



AGENDA

IDAHO WATER RESOURCE BOARD

Water Supply Bank Committee Meeting No. 1-25

Brad Little
Governor

Monday, August 18, 2025
1:00 p.m. Mountain Time / Noon Pacific Time

Conference Rooms 602 C & D
Water Center
322 E. Front Street
BOISE

Jeff Raybould
Chairman
St. Anthony
At Large

Livestream available at <https://www.youtube.com/@iwrp>

Jo Ann Cole-Hansen
Vice Chair
Lewiston
At Large

Dean Stevenson
Secretary
Paul
District 3

Dale Van Stone
Hope
District 1

Albert Barker
Boise
District 2

Brian Olmstead
Twin Falls
At Large

Marcus Gibbs
Grace
District 4

Patrick McMahon
Sun Valley
At Large

1. Introductions and Attendance
2. Water Supply Bank Organizational Structure
3. Tribal Water Bank Rules *
4. Other Items
5. Adjourn

Committee Members: Chair Albert Barker, Marc Gibbs, Dale Van Stone, and Brian Olmstead.

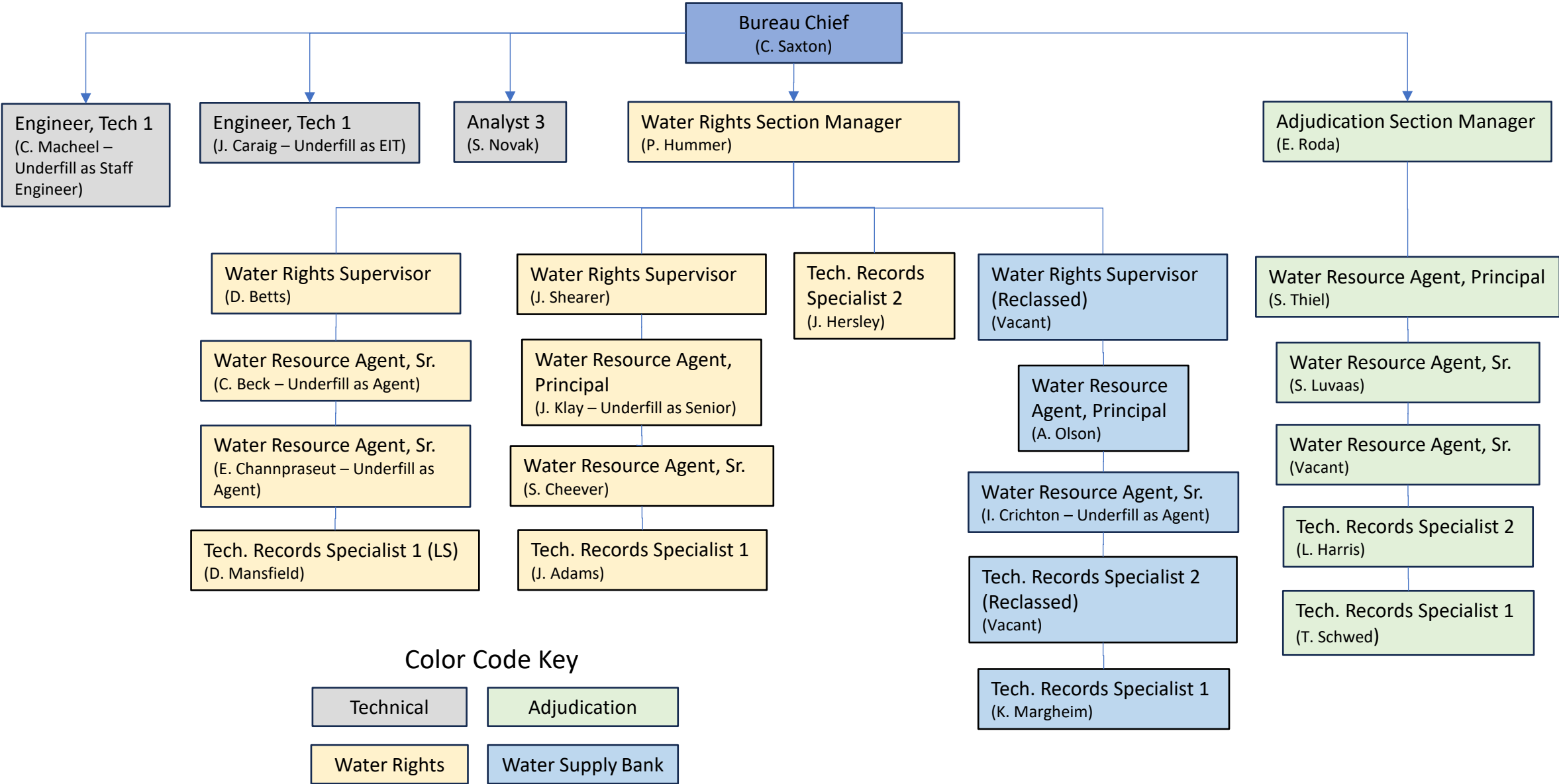
* Action Item: A vote regarding this item may be made at this meeting. Identifying an item as an action item on the agenda does not require a vote to be taken on the item.

Americans with Disabilities

The meeting will be held in person and online. If you require special accommodations to attend, participate in, or understand the meeting, please make advance arrangements by contacting Department staff by email jennifer.strange@idwr.idaho.gov or by phone at (208) 287-4800.

Attachment 2: IDWR Water Allocation Bureau Organization Proposal April 2025

25 Positions



Memorandum



To: Water Supply Bank Committee - IWRB

From: Mary Condon

Date: July 30, 2025

Re: Negotiated Rulemaking - Shoshone Bannock Tribal Water Supply Bank Rules, IDAPA 37.02.04

REQUIRED ACTIONS: No action at this time.

The Idaho Water Resource Board ('IWRB'; 'Board') requested a special Water Supply Bank Committee meeting be convened during the Board Work Session on July 24th, 2025, to consider comments from the Shoshone Bannock Tribes for modifications to the Shoshone Bannock Tribal Water Supply Bank Rules, IDAPA 37.02.04, as part of the negotiated rulemaking for the 2026 Legislative Session.

IDWR staff will present a summary of all the changes to the Shoshone Bannock Water Bank Rules, along with comments received from Brett Bovee with WestWater Research on behalf of the Tribes. The redline version of the latest revision to the rules are also attached, and available for viewing.

Attachment(s): Draft Strawman Shoshone Bannock Water Bank Rules (redline) – June 18, 2025
Summary of Changes to the Shoshone Bannock Water Bank Rules – July 31, 2025
Written comment from Brett Bovee for the Tribes – July 8, 2025

Summary of Proposed Changes, IDAPA 37.02.04, Shoshone Bannock Water Bank Rules

Title

Reduce word count in title name to match referred name within the 1990 Fort Hall Agreement (Agreement) – consistency throughout the rule and with the Agreement

Rule 000 - Legal Authority & Rule 001 & Scope

Remove wording in 'Authority' and 'Scope' that is historical background, does not improve the rule, and repetitive/duplicative to the Agreement.

000. Legal Authority - Improve reference to specific Article 18.1.3 in the Agreement for authority to create Tribal Water Bank under scope. Insert hyperlink to Chapter 17 Title 42 and Local Rental Pool Committees in WSB Rules.

001.02. 'Intent' (Struck) and hereafter incorporated by reference (Article 7.3.4)

001.03. 'Agreement' (Struck) stated in the Fort Hall Agreement (Article 7.3.6), and hereafter incorporated by reference.

Rule 002 (Added) - Incorporation by Reference

Specify articles incorporated by reference from the Agreement which were previously stated in rule and improve consistency, remove duplicative language between the two.

- Specific 4 series Articles are definitions in both the Agreement and the Rule will be struck from the definitions in Rule 010 below;
- Article 7.3 encompasses the storage rights held in trust for the Tribes which can be used in their Tribal Water Bank for off reservation rentals, and includes their authority to create a bank; and
- Article 18.1 for authority granted by Agreement
- Hyperlink to the incorporated document (Agreement) required by the Rule Writer Manual (2025)

Rule 010 - Definitions

Definitions Struck, not used in Rule: Acre-foot, Annual, Tribal Water Engineer

Definitions Incorporated by Reference: Bank, Beneficial Use, Bureau, IDWR, IWRB, Rent, Reservation Watermaster, Snake River Watermaster, Tribes

Definitions updated (not defined in the Agreement but used in rule):

- Rental Pool – add '...and rented from';
- Renter – add '...or entity'

Rule 025 - General

025.01. Priority of use (Struck) – Incorporated by reference to Article 7.3 (7.3.3 and 7.3.9)

025.02. Bank Operation (Struck) - within Legal Authority and Scope of rule above - duplicative

025.03. Authority of Bank (Struck) - within Legal Authority and Scope of rule above – duplicative

025.04. Incorporation of Articles (Struck) – Now Rule 002 with improved references

Summary of Proposed Changes, IDAPA 37.02.04, Shoshone Bannock Water Bank Rules

025.07. Evaporation Losses – Replace ‘Bank’ with ‘Rental Pool’ for consistency in terms to the Agreement and Rule; Evaporative losses are not currently in accounting, but if ever implemented, this rule would apply

Rule 030 - Management

030.02. Committee Composition (Struck) – Incorporated by Reference Article 7.3 (7.3.7 states the committee composition)

Rule 035 - Assignments of Tribal Stored Water to the (changed ‘Bank’ to ‘Rental Pool’)

035.01. Assignments of Stored Water – moved language from subsection 035.05 to beginning of this paragraph to improve clarity of rule. Struck language regarding storage assignment when not identified, since assigning sufficient space would include identifying the reservoir.

035.02. Assignment Forms – Struck as this is not used by the Committee or required by them

035.03. Term of Assignment – Struck since there is not a limitation, no need to state term

035.05. Space Assignment – Moved up to Assignments of Stored Water subsection 035.01

Rule 040 - Rental of Water From the Rental Pool

040.01. Rental Priorities ¹– Remaining sentence is a combination of the first and second sentence. Struck first sentence since language is Incorporated by Reference Article 7.3 (7.3.8); Moved portion of struck language to clarify remaining sentence with specificity to Fort Hall Indian Irrigation Project water users for notice as required under Article 7.3.8, above, since to meet the requirement under Article 7.3.8 for the right of first refusal by the water users of the Fort Hall Indian Irrigation Project, notice must first be given to the water users that Tribal stored water would be placed in the rental pool.

040.02. Rental Application – Added ‘...or as drafted rental agreement provided by the Reservation Watermaster...for consideration of approval’ to add current process of negotiated rentals with the council for committee consideration. Clarifies that approval is not automatic.

040.03. Content of (added Approved Rental) Agreements – and added ‘Approved’ for ‘Agreements’ within this subsection for clarity that these criteria only apply to Approved rentals, not drafted rentals.

¹ Comment 1 from the Tribes dated June 23, 2025, requests removal of this requirement because the “water user association” no longer exists. Neither the rule nor the Agreement include the term ‘association,’ but rather the water users of the Fort Hall Indian Irrigation Project are individuals. The water users are not specified as an organization or association in this rule or in the Agreement, since the non-Indian users of the Michaud diversion were not an organized group, except for a short period of time during the adjudication of the Tribal rights for what may have been only for the purposes of a unified protest of the storage right in Palisades (Article 7.3.1). There were an estimated 2,000 water users who exchanged their surface rights for a portion of what was included in the Palisades storage held in Trust for the Tribes, and the water users access to the exchanged water is delivered through the Michaud diversion (referred thereafter in Article 8 of the Michaud Contract), of which they also had a shared cost in the build of the infrastructure. See 1931 Federal Act – Ch 104, pg 1061, [U.S. Statutes at Large, Volume 46 \(1929-1931\), 71st Congress. | Library of Congress](#), 1954 Federal Act – Ch 1159, pg 1026, [STATUTE-68-Pg1026.pdf](#), and Michaud Contract, pg 76, [Water Rights Partial Final Consent Decree with the Shoshone-Bannock Tribe | August 2, 1995 | 39576 | idwr.idaho.gov](#)

Summary of Proposed Changes, IDAPA 37.02.04, Shoshone Bannock Water Bank Rules

040.03.e ²– Description of point of diversion and place of use – all water right approvals by the Department include the point of diversion and place of use, including when used for non-diversion approvals such as Mitigation. The place of use and/or point of diversion (non-diversion) should be described as the legal place of use and/or point of diversion for the water rights that are mitigated by the rental.

Rule 045 – Geographic Scope of Renting (Struck)

Language is Incorporated by Reference Article 7.3 (7.3.4)

Rule 050 – Rental Payments

050.02. Rather than notify the Committee when payment is made, the Tribes requested to only notify the Committee when payment has not been made for an approved rental from the Rental Pool.

Rule 055 – Term of Rentals

Additional reference to the specific paragraph in the Water Supply Bank Rules, IDAPA 37.02.03, for the five-year limitation on rentals, where any requests over five years will be subject to negotiations³ between the Tribes and the IWRB. Rentals from both the Board's bank and from regional rental pools are subject to approval from the IWRB if the request is over five years, and to provide public notice via advertisement pursuant to 42-222(1) and 42-203(A) for the Board's bank.

² Comment 2 from the Tribes dated June 23, 2025, requests an exception in the rule when describing the place of use and/or point of diversion for a mitigation by non-use rental. this language requiring identifying the place of use and point of diversion is also consistent with the required information for a transfer listed in the Agreement in Article 7.7.2, "The legal descriptions of the locations of any new or changed points of diversion including any points of diversion that will no longer be used, if applicable;"

³ Comment 3 from the Tribes dated June 23, 2025, requests the language requiring negotiations be modified to instead request the Committee provide notice to the IWRB for any rentals over five years prior to their approval.

From: [Brett Bovee](#)
To: [Condon, Mary](#)
Cc: [RulesInfo](#); [Gail Martin](#)
Subject: RE: Second Public Meeting - June 23, 2025 - Shoshone Bannock Water Bank Rules - IDAPA 37.02.04
Date: Tuesday, July 8, 2025 11:26:31 AM
Attachments: [image001.png](#)

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.

Hi Mary,

I am submitting the following comments on behalf of the Shoshone Bannock Tribes in response to the draft “strawman” Tribal Water Bank rules dated 6/18/2025 and provided on the following website

These comments are provided for: Tribal Water Supply Bank Rules. IDAPA 37.02.04

In general, the Tribes appreciate the time that IDWR has taken to revise and improve upon the past Tribal Water Supply Bank Rules and the current draft represents an improved rule set.

Comments:

1. **Section 040.01. Rental Priorities** – this section refers to a priority for Fort Hall water users to have a right of first refusal to any Tribal storage rentals as provided in the Agreement. This organization existed at the time of the Agreement but is no longer an active organization and therefore the Tribes do not really have an ability to notify this group as a right of first refusal. The existing language is fine but wanted to flag this in case there is additional language needed.
2. **Section 040.03. Content of Approved Rental Agreements.** Item (e) states “The legal description of the point of diversion and place of use”. This definition is likely to be challenging for some rental agreements that are providing water for mitigation purposes. Suggest revising this item to “A description of the intended use of the rented water” or something like that. Many of our existing water lease agreements do not define a specific POD / POU but they do describe the nature of use.
3. **Section 055. Term of Rentals.** The Agreement does not include any limitation on the term of Tribal storage rentals and the Tribes would like to have the ability to evaluate rental agreements longer than five years without having to receive specific approval from the Idaho Water Resources Board. The five year limitation on storage rentals is found in the Water Supply Bank Rules which are not directly referenced in the Agreement (but are referenced in 42-1762 as stated in the Agreement) and it appears that IDWR has adopted the 5-year limit as part of Rental Pool policies in relation to potential forfeiture stated in 42-222. The Tribal water rights, including the storage rights, are not subject to same forfeiture risks as other state water rights per the terms of the Agreement. The Tribe is willing to provide notification to IWRB of any lease that exceeds

a 5-year term but is formally requesting that the requirement for IWRB approval be removed from the Tribal Water Bank rules. Suggested change to text: "The Committee may rent tribal stored water for any period of time. Any request to rent water for a period in excess of five (5) years will require that the Tribes provide notice to the Idaho Water Resource Board 30 days prior to a rental application being submitted to the Committee for consideration."

Thank you for consideration. I believe that Gail plans to attend the IWRB meeting on July 24-25 in Idaho Falls to present these comments as well.

Please let Gail (copied) and me know if you have any questions or clarifications on the comments listed above.

Thanks,
Brett

Brett Bovee
WestWater Research
970-889-0469 | bovee@waterexchange.com

From: Condon, Mary <Mary.Condon@idwr.idaho.gov>

Sent: Tuesday, June 17, 2025 11:20 AM

To: Margaret Major <margaret.major@dfm.idaho.gov>; bob.igwa@gmail.com; watermaster29d@gmail.com; Kristin Evans <watermaster29h@gmail.com>; watermaster129@gmail.com; The American Falls Aberdeen GWD <americanfalls.aberdeen.gwd@gmail.com>; iwpg.ltominaga@gmail.com; gail.martin@sbtribes.com; Brett Bovee <bovee@waterexchange.com>; TJ Budge <tj@racineolson.com>; Michael Hilliard <mhilliard@usbr.gov>; EMcgarry@usbr.gov; ralcorn@usbr.gov; Chandler, Craig <Craig.Chandler@idwr.idaho.gov>; mvgwd@hotmail.com; nsgwd@safelink.net; Jaxon Higgs <jaxon@waterwellconsultants.com>; wparsons@magicvalley.law

Subject: Second Public Meeting - June 23, 2025 - Shoshone Bannock Water Bank Rules - IDAPA 37.02.04

Good morning,

We will be hosting a public meeting for a second revision to the strawman rule for the Shoshone Bannock Water Bank on Monday, June 23, 2025, at 3:00 pm (MT). I have attached the agenda, which includes the MS Teams meeting link information. In-person participation will be in the IDWR State Office in Boise. We will make every attempt to have the second revision of the Strawman on our [IDWR Rulemaking 2025/2026 webpage](#) no later than noon on Thursday, June 19th.

Please let me know if you are planning on attending next Monday NLT Friday, June 20,

2025, and if your attendance will be in-person or virtual.

Thank you,
Mary

Mary Condon
Project Manager I
Planning & Projects Bureau



322 E Front St
Boise Idaho 83702
(208) 287-4800
Direct: (208) 287-4936
bank@idwr.idaho.gov

EXTERNAL SENDER: Validate links/attachments before clicking.

37.02.04 – SHOSHONE-BANNOCK ~~TRIBAL~~ WATER ~~SUPPLY~~ BANK RULES

000. LEGAL AUTHORITY ~~(RULE 0)~~.

~~These rules have been adopted pursuant to Sections 42-17621 to 42-1765, Idaho Code, Idaho Water Resources Board Water Supply Bank Rule 40 and Article 18.1.3 of “The 1990 Fort Hall Indian Water Rights Agreement” (Agreement)(as defined in Subsection 010.01) to assure orderly operation of the Shoshone-Bannock Tribal Water Supply Bank. (3-31-22)()~~

001. TITLE AND SCOPE ~~(RULE 1)~~.

~~01. Purpose. The purpose of establishing this Shoshone-Bannock Water Supply Bank is to provide for rental of tribal stored water outside the reservation for any beneficial use all or any part of the water accruing to the federal contract storage rights in the American Falls Reservoir and the Palisades Reservoir as described in Article 7.3.1 of the Agreement not used on Indian lands or otherwise required to fulfill the exchange established by Article 8 of the Michaud Contract pursuant to Sections 42-1761 through 42-1766, Idaho Code, and operated consistent with IDAPA 37.02.03.040-. and Article 7.3 of the Agreement. (3-31-22)()~~

~~02. Intent. These rules are not intended to prohibit the Tribes from renting the storage contract water from Palisades and American Fall Reservoirs for any beneficial use within the exterior boundaries of the Reservation. (3-31-22)~~

~~03. Agreement. The Idaho Water Resources Board or its successors, pursuant to Section 7.3.6 of the Agreement, agrees not to take any action that will interfere with the nature, scope, spirit and purposes of the Shoshone-Bannock Water Supply Bank. (3-31-22)~~

002. INCORPORATION BY REFERENCE.

This chapter incorporates by reference Articles 4.1, 4.8, 4.19, 4.22, 4.23, 4.43, 4.44, 4.47, 4.49, 4.55, 7.3, and 18.1 of “The 1990 Fort Hall Indian Water Rights Agreement” (<https://idwr.idaho.gov/wp-content/uploads/sites/2/adjudication/1990-Fort-Hall-Indian-Water-Rights-Agreement.pdf>). ()

003. -- 009. (RESERVED)

010. DEFINITIONS ~~(RULE 10)~~.

In addition to the definitions set forth below, the definitions in “~~The 1990 Fort Hall Indian Water Rights Agreement~~”~~the Agreement~~ are incorporated to the extent they are applicable. (3-31-22)()

~~01. Acre Foot. The amount of water necessary to cover one (1) acre of land to a depth of one (1) foot and is equivalent to forty three thousand five hundred sixty (43,560) cubic feet or three hundred twenty five thousand eight hundred fifty one (325,851) gallons of water. (3-31-22)~~

~~0201. Agreement. “The 1990 Fort Hall Indian Water Rights Agreement” as ratified by the Shoshone-Bannock Tribes in June, 1991, and as approved by the United States in Public Law 101-602, 104 Stat. 3061 on November 16, 1990, and by the state of Idaho in 1991 Idaho Session Laws Chapter 228 at 547. (3-31-22)()~~

~~03. Annual. The period starting on the day following the first Monday in March of each year and ending on the first Monday of March of the succeeding year. (3-31-22)~~

~~04. Bank. The “Shoshone-Bannock Tribal Water Supply Bank.” (3-31-22)~~

~~05. Beneficial Use. Any use of water for DCMI, irrigation, hydropower generation, recreation, stock watering, fish propagation and instream flow uses as well as any other uses that provide a benefit to the user of the~~

~~water. (3-31-22)~~

~~06. Bureau. The United States Department of Interior Bureau of Reclamation. (3-31-22)~~

~~0702. Chairperson. The person selected by the Tribal Rental Pool Committee to be the head of the Committee. (3-31-22)~~

~~0803. Committee. The Tribal Rental Pool Committee. (3-31-22)~~

~~0904. Council. The Fort Hall Business Council. (3-31-22)~~

~~10. IDWR. The Idaho Department of Water Resources an executive agency of the state of Idaho created by Section 42-1701, Idaho Code, or any successor agency. (3-31-22)~~

~~11. IWRB. The Idaho Water Resource Board an agency constituted in accordance with Idaho Const. art. XV, Section 7, or any successor agency. (3-31-22)~~

~~12. Rent. A temporary legal conveyance by the Tribes of the right to use storage water pursuant to Section 42-1761, Idaho Code, for a fixed period of time during which ownership of the federal contract storage right is retained for the benefit of the Tribes. (3-31-22)~~

~~1305. Rental Pool. The Tribal stored water assigned to and rented from the Bank. (3-31-22)()~~

~~1406. Renter. The person or entity renting water from the Rental Pool. (3-31-22)()~~

~~15. Reservation. The Fort Hall Indian Reservation. (3-31-22)~~

~~16. Reservation Watermaster. The Tribal Water Engineer or any successor designated by the Tribes to administer the Tribal water rights under the Tribal Water Code. (3-31-22)~~

~~17. Snake River Watermaster. The watermaster of Water District 01 or any successor. (3-31-22)~~

~~1807. Tribal Stored Water. The storage water accruing to the federal contract storage space identified in Article 7.3.1 of the Agreement. (3-31-22)~~

~~19. Tribal Water Engineer. The Tribal officer or any successor designated to administer the Tribal Water Code. (3-31-22)~~

~~20. Tribes. The Shoshone-Bannock Tribes. (3-31-22)~~

011. -- 024. (RESERVED)

025. GENERAL (RULE 25).

~~01. Priority of Use. Before stored water is assigned to the rental pool, Tribal stored water shall be maintained and made available for Tribal uses as determined by the Council and to meet the commitment of the Tribes under Article 8 of the Michaud Contract. The water is to be rented for beneficial use and may be rented outside the Reservation subject to the provisions of Rule 45 of these Water Supply Bank Rules. (3-31-22)~~

~~02. Bank Operation. The operation of the Bank shall be consistent with the Agreement. The Bank shall be for the exclusive purpose of rental of Tribal stored water. (3-31-22)~~

~~03. Authority of Bank. The Shoshone-Bannock Water Supply Bank is created pursuant to the provisions of the following Sections 42-1761, 42-1762, 42-1763, 42-1764, and 42-1765, Idaho Code. (3-31-22)~~

~~04. Incorporation of Articles. These rules incorporate by reference the provisions set forth in Article~~

~~7.3.5, 7.3.10 and 7.3.11 of the Agreement.~~ (3-31-22)

~~0501.~~ **Consistency.** The operation of the Bank ~~shall~~will be consistent with provisions of the Tribes' spaceholder contracts with the United States. (3-31-22)()

~~0602.~~ **Storage Water.** Tribal stored water rented from the ~~Rental p~~Pool ~~shall~~will be deemed storage water of the renter during the term of the approved rental. (3-31-22)()

~~0703.~~ **Evaporation Losses.** Evaporation losses associated with any Tribal stored water assigned to the ~~Bank-Rental Pool~~ ~~shall~~will be charged to storage space from which the water is released. (3-31-22)()

026. -- 029. (RESERVED)

030. MANAGEMENT ~~(RULE 30).~~

01. **Bank Operation.** The Bank ~~shall~~will be operated by the ~~Tribal Rental Pool~~ Committee in conformity with these rules and the Agreement. (3-31-22)()

~~02.~~ ~~**Committee Composition.** The Tribal Rental Pool Committee shall be composed of the following members: the Bureau Snake River Area Manager, the Snake River Watermaster, the Tribal Reservation Watermaster and three (3) individuals designated by the Council. The composition of this Committee shall only be changed as provided in the Agreement.~~ (3-31-22)

~~0302.~~ **Chairperson Selection.** The Committee ~~shall~~will select its own Chairperson from the Committee as determined by a majority vote of the Committee. Each term of the Chairperson of the Committee ~~shall~~will not exceed four (4) years; however, nothing precludes the same person from being re-elected as Chairperson by the members for more than one (1) term. (3-31-22)()

~~0403.~~ **Committee Responsibilities.** The ~~Tribal Rental Pool~~ Committee shall have the following responsibilities: (3-31-22)()

a. The Committee ~~shall~~will ensure that the Bank is operated in compliance with these rules and the Agreement and ~~shall~~can establish such other policies for the operation of the Bank as are consistent with these rules and the Agreement. (3-31-22)()

b. The Committee ~~shall~~will advise the ~~Fort Hall Business Council~~ Council on water banking activities upon request. (3-31-22)()

~~0504.~~ **Chairperson Duties.** The Chairperson ~~shall~~will be responsible for such duties as are delegated by the Committee. (3-31-22)()

031. -- 034. (RESERVED)

035. ASSIGNMENTS OF TRIBAL STORED WATER TO THE ~~BANK-RENTAL POOL~~ ~~(RULE 35).~~

01. **Assignments of Stored Water.** Whenever Tribal stored water is made available for rental, it will be deemed that it is the intention of the Tribes to assign sufficient space to yield the amount of water designated. Assignments of Tribal stored water to the ~~Bank-Rental Pool~~ should identify the reservoir from which the assignment is being made to the Committee. ~~If no reservoir is identified, the Tribal stored water shall be deemed to come first from the Palisades Reservoir and secondly from American Falls Reservoir.~~ (3-31-22)()

~~02. Assignment Forms. Assignments of Tribal stored water to the Bank shall be in writing on forms provided by the Committee and shall bear the date received by the Chairperson. Copies of all assignments shall be provided to all the Committee members and a copy shall be provided to the Council. (3-31-22)~~

~~03. Term of Assignment. Assignments of Tribal stored water may be made for any period of time. (3-31-22)~~

0402. Control of Assigned Water. All Tribal stored water assigned to the ~~Bank~~ Rental Pool by the Council ~~shall will~~ be under the control of the Committee for the duration of the term of the assignment to be rented in accordance with these rules and the terms of the assignment. (3-31-22)()

~~05. Space Assignment. Whenever Tribal stored water is made available for rental, it shall be deemed that it is the intention of the Tribes to assign sufficient space to yield the amount of water designated. (3-31-22)~~

~~0603. Return of Unrented Water.~~ Any Tribal stored water assigned to the ~~Rental~~ Pool that is not rented ~~shall will~~ be returned to the credit of the Tribes. (3-31-22)

036. -- 039. (RESERVED)

040. RENTAL OF WATER FROM THE RENTAL POOL (RULE 40).

01. Rental Priorities. ~~Tribal stored water assigned to the Bank shall be made available for rental in accordance with the priorities established by the Committee, provided that the Fort Hall Indian Irrigation Project water users shall have a right of first refusal to rent any tribal stored water assigned to the rental pool. Notice to the Fort Hall Indian Irrigation Project water users shall of Tribal stored water assigned to the Rental Pool available for rental will~~ be given in accordance with procedures established by agreement of the Tribes and the Fort Hall Indian Irrigation Project water users. (3-31-22)()

02. Rental Application. A request to rent water ~~shall will~~ be in writing on a form provided by the Committee, or as a drafted rental agreement provided by the Reservation Watermaster. A copy of the request ~~shall will~~ be provided to each member of the Committee for consideration of approval and forwarded to the Council. (3-31-22)()

03. Content of Approved Rental Agreements. All approved rental agreements ~~shall will~~ contain the following information: (3-31-22)()

- a. Name and address of the renter, (3-31-22)
- b. Amount of tribal stored water obligated, (3-31-22)
- c. The beneficial use, (3-31-22)
- d. The rental price, (3-31-22)
- e. The legal description of the point of diversion and place of use, (3-31-22)
- f. The duration of the approved rental agreement, (3-31-22)
- g. The understanding of responsibilities and exposures if reservoir space does not fill at some time during the term of the approved rental agreement. (3-31-22)
- h. The understanding that transportation losses occurring between the reservoir and the place of use ~~shall will~~ be deducted from water delivered under the approved rental agreement. (3-31-22)()

041. -- 044. (RESERVED)

045. GEOGRAPHIC SCOPE OF RENTING (RULE 45).

~~01. PALISADES STORAGE. TRIBAL STORED WATER FROM THE PALISADES RESERVOIR MAY BE RENTED FOR USE WITHIN THE SNAKE RIVER BASIN ABOVE MILNER DAM. (3-31-22)~~

~~02. AMERICAN FALLS STORAGE. TRIBAL STORED WATER FROM THE AMERICAN FALLS RESERVOIR MAY BE RENTED FOR USE WITHIN THE SNAKE RIVER BASIN WITHIN THE STATE OF IDAHO. (3-31-22)~~

046. -- 049. (RESERVED)

050. RENTAL PAYMENTS (RULE 50).

01. **Rental Price.** The price for rental Tribal stored water from the bank ~~shall~~ will be set by the Council. (3-31-22)()

02. **Management of Rental Income.** Rental payments ~~shall~~ will be made directly to the Council. The Council ~~shall~~ will be responsible for the management of the rental income. ~~The Council shall give written notice to the Committee that payment was properly received and that water may be released under the rental agreement. If payments are made over time, and~~ payment is not received by the Council, the Council ~~shall~~ will promptly notify the Committee to hold back ~~on the~~ release of the water until payment is properly received. (3-31-22)()

051. -- 054. (RESERVED)

055. TERM OF RENTALS (RULE 55).

The Committee may rent tribal stored water for a period of up to five (5) years. Any request to rent water for a period in excess of five (5) years ~~shall~~ will be subject to negotiations between the Tribes and the ~~IWRB~~ Idaho Water Resource Board consistent with IDAPA 37.02.03.040.01.g. (3-31-22)()

056. -- 059. (RESERVED)

060. LIABILITY (RULE 60).

Nothing in these rules ~~shall~~ will be construed as modifying or altering any provisions of the Agreement, including but not limited to Article 7.3.12. (3-31-22)()

061. -- 999. (RESERVED)