate	Volume	Acres	Rate/Ac	Vol/Ac
2-7249	29.89	6496.0	1624	0.018	4.00
2-7462	20	4028.8	1007.2	0.020	4.00
Additive	49.89	10524.8	2631.2	0.019	4.00
Limit	29.89	9728.0	2432	0.012	4.00
Difference	-20	-796.8	-199.2	0.100	4.00

*Area Std 4 af/ac

Protected Under Bank Lease 755 & 966					
	Rate	Volume	Acres	Rate/Ac	Vol/Ac
2-7249	1.25	252	63	0.020	0.02
2-7462	1.87	406.3	101.6	0.018	0.02
Total	1.87	608.4	152.1	0.012	0.01

Total Acreage Authorized	2432	Acres
Total Acreage Protected	152.1	Acres
Total Irrigation Observed	2171.3	Acres
Total Possibly Subject To Forfeiture	108.6	Acres

*No observed irrigation since approx. 2010

Table 3. Decreed Values, Acreage Protected Through Lease, and Acreage Subject to Possible Forfeiture

Based on the observed irrigation and the portions leased to the Bank in conjunction with the amounts decreed it appears as much as 108 acres may have become subject to possible forfeiture.

Because the 152.1 acre portion being offered for lease has been protected by the Bank since 2017 and was observed to have been used prior to the initial lease, the acreage can continue to be leased to the Bank. In the future, should the applicant offer the entire acreage for lease, further review of Salmon Falls Land & Livestock irrigation

practices may be necessary to either affirm the validity or confirm that the acreage may have been lost to forfeiture.

Injury Evaluation: No injury is apparent through the lease and the associated rental as acreage has been idled to irrigate acreage held by the Bureau of Land Management that does not feature a permanent water right. In the future, should the applicant submit a lease/rental package for the entire acreage, further review may be necessary to prevent injury to local water users.

Enlargement of Use: No enlargement is evident through the lease alone. Further, as this is part of a lease rental package, no enlargement is evident as the area will not receive water from any other source than the acreage being idled through the lease.

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 the Watermaster for District 2 and IDWR's Southern Regional Office on March 22, 2021

Water Supply Bank Evaluation: Based on the information presented by the applicant, staff recommend the proposal be approved for Salmon Falls Land & Livestock for the duration specified in the lease application.

Hummer, Phill

From: Skinner, Corey
Sent: Monday, March 22, 2021 3:29 PM
To: Ferguson, Justin
Subject: RE: WSB Lease/Rental - Salmon Falls Land & Livestock

No concerns from me.

From: Ferguson, Justin
Sent: Monday, March 22, 2021 1:54 PM
To: Skinner, Corey <Corey.Skinner@idwr.idaho.gov>; Rob Harris <rharris@holdenlegal.com>; Erling, Jes <Jes.Erling@idwr.idaho.gov>
Subject: WSB Lease/Rental - Salmon Falls Land & Livestock

Corey, Rob, Jes

Attached are the draft documents for the Salmon Falls Lease – Rental package for 2021. They are looking to continue irrigating the full pivot across the land held by BLM. Please let me know if you have any comments or concerns in the next several days

Thank you!

Justin