

37.02.04 – SHOSHONE-BANNOCK WATER BANK RULES

000. LEGAL AUTHORITY.

These rules have been adopted pursuant to [Section 42-1762, Idaho Code](#) and Article 18.1.3 of “The 1990 Fort Hall Indian Water Rights Agreement” (as defined in Subsection 010.01). ()

001. SCOPE.

These rules set the procedures for the Shoshone-Bannock Water Bank to provide for rental of tribal stored water outside the reservation 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. ()

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, 4.55, 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.

In addition to the definitions set forth below, the definitions in the Agreement are incorporated to the extent they are applicable. ()

01. 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. ()

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

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

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

05. Rental Pool. The Tribal stored water assigned to and rented from the Bank. ()

06. Renter. The person or entity renting water from the rental pool. ()

07. 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)

011. -- 024. (RESERVED)

025. GENERAL.

01. Consistency. The operation of the Bank will be consistent with provisions of the Tribes’ spaceholder contracts with the United States. ()

02. Storage Water. Tribal stored water rented from the rental pool will be deemed storage water of the renter during the term of the approved rental. ()

03. Evaporation Losses. Evaporation losses associated with any Tribal stored water assigned to the rental pool will be charged to storage space from which the water is released. ()

026. -- 029. (RESERVED)

030. MANAGEMENT.

01. Bank Operation. The Bank is to be operated by the Committee in conformity with these rules and the Agreement. ()

02. Chairperson Selection. The Committee 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 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. ()

03. Committee Responsibilities. The Committee will have the following responsibilities: ()

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

b. The Committee will advise the Council on water banking activities upon request. ()

05. Chairperson Duties. The Chairperson will be responsible for such duties as are delegated by the Committee. ()

031. -- 034. (RESERVED)

035. ASSIGNMENTS OF TRIBAL STORED WATER TO THE RENTAL POOL.

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 Rental Pool should identify the reservoir from which the assignment is being made to the Committee. ()

02. Control of Assigned Water. All Tribal stored water assigned to the Rental Pool by the Council shall 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. ()

03. Return of Unrented Water. Any Tribal stored water assigned to the rental pool that is not rented will be returned to the credit of the Tribes. (3-31-22)

036. -- 039. (RESERVED)

040. RENTAL OF WATER FROM THE RENTAL POOL.

01. Rental Priorities. Notice to the Fort Hall Indian Irrigation Project water users 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. ()

02. Rental Application. A request to rent water shall 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 will be provided to each member of the Committee for consideration of approval and forwarded to the Council. ()

03. Content of Approved Rental Agreements. All approved rental agreements shall contain the following information: ()

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 will be deducted from water delivered under the approved rental agreement. ()

041. -- 049. (RESERVED)

050. RENTAL PAYMENTS.

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

02. Management of Rental Income. Rental payments will be made directly to the Council. The Council will be responsible for the management of the rental income. If payment is not received by the Council, the Council will promptly notify the Committee to hold back the release of the water until payment is properly received. ()

051. -- 054. (RESERVED)

055. TERM OF RENTALS.

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 will be subject to negotiations between the Tribes and the Idaho Water Resource Board consistent with [IDAPA 37.02.03.040.01.g](#). ()

056. -- 059. (RESERVED)

060. LIABILITY.

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

061. -- 999. (RESERVED)