

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 926

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

LESSOR: ROWLANDS INC
1141 ROWLAND RD
POCATELLO, ID 83204-7416

RECEIVED
MAY 28 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 January 07, 2019.
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)
29-2039	12/4/1905	BAPTISTE SPRING, tributary to PORTNEUF RIVER	0.12	24.8	6.2
29-4444	10/15/1956	BATISTE SPRING, tributary to PORTNEUF RIVER	0.01	19.6	4.9
29-13955	7/23/1987	BATISTE SPRING, tributary to PORTNEUF RIVER	0.07	23.2	5.8
Combined Limit Totals			0.13	67.6	16.9
Combined Lease Totals			0.13	67.6	16.9

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, 2019 to December 31, 2023. This Lease shall bind the parties and take effect when both parties have signed it.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 926

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. 926

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

LESSOR: ROWLANDS INC
1141 ROWLAND RD
POCATELLO, ID 83204-7416

By *Doc Rowland*
Title *owner*
Date *5/14/19*

RECEIVED
MAY 28 2019
DEPARTMENT OF
WATER RESOURCES

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 *6/5/2019*

Lease approved by IDWR *Chay Webb*

Date *6-5-2019*

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 926

**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): 29-2039

BAPTISTE SPRING L 3(NENENW) Sec. 7 Twp 06S Rge 34E BANNOCK County

Source and Location of Point(s) of Diversion for Water Right No(s): 29-4444, 29-13955

BATISTE SPRING L 2(NWNWNE) Sec. 7 Twp 06S Rge 34E POWER County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
29-2039	IRRIGATION	04/01	to	10/31	0.12 cfs	24.8 AF
29-4444	IRRIGATION	04/01	to	10/31	0.01 cfs	19.6 AF
29-13955	IRRIGATION	04/01	to	10/31	0.07 cfs	23.2 AF
Totals:					0.13 cfs	67.6 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	
06S	34E	7		3.9 L2			13.0 L3												16.9

Total Acres: 16.9

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. 926

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 portion of water right 29-13955 is for an enlargement of 20.5 acres within the place of use described for this right.
13. Water right 29-13955 is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right.
14. The unleased portion of water right 29-4444 is limited to the irrigation of 17.1 acres within the place of use described above in a single irrigation season.
15. Water right 29-13955 is based upon an enlargement of Right Nos. 29-2039 and 29-4444 pursuant to Section 42-1426, Idaho Code.
16. The unleased portions of the rights listed below are limited to a total combined diversion rate of 0.49 cfs. and a combined total of 59.4 acres. Combined Right Nos.: 29-2039, 29-4444, and 29-13955.
17. Use of water under these rights may 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. 29D.

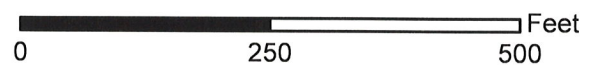
Idaho Water Resource Board
Water Supply Bank Lease Contract No. 926

29-2039, 29-4444, 29-13955
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
-  QQ



STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED
JAN 07 2019
DEPARTMENT OF
WATER RESOURCES

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

Designated Applicant Rowland's, Inc. Water Right No. 29-2039
(Select one owner – see item 1A on the application) (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 \$ <u>500</u>	Received By: <u>[Signature]</u>	Date Received: <u>1-7-19</u>	Receipt # <u>C106094</u>
W-9 received? Yes ☐ No ☒ (Route W-9 to Fiscal)		Name on W-9:	

1301

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 Rowlands, Inc.

Mailing Address 1141 Rowland Road, Pocatello, Idaho 83204-7416

Street City State Zip Code

Email Address Bobrowland2627@gmail.com

Phone Number 208-238-1259

☒ 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 Thomas J. Budge

Organization Racine Olson, PLLP

Professional Title Attorney

Email Address tjb@racinelaw.net

Mailing Address P.O. Box 1391, Pocatello, Idaho 83204-1391

Phone Number 208-232-6101

☐ 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.

100-hp pump diverts water into an 8-inch diameter buried mainline.

- 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. Water right numbers 29-4444 and 29-13955.

- 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. _____

- 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. _____

- 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 2023 (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.

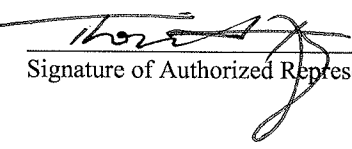
The Designated Applicant acknowledges the following:

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


Signature of Authorized Representative

T. J. Budge, Attorney
Printed Name

1-2-19
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>	Nature of Use	Leased Rate (cfs)	Leased Volume (af)	Leased Acres (ac)
<u>29-2039</u>	<u>Irrigation</u>	<u>.12</u>	<u></u>	<u>6.2</u>
	<u></u>	<u></u>	<u></u>	<u></u>
	<u></u>	<u></u>	<u></u>	<u></u>
	<u></u>	<u></u>	<u></u>	<u></u>
	Total Amounts:	<u>.12</u>	<u></u>	<u>6.2</u>

2. Source of water Baptiste Spring tributary to Portneuf River

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
06S	34E	07			NW	NE	Power

WATER RIGHT

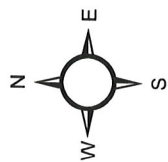
	Acres	Comb	CFS	Comb
29-2039	28		0.56	
29-4444	22	76.3	0.06	0.62
29-13955	26.3		0.33	
TOTAL	76.3		0.95	

WATER SUPPLY BANK

		% total	% comb
Acres	16.9		22%
CFS	0.14		22%

WATER SUPPLY BANK

Acres	Comb	CFS	Comb
6.2		0.12	
4.9	16.9	0.01	0.14
5.8		0.07	
16.9		0.21	



Legend

- 16.9 acres
- TR Lines
- Section Lines
- Quarter Quarters

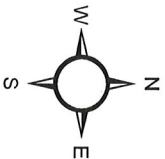
RECEIVED
APR 05 2019
DEPARTMENT OF
WATER RESOURCES



36604



Esri, HERE, Garmin, © OpenStreetMap contributors, Esri, HERE, Garmin, © OpenStreetMap contributors, and the GIS user community, Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



Legend

- 16.9 acres
- TR Lines
- Section Lines
- Quarter Quarters

36604



Esri, HERE, Garmin, © OpenStreetMap contributors, Esri, HERE, Garmin, © OpenStreetMap contributors, and the GIS user community, Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

SPECIAL POWER OF ATTORNEY FOR WATER RIGHTS

The undersigned hereby appoints the law firm of RACINE OLSON NYE BUDGE & BAILEY, CHARTERED, 201 E. Center Street, Post Office Box 1391, Pocatello, Idaho 83204, my true and lawful attorney for the purpose of dealing with the Idaho Department of Water Resources relative to the management and transaction of water rights, and to allow them to receive all information, opinions, and records regarding water rights, and to sign and submit applications and other filings on my behalf.

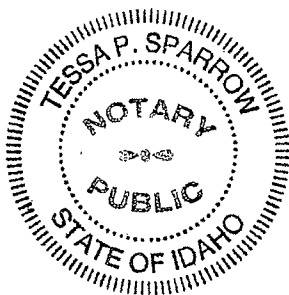
DATED this 6th day of JUNE, 2017.

By: Robert Rowland
Name: ROBERT ROWLAND

STATE OF IDAHO)
 :SS
County of Bannock)

On this 6th day of JUNE, 2017, before me, the undersigned, a Notary Public in and for said State, personally appeared Robert Rowland, known or identified to me to be the person that executed the instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.



Tessa P. Sparrow
NOTARY PUBLIC FOR IDAHO
Residing at: Bannock County
Commission expires: 10/05/2021

IDAHO Department of Water Resources



WATER RIGHT REPORT

12/20/2018

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 29-2039

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	EDWARD N ROWLAND DBA ROWLANDS INC 1141 ROWLAND RD POCATELLO, ID 83204 2082371880

Priority Date: 12/04/1905

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
BAPTISTE SPRING	PORTNEUF RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	10/31	0.56 CFS	
Total Diversion			0.56 CFS	

Location of Point(s) of Diversion:

BAPTISTE SPRING|NENENW Lt 3|Sec. 07|Township 06S|Range 34E|BANNOCK County

Place(s) of use:

Place of Use Legal Description: IRRIGATION POWER County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
06S	34E	7	2	NWNE4										
			3	NENW24										

Total Acres: 28

Conditions of Approval:

1. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE
DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS
AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

Dates:

Licensed Date:

Decreed Date: 03/22/2004

Permit Proof Due Date:

Permit Proof Made Date:

Permit Approved Date:

Permit Moratorium Expiration Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: 29D

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit: 76.3

Combined Volume Limit:

Combined Rate Limit: 0.62

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False



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 5, 2019

ROWLANDS INC
1141 ROWLAND RD
POCATELLO ID 83204-7416

RE: **WATER SUPPLY BANK LEASE CONTRACT 926
FOR WATER RIGHTS 29-2039, 29-4444 & 29-13955**

Dear Lessor:

Water rights **29-2039, 29-4444 & 29-13955** 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,

for Water Supply Bank

Enclosure: Executed Lease Contract

c: James Cefalo - IDWR Eastern Region
Hal Armstrong – Water District 29D
TJ Budge- Racine Olson



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, 2019

ROWLANDS INC
1141 ROWLAND RD
POCATELLO ID 83204-7416

UPDATED CONTRACTS

RE: APPLICATION TO LEASE WATER RIGHT 29-2039, 29-4444, 29-13955 TO THE WATER
SUPPLY BANK CONTRACT 926

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

Dear Applicant:

The Department of Water Resources has updated the map and place of use on the contracts sent to you on February 6, 2019, as per your attorney, TJ Budge. **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, 2023**, 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 287-4800.

Sincerely,

Water Supply Bank

Enclosures: Proposed Lease Contracts

Hersley, Jean

From: TJ Budge <tj@racineolson.com>
Sent: Friday, April 05, 2019 10:40 AM
To: Hersley, Jean
Cc: Kyle Grigsby
Subject: RE: WSB Lease contract for Rowland Inc
Attachments: Map Water Supply Bank 2.19.19.pdf; 20181217 WSB Lease Spreadsheet.xlsx; 20181228 Application to Sell or Lease - 29-2039.pdf; 20181228 Application to Sell or Lease - 29-4444.pdf; 20181228 Application to Sell or Lease - 29-13955.pdf

Hi Jean,

I'm sorry about the delay in getting this to you, but here is the revised map. I've also re-attached the spreadsheet used to calculate how many acres should be placed into the Bank under each water right. The figures in the spreadsheet correspond with the figures in the lease applications, which I've also re-attached. As such, it does not appear that the applications need to be modified; rather, we simply need to substitute the attached map dated February 19, 2019, for the maps originally filed with the applications.

Let me know if you need anything else.

Thanks,

T.J. Budge

RACINE OLSON

201 E. Center St. | P.O. Box 1391 | Pocatello, Idaho 83204

W: (208) 232-6101 | C: (208) 705-0826 | F: (208) 232-6109

www.racineolson.com

CONFIDENTIALITY NOTICE - This email and its attachments may contain information that is confidential, privileged, or otherwise protected from disclosure. If you believe this email may have been sent to you in error, please notify me immediately.

From: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Sent: Monday, March 18, 2019 9:28 AM
To: TJ Budge <tj@racineolson.com>
Cc: Kyle Grigsby <kyle@racineolson.com>
Subject: RE: WSB Lease contract for Rowland Inc

Have you made the revisions to the map for the lease contract? Please let me know what the status of these contracts is. Thank you.

*Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942*

From: Hersley, Jean
Sent: Tuesday, February 19, 2019 11:32 AM
To: 'TJ Budge' <tj@racineolson.com>
Cc: Kyle Grigsby <kyle@racineolson.com>
Subject: RE: WSB Lease contract for Rowland Inc

As long as the number of acres to be leased doesn't change, we won't need any amendment to the application. You can send in the revised map with the signed contracts.

*Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942*

From: TJ Budge [<mailto:tj@racineolson.com>]
Sent: Tuesday, February 19, 2019 11:17 AM
To: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Cc: Kyle Grigsby <kyle@racineolson.com>
Subject: RE: WSB Lease contract for Rowland Inc

Hi Jean,

Bob Rowland came in this morning to discuss the rental agreement. It looks like we need to make a minor revision to the map. I'm not sure if it will require an amendment to the application. I will re-draw the POU based on Bob's feedback and get back to you. Just wanted to give you a heads up.

Thanks,

T.J. Budge
RACINE OLSON
201 E. Center St. | P.O. Box 1391 | Pocatello, Idaho 83204
W: (208) 232-6101 | C: (208) 705-0826 | F: (208) 232-6109
www.racineolson.com

CONFIDENTIALITY NOTICE - This email and its attachments may contain information that is confidential, privileged, or otherwise protected from disclosure. If you believe this email may have been sent to you in error, please notify me immediately.

From: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Sent: Thursday, February 7, 2019 7:49 AM
To: TJ Budge <tjb@racinelaw.net>
Cc: Kyle Grigsby <kyle@racineolson.com>
Subject: RE: WSB Lease contract for Rowland Inc

I took off Edward's name. the contracts are in the name of Rowlands Inc.

*Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942*

From: TJ Budge [<mailto:tjb@racinelaw.net>]
Sent: Wednesday, February 06, 2019 11:48 PM
To: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Cc: Kyle Grigsby <kyle@racineolson.com>
Subject: RE: WSB Lease contract for Rowland Inc

Hi Jean,

Thanks for the heads up. I don't have my file notes at hand at the moment but I notice the contracts are in the name of Edward N. Rowland but should be in the name of Bob Rowland. I'll compare these with my file notes tomorrow to make sure everything else is in order.

T.J. Budge

RACINE OLSON

201 E. Center St. | P.O. Box 1391 | Pocatello, Idaho 83204

W: (208) 232-6101 | C: (208) 705-0826 | F: (208) 232-6109

www.racineolson.com

CONFIDENTIALITY NOTICE - This email and its attachments may contain information that is confidential, privileged, or otherwise protected from disclosure. If you believe this email may have been sent to you in error, please notify me immediately.

From: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>

Sent: Wednesday, February 6, 2019 3:36 PM

To: TJ Budge <tjb@racinelaw.net>

Subject: WSB Lease contract for Rowland Inc

These contracts will go out in tomorrow's mail. Please let me know if you have any questions. Thank you.

Jean Hersley

Idaho Dept Water Resources

Technical Records Specialist II

208-287-4942

Hersley, Jean

From: Cefalo, James
Sent: Thursday, February 07, 2019 9:54 AM
To: Hersley, Jean
Subject: RE: WSB Lease for Rowland

Jean,

I don't have any concerns with the proposed WSB lease.

James

From: Hersley, Jean
Sent: Wednesday, February 06, 2019 3:37 PM
To: Cefalo, James <James.Cefalo@idwr.idaho.gov>; halarm@gmail.com
Subject: WSB Lease for Rowland

29-2039, 29-4444 & 29-13955. Please let me know if you have any comments or concerns within 7 days. Thank you.

*Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942*

Hersley, Jean

From: Harold (Hal) Armstrong <halarm@gmail.com>
Sent: Wednesday, February 06, 2019 3:41 PM
To: Hersley, Jean
Subject: RE: WSB Lease for Rowland

I have no comments or concerns with this lease application.

Water District # 29D



Portneuf River



Harold (Hal) Armstrong
Watermaster

(208) 233-4346
Email: halarm@gmail.com

Text: (801) 580-3071

From: Hersley, Jean [mailto:Jean.Hersley@idwr.idaho.gov]
Sent: Wednesday, February 06, 2019 3:37 PM
To: Cefalo, James; halarm@gmail.com
Subject: WSB Lease for Rowland

29-2039, 29-4444 & 29-13955. Please let me know if you have any comments or concerns within 7 days. Thank you.

Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942



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

February 6, 2019

ROWLANDS INC
1141 ROWLAND RD
POCATELLO ID 83204-7416

RE: APPLICATION TO LEASE WATER RIGHT 29-2039, 29-4444 & 29-13955 TO THE WATER
SUPPLY BANK CONTRACT 926

****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, 2023**, 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 287-4800.

Sincerely,

Water Supply Bank

Enclosures: Proposed Lease Contracts

c: Racine Olson Law

Hersley, Jean

From: Hersley, Jean
Sent: Wednesday, February 06, 2019 3:36 PM
To: TJ Budge
Subject: WSB Lease contract for Rowland Inc
Attachments: 20190206153013.pdf

These contracts will go out in tomorrow's mail. Please let me know if you have any questions. Thank you.

*Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942*

WATER SUPPLY BANK

Lease Review Checklist

Applicant(s) Name: Rowlands Inc

Memo Date: January 28, 2019

Water Right Number(s): 29-2039, 29-4444, 29-13955

Reviewers Name: Jean

Quick Tools

Decreed Year	No Forfeiture Concerns Thru:
2011	2017
2012	2018
2013	2019
2014	2020
2015	2021

	Check box		COMMENTS/CONCERNS:
1	☒	Fill out WSB Data Entry Checklist for Leases (Front of File)	
2	☒	Reason for lease of water rights (Brief description of lease proposal in narrative) Portion of right All of right	
3	☒	Check GWMA/CGWA/ADC and basin 63 areas of concern (note area in comments)	
4	☒	Rentable? (If no explain in comments or narrative)	
5	☒	Authority to file Current owner or designated applicant SOS Web site checked for business entity Other (explain in comments)	
6	☒	Water Right validity Decreed/Licensed/Statutory claim date (write in comments section) Past irrigation to ensure forfeiture is not an issue if decreed or licensed over 7 years ago (consider transfers that changed the POU, rentals to the POU etc.) Has this right previously been leased to the bank or in CREP?	2004, 2011, 2011
7	☒	Injury to other water rights If the POD is through a delivery entity, was consent provided? If the POD is through a delivery entity, was holdback required? (percentage in comments) Any other concerns	na %
8	☒	Enlargement concerns Complete a POU comparison overlap analysis Complete a combined limits review Complete POD overlap analysis (if there is an overlap add condition to lease) Are there overlapping rights that need to be placed in the bank also? Will the place of use continue to receive water? (if yes explain in comments)	
9	☒	Local Public Interest Does the processor know of any problems this action will cause for the local public?	
10	☒	Have you contacted regional office and watermaster for comment/concerns? Send the watermaster comment request form or e-mail request	
11	☒	Area Headgate requirement (write in Comments)	4
12	☒	Is water right involved in any other department action? Pull file and check database () Ownership Change () Transfer () Mitigation () Other - Explain in comments	

Narrative: The Department received these applications on January 7, 2019. T.J. Budge signed the applications on behalf of Rowlands, Inc. Power of Attorney attached to application. Water right 29-2039 was decreed in 2004 and 29-4444 & 29-13955 were decreed in 2011. Portions of these have been in the Bank since 2012 or irrigated. These rights were on a contract that expired in 2021. A request to release was filed at the same time these new applications for fewer acres. The new contract will expire in 2023. Forfeiture is not an issue. This rights are currently within WD 29D.

13



RECEIVED

JAN 07 2019

DEPARTMENT OF
WATER RESOURCES

December 28, 2018

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

**Re: Applications to Sell or Lease a Water Right to the Water Supply Bank;
Requests to Release a Water Right from the Bank; Water Rights 29-2039,
29-4444, and 29-13955**

To whom it may concern,

Enclosed please find the three originals and copies of Applications to Sell or Lease a Water Right to the Water Supply Bank and Requests to Release a Water Right from the Bank, a spreadsheet demonstrating how the leased amounts were calculated, and a check in the amount of \$500 for the filing fees.

Water rights 29-2039, 29-4444, and 29-13955 are currently in the bank. At this time, additional land is being dried up. In the process of preparing applications to place additional water into the bank, we discovered that in the prior lease agreement the volume appears to have been calculated in error. To remedy this error, we are withdrawing each of the water rights from the bank and submitting new applications for the full amount to be placed into the bank.

Please file and process the originals and conform stamp and return the copies to me in the enclosed stamped and addressed return envelope.

Thank you for your assistance. If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'T.J. Budge', with a stylized flourish at the end.

T.J. BUDGE