

OCT 10 2017

WATER SUPPLY BANK LEASE CONTRACT No. 558

DEPARTMENT OF
WATER RESOURCES

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

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

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 July 13, 2017.
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)
29-4445	6/1/1967	SPRING, tributary to PORTNEUF RIVER	0.25	Not Stated	NA
Combined Lease Totals			0.25	Not Stated	NA

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)
29-4445	0.0	0.00	0.00	0.000	0.00
Combined Limit Totals	0.0	0.00	0.00	0.0	0.0

** The water right elements rentable have been reduced from the water right elements leased to account because this is a non-consumptive right.*

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

LEASE CONTRACT NO. 658

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2017 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.



LEASE CONTRACT NO. 658

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 *Bob Rowland*
Title *owner*
Date *10/4/17*

IDAHO WATER RESOURCE BOARD

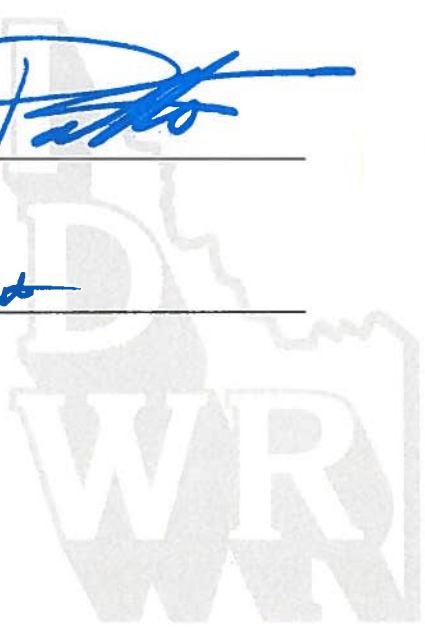
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

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

Date *10/11/2017*

Lease approved by IDWR *David*

Date *10-11-2017*



**ATTACHMENT A
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE
FOR LEASE CONTRACT NO. 658**

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): 29-4445

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

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
29-4445	INDUSTRIAL	01/01	to	12/31	0.25 cfs	Not Stated
Totals:					0.25 cfs	Not Stated

PLACES OF USE TO BE IDLED UNDER THIS LEASE: INDUSTRIAL

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		X L2															0.0

ADDITIONAL CONDITIONS OF ACCEPTANCE

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, or the lease term expires. A right may be released from the bank upon request, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.
5. While a water right is in the bank, forfeiture provisions are stayed pursuant to Idaho Code § 42-223(5).
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.
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. Use of water under this right shall be non-consumptive.
13. Industrial use is in a milk processing plant.
14. Use of water under this right 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. 658

29-4445

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
-  Townships
-  PLS Sections
-  Quarter Quarters



0 100 200 Feet

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 658

29-4445

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
-  Townships
-  PLS Sections
-  Quarter Quarters



0 100 200 Feet

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

JUL 13 2017

DEPARTMENT OF
WATER RESOURCES

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

Designated Applicant Rowland's, Inc.

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

Water Right No. 29-4445

(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>250</u>	Received By: <u>VC</u>	Date Received: <u>7/13/17</u>	Receipt # <u>C103833</u>
W-9 received? Yes ☒ No ☐ (Route W-9 to Fiscal)		Name on W-9: <u>Rowlands Inc</u>	

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 Rowland's, 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 T.J. Budge

Organization Racine Olson Nye & Budge, Chartered

Professional Title Attorney

Email Address tjb@racineolson.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.
A pump within milk plant.

- 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 nos. 29-4445, 29-14000 and 29-11278 are used for the same purpose at the same place of use.

- 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: 2017 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.


Signature of Designated Applicant

Robert Rowland, vice President
Printed Name

6/6/17
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
Department of Water Resources

Water Right

29-4445

INDUSTRIAL

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.

34E



● Point of Diversion

□ Place Of Use Boundary

□ Townships

□ PLS Sections

□ Quarter Quarters

0 0.035 0.07 0.14 Miles



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, its 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 its behalf.

DATED this 6th day of JUNE, 2017.

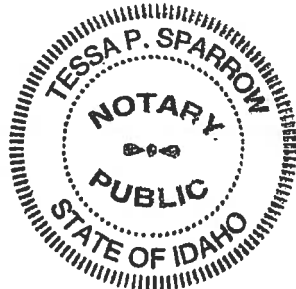
ROWLAND'S, INC.

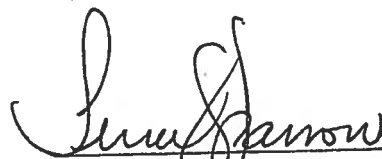
By: 
Name: BOB ROWLAND
Title: Vice President

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 Bob Rowland, known or identified to me to be the Vice President of the company that executed the instrument or the person who executed the instrument on behalf of said company, and acknowledged to me that such company executed the same.

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




NOTARY PUBLIC FOR IDAHO
Residing at: Bannock County
Commission expires: 10/05/2021

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

7/12/2017

WATER RIGHT NO. 29-4445

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	ROWLANDS INC 1141 ROWLAND RD POCATELLO, ID 83204-7416 2082381259
Attorney	THOMAS J BUDGE RACINE OLSON NYE BUDGE & BAILEY CHTD PO BOX 1391 POCATELLO, ID 83204-1391 2082326101

Priority Date: 06/01/1967
Basis: Decreed
Status: Active

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

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
INDUSTRIAL	01/01	12/31	0.25 CFS	
Total Diversion			0.25 CFS	

Location of Point(s) of Diversion:

SPRING|SEWNE Lt 2|Sec. 07|Township 06S|Range 34E|POWER County

Place(s) of use:

Place of Use Legal Description: INDUSTRIAL POWER County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
06S	34E	7	2	NWNE										

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.
2. 027

Use of water under this right shall be non-consumptive.
3.

Industrial use is in a milk processing plant.

Dates:

Licensed Date:

Decreed Date: 07/29/2011

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:

Owner Name Connector:

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

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

Close



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

October 12, 2017

ROWLANDS INC
1141 ROWLAND RD
POCATELLO ID 83204-7416

RE: WATER SUPPLY BANK LEASE CONTRACTS FOR WATER RIGHTS 29-2039, 29-4444, 2-4445, 29-11278, 29-13955, and 29-14000

Dear Lessor:

Water rights **29-2039, 29-4444, 2-4445, 29-11278, 29-13955, and 29-14000** were leased into the Water Supply Bank (Bank) as of July 13, 2017, in accordance with the enclosed executed lease contracts. **Your water rights, as described on the lease contracts, 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 contracts. Read the conditions of acceptance carefully.

The rights will automatically be released from the Bank on **December 31, 2021**, 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 contracts 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.**

A refund request has been made due to overpayment for the application fee. The refund will be sent from the State Controller's Office to Racine, Olson, Nye, & Budge, Chartered under separate cover.

If you have questions regarding this matter, please contact this office at 287-4800.

Sincerely,

James Cefalo
Water Supply Bank

Enclosure: Executed Lease Contract

c: James Cefalo - IDWR Eastern Region
Randy L Smith - Water District 29D
T J Budge - Racine Olson Nye & Budge Chtd



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

September 20, 2017

ROWLAND INC
1141 ROWLAND RD
POCATELLO ID 83204-7416

**RE: APPLICATIONS TO LEASE WATER RIGHT 29-2039, 29-4444, 29-4445, 29-11278, 29-13599
& 29-14000 TO THE WATER SUPPLY BANK**

******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 of each 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 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

Enclosure: Proposed Lease Contracts

c: Racine Olson Nye & Budge Chtd

Hersley, Jean

From: Hersley, Jean
Sent: Wednesday, September 20, 2017 3:06 PM
To: 'srandy77@msn.com'; Cefalo, James
Subject: WSB Leases for Rowland
Attachments: Idled POU 29-4445.pdf; Lease Application Review Checklist July 2017.xls; Report - Lease Contract 658 29-4445.docx; Idled Acres 29-2039.pdf; Idled Acres 29-4444.pdf; Idled Acres 29-13955.pdf; Report - Lease Contract #674.docx; Lease Application Review 29-2039 29-4444, 29-13955.xls

Attached are the review memos, maps and draft contracts. Please let me know within 7 days if you have any comments or concerns about these water rights being leased to the Water Supply Bank. Thank you.

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

SEP 15 2017

DEPARTMENT OF
WATER RESOURCES

September 12, 2017

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

Re: Water Supply Bank Lease Applications
Water Right Nos. 29-4445, 29-2039, 29-4444, 29-13955, 29-11278 and 29-14000

Dear Jean,

Thank you for your letter dated August 10, 2017, concerning the above referenced applications. Enclosed herewith are amended applications that address the issues raised in your letter. Below is the list of the questions raised in your letter, along with my response:

- *On the application for water right 29-2039, Item 2 the box for the full water right to be leased to the Bank was checked. I believe it is supposed to be the same as water rights 29-444 and 29-13955 and 1.1 acres since these water rights overlap.*

The application for 29-2039 has been amended to provide that only part of the water right is to be leased to the Bank. In addition, the acreage has been increased to 7.7 as marked in the attached map.

- *The Department requires a map of the acres to be leased to the Bank. We need to know specifically which 1.1 acres are to be idled.*

Maps are included with each of the applications.

- *Water Rights 29-11278, 29-13956 and 29-14000 are rate limited, meaning any rental of any portion of the three needs to include portions of the other rights to avoid enlargement. 29-11278 and 29-14000 were offered to the Bank but 29-13956. In the past, 29-11278 and 29-14000 were reduced to 0.017 cfs. If Rowland's are trying to protect these rights from forfeiture, we could lease the entire right but make 0.07 cfs available for rent.*

The purpose of these applications is to protect them from forfeiture. Leasing the entire right but making 0.07 cfs available for rent is fine.

- *Is the domestic portion of 29-11278 to be included in the lease? If it is not included, the domestic use would be limited to 0.04 cfs and the industrial portion available to rent would be 0.03 cfs. This is because the domestic rate is included with the industrial rate. This is all to avoid enlargement.*

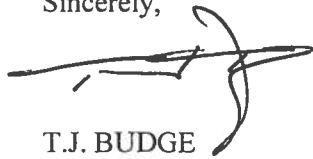
Yes, the domestic portion of 29-11278 is to be included in the lease.

- *Water right 29-4445 will be considered un-rentable due to a condition that states "Use of water under this right shall be non-consumptive."*

We understand that 29-4445 will be rentable for non-consumptive uses only.

Please let me know if you have any further questions. Thank you for your assistance with this matter.

Sincerely,



T.J. BUDGE



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

September 13, 2017

ROWLANDS INC
1141 ROWLAND RD
POCATELLO ID 83204

RE: LEASE APPLICATION FEE REQUEST TO LEASE WATER RIGHT NO(S). 29-4445, 29-2039, 29-4444, 29-13955, 29-11278, 29-14000 TO THE WATER SUPPLY BANK

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

Dear Applicant:

The Department of Water Resources (Department) received your application(s) to lease water right(s) 29-4445, 29-2039, 29-4444, 29-13955, 29-11278, 29-14000 to the Bank on July 13, 2017. A letter requesting additional information was sent on August 10, 2017. As of the date of this letter, the requested information has not been received.

Please provide the following information or request withdrawal of your application within 10 days of the date of this letter or the application will be returned unprocessed and your application fee will be refunded:

- On the application for water right 29-2039, Item 2 the box for the full water right to be leased to the Bank was checked. I believe it is supposed to be the same as water rights 29-4444 and 29-13955 and 1.1 acres since these water rights overlap.
- The Department requires a map of the acres to be leased to the Bank. We need to know specifically which 1.1 acres are to be idled.
- Water Rights 29-11278, 29-13956 and 29-14000 are rate limited, meaning any rental of any portion of the three needs to include portions of the other rights to avoid enlargement. 29-11278 and 29-14000 were offered to the Bank but 29-13956. In the past, 29-11278 and 29-14000 were reduced to 0.07 cfs. If Rowland's are trying to protect these rights from forfeiture, we could lease the entire right but make 0.07 cfs available for rent.
- Is the domestic portion of 29-11278 to be included in the lease? If it is not included, the domestic use would be limited to 0.04 cfs and the industrial portion available to rent would be 0.03 cfs. This is because the domestic rate is included with the industrial rate. This is all to avoid enlargement.
- Water right 29-4445 will be considered un-rentable due to a condition that states "Use of water under this right shall be non-consumptive."

Please note the forfeiture period is not tolled unless a right is accepted into the Bank, or unless an exception or defense to forfeiture applies as described under Idaho Code § 42-223. If forfeiture is a concern, you may consider filing an Application for Extension of Time to Avoid Forfeiture of a Water Right. This and other water right forms are available from the Department's web site, <http://www.idwr.idaho.gov>.

Please contact me if you have any questions at (208) 287-4910.

Sincerely,



for Clay Webster
Water Resource Agent
WSB Process Point of Contact

c: Racine Olson Nye & Budge Chtd



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

August 10, 2017

ROWLANDS INC
1141 ROWLAND RD
POCATELLO ID 83204

**RE: ADDITIONAL INFORMATION REQUEST FOR PROCESSING APPLICATION TO LEASE
WATER RIGHT NO(S) 29-4445, 29-2039, 29-4444, 29-13955, 29-11278, 29-14000 TO THE
WATER SUPPLY BANK**

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

Dear Applicant:

The Idaho Department of Water Resources (Department) acknowledges receipt of the application to lease the above referenced water right to the Idaho Water Resource Board's Water Supply Bank (Bank). The Department will review your application as resources allow.

If the right is determined to be eligible for acceptance into the Bank, the right will be entered as of the date of receipt of the application. The acceptance date may be adjusted when additional information is required. A preliminary review of your application has been completed and it has been determined that additional information is required to continue processing.

Please provide the following information or request withdrawal of your application within 30 days of the date of this letter or the application will be returned unprocessed and your application fee will be refunded:

- On the application for water right 29-2039, Item 2 the box for the full water right to be leased to the Bank was checked. I believe it is supposed to be the same as water rights 29-4444 and 29-13955 and 1.1 acres since these water rights overlap.
- The Department requires a map of the acres to be leased to the Bank. We need to know specifically which 1.1 acres are to be idled.
- Water Rights 29-11278, 29-13956 and 29-14000 are rate limited, meaning any rental of any portion of the three needs to include portions of the other rights to avoid enlargement. 29-11278 and 29-14000 were offered to the Bank but 29-13956. In the past, 29-11278 and 29-14000 were reduced to 0.07 cfs. If Rowland's are trying to protect these rights from forfeiture, we could lease the entire right but make 0.07 cfs available for rent.
- Is the domestic portion of 29-11278 to be included in the lease? If it is not included, the domestic use would be limited to 0.04 cfs and the industrial portion available to rent would be 0.03 cfs. This is because the domestic rate is included with the industrial rate. This is all to avoid enlargement.
- Water right 29-4445 will be considered un-rentable due to a condition that states "Use of water under this right shall be non-consumptive."

The department will continue processing your application once you have submitted the requested information. Water right forms are available from the Department's website at www.idwr.idaho.gov. If you have any questions, please contact this office at (208) 287-4800.

Sincerely,



 Water Supply Bank

c: Racine Olson Nye & Budge Chtd

WATER SUPPLY BANK
Lease Review Checklist
Applicant(s) Name: Rowlands Inc

Memo Date: August 7, 2017

Water Right Number(s): 29-4445

Quick Tools

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

Jean

	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)			
	Yes	No	
4	☐	☒	non-consumptive
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)			
2011			
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?			
2012-2016			
7	☐		
Injury to other water rights			
If the POD is through a delivery entity, was consent provided?			
na			
If the POD is through a delivery entity, was holdback required? (percentage in comments)			
%			
Any other concerns			
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)			
Yes No			
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)			
x			
9	☐		
Local Public Interest			
Does the processor know of any problems this action will cause for the local public?			
x			
10	☒		
Have you contacted regional office and watermaster for comment/concerns?			
Send the watermaster comment request form or e-mail request			
x			
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			
x			
13	Narrative: The applicant wants to place the entire right in the Bank. Bob Rowland, vice president, signed the application. This right was decreed in 2011 and has been in the Bank from 2012-2016. Forfeiture is not an issue. Water rights 29-11278 and 29-14000 completely overlap this right but do not have limiting conditions, so it is presumed to be additive. Those rights are being leased to the Bank under an separate contract. This right is non-consumptive and will be non-rentable. This right is currently within WD 29D		