STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

# WATER SUPPLY BANK LEASE CONTRACT No. 1621

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

**LESSOR:** LABROUCHE AG AND
LIVESTOCK LLC
804 WOOD RD
BANCROFT, ID 83217-5060

RECEIVED
JAN 0 3 2023
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 March 17, 2022.

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) |
|---|---|---|---|---|---|
| 29-13395 | 6/17/1902 | KING CREEK, tributary to PORTNEUF RIVER | 0.12 | Not Stated | 6.0 |
| 29-7028 | 3/24/1969 | KING CREEK, tributary to PORTNEUF RIVER | 0.04 | 18.0 | 6.0 |
| **Combined Lease Totals** | | | **0.16** | **Not Stated** | **6.0** |

**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) |
|---|---|---|---|---|---|
| 29-13395 | 0.04 | 6.9 | 1.9 | 0.020 | 3.5 |
| 29-7028 | 0.04 | 18.0 | 6.0 | 0.007 | 3.0 |
| **Combined Limit Totals** | **0.08** | **21.0** | **6.0** | **0.027** | **3.5** |

**** The water right elements rentable have been reduced from the water right elements leased to account for combined limits.***

SCANNED
AUG 10 2023

SUPPORT DATA
IN FILE # 29-7028

# WATER SUPPLY BANK LEASE CONTRACT No. 1621

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, 2022 to December 31, 2026. 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.

SCANNED
AUG 10 2023

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

# WATER SUPPLY BANK LEASE CONTRACT No. 1621

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

**LESSOR:** LABROUCHE AG AND LIVESTOCK LLC
804 WOOD RD
BANCROFT, ID 83217-5060

By Tiffany Labrouche
Title Owner
Date 12-15-2022

**IDAHO WATER RESOURCE BOARD**
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

By _____ Date 1/20/23
Brian Patton, Acting Administrator
Idaho Water Resource Board

Lease approved by IDWR _____ Date 1/20/23

SCANNED
AUG 10 2023

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

# WATER SUPPLY BANK LEASE CONTRACT No. 1621

## 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): 29-7028, 29-13395**

KING CREEK SESWSW Sec. 15 Twp 07S Rge 38E CARIBOU County

| Water Right | Beneficial Use | Season of Use | | | Diversion Rate (CFS) | Volume (AF) |
|---|---|---|---|---|---|---|
| | | From | | To | | |
| 29-7028 | IRRIGATION | 04/15 | to | 11/15 | 0.04 cfs | 18.0 AF |
| 29-13395 | IRRIGATION | 04/15 | to | 09/15 | 0.04 cfs | Not Stated |
| | | | | **Totals:** | 0.16 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 | |
| 07S | 38E | 23 | | | | | 6.0 | | | | | | | | | | | | 6.0 |

Total Acres: 6.0

### 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.

SCANNED
AUG 10 2023

# WATER SUPPLY BANK LEASE CONTRACT No. 1621

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. A measuring device of a type approved by the Department shall be permanently installed and maintained as part of the diverting works.
13. The use of water for irrigation under this right may begin as early as April 1, provided other elements of the right are not exceeded. The use of water before April 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.
14. The unleased portions of water rights 29-7028 and 29-13395 when combined shall not exceed the irrigation of a 135 acres.
15. The unleased portion of right 29-7028 shall not exceed a total diversion rate of 0.96 cfs, a total annual maximum diversion volume of 406 af at the field headgate, and the irrigation of 135 acres.
16. The unleased portion of right 29-13395 when combined shall not exceed a total diversion rate of 0.88 cfs and the irrigation of 44.0 acres.
17. 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. 29.

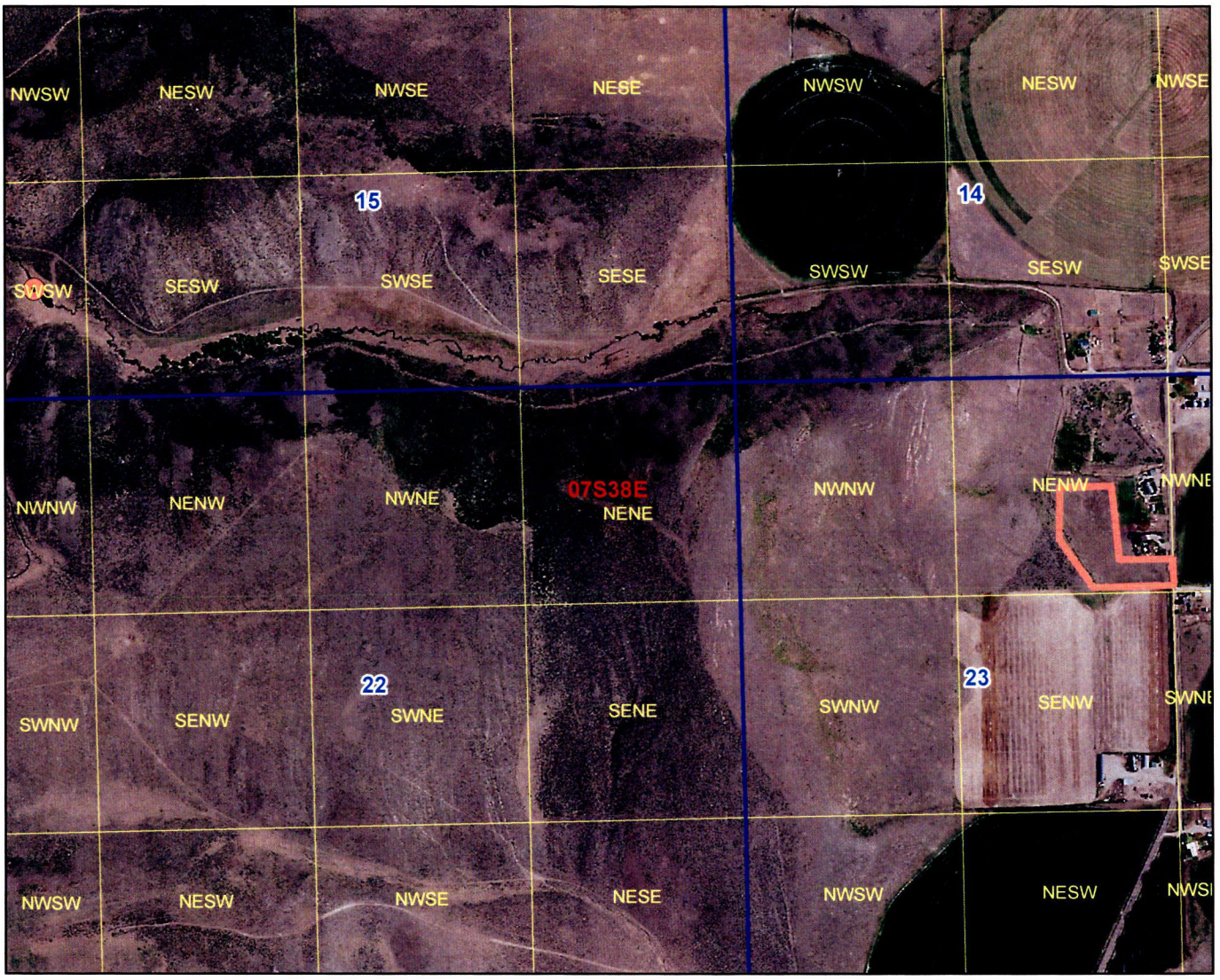
SCANNED
AUG 10 2023

## Idaho Water Resource Board

# Water Supply Bank Lease Contract No. 1621

29-7028 & 29-13365
Effective until December 31, 2026

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

N

0 0.25 0.5 Miles

SCANNED
AUG 10 2023

$250.00

Form 42-1761-1 10/15

**STATE OF IDAHO**
**WATER RESOURCE BOARD**

RECEIVED
DEC 13 2021
DEPARTMENT OF WATER RESOURCES

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

**Designated Applicant** Labrouche Ag and Livestock LLC
(Select one owner – see item 1A on the application)

**Water Right No.** 29-7028
(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.**

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

**Department Use Only**

| | | | |
|---|---|---|---|
| Fee Amount $ 250 | Received By: KL | Date Received: 12.13.21 | Receipt # 111480 |
| W-9 received? Yes ☑ No ☐ (Route W-9 to Fiscal) | | Name on W-9: Labrouche Ag and Livestock LLC | |

SCANNED
AUG 08 2023

2234
2264

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 Labrouche Ag and Livestock LLC

Mailing Address 804 Wood Road Bancroft Idaho 83217
Street City State Zip Code

Email Address tlabrouche@msn.com Phone Number 208-648-0808

☐ 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 Greg Sullivan Organization Brockway Egineering

Professional Title Engineer Email Address greg.sullivan@brockwayeng.com

Mailing Address 2016 North Washington Street, Suite 4 Phone Number 208-736-8543

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

**OR**

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

## 2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

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

**OR**

☑ A part of the water right is being offered to the Bank.
If a portion of the water right is being offered, **complete Attachment 2.**

## 3. MAP

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

SCANNED
AUG 10 2023

STATE OF IDAHO
WATER RESOURCE BOARD

# APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

## 4. GENERAL INFORMATION

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

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

B. Please provide a description of the current water diversion and delivery system.
Existing well, pump, motor and delivery system.

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. 29-7028 and 29-13395

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. See Lease Contract for 29-7028 and 29-13395 that expired 12/31/2019.

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 ☑

SCANNED
AUG 10 2023

**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: 2022 (Year) to 2026 (Year) (maximum lease period 5 calendar years).

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 |
|---|---|---|
| | Jean R Labrouche | 12-01-2021 |

| Signature of Authorized Representative | Printed Name | Date |
|---|---|---|
| Tiffany Labrouche | Tiffany Labrouche | 12-01-2021 |

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

SCANNED
AUG 10 2023

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: 2022 (Year) to 2026 (Year) (maximum lease period 5 calendar years).

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 |
|---|---|---|
| | Jean Phaboudhe | 12-01-2021 |

| Signature of Authorized Representative | Printed Name | Date |
|---|---|---|
| Tiffany Jabouche | Tiffany Jabouche | 12-01-2021 |

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

SCANNED
AUG 10 2023

Form 42-1761-1 10/15

**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. Water Right Number | Nature of Use | Leased Rate (cfs) | Leased Volume (af) | Leased Acres (ac) |
|---|---|---|---|---|
| 29-7028 | Irrigation | 0.05 | 21.7 | 6.7 |
| | | | | |
| | | | | |
| | | | | |
| | Total Amounts: | 0.05 | 21.7 | 6.7 |

2. Source of water King Creek tributary to Portneuf River

3. Point(s) of diversion:

| Twp | Rge | Sec | Lot | ¼ | ¼ | ¼ | County |
|---|---|---|---|---|---|---|---|
| 07S | 38E | 15 | | SE | SW | SW | Caribou County |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |

SCANNED
AUG 10 2023

Path: F:\Projects\Labrouche, John\ArcView\Keltop Farm 2021.mxd




0 0.1 0.2 Miles

2023 NED

BROCKWAY ENGINEERING, PLLC.
GWS - Date: 11/2/2021

# LABROUCHE AG and LIVESTOCK LLC

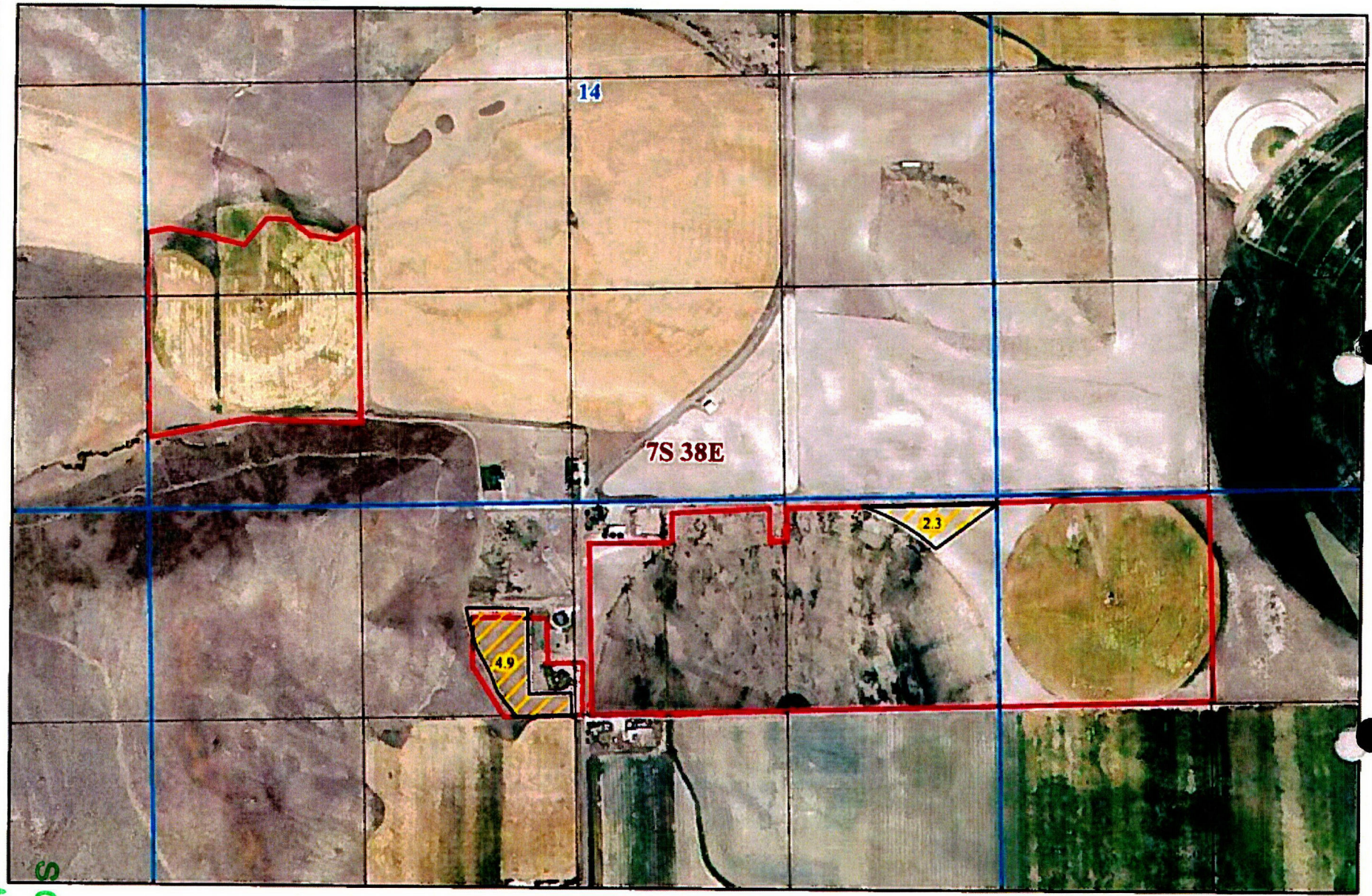
FIELD AND WATER RIGHT LOCATION
NAIP 2019 AERIAL

**Legend**

WSB_29-7028_29-13395

N

Path: F:\Projects\Koompin\Arcview BWSB 2015 29-7028 & 29-13395.mxd




SCANNED AUG 10 2023

0 400 800 1,600 Feet

**KOOMPIN**

WATER BANK LEASE 29-7028 & 29-13395
NAIP 2013 AERIAL

Legend

Points_of_Diversion
- 29-7028
- 29-13395

WaterRight
- 29-13395&29-7028
- W.S.B. Areas

- twnshp
- Sections
- QQ Lines

N

BROCKWAY ENGINEERING, PLLC.
ALR - Date: 1/26/2015

Form 42-248/42-1409(6) Rev. 7/21

RECEIVED
JAN 17 2022
Department of Water Resources
Eastern Region

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

# NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

1. List the numbers of all water rights and/or adjudication claim records to be changed. If you only acquired a portion of the water right or adjudication claim, check "*Yes*" in the "*Split?*" column. If the water right is leased to the Water Supply Bank, check "*Yes*". If you are not sure if the water right is leased to the Water Supply Bank, see #7 of the instructions. WD 29

| Water Right/Claim No. | Split? | Leased to Water Supply Bank? | Water Right/Claim No. | Split? | Leased to Water Supply Bank? |
|---|---|---|---|---|---|
| 29-2302 OK | Yes ☐ | Yes ☐ | 29-2545 OK | Yes ☐ | Yes ☐ |
| 29-4006 OK update Plat | Yes ☐ | Yes ☐ | 29-7028 OK | Yes ☐ | Yes ☐ |
| 29-2373 OK | Yes ☐ | Yes ☐ | 29-13395 OK | Yes ☐ | Yes ☐ |
| 29-110A OK | Yes ☐ | Yes ☐ | | Yes ☐ | Yes ☐ |
| 29-2374 OK | Yes ☐ | Yes ☐ | | Yes ☐ | Yes ☐ |

2. Previous Owner's Name: Keltop Farms LLC
   Name of current water right holder/claimant
3. New Owner(s)/Claimant(s): Labrouche Ag and Livestock LLC
   New owner(s) as listed on the conveyance document  Name connector ☐ and ☐ or

804 Wood Road | Bancroft | ID | 83217
Mailing address | City | State | Zip

(208) 648-0808 | tlabrouche@msn.com
Telephone | Email

4. If the water rights and/or adjudication claims were split, how did the division occur?
   - ■ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
   - ☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.
5. Date you acquired the water rights and/or claims listed above: April 15, 2021.
6. Do you own the land identified as the water right place of use? Yes ☒ No ☐
   - o If no, attach evidence that written notice of the change of water right ownership has been delivered to the landowner of record.
7. This form must be signed and submitted with the following **REQUIRED** items:
   - ■ A copy of the conveyance document – warranty deed, quitclaim deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property or description of the water right(s) if no land is conveyed.
   - ■ Plat map, survey map or aerial photograph which clearly shows the place of use and point of diversion for each water right and/or claim listed above (if necessary to clarify division of water rights or complex property descriptions).
   - ■ Filing fee (see instructions for further explanation):
     - o $25 per *undivided* water right.
     - o $100 per *split* water right.
     - o No fee is required for pending adjudication claims.

     SUPPORT DATA IN FILE # 29-110A
   - ☐ If water right(s) are leased to the Water Supply Bank AND there are multiple owners, a Lessor Designation form is required.
   - ☐ If water right(s) are leased to the Water Supply Bank, the individual owner or designated lessor must complete, sign and submit an IRS Form W-9.
8. Signature: _____ Owner 12-01-2021
   Signature of new owner/claimant | Title, if applicable | Date
   Jean P Labrouche
   Print name

   Signature: _____ Owner 12-01-2021
   Signature of new owner/claimant | Title, if applicable | Date
   Tiffany Labrouche
   Print name

$300.- for this app

***For IDWR Office Use Only:***

Receipted by CH Date 1/18/21 Receipt No. E047706 Receipt Amt. $325.00 (90S check)

Active in the Water Supply Bank? Yes ☐ No ☐ If yes, forward to the State Office for processing W-9 received? Yes ☐ No ☐

Name on W-9 _____ Approved by _____ Processed by _____ Date _____

* Need refund of $25.- 29-10134 is not being complete at this time.

Form 42-248/42-1409(6) Rev. 7/21

RECEIVED
JAN 17 2022
Department of Water Resources
Eastern Region

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

# NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

1. List the numbers of all water rights and/or adjudication claim records to be changed. If you only acquired a portion of the water right or adjudication claim, check "*Yes*" in the "*Split?*" column. If the water right is leased to the Water Supply Bank, check "*Yes*". If you are not sure if the water right is leased to the Water Supply Bank, see #7 of the instructions. WD 29

| Water Right/Claim No. | Split? | Leased to Water Supply Bank? | Water Right/Claim No. | Split? | Leased to Water Supply Bank? |
|---|---|---|---|---|---|
| 29-2302 OK | Yes ☐ | Yes ☐ | 29-2545 OK | Yes ☐ | Yes ☐ |
| 29-4006 OK update POU | Yes ☐ | Yes ☐ | 29-7028 OK | Yes ☐ | Yes ☐ |
| 29-2373 OK | Yes ☐ | Yes ☐ | 29-13395 OK | Yes ☐ | Yes ☐ |
| 29-110A OK | Yes ☐ | Yes ☐ | | Yes ☐ | Yes ☐ |
| 29-2374 OK | Yes ☐ | Yes ☐ | | Yes ☐ | Yes ☐ |

2. Previous Owner's Name: Keltop Farms LLC
   Name of current water right holder/claimant
3. New Owner(s)/Claimant(s): Labrouche Ag and Livestock LLC
   New owner(s) as listed on the conveyance document  Name connector ☐ and ☐ or

804 Wood Road | Bancroft | ID | 83217
Mailing address | City | State | Zip

(208) 648-0808 | tlabrouche@msn.com
Telephone | Email

4. If the water rights and/or adjudication claims were split, how did the division occur?
   - ☒ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
   - ☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.
5. Date you acquired the water rights and/or claims listed above: April 15, 2021.
6. Do you own the land identified as the water right place of use? Yes ☒ No ☐
   - o If no, attach evidence that written notice of the change of water right ownership has been delivered to the landowner of record.
7. This form must be signed and submitted with the following **REQUIRED** items:
   - ☒ A copy of the conveyance document – warranty deed, quitclaim deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property or description of the water right(s) if no land is conveyed.
   - ☒ Plat map, survey map or aerial photograph which clearly shows the place of use and point of diversion for each water right and/or claim listed above (if necessary to clarify division of water rights or complex property descriptions).
   - ☒ Filing fee (see instructions for further explanation):
     - o $25 per *undivided* water right.
     - o $100 per *split* water right.
     - o No fee is required for pending adjudication claims.

     SUPPORT DATA IN FILE # 29-110A
   - ☐ If water right(s) are leased to the Water Supply Bank AND there are multiple owners, a Lessor Designation form is required.
   - ☐ If water right(s) are leased to the Water Supply Bank, the individual owner or designated lessor must complete, sign and submit an IRS Form W-9.
8. Signature: _____ Owner 12-01-2021
   Signature of new owner/claimant | Title, if applicable | Date
   Jean P Labrouche
   Print name

   Signature: Tiffany Labrouche Owner 12-01-2021
   Signature of new owner/claimant | Title, if applicable | Date
   Tiffany Labrouche
   Print name

$300.- for this app

***For IDWR Office Use Only:***

Receipted by CH Date 1/18/21 Receipt No. E047706 Receipt Amt. $325.00 (90S check)

Active in the Water Supply Bank? Yes ☐ No ☐ If yes, forward to the State Office for processing W-9 received? Yes ☐ No ☐

Name on W-9 _____ Approved by _____ Processed by _____ Date _____

* Need refund of $25.- 29-10134 is not being complete at this time.

# WSB Mailing Checklist for Leases

**Instructions: Staple to outside of lowest numbered water right file during processing.**

| **Key:** Who Completes What? | |
|---|---|
| CLERICAL STAFF: | MC |
| REVIEWER: | Jan |

Received Date: 12/15/2021

Desired Lease Duration: 2022 - 2026

Lease / Rental Package: Y (N)

If yes, Renter Name:

Application # 2264 Contract # 1621

| WR#s | # |
|---|---|
| # 29-7028 | # (29-13395) |
| # | # |
| # | # |
| # | # |
| # | # |
| # | # |

Applicant Authorized? (Y) / N

Multiple owners, Attach 1A included? Y / (N) NA

If portion is offered, Attach 2 included? (Y) / N NA

Map of POU and POD? (Y) / N NA

POD Consent (if required)? (Y) / N NA

Application Complete? (Y) / N

Minimum checklist in data base? ☐

Request for additional information letter sent? (Y) NA

Map of only 2.2 Acres needed

WSB Action Request for deficiencies ☐

Stacked Water Rights Need to be Leased? ☐

If checked, list water rights:

If the WR owner provided a different address on the application than what's in our database, update address in workflow.

| Mailings (per lease application) | | CC | Original | |
|---|---|---|---|---|
| Designated Applicant: | LaBrouche Ag & Livestock, previously owned by Keltop Farms LLC | ☐ | ☒ | EMAIL: tlabrouche@msn.com |
| Attorney: | | ☐ | ☐ | EMAIL: |
| Consultants Name: | Greg Sullivan - Brockway Engineering | ☐ | ☐ | Comments: pending ownership change |
| Watermaster: | Steve Hebdon | ☐ | | See other lease applications |
| Delivery Entity: | | ☐ | | 29-110A & 29-2373 # 2234 |
| Water District: | 29 | ☐ | | 29-2302 # 2262 |
| Ground Water District: | | ☐ | | 29-4006 # 2263 |
| Region: | Eastern | ☐ | | |
| Other: | | ☐ | ☐ | |
| Address: | | | | |

T 12 TVN

1/20/23 HG 3.5

Call up Date:

**DO NOT SCAN**

IDAHO DEPARTMENT OF
WATER RESOURCES

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

**Governor Brad Little** **Director Gary Spackman**

February 22, 2023

LABROUCHE AG & LIVESTOCK LLC
804 WOOD RD
BANCROFT ID 83217

**RE: WATER SUPPLY BANK LEASE CONTRACT 1577 FOR WATER RIGHTS 29-110A & 29-2373, CONTRACT 1616 FOR WATER RIGHT 29-2302, CONTRACT 1617 FOR WATER RIGHT 29-4006, CONTRACT 1621 FOR WATER RIGHTS 29-13395 & 29-7028**

Dear Lessor:

Water right(s) **mentioned above** was/were leased into the Water Supply Bank (Bank) as of January 1, 2022, 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 right(s) will automatically be released from the Bank on **December 31, 2026,** unless the rights are released earlier by the Water Resource Board (Board). On behalf of the Board, the Department of Water Resources (Department) can evaluate an early release of the lease contract upon your request. To release the water rights from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available on our public website at www.idwr.idaho.gov. **Please note your water rights may not be available for immediate release if they have been rented or are being considered for a future rental. Furthermore, it is at the discretion of the Department whether or not a water right can be released early from a lease contract.**

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

Sincerely,

*Jean Hersley*

for
Water Supply Bank

Enclosure: Executed Lease Contract

c: IDWR- Eastern Region Office
Brockway Engineering PLLC
Water District No. 29

SCANNED
AUG 10 2023

IDAHO DEPARTMENT OF
WATER RESOURCES

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

**Governor Brad Little** **Director Gary Spackman**

December 12, 2022

LABROUCHE AG & LIVESTOCK LLC
804 WOOD RD
BANCROFT ID 83217

**RE: APPLICATION TO LEASE WATER RIGHTS 29-110A & 29-2373- CONTRACT 1577, WATER RIGHT 29-2302-CONTRACT 1616. WATER RIGHT 29-4006-CONTRACT 1617 & WATER RIGHTS 29-7028& 29-13395-CONTRACT 1621 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 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, 2026,** unless the right is released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. To propose a new lease period, submit a new Application to Sell or Lease a Water Right to the Water Supply Bank form along with applicable fees to the Department. These forms are available from any IDWR office or from our public website at http://www.idwr.idaho.gov. Please note your right may not be available for immediate release if it has been rented.

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

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

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

Sincerely,

*Jean Hersley*

for
Water Supply Bank

Enclosures: Proposed Lease Contracts

SCANNED
AUG 10 2023

C: Brockway Engineering PLLC

## Hersley, Jean

**From:** Hersley, Jean
**Sent:** Friday, December 9, 2022 2:32 PM
**To:** hebdonstevens@gmail.com
**Subject:** WSB Leases for Labrouche Ag & Livestock.
**Attachments:** Lease Application Review Checklist July 2017.xls; Lease Contract - 1577.docx; Lease Application Review Checklist July 2017.xls; Lease Contract - 1616.docx; Lease_2022.pdf; 29-4006 Lease_2022.pdf; Lease Application Review 29-4006.xls; Lease Contract - 1617.docx; Lease Application Review 29-7028 & 13395.xls; Lease Contract - 1621.docx; Lease_2022.pdf

I have attached the lease contracts, maps and review memo for these contracts. These rights are within water district 29. Please let me know within 7 days if you have any comment or concerns. Thank you.

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

SCANNED
AUG 10 2023

**WATER SUPPLY BANK**

**Lease Review Checklist**

**Applicant(s) Name: LaBrouche Ag & Livestock**

**Memo Date: December 9, 2022**

**Water Right Number(s): 29-7028 & 29-13395**

**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)** | x | | |
| | | | | |
| 2 | **Reason for lease of water rights (Brief description of lease proposal in narrative)** | | | |
| | Portion of right | x | | |
| | All of right | | | |
| 3 | Check GWMA/CGWA/ADC and basin 63 areas of concern (note area in comments) | | | |
| | | **Yes** | **No** | |
| 4 | Rentable? (If no explain in comments or narrative) | x | | |
| | | | | |
| 5 | **Authority to file** | | | |
| | Current owner or designated applicant | x | | |
| | SOS Web site checked for business entity | x | | Jean & Tiffany LaBrouche |
| | Other (explain in comments) | | | |
| | | | | |
| 6 | **Water Right validity** | | | |
| | Decreed/Licensed/Statutory claim date (write in comments section) | | | 2004 |
| | 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? | x | | 2015 to 2019 |
| | | | | |
| 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 | | x | |
| | | | | |
| 8 | **Enlargement concerns** | **Check box** | | |
| | Complete a POU comparison overlap analysis | x | | |
| | Complete a combined limits review | x | | |
| | Complete POD overlap analysis (if there is an overlap add condition to lease) | x | | |
| | | **Yes** | **No** | |
| | Are there overlapping rights that need to be placed in the bank also? | | x | |
| | 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?** | x | | |
| | Send the watermaster comment request form or e-mail request | x | | |
| | | | | |
| 11 | Area Headgate requirement (write in Comments) | | | 3.5 |
| | | | | |
| 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 Department received the application for 29-2078 on December 13, 2021 and the application for 29-13395 on October 7, 2022. These rights are overlapping and both needed to be leased to the Bank. The applications offered a total of 7.2 acres but I could only find that 6 acres was not irrigated. I spoke with Greg Sullivan of Brockway, the consultant, and he said to go ahead with the 6 acres. These rights were decreed in in 2004. These rights combined are limited to 141 acres within a 152 acre PPU. Irrigation had taken place on the 141 acres before some portions of these rights were placed in the Bank in 2015 to 2019. These rights are currently within WD 29.

SCANNED
AUG 10 2023

0004560452

# STATE OF IDAHO

*Office of the secretary of state, Lawerence Denney*

## ANNUAL REPORT

Idaho Secretary of State
PO Box 83720
Boise, ID 83720-0080
(208) 334-2301
Filing Fee: $0.00

*For Office Use Only*

**-FILED-**

File #: 0004560452

Date Filed: 1/10/2022 2:06:54 PM

Entity Name and Mailing Address:

| | |
|---|---|
| Entity Name: | LABROUCHE AG AND LIVESTOCK, LLC |
| The file number of this entity on the records of the Idaho Secretary of State is: | 0000443441 |
| Address | 804 WOOD RD<br>BANCROFT, ID 83217-5060 |

Entity Details:

| | |
|---|---|
| Entity Status | Active-Existing |
| This entity is organized under the laws of: | IDAHO |
| If applicable, the old file number of this entity on the records of the Idaho Secretary of State was: | W145623 |

The registered agent on record is:

| | |
|---|---|
| Registered Agent | JEAN LABROUCHE<br>Registered Agent<br>Physical Address<br>804 WOOD ROAD<br>BANCROFT, ID 83217<br>Mailing Address |

Agent or Address Change

☐ Select if you are appointing a new agent.

Limited Liability Company Managers and Members

| Name | Title | Business Address |
|---|---|---|
| Tiffany Labrouche | Member | 804 WOOD RD<br>BANCROFT, ID 83217 |

The annual report must be signed by an authorized signer of the entity.

Job Title: bancroft

*Tiffany Labrouche* — Sign Here

*01/10/2022* — Date

SCANNED
AUG 10 2023

BUC/C-1096 01/10/2022 2:06 PM Received by ID Secretary of State Lawerence Denney

## Hersley, Jean

**From:** Hersley, Jean
**Sent:** Monday, December 5, 2022 10:26 AM
**To:** Greg Sullivan
**Subject:** RE: WSB Lease applications for Labrouche Ag & Livestock LLC
**Attachments:** August 2022.docx

Thanks for the response. I have completed the review for 29-2305 2 and 29-4006 and have drawn up contracts for the 2022-2026 seasons.

When looking at aerial imagery and the acres that have been irrigated in 2022 for water rights 29-7028 and 29-13395, it appears that 135 acres were irrigated this season. The applications requested that 7.2 acres of these water rights be leased to the Bank. With the irrigation that appears to have taken place this season, the Department can lease 6 acres of these water rights to the Bank. I have attached a snip from the aerial imagery for your benefit.

If you have any comments or evidence to the contrary, please let me know by the end of the week, December 9, 2022, otherwise, I will move forward with leasing 6 acres of these rights to the Bank.

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

**From:** Greg Sullivan <greg.sullivan@brockwayeng.com>
**Sent:** Friday, October 7, 2022 9:02 AM
**To:** Hersley, Jean <Jean.Hersley@idwr.idaho.gov>; tlabrouche@msn.com
**Cc:** Condon, Mary <Mary.Condon@idwr.idaho.gov>; Kienholz, Mackenzie <Mackenzie.Kienholz@idwr.idaho.gov>
**Subject:** RE: WSB Lease applications for Labrouche Ag & Livestock LLC

**CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.**

Jean,

Water right 29-2302 has had 11.5 acres leased into the WSB multiple times over the last couple of years. The most recent lease contract expired in 2018. The potato cellars were constructed in 2016 or 2017 and the area around the cellars is used for equipment storage. The small sliver of the water right to be leased into the WSB along the road consists of ground that is not productive and is not actively being irrigated. Aerial imagery from 2011 through 2014 indicate that the area south of the cellars were irrigated to facilitate various crops. No irrigation has occurred in the southern area from 2015 through 2022 due to complying with lease contract requirements and the construction of the cellars. The southern area below the potato cellars has been used to grow dry land wheat and will continue to be used for dry land farming in future years.

SCANNED
AUG 10 2023

Water right 29-4006. The south west corner of the pivot under 29-4006 has been irrigated since 1992 based on Google Earth imagery. In 2016, the pivot center was moved north several hundred feet to allow more productive ground to be utilized and moved the pivot away from the nearby stream channel. The south west corner of the property continued to be irrigated after the pivot was moved in 2016. Attached FSA records indicate that in 2016 there was potato's grown in this south west corner. A water right transfer was approved by IDWR on February 4th, 2022 to update the irrigation place of use of the allowed 270.0 acres. No forfeiture issues were identified or discussed by the Eastern IDWR office and the agents who reviewed and ultimately recommend that the transfer be approved. The southwest corner (specifically the 3.3 acres) have not been irrigated in 2022. If 2016 was the last year that irrigation occurred on the 3.3 acres, the 3.3 acres would still be protected from forfeiture because 2022 is the 6th year from non-use. The 6th year since irrigation occurs is the year that an action to protect against forfeiture must be taken such as irrigation, CRP, CREP or lease the acres into the WSB. This is why we have submitted the lease application for the 3.3 acres.

Water rights 29-7028 and 29-13395. These two water rights have had 7.5 acres under lease contract from 2015 through 2019. These two water rights are located within a 152.5 acre permissible place of use. Water rights 29-7028 and 29-13395 are limited to 141.0 acres of irrigation. Which allows the 141.0 acres to be moved around within the 152.5 acre permissible place of use. The 7.5 acres can be identified anywhere within the 152.5 acres and still remain valid and legal. The location of the 7.5 acres needs to properly identified so that the WSB staff can confirm that the 7.5 acres are indeed idle and not irrigated.
The lease applications for 29-7028 and 29-13395 that were submitted in December of 2021 were intended to duplicate the previous lease contract amounts of a total diversion rate of 0.09 cfs and 7.2 acres total leased acres. I somehow did not include all of the necessary pages for the applications. I have attached the complete lease applications for 29-7028 and 29-13395 for the 7.2 acres that were signed on 12/1/21 to this email.

Water rights 29-2302, 29-7028 and 29-13395 have had portions of them leased into the WSB within the last five years (29-2302 expired in 2018 and 29-7028 and 29-13395 expired in 2019). The lease contracts expired in 2018 and in 2019. There should still be several more years of forfeiture protection provided for the 11.5 acres and the 7.5 acres by the past WSB lease contracts of these water rights.

Greg Sullivan
Brockway Engineering
2016 North Washington Street, Suite 4
Twin Falls, Idaho 83301
208-736-8543

*All information, calculations, maps, drawings, or other documents transmitted via e-mail are preliminary unless explicitly stated in the e-mail text or in the documents themselves.*

**From:** Hersley, Jean [mailto:Jean.Hersley@idwr.idaho.gov]
**Sent:** Thursday, September 22, 2022 8:47 AM
**To:** tlabrouche@msn.com; Greg Sullivan <greg.sullivan@brockwayeng.com>
**Cc:** Condon, Mary <Mary.Condon@idwr.idaho.gov>; Kienholz, Mackenzie <Mackenzie.Kienholz@idwr.idaho.gov>
**Subject:** WSB Lease applications for Labrouche Ag & Livestock LLC

The Department of Water Resources is in the process of reviewing the WSB lease applications submitted for Labrouche Ag and Livestock LLC. I have a couple of questions regarding some of the applications.

First, all these rights were decreed in 2004.

SCANNED
AUG 10 2023

Water right 29-2302 was placed in the Bank from 2015 to 2019 with some irrigation occurring in 2009 and 2020. There was some irrigation occurring in the SWSW of T7S R38E Sec 26 south of the building that is there. On the attached map, the portion in purple appears to not have been irrigated so there are questions of forfeiture. You requested that 11.5 acres be placed in the Bank. The Department can only see that 5 acres could be leased.

WR 29-4006- the portion offered to the Bank, 3.3 acres, appears to never have been irrigated. This right has never been in the Bank so there are questions of forfeiture. The Department cannot accept these acres to the Bank.

WR 29-7028 and 29-13395- portions of these rights were in the Bank from 2015-2019. Some irrigation occurred in 2009 which allowed the department to place the portions in the Bank. However, there doesn't appear to have been any irrigation taking place in the NENE, T7S, R38E, S23 after the rights came out of the Bank. You requested that 6.7 acres be placed in the Bank, the Department can only see 1.9 acres that could be leased. Also, the Department doesn't have an application for 29-13395 which completely overlaps with 29-7028. If you would like to place the 1.9 acres in the Bank, we will need an application for 29-13395.

If you have information that shows the acres have been irrigated, please provide them to the Department within 14 days. If the Department does not receive the information within 14 days, we will place 5 acres of 29-2302 in the Bank, the lease application for 29-4006 will be returned as will 29-7028 since we need a companion application for 29-13395.

Please let me know if you have any questions. Thank you.

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

SCANNED
AUG 10 2023

## Hersley, Jean

**From:** Condon, Mary
**Sent:** Tuesday, October 11, 2022 8:36 AM
**To:** Greg Sullivan; Hersley, Jean
**Cc:** Kienholz, Mackenzie; Bank; tlabrouche@msn.com
**Subject:** RE: WSB Lease applications for Labrouche Ag & Livestock LLC

Hi Greg,

I just want to clarify why we are requesting information regarding years of non-use before and after the previous lease contracts of these rights. The lease of a water right does not restart the forfeiture clock; it only tolls it. Any years of non-use before and after a lease to the Bank are additive. This is described in Section 42-1764, Idaho Code.

Mary Condon
Water Supply Bank Coordinator
IDAHO DEPARTMENT OF WATER RESOURCES
Planning & Projects
mary.condon@idwr.idaho.gov
Direct: (208) 287-4936

**From:** Greg Sullivan <greg.sullivan@brockwayeng.com>
**Sent:** Friday, October 7, 2022 9:02 AM
**To:** Hersley, Jean <Jean.Hersley@idwr.idaho.gov>; tlabrouche@msn.com
**Cc:** Condon, Mary <Mary.Condon@idwr.idaho.gov>; Kienholz, Mackenzie <Mackenzie.Kienholz@idwr.idaho.gov>
**Subject:** RE: WSB Lease applications for Labrouche Ag & Livestock LLC

**CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.**

Jean,

Water right 29-2302 has had 11.5 acres leased into the WSB multiple times over the last couple of years. The most recent lease contract expired in 2018. The potato cellars were constructed in 2016 or 2017 and the area around the cellars is used for equipment storage. The small sliver of the water right to be leased into the WSB along the road consists of ground that is not productive and is not actively being irrigated. Aerial imagery from 2011 through 2014 indicate that the area south of the cellars were irrigated to facilitate various crops. No irrigation has occurred in the southern area from 2015 through 2022 due to complying with lease contract requirements and the construction of the cellars. The southern area below the potato cellars has been used to grow dry land wheat and will continue to be used for dry land farming in future years.

Water right 29-4006. The south west corner of the pivot under 29-4006 has been irrigated since 1992 based on Google Earth imagery. In 2016, the pivot center was moved north several hundred feet to allow more productive ground to be utilized and moved the pivot away from the nearby stream channel. The south west corner of the property continued to be irrigated after the pivot was moved in 2016. Attached FSA records indicate that in 2016 there was potato's grown in this south west corner. A water right transfer was approved by IDWR on February 4th, 2022 to update the irrigation place of use of the allowed 270.0 acres. No forfeiture issues were identified or discussed by the Eastern IDWR office and the agents who reviewed and ultimately recommend that the transfer be approved. The southwest corner (specifically the

SCANNED
AUG 10 2023

3.3 acres) have not been irrigated [redacted]2022. If 2016 was the last year that irrigation occurred on the 3.3 acres, the 3.3 acres would still be protected from forfeiture because 2022 is the 6th year from non-use. The 6th year since irrigation occurs is the year that an action to protect against forfeiture must be taken such as irrigation, CRP, CREP or lease the acres into the WSB. This is why we have submitted the lease application for the 3.3 acres.

Water rights 29-7028 and 29-13395. These two water rights have had 7.5 acres under lease contract from 2015 through 2019. These two water rights are located within a 152.5 acre permissible place of use. Water rights 29-7028 and 29-13395 are limited to 141.0 acres of irrigation. Which allows the 141.0 acres to be moved around within the 152.5 acre permissible place of use. The 7.5 acres can be identified anywhere within the 152.5 acres and still remain valid and legal. The location of the 7.5 acres needs to properly identified so that the WSB staff can confirm that the 7.5 acres are indeed idle and not irrigated.
The lease applications for 29-7028 and 29-13395 that were submitted in December of 2021 were intended to duplicate the previous lease contract amounts of a total diversion rate of 0.09 cfs and 7.2 acres total leased acres. I somehow did not include all of the necessary pages for the applications. I have attached the complete lease applications for 29-7028 and 29-13395 for the 7.2 acres that were signed on 12/1/21 to this email.

Water rights 29-2302, 29-7028 and 29-13395 have had portions of them leased into the WSB within the last five years (29-2302 expired in 2018 and 29-7028 and 29-13395 expired in 2019). The lease contracts expired in 2018 and in 2019. There should still be several more years of forfeiture protection provided for the 11.5 acres and the 7.5 acres by the past WSB lease contracts of these water rights.

Greg Sullivan
Brockway Engineering
2016 North Washington Street, Suite 4
Twin Falls, Idaho 83301
208-736-8543

*All information, calculations, maps, drawings, or other documents transmitted via e-mail are preliminary unless explicitly stated in the e-mail text or in the documents themselves.*

**From:** Hersley, Jean [mailto:Jean.Hersley@idwr.idaho.gov]
**Sent:** Thursday, September 22, 2022 8:47 AM
**To:** tlabrouche@msn.com; Greg Sullivan <greg.sullivan@brockwayeng.com>
**Cc:** Condon, Mary <Mary.Condon@idwr.idaho.gov>; Kienholz, Mackenzie <Mackenzie.Kienholz@idwr.idaho.gov>
**Subject:** WSB Lease applications for Labrouche Ag & Livestock LLC

The Department of Water Resources is in the process of reviewing the WSB lease applications submitted for Labrouche Ag and Livestock LLC. I have a couple of questions regarding some of the applications.

First, all these rights were decreed in 2004.

Water right 29-2302 was placed in the Bank from 2015 to 2019 with some irrigation occurring in 2009 and 2020. There was some irrigation occurring in the SWSW of T7S R38E Sec 26 south of the building that is there. On the attached map, the portion in purple appears to not have been irrigated so there are questions of forfeiture. You requested that 11.5 acres be placed in the Bank. The Department can only see that 5 acres could be leased.

WR 29-4006- the portion offered to the Bank, 3.3 acres, appears to never have been irrigated. This right has never been in the Bank so there are questions of forfeiture. The Department cannot accept these acres to the Bank.

SCANNED
AUG 10 2023

WR 29-7028 and 29-13395- po[redacted]ns of these rights were in the Bank fro[redacted]2015-2019. Some irrigation occurred in 2009 which allowed the department to place the portions in the Bank. However, there doesn't appear to have been any irrigation taking place in the NENE, T7S, R38E, S23 after the rights came out of the Bank. You requested that 6.7 acres be placed in the Bank, the Department can only see 1.9 acres that could be leased. Also, the Department doesn't have an application for 29-13395 which completely overlaps with 29-7028. If you would like to place the 1.9 acres in the Bank, we will need an application for 29-13395.

If you have information that shows the acres have been irrigated, please provide them to the Department within 14 days. If the Department does not receive the information within 14 days, we will place 5 acres of 29-2302 in the Bank, the lease application for 29-4006 will be returned as will 29-7028 since we need a companion application for 29-13395.

Please let me know if you have any questions. Thank you.

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

SCANNED
AUG 10 2023

**From:** Condon, Mary
**To:** Greg Sullivan
**Subject:** LaBrouche Ag lease application 29-7028 ( 29-13395)
**Date:** Saturday, January 8, 2022 11:15:00 AM
**Attachments:** WSB Lease Application # 2234 WR # 29-7028 (1).pdf

---

Hi Greg,

The lease application listed 29-7028 on the application, and only 2.2 of 29-7028 the cover letter, but the attachment 2 has 29-13395 for 2.2 acres. Is attachment 2 for 29-7028 or 29-13395? Also, the attached map identifies the full 7.2 acres for both rights and does not indicate an area for just 2.2 acres, if only one is offered to the bank. I've attached the application for you.

Please clarify if only one of these two rights is offered to the bank, the portion, and a map with the 2.2 acres identified.

Best,
Mary

Mary Condon
Water Supply Bank Coordinator

IDAHO DEPARTMENT OF
WATER RESOURCES
Planning & Projects
mary.condon@idwr.idaho.gov
Direct: (208) 287-4936
Fax: (208) 287-6700, Attn. Mary C.

SCANNED
AUG 10 2023

BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics
Hydrology
Water Resources

RECEIVED
JAN 12 2022
DEPARTMENT OF
WATER RESOURCES

January 10, 2022

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

Re: Labrouche Ag and Livestock LLC

Dear Ms. Condon:

Through correspondence with you, it was brought to my attention that lease application #2264 for water rights 29-7028 and 29-13395 need additional documents and payment submitted to the Idaho Water Supply Bank.

The additional documents have been submitted via email. A check for $250.00 is attached to this letter. A fee of $250.00 has previously been submitted to the Idaho Water Supply Bank.

It is proposed that water rights 29-7028 and 29-13395 lease a total of 7.2 acres of irrigation water into the Idaho Water Supply Bank.

Sincerely,

Greg Sullivan, M.S., Engineer

Enc: Brockway Engineering Check # 16752 for $250.00

CHARLES E. BROCKWAY, PH.D., P.E.

CHARLES G. BROCKWAY, PH.D., P.E.

2016 NORTH WASHINGTON STREET • SUITE 4

TWIN FALLS, IDAHO 83301

208•736•8543

FAX: 736•8506

SCANNED
AUG 10 2023