

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 949

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

LESSOR: STROM RANCHES INC
PO BOX 137
HILL CITY, ID 83337-0137

RECEIVED
JUN 05 2019
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 December 07, 2018.
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)
37-2089	10/9/1907	NEGRO CREEK, tributary to CAMAS CREEK	3.35	Not Stated	167.5
37-2244B	8/10/1912	NEGRO CREEK, tributary to CAMAS CREEK	4.58	Not Stated	229.0
Combined Lease Totals			7.93	Not Stated	396.5

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)
37-2089	3.35	586.3	167.5	0.020	3.5
37-2244B	4.58	801.5	229.0	0.020	3.5
Combined Limit Totals	7.93	1387.8	396.5	0.020	3.5

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

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 949

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2019 to December 31, 2023. 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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

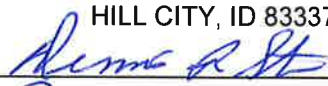
WATER SUPPLY BANK LEASE CONTRACT No. 949

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

LESSOR: STROM RANCHES INC

PO BOX 137

HILL CITY, ID 83337-0137

By 

Title Pres.

Date 6/3/19

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 6/5/2019

Lease approved by IDWR 

Date 6-5-2019

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 949

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): 37-2089, 37-2244B

NEGRO CREEK SENESE Sec. 27 Twp 01S Rge 11E ELMORE County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
37-2089	IRRIGATION	04/15	to	10/31	3.35 cfs	Not Stated
37-2244B	IRRIGATION	04/15	to	10/31	4.58 cfs	Not Stated
Totals:					7.93 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	
01S	11E	27									15.0	16.0	38.0	17.0	4.0			2.0	92.0
01S	11E	28																0.3	0.3
01S	11E	33	6.1			14.0									15.2			9.6	44.9
01S	11E	34	16.0	16.0	39.0	12.0	34.0	40.0	39.0	39.0	39.0	39.0	40.0	40.0					392.0
02S	11E	3					4.7 L3	1.6 L4											6.3

Leased Acres: 396.5
PPU Acres: 535.5

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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

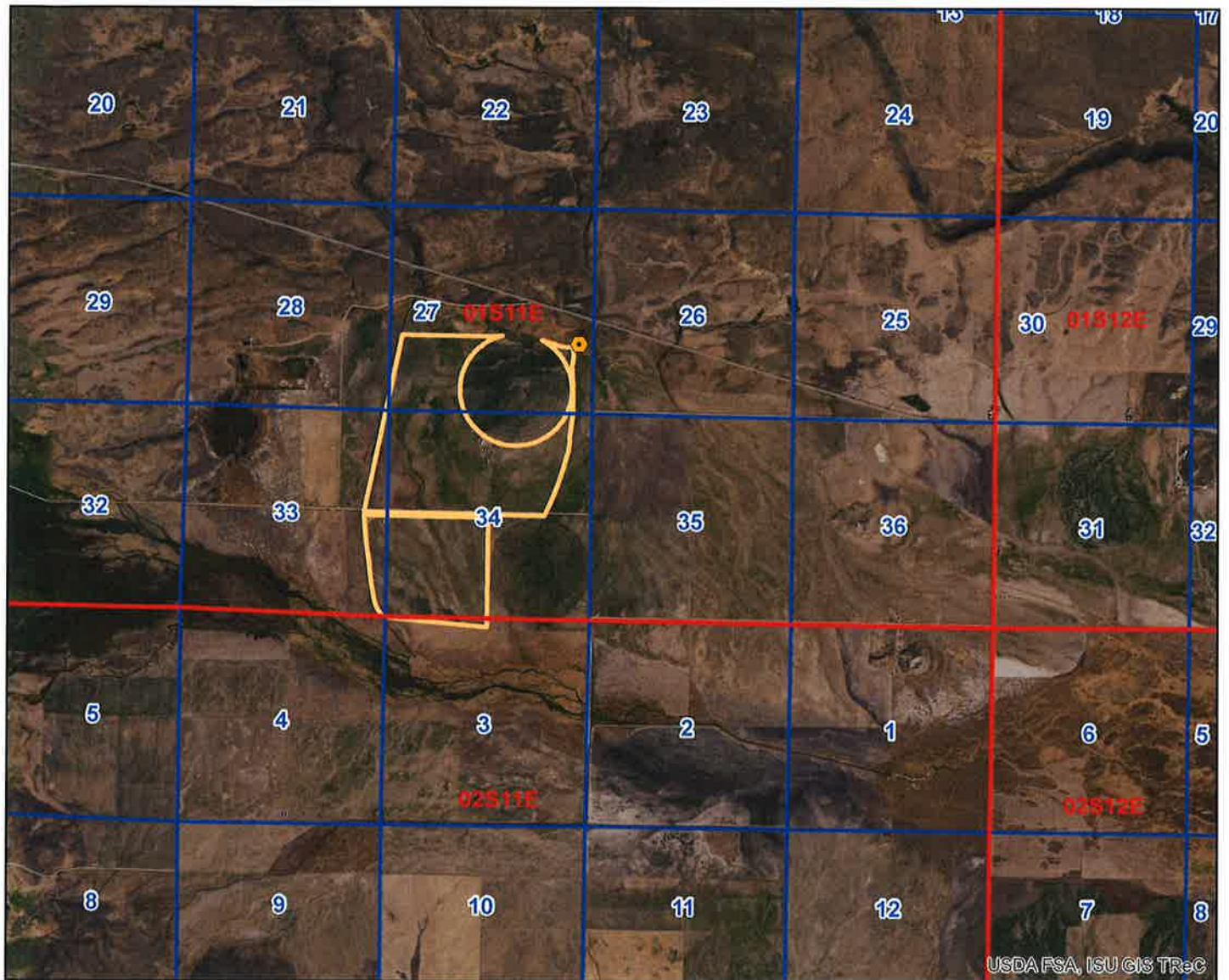
WATER SUPPLY BANK LEASE CONTRACT No. 949

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.
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) are 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 portion of right 37-2089 when used with right 37-21835 are limited to the irrigation of a combined total of 152.5 acres in a single irrigation season.
13. Use of water under this agreement will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37B – Camas Creek Drainage.

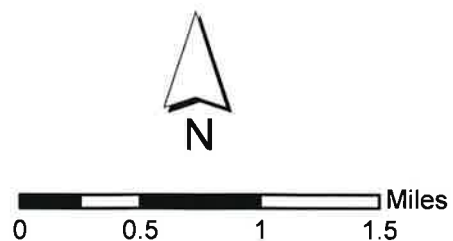
Idaho Water Resource Board
Water Supply Bank Lease Contract No. 949

37-2089 & 37-2244 B
Effective until December 31, 2023

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 *DE*
DEC 06 2018
DEPARTMENT OF
WATER RESOURCES

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

Designated Applicant Strom Ranches, Inc.

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

Water Right No. 37-2244B

(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 all owners 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 \$ 500Received By: *AW*Date Received: 12-6-18Receipt # C105948W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)Name on W-9: Strom Ranches, Inc

12/6

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 Strom Ranches, Inc.

Mailing Address <u>P.O. Box 137</u>	<u>Hill City</u>	<u>ID</u>	<u>83337</u>
Street	City	State	Zip Code
Email Address <u>dennisstrom1@gmail.com</u>	Phone Number <u>208-590-3268</u>		

☒ 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 <u>Deniss Strom</u>	Organization <u>Strom Ranches, Inc.</u>
Professional Title <u>President</u>	Email Address <u>dennisstrom1@gmail.com</u>
Mailing Address <u>P.O. box 137, Hill city, ID 83337</u>	Phone Number <u>208-590-3268</u>

☒ 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.
Ditches and a pivot sprinkler diverting water from Negro Creek.
- 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. 37-21835 and 37-2089 are used in combination with water right no. 37-2244B to irrigate a total of 688.0 acres.
- 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. A portion of water right no. 37-2089 will be used to irrigate 152.5 acres currently under a pivot sprinkler.
- 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. N/A - All water rights proposed to be leased to the water supply bank have been leased to the water supply bank since 2014.
- 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. Yes ☐ No ☒

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: 2019 to 2024 (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

Printed Name

Date

Dennis St. Strom
Signature of Authorized Representative

Dennis Strom
Printed Name

12/6/18
Date

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



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

June 6, 2019

STROM RANCHES INC
PO BOX 137
HILL CITY ID 83337-0137

RE: **WATER SUPPLY BANK LEASE CONTRACT 949
FOR WATER RIGHTS 37-2089 & 37-2244B**

Dear Lessor:

Water rights **37-2089 & 37-2244B** were leased into the Water Supply Bank (Bank) as of June 5, 2019, 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, 2023**, 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 287-4800.

Sincerely,

Water Supply Bank

Enclosure: Executed Lease Contract

c: Corey Skinner - IDWR Southern Region
Rusty Kramer - Water District 37B
Honsinger Law, PLLC



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

May 28, 2019

STROM RANCHES INC
PO BOX 137
HILL CITY ID 83337-0137

RE: APPLICATION TO LEASE WATER RIGHTS 37-2089 and 37-2244B
TO THE WATER SUPPLY BANK - CONTRACT 949

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

Dear Applicant:

The Department of Water Resources has completed its review of your application to lease the above-mentioned water rights 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 rights will automatically be released from the Bank on **December 31, 2023**, unless the rights are released earlier by the Board, or upon your request. To release the 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. 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 rights may not be available for immediate release if they have 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 287-4800.

Sincerely,

Water Supply Bank

Enclosures: Proposed Lease Contracts
Receipt # C105948

c: Charles Honsinger – Honsinger Law



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 25, 2019

DENNIS STROM
STROM RANCHES, INC.
PO BOX 137
HILL CITY ID 83337

RE: RETURNED APPLICATION(S) TO LEASE AND Rent WATER RIGHT NO. 37-21835 TO THE WATER SUPPLY BANK

Dear Applicant:

The Department of Water Resources (Department) has completed a preliminary review of your applications to lease and rent water right 37-21835 to and from the Water Supply Bank (Bank).

The Bank rule 25 provides criteria to be considered when determining whether to accept a water right into the Bank. One of the criteria for consideration is enlargement of use through lease or rental of the water right. Water right 37-21835 is decreed for Irrigation Storage and Irrigation from Storage for 188.0 AF and 229 acres within a 688 acre place of use, when combined with rights 37-2089 and 37-2244B. Once the water from 37-21835 is diverted and stored, this water is considered appropriated. It therefore cannot be idled per a lease contract with the Bank.

Application to lease all of 37-21835 was accompanied by a rental application to rent right 37-21835 back from the bank and apply on acres in combination with the portion not leased to the bank under right 37-2089. A lease and rental application to apply right 37-21835 in accordance with the decreed place of use and out of the decreed point of diversion is not necessary.

Here are some options for moving forward with the applications submitted.

1. The Bank can process the lease for 37-2089 and 37-2244B as submitted and you can withdraw the applications to lease and rent 37-21835.
2. You can provide a plan that shows how you intend to eliminate the storage of water under 37-21835. Then the Bank could accept this water right into the Bank. However, this will make it impossible to rent the portion back from the bank.
3. Provide a plan to show how you will reduce the storage of water under 37-21835 and only lease the reduced amount to the bank.

Please provide information to show how you want us to proceed within 30 days or your applications for water right 37-21835 will be returned unprocessed. Then the Bank will process the leases for 37-2089 and 37-2244B as described in 1. above.

If you have any questions, please contact me at (208) 287-4910.

Sincerely,

CLAY WEBSTER,
Water Rights Supervisor

MEMORANDUM FOR CONTRACT #949

To: Water Right(s) 37-2089, 37-2244 B
Associated Water Right 37-21835

From: Mary Condon

Date: February 28, 2019

Re: Review & Analysis of Companion Applications for Lease and Rental to the State
Water Supply Bank

PURPOSE/NARRATIVE: Companion Lease Rental package received on December 6, 2018, for lease similar to previous contracts, along with a rental for one of their own rights leased in, for 2019-2023. Lease applications are for all of right 37-2244B and 37-21835, and a portion less 152.5 acres of 37-2089. Rental application is for 188 af of 37-21835 as storage for irrigation and use with the unleased portion of 37-2089 on the 152.8 acre pivot. This is the same request as their 2014 application, but for reasons I could not find, the rental was never accomplished nor mentioned outside of their applications.

Instead of leasing in the storage water right 37-21835 and renting it back out fully to be used on the pivot unleased into the bank, the bank will not bring 37-21835 into the bank, as further explained below under Enlargement of Use.

AUTHORITY TO FILE: Application for Strom Ranches, Inc., signed by Dennis Strom, president of the company. Verified authority with Idaho Secretary of State Annual Report attached with the application to lease. Rental is also by Strom Ranches, Inc., and signed by Dennis Strom. Place of use parcel taxlot data lists Strom Ranches, Inc., as the owner as well.

Lease POD for rights 37-2089 and 37-3244B are on Negro Creek and the parcel is owned by Strom Ranches, and lease POD for right 37-21835 is in the name of Betty Watts. This POD is for Francis Dam Reservoir storage, tributary to Negro Creek.
No concerns with authority to file.

WATER RIGHT VALIDITY: Water rights 37-2089, 37-2244B and 37-21835 were licensed in 2010, and unused portions above the 152.8 acres used under 37-2089 placed into the bank in 2014 to 2018. No concerns with validity of the water rights and portion offered to the bank.

INJURY TO OTHER WATER RIGHTS: Lease of water right 37-2244B entirely with unused portion of right 37-2089 would not cause injury to other water rights. Proper review to prevent injury if rented.

ENLARGEMENT OF USE: After a combined limit review, and licensing review for the original right 37-2244 (parent of 37-2244A & 37-2244B, and claimed rights 37-13835 & 35-13840), it was found that 37-2244 was developed as irrigation on 404 acres from Negro Creek and Francis Reservoir, for 8.0 cfs. The original applicant for permit built the dam and reservoir, and no other claims to water from the reservoir exist. Two acres were lost from 37-2244 when it was split between Strom Ranch as 37-2244B for 229 acres and Gwinn Rice Ranch as 37-2244A for 173 acres, and the POU was partially changed as well.

During the adjudication, Strom Ranch also claimed 37-21835 for 188 afa and 229 acres, based on the portion of 37-2244 license for irrigation storage in Francis Reservoir. However, water rights 37-2244B & 37-21835 were decreed combined with 37-2089 licensed for 320 acres in a

large POU and all three are now limited to 688 acres when combined. Gwinn Rice Ranch claimed the other half plus some through 37-21840 for 148.66 afa for 182 acres based on the portion in claim for 37-2244A and irrigation storage in Francis Reservoir. The Gwinn Rice Ranch claim was recommended lower and decreed for only 173 acres and 142 afa, and combined with acres for 37-2244A completely overlapping and limited to the 173 acres.

Leasing all or a portion of storage reservoir water would require limiting the storage to only unleased portions above storage allowable under 37-21840 and prohibiting use of any above once released by the lessor on lands normally irrigated with it. Once the water is impounded as storage, it can be considered appropriated. The lessor/renter intends to store the water under a companion rental to use on top of acres irrigated by unleased portion of 37-2089 for 152.5 acres. A companion lease rental through the bank is not necessary to accomplish this nor to protect 37-21835 from forfeiture, since it will be stored for irrigation and applied to lands within the 688 acres, limited to the 152.5 acres allowable under unleased lands.

No enlargement of these rights is expected through this lease. Proper review of combined limits to prevent enlargement if rented.

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 lease appears consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: The location for the lease PD is subject to Water District # 37B – Camas Creek Drainage.
SOU 4/15-10/31, HG – 3.5, CU – 2.5

Request for comment to Southern Region manager and Watermaster on 3/1/2019 via email.

Water rights 37-2244a and 37-2244b are splits of a common, natural flow water right from Negro Creek.

Water rights 37-21835 and 37-21840 are splits of a common, storage water right on Negro Creek.

Water rights 37-2244a, 37-2244b, 37-21835 and ³⁷⁻²¹⁸⁴⁰37-840 were originally authorized under license 8601, which authorized the diversion of 8.08 cfs from Negro Creek, for the irrigation of 404 acres.

Water rights 37-2244a and 37-2244b collectively authorize diversion from Negro Creek of 8.08 cfs for irrigation of 402 acres.

Water rights 37-21835 and 37-21840 authorize irrigation storage water, supplemental to irrigation water rights 37-2244a and 37-2244b.

The 404 acres originally irrigated under license 8601 were split between Strom Ranch and Gwyn Ranch.

Gwyn Ranch received 173 acres of the water right, while Strom Ranch received 229 acres.

Although Strom Ranch has a PPU that is 688 acres in size, historically, per license 8601, the 173 acres authorized under water rights 37-2244b and 37-21835 were the same 173 acres. Either through a transfer, or through the adjudication, the rights were decreed without combined limits. Per Idaho Code, it is not an enlargement to increase irrigable acres under a stored water right, provided the storage extent is not enlarged. Hence, 37-2244b and 37-21835 can be used on overlapping, or different acres.

Lease applications from Strom Ranches for 2019 propose to place all but 152.5 acres of the 688 PPU into the Bank. Strom Ranches proposes to continue irrigating the 152.5 acres solely with right 37-~~2049~~ ²⁰⁸⁹. However, Strom Ranches might also use irrigation storage on the 152.5 acres. Unless it can be confirmed that Francis Reservoir will be operated to only capture and use defined volumes during the term of the lease, so that the storage volumes don't exceed the authorized extent of the unleased amounts of the storage water rights, it is presumed storage water will be captured, appropriated, and used during the term of the lease.

* Leasing in water right 37-21840 would require establishing that only 173 af would be captured and used during the term of the lease, as authorized under water right 37-21840. If any more than 173 af is captured and stored in the reservoir, this storage would have to occur under 37-21835. And the fact that Strom Ranches has requested to rent storage water indicates they intend to capture and use storage water under 37-21835.

As such, to avoid enlargement, it can be recommended that a portion of water right 37-2089 be leased to the Bank, along with all of 37-2244B, but none of 37-21835, as follows:

WRs as decreed					WR use during the lease			WR lease proposal			
	rate	vol	acre limit	acres total	irrigable rate	irrigable vol	to be irrigated	lease rate	lease vol	lease acre limit	lease acres
37-2089	6.40	320	688	688	3.05		152.5	3.35	0.00	167.50	535.5
37-2244B	4.58		229	688	0		0	4.58	0.00	229.00	688
37-21835		188	229	688	0	188	152.5	0.00	0.00	0.00	535.5
	10.98	188	688	688	3.05	188	152.5	7.93	0.00	396.5	535.5
					rate/ac	vol/ac					
					0.02	1.2					



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 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

January 1, 2019

STROM RANCHES INC
PO BOX 137
HILL CITY ID 83337 0137



RE: EXPIRATION OF LEASE CONTRACT FOR WATER RIGHT NO(S). 37-2089,, 37-21835,, 37-2244B TO THE WATER SUPPLY BANK

Dear Lessor:

This letter is to inform you that your lease contract(s) to the Water Supply Bank (Bank) has concluded. Lease contracts typically expire on the last day of a calendar year.

Lease Contract ID	Water Rights Leased	Contract Start	Contract End
240	37-2089,, 37-21835,, 37-2244B	01/01/2014	12/31/2018

The Department of Water Resources (Department) is taking action to close the expired Bank records.

We acknowledge receipt of the following lease applications as of December 27, 2018:

Lease Application ID	Water Rights Leased	Requested Start	Requested End	Application Status
1262	37-2089,, 37-21835,, 37-2244B	01/01/2019	12/31/2023	Ready for Review

If you have any questions regarding this matter, please contact me at (208) 287-4936.

Sincerely,

Mary Condon
Water Supply Bank Specialist

c: BRYCE FARRIS

SCANNED
JAN 01 2019

Honsinger Law, PLLC
Charles L. Honsinger
(208) 863-6106

RECEIVED
DEC 06 2018
DEPARTMENT OF
WATER RESOURCES

December 6, 2018

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

Re: Water Supply Bank Applications

Dear Sir and/or Madam:

Enclosed herewith please find the following applications that I submit to the Idaho Water Resource Board on behalf of my client Strom Ranches, Inc.:

1. Application to Lease Water Right No. 37-2089 to the Water Supply Bank.
2. Application to Lease Water Right No. 37-2244B to the Water Supply Bank.
3. Application to Lease Water Right No. 37-21835 to the Water Supply Bank.
4. Application to Rent Water from the Water Supply Bank.

Also enclosed herewith is the statutorily required fee of \$500.00 in the form of a check made out to the Idaho Department of Water Resources.

The Applications should be self-explanatory, but should you have any questions or concerns regarding the same, please contact me immediately by telephone or electronic mail. I look forward to receiving your approval of the applications. Thank you.

Sincerely,


Charles L. Honsinger

enclosures

cc: Client