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IDAPA 37
TITLE 02
CHAPTER 04

37.02.04 - SHOSHONE-BANNOCK TRIBAL WATER SUPPLY BANK RULES

000. LEGAL AUTHORITY (RULE 0).
These rules have been adopted pursuant to Sections 42-1761 to 42-1765, Idaho Code, Idaho Water Resources Board Water Supply Bank Rule 40 and The 1990 Fort Hall Indian Water Rights Agreement (Agreement) to assure orderly operation of the Shoshone-Bannock Tribal Water Supply Bank. (7-8-94)

001. TITLE AND SCOPE (RULE 1).

01. Purpose. The purpose of establishing this Shoshone-Bannock Water Supply Bank is to allow for rental 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. (7-8-94)

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. (7-8-94)

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. (7-8-94)

002. -- 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" are incorporated to the extent they are applicable. (7-8-94)

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. (7-8-94)

02. 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. (7-8-94)

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. (7-8-94)

04. Bank. The "Shoshone-Bannock Tribal Water Supply Bank." (7-8-94)

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. (7-8-94)

06. Bureau. The United States Department of Interior Bureau of Reclamation. (7-8-94)

07. Chairperson. The person selected by the Tribal Rental Pool Committee to be the head of the Committee. (7-8-94)

08. Committee. The Tribal Rental Pool Committee. (7-8-94)

09. Council. The Fort Hall Business Council. (7-8-94)

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. (7-8-94)

11. **IWRB**. The Idaho Water Resource Board an agency constituted in accordance with Idaho Const. art. XV, Section 7, or any successor agency. (7-8-94)

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. (7-8-94)

13. **Rental Pool**. The Tribal stored water assigned to the Bank. (7-8-94)

14. **Renter**. The person renting water from the rental pool. (7-8-94)

15. **Reservation**. The Fort Hall Indian Reservation. (7-8-94)

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. (7-8-94)

17. **Snake River Watermaster**. The watermaster of Water District 01 or any successor. (7-8-94)

18. **Tribal Stored Water**. The storage water accruing to the federal contract storage space identified in Article 7.3.1 of the Agreement. (7-8-94)

19. **Tribal Water Engineer**. The Tribal officer or any successor designated to administer the Tribal Water Code. (7-8-94)

20. **Tribes**. The Shoshone-Bannock Tribes. (7-8-94)

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. (7-8-94)

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. (7-8-94)

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. (7-8-94)

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. (7-8-94)

05. **Consistency**. The operation of the Bank shall be consistent with provisions of the Tribes' spaceholder contracts with the United States. (7-8-94)

06. **Storage Water**. Tribal stored water rented from the pool shall be deemed storage water of the renter. (7-8-94)

07. **Evaporation Losses**. Evaporation losses associated with any Tribal stored water assigned to the Bank shall be charged to storage space from which the water is released. (7-8-94)

026. -- 029. **(RESERVED)**

030. MANAGEMENT (RULE 30).

01. Bank Operation. The Bank shall be operated by the Tribal Rental Pool Committee in conformity with these rules and the Agreement. (7-8-94)

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. (7-8-94)

03. Chairperson Selection. The Committee shall 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 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. (7-8-94)

04. Committee Responsibilities. The Tribal Rental Pool Committee shall have the following responsibilities: (7-8-94)

a. The Committee shall ensure that the Bank is operated in compliance with these rules and the Agreement and shall establish such other polices for the operation of the Bank as are consistent with these rules and the Agreement. (7-8-94)

b. The Committee shall advise the Fort Hall Business Council on water banking activities upon request. (7-8-94)

05. Chairperson Duties. The Chairperson shall be responsible for such duties as are delegated by the Committee. (7-8-94)

031. -- 034. (RESERVED)

035. ASSIGNMENTS OF TRIBAL STORED WATER TO THE BANK (RULE 35).

01. Assignments of Stored Water. Assignments of Tribal stored water to the Bank should identify the reservoir from which the assignment is being made. 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. (7-8-94)

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. (7-8-94)

03. Term of Assignment. Assignments of Tribal stored water may be made for any period of time. (7-8-94)

04. Control of Assigned Water. All Tribal stored water assigned to the Bank 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. (7-8-94)

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. (7-8-94)

06. Return of Unrented Water. Any Tribal stored water assigned to the rental pool that is not rented shall be returned to the credit of the Tribes. (7-8-94)

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 shall be given in accordance with procedures established by agreement of the Tribes and the Fort Hall Indian Irrigation Project water users. (7-8-94)

02. Rental Application. A request to rent water shall be in writing on a form provided by the Committee. A copy of the request shall be provided to each member of the Committee and forwarded to the Council. (7-8-94)

03. Content of Agreements. All rental agreements shall contain the following information: (7-8-94)

a. Name and address of the renter, (7-8-94)

b. Amount of tribal stored water obligated, (7-8-94)

c. The beneficial use, (7-8-94)

d. The rental price, (7-8-94)

e. The legal description of the point of diversion and place of use, (7-8-94)

f. The duration of the rental agreement, (7-8-94)

g. The understanding of responsibilities and exposures if reservoir space does not fill at some time during the term of the rental agreement. (7-8-94)

h. The understanding that transportation losses occurring between the reservoir and the place of use shall be deducted from water delivered under the rental agreement. (7-8-94)

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. (7-8-94)

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. (7-8-94)

046. -- 049. (RESERVED)

050. RENTAL PAYMENTS (RULE 50).

01. Rental Price. The price for rental Tribal stored water from the bank shall be set by the Council. (7-8-94)

02. Management of Rental Income. Rental payments shall be made directly to the Council. The Council shall 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 promptly notify the Committee to hold back on release of the water until payment is properly received. (7-8-94)

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 be subject to negotiations between the Tribes and the IWRB. (7-8-94)

056. -- 059. (RESERVED)

060. LIABILITY (RULE 60).
Nothing in these rules shall be construed as modifying or altering any provisions of the Agreement, including but not limited to Article 7.3.12. (7-8-94)

061. -- 999. (RESERVED)

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