STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1335

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

LESSOR: EGIN BENCH CANALS INC
PO BOX 15
ST ANTHONY, ID 83445

SUPPORT DATA
IN FILE # 21-1289-1

RECEIVED
APR 22 2021
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 October 19, 2020.

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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1335

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)	Acres (AC)	Diversion Volume (AF)
21-12897	4/25/1885	HENRYS FORK, tributary to SNAKE RIVER	14.7	448	Not Stated
21-12912	4/1/1939	HENRYS FORK, tributary to SNAKE RIVER	1.69	448	Not Stated
21-12934	3/1/1890	HENRYS FORK, tributary to SNAKE RIVER	14.7	448	Not Stated
		Total Annual Combined Limit	**31.1**	**448**	**Not Stated**
21-12908	4/1/1939	HENRYS FORK, tributary to SNAKE RIVER	1.76	1073	Not Stated
21-12921	7/29/1892	HENRYS FORK, tributary to SNAKE RIVER	7.35	1073	Not Stated
21-12922	6/21/1888	HENRYS FORK, tributary to SNAKE RIVER	44.1	1073	Not Stated
		Total Annual Combined Limit	**53.22**	**1073**	**Not Stated**
21-12910	4/1/1939	HENRYS FORK, tributary to SNAKE RIVER	2.57	534	Not Stated
21-12928	6/14/1895	HENRYS FORK, tributary to SNAKE RIVER	29.4	534	Not Stated
		Total Annual Combined Limit	**31.9**	**534**	**Not Stated**
21-12961	2/9/1897	HENRYS FORK, tributary to SNAKE RIVER	16.2	271	Not Stated
21-12962	2/9/1897	HENRYS FORK, tributary to SNAKE RIVER	8.81	271	Not Stated
		Total Annual Combined Limit	**16.2**	**271**	**Not Stated**
Combined Limit Totals			**132**	**2,326**	**Not Stated**

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1335

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)
21-12897	14.7	1,570	448	0.03	3.5
21-12922	44.1	3,760	1073	0.04	3.5
21-12934	14.7	1,570	448	0.03	3.5
21-12921	7.35	3,760	1073	0.01	3.5
21-12928	29.4	1,870	534	0.06	3.5
21-12961	16.2	949	271	0.06	3.5
21-12962	8.81	949	271	0.03	3.5
21-12912	1.69	1,570	448	0.01	3.5
21-12908	1.76	3,760	1073	0.01	3.5
21-12910	2.57	1,870	534	0.01	3.5
Combined Limit Totals	**132**	**8,140**	**2,326**	**0.06**	**3.5**

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

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, 2021 to December 31, 2025. 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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1335

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

LESSOR: EGIN BENCH CANALS INC
PO BOX 15
ST ANTHONY, ID 83445

By _____
Title Secretary
Date 4-20-21

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

By _____ Date 4/23/21
Brian Patton, Acting Administrator
Idaho Water Resource Board

Lease approved by IDWR _____ Date 4/23/21

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1335

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): 21-12897, 21-12934, 21-12912

HENRYS FORK	L 8SENE	Sec. 1	Twp 07N	Rge 40E	FREMONT County

Source and Location of Point(s) of Diversion for Water Right No(s): 21-12922, 21-12921, 21-12908

HENRYS FORK	L 6SENW	Sec. 1	Twp 07N	Rge 40E	FREMONT County
HENRYS FORK	L 7NENW	Sec. 33	Twp 08N	Rge 41E	FREMONT County

Source and Location of Point(s) of Diversion for Water Right No(s): 21-12928, 21-12910

HENRYS FORK	L 6NESE	Sec. 2	Twp 07N	Rge 40E	FREMONT County

Source and Location of Point(s) of Diversion for Water Right No(s): 21-12961, 21-12962

HENRYS FORK	L 4NWSE	Sec. 14	Twp 08N	Rge 41E	FREMONT County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
21-12897	IRRIGATION	04/01	to	10/31	14.7 cfs	1,570 AF
21-12934	IRRIGATION	04/01	to	10/31	14.7 cfs	1,570 AF
21-12912	IRRIGATION	04/01	to	10/31	1.69 cfs	1,570 AF
21-12922	IRRIGATION	04/01	to	10/31	44.1 cfs	3,760 AF
21-12921	IRRIGATION	04/01	to	10/31	7.35 cfs	3,760 AF
21-12908	IRRIGATION	04/01	to	10/31	1.76 cfs	3,760 AF
21-12928	IRRIGATION	04/01	to	10/31	29.4 cfs	1,870AF
21-12910	IRRIGATION	04/01	to	10/31	2.57 cfs	1,870 AF
21-12961	IRRIGATION	04/01	to	07/01	16.2 cfs	949 AF
21-12962	IRRIGATION	07/02	to	10/31	8.81 cfs	949 AF
Totals:					132 cfs	8,140 AF

PLACES OF USE TO BE IDLED UNDER THIS LEASE:

IRRIGATION; Large POU Not Displayed, See attached Map

Total Acres: 2,326

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.

WATER SUPPLY BANK LEASE CONTRACT No. 1335

3. While a right is in the bank, the lessor may not use the right without approval of the Department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, or the lease term expires. A right may be released from the bank upon request, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.
5. While a water right is in the bank, forfeiture provisions are stayed pursuant to Idaho Code § 42-223(5).
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.
9. In accordance with Idaho Code § 42-248 and § 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
    a. Rental payments will go to the lessor(s) of record at the beginning of the rental season, even if the Department processes a Notice of Change in Water Right Ownership during the rental season.
    b. New lessor(s) of record will receive payment for any subsequent rental seasons.
11. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.
12. Unleased portions of rights 21-12897, 21-12912 and 21-12934 are limited to irrigation of a combined total of 5,654.6 acres in a single irrigation season.
13. Unleased portions of rights 21-12908, 21-12921 and 21-12922 are limited to irrigation of a combined total of 13,523.7 acres in a single irrigation season.
14. Unleased portions of rights 21-12928 and 21-12910 are limited to irrigation of a combined total of 6,737.8 acres in a single irrigation season.
15. Unleased portions of rights 21-12961 and 21-12962 are limited to irrigation of a combined total of 3,424.9 acres and a combined diversion rate of 203 cfs in a single irrigation season.
16. Unleased portions of rights 21-12897, 21-12912, 21-12934, 21-12908, 21-12921, 21-12922, 21-12910, 21-12928, 21-12961, and 21-12962 are limited to the irrigation of a combined total of 27,776.2 acres.
17. The unleased portion of water right 21-12922 is limited to a maximum diversion rate of 556 cfs from 4/1 – 7/1, and from 7/17 – 7/31, and a maximum diversion rate of 456 cfs from 7/2 -7/16, and from 8/1 – 10/31

WATER SUPPLY BANK LEASE CONTRACT No. 1335

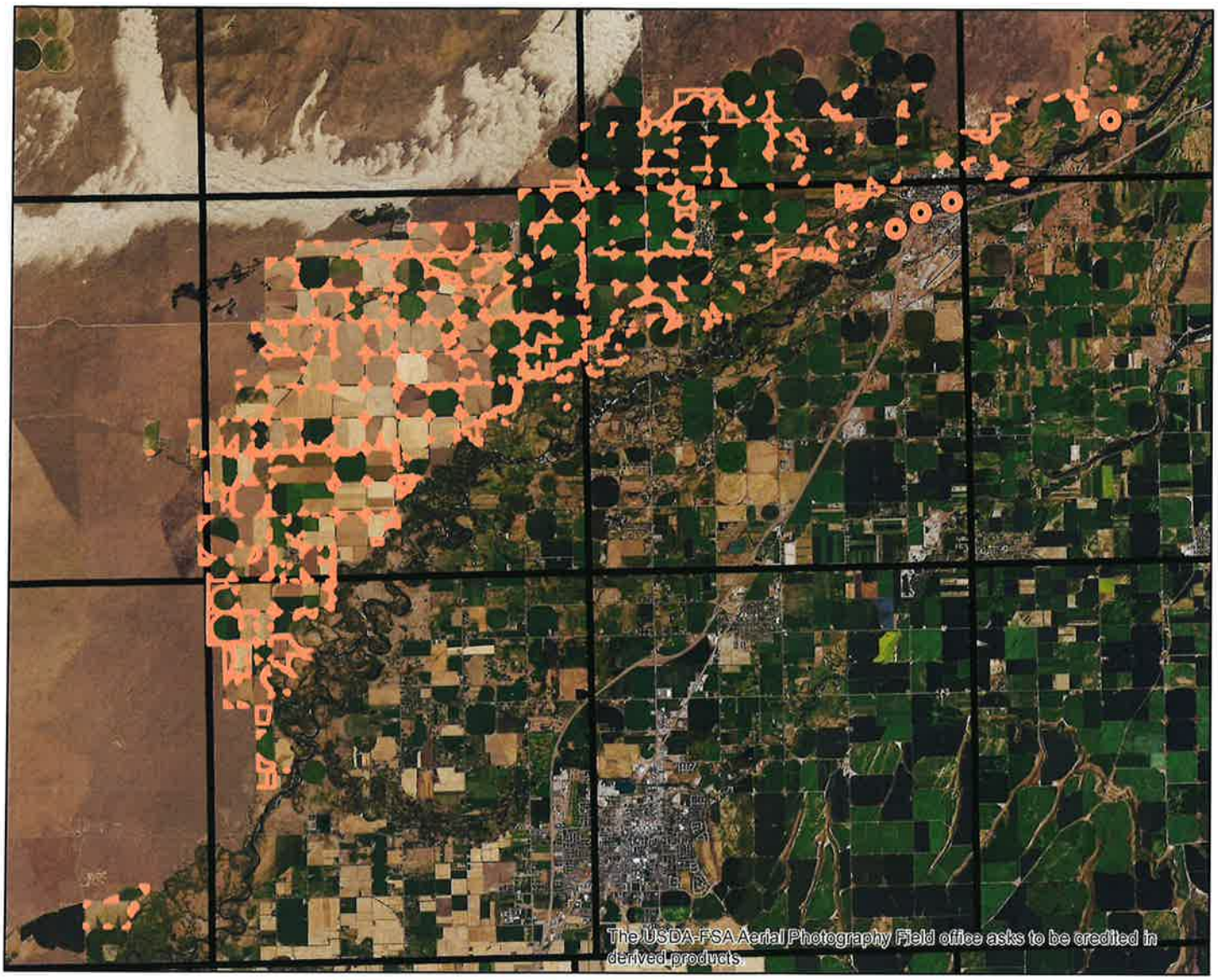
18. The unleased portion of water right 21-12928 is limited to a maximum diversion rate of 371 cfs from 4/1 – 7/1, and from 7/17 – 7/31, and a maximum diversion rate of 331 cfs from 7/2 -7/16, and from 8/1 – 10/31
19. The unleased portion of water right 21-12934 is limited to a maximum diversion rate of 185 cfs from 4/1 – 7/1, and from 7/17 – 8/1, and a maximum diversion rate of 85.3 cfs from 7/2 -7/16, and from 8/2 – 10/31
20. Water is delivered through the Egin Canal for water rights 21-12897, 21-12912 and 21-12934.
21. Water is delivered through the St Anthony Union Canal and St. Anthony Union Feeder for water rights 21-12908, 21-12921 and 21-12922.
22. Water is delivered through the Independent Canal for water rights 21-12910 and 21-12928.
23. Water is delivered through the Last Chance Canal for water rights 21-12961 and 21-12962.
24. The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

Idaho Water Resource Board

Water Supply Bank Lease Contract No. 1335

21-12897, 21-12908, 21-12910, 21-12912, 21-12921, 21-12922, 21-12928, 21-12934, 21-12961 & 21-12962
Effective until December 31, 2025

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.



N

Approved Lease Point of Diversion

Approved Lease Place of Use

Township/Range

0 5 10 Miles

Form 42-1761-1 10/15

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED
OCT 19 2020
DEPARTMENT OF WATER RESOURCES

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

Designated Applicant Egin Bench Canals, Inc.
(Select one owner – see item 1A on the application)

Water Right No. 21-12897
(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. Same as original Shapefile
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 $ 500	Received By: KM	Date Received: 10.19.2020	Receipt # C109380
W-9 received? Yes ☐ No ☑	(Route W-9 to Fiscal)	Name on W-9:	

1788

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 Egin Bench Canals, Inc.

Mailing Address PO BOX 15 St. Anthony Idaho 83445
Street City State Zip Code

Email Address aaron.fmid@myidahomail.com Phone Number 208-624-3381

☑ 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 Aaron Dalling Organization Egin Bench Canals, Inc.

Professional Title Secretary Email Address aaron.fmid@myidahomail.com

Mailing Address PO BOX 15 St. Anthony, Idaho 83445 Phone Number 208-624-3381

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

OR

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

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

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

OR

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

3. MAP

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

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

4. GENERAL INFORMATION

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

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

B. Please provide a description of the current water diversion and delivery system.
The water is diverted from the Henry's Fork River into an earthen canal and used to irrigate lands near St. Anthony, Parker, Egin and Plano, Idaho.

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. 21-12934, 21-12912

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. These overlapping irrigation rights will not be used to irrigate the acres identified as being dried up. The dried up acres on this application are not and will not be irrigated under any circumstances.

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. The average 5 yr diversion for the Egin Canal is 86,442 acre feet per year.

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? Yes ☐ No ☑
If yes, describe.

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: 2021 (Year) to 2025 (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.

There is not a minimum payment as we will be leasing the water back.

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	Mike Rasmussen, President Printed Name	10-13-20 Date
Signature of Authorized Representative	Aaron Dalling, Secretary Printed Name	10-13-20 Date

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

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)
21-12897	Irrigation	16.38	786.7	224.8
	Total Amounts:			

2. Source of water Henrys Fork tributary to Snake River

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
7N	40E	1	8	SE	NE		Fremont County

State of Idaho
DEPARTMENT OF WATER RESOURCES
322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098
Phone: (208) 287-4800 • Fax: (208) 287-6700
Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

April 23, 2021

EGIN BENCH CANALS INC
PO BOX 15
ST ANTHONY, ID 83445

RE: WATER SUPPLY BANK LEASE CONTRACTS 1335
FOR WATER RIGHTS 21-12897, 21-12912, 21-12934, 21-12908, 21-12921, 21-12922, 21-12910, 21-12928, 21-12961 & 21-12962

Dear Lessor:

Water right **21-12897, 21-12912, 21-12934, 21-12908, 21-12921, 21-12922, 21-12910, 21-12928, 21-12961 & 21-12962** were leased into the Water Supply Bank (Bank) as of January 1, 2021, 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 rights will automatically be released from the Bank on **December 31, 2025,** 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,

Amanda Johnson-Veibell

for
Water Supply Bank

Enclosure: Executed Lease Contract

c: IDWR- Eastern Region
Water District 02

State of Idaho
DEPARTMENT OF WATER RESOURCES
322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098
Phone: (208) 287-4800 • Fax: (208) 287-6700
Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

April 13, 2021

EGIN BENCH CANALS INC
PO BOX 15
ST ANTHONY, ID 83445

RE: APPLICATION TO LEASE WATER RIGHTS 21-12897, 21-12912, 21-12934, 21-12908, 21-12921, 21-12922, 21-12910, 21-12928, 21-12961 & 21-12962 TO THE WATER SUPPLY BANK CONTRACT 1335

******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, 2025,** 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 <u>not</u> 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,

Amanda Johnson-Veibell

for
Water Supply Bank

Enclosures: Proposed Lease Contracts
Receipt: C109380

MEMORANDUM FOR APPLICATION # 1788

To: Water Right(s) 21-12897, 21-12908, 21-12910, 21-12912, 21-12921, 21-12922, 21-12928, 21-12934, 21-12961, & 21-12962
Associated water rights: 21-7173

From: **Scott Storms**

Date: **November 5, 2020**

Re: Review & Analysis of Application to Lease Water to the State Water Supply Bank

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PURPOSE/NARRATIVE: The Department of Water Resources ("Department") received 10 applications to lease portions of water rights to the Water Supply Bank ("Bank"). These applications were submitted as part of a lease/rental package with the purpose of fulfilling rental application 1791, which proposes to divert the rented water to the Egin Lakes Recharge Sites. This lease/rental package is essentially renewals of lease contract 378/rental agreement 51, which were initiated in 2016 and were for the same rights and originally for the exact same portions of those rights. During the current enlargement review, concerns arose over potential irrigation of acres that were to have been idled under contract 387 (fully outlined below). A request for more information was sent on December 30, 2020 in part to address these concerns, and as part of the response from Egin Bench, it was requested that the overall leased acres be reduced from 2,466.1 to 2,325.9. This amounted to a 5.7% reduction in leased acres overall, and all rights submitted for lease were reduced by that percentage to account for the requested reduction in acres.

During review in 2016, an in-depth analysis of historical use was conducted in order to establish a headgate volume per acre that could be designated as the actual divertible volume for the rental agreement. The results of that analysis conclude the highest diversion volume per acre was in 2012, at 2.9 af/acre. A new analysis is currently underway, utilizing the same techniques, and the results will be applied to assign the rentable amounts of the new rental agreement.

AUTHORITY TO FILE: The applications were all signed by Mike Rasmussen and Aaron Dalling. The application for right 21-12922 included the 2020 Secretary of State annual business report for Egin Bench Canals, INC, ("EBC") and the document lists Mike Rasmussen as President and Aaron Dalling as Secretary. No concerns about authority to file.

WATER RIGHT VALIDITY: Water Right(s) 21-12897, 21-12908, 21-12910, 21-12912, 21-12921, 21-12922, 21-12928, 21-12934, 21-12961 and 21-12962 were decreed in 2011 and 2012 and portions of all these rights were accepted into the Bank for years 2016-2020. As part of response to the information request sent on December 30, 2020, EBC stated that only 25,443 acres had been irrigated during the 5 year term of the prior contract. The combined acre limit of all rights is 30102 acres, 2,466.1 acres of which were leased to the Bank during the prior contract, leaving an unleased proportion of 27,635.9 acres. If only 25,443 acres were irrigated over the prior 5 years, this would leave a 2,192.9 acre proportion of the water rights that could potentially be subject to forfeiture. This potential situation was brought forth to EBC, however since the current acres proposed for lease are equal to or less than those covered by the prior contract, there are no concerns of water right validity that would affect the new lease proposal.

INJURY TO OTHER WATER RIGHTS: The applicant did not ask for a conveyance loss holdback. Because the applicant is the canal company we will move forward without reserving conveyance losses. No other injury issues exist at this time.

ENLARGEMENT OF USE: Within EBC's 36,689 acre large, permissible place of use, EBC has identified the 30,102 acres that may be irrigated by the canal company, per the combined limit condition found on all 10 rights. Within the 30,102 irrigable acres, 2,466.1 acres had originally been identified as the acres that would be leased to the Bank from 2021 to 2025. These acres were essentially a renewal of those acers leased under contract 378 from 2016 to 2020. Standard Water Supply Bank procedures hold that the lease and non-irrigation of the 8.2% (2466.1 / 30,102) of EBC's irrigable acres was sufficient to avoid enlargement. An overlap analysis of the idled acres, originally conducted as part of preparation of contract 378, revealed many overlapping water rights. Most overlapping rights were ground water rights that were not supplemental in nature (no overlapping or supplemental conditions on the decreed water rights), however one water right (21-7173) featured a condition indicating it is used "in conjunction" with the EBC rights, thus a proportionate amount of water right 21-7173, corresponding to the overlapping acres, was also leased to the Water Supply Bank in 2016. The same overlaps were found in the latest review, and the equivalent portion of water right 21-7173 has been leased to the Bank under contract 1290 and expiring on December 31, 2025.

Additionally, there were 6 irrigation from storage rights held by North Fork Reservoir Company (NFR) that were found to directly overlap the leased acres, as well as 15 surface water irrigation rights held either by the Fremont Madison Irrigation District, or the by the United States and (per conditions on the water rights) managed by Fremont Madison Irrigation District, that also overlap the POU of the EBC's rights.

The NFR rights all contain a combined limit condition that includes the 6 NFR rights, all 10 of the EBC rights proposed for lease, as well as 5 rights held by Consolidated Farmers Canal Co. ("CFC"), and 4 rights held by Salem Union Canal Co. ("SUC"). The condition limits all these rights to the irrigation of a combined 41,098 acres. This combined limit is the additive total of the combined limits found on the 5 CFC rights of 6,018 acres, the 4 SUC rights combined limit of 4,978 acres, and the 10 EBC rights combined limit 30,102 acres. Additionally, there is no POU overlap of the CFC or SUC rights over the EBC rights, and therefore there is no action required in relation to the CFC or SUC rights to prevent enlargement.

The NFR rights are all storage and irrigation from storage rights. Although a portion of the NFR POU does overlap the EBC POU, the POU for the NFR rights is sufficiently large enough that the entirety of the rights could be fully exercised on lands other than those also covered by EBC's POU. Furthermore, Idaho Code §42-222(1) states that *"The transfer of the right to the use of stored water for irrigation purposes shall not constitute an enlargement in use of the original right even though more acres may be irrigated, if no other water rights are injured thereby."* So in essence, even if storage water from the NFR water rights were used on the EBC POU, it would not necessarily constitute enlargement of EBC's rights so long as no other rights are injured, and therefore no proportionate lease of the NFR rights is required.

The Fremont Madison Irrigation District ("FMID") rights are described by a large POU that has a shape size of 280,399.6 acres. Four of these rights contain a combined limit condition limiting irrigation to 152,562 acres. Although there is direct overlap of 34,140 acres of the EBC POU, this would still leave 246,259.6 acres that could be irrigated within the FMID POU without ever overlapping any of the EBC POU, and factoring in the combined limit restriction of 152,562 acres, there would still be more than ample acres within the FMID POU to fully exercise the entire suite of water rights without ever irrigating lands covered by the Egin Bench POU. Therefore, if it could be confirmed that none of the water associated with the FMID water rights is used on lands covered by the EBC water rights, then no proportions of the FMID rights would need to be leased to the Bank for prevention of enlargement.

In reviewing the POU of idled lands for lease contract 378, there were 121.6 acres that appeared irrigated in 2017 and/or 2019 NAIP imagery. This initial review initiated a full review of the idled land for all years of the prior lease. This assessment was conducted using Sentinel remote sensing data to calculate maximum NDVI for the idled acres across each of the growing seasons from 2016 to 2020. These maximum NDVI grids were then used to calculate a mean-max NDVI value for each individual shape included in the approved lease place of use for the prior lease, and for each growing season. Those shapes with a mean-maximum NDVI value of greater than 0.65 were then selected out to determine which acres that were declared idled may have been irrigated. The resulting potentially irrigated acres for each growing season were as follows:

2016 – 93.2 acres
2017 – 125.8 acres
2018 – 231.7 acres
2019 – 169.6 acers
2020 – 152 acres

In each of these years there was 30.5 acres irrigated within the POU of water right 21-7377. These acres may have been irrigated under that right, however the remaining acres in each year do not appear to have any other overlapping rights that would authorize irrigation beyond those leased to the Bank.

On December 30, 2020 a letter requesting further information was sent to EBC (attached in review). This letter brought forth the issue of how certain acres that were to have been idled under contract 387 appeared to have been irrigated during the term of that lease, and an accompanying link was provided to shapefiles that outlined those acres in question for each year of lease contract 387. Additionally, EBC was asked to provide the following:

1. The sum total number of acres that were irrigated within EBCC's service area boundaries, from 2016 through 2020, under the unleased extent of water rights 21-12897, 12912, 12934, 12908, 12921, 12922, 12910, 12922, 12961 and 12962;

2. The sum total number of acres that were irrigated within EBCC's service area boundaries, from 2016 through 2020, not under the unleased extent of EBCC's ten irrigation water rights, but instead, under the authorizations of any other water right approvals;

3. The confirmed location and exact sum total number of acres that can and will be idled under EBCC's ten irrigation water rights, during the next five years, from 2021-2025;

4. The sum total number of acres that EBCC anticipates will be irrigated within its service area boundaries during the next five years, under the portions of EBCC's ten irrigation water rights that are not being proposed for lease through WSB application 1788;

5. The sum total number of acres that EBCC anticipates will be irrigated within its service area boundaries during the next five years, under water right authorizations other than water rights 21-12897, 12912, 12934, 12908, 12921, 12922, 12910, 12922, 12961 and 12962, if any.

On January 28, 2021 the Department received response from EBC. The direct answers were provided to the questions were as follows:

1. The total acres irrigated within Egin Bench Canals, Inc's (EBC) place of use boundary under the unleased extent of water rights 21-12897, 12912, 12934, 12908, 12921, 12922, 12910, 12922, 12961 and 12962 in the years 2016 through 2020 was 25,443 acres. Though some of the acres we reported as dried up did indeed come into irrigation during the term of the lease we remained well under the maximum acres authorized for irrigation under the unleased portion of our water rights of 27,635.9 acres.

2. There were not any acres irrigated with any other surface water rights within EBC's service area boundary. However, there are a handful of parcels irrigated solely with groundwater rights. Namely, groundwater rights-21-2122, 21-7024, 21-7027, 21-7060, 21-12957, 21-7033, 21-10930, 21-7104, 21-13132, 21-7170, 21-7194, 21-7377, 21-2142, 21-12994, 22-13438 irrigated 297 acres within EBC's irrigated place of use boundary. None of the associated acres with these water rights are included in the land to be idled (dried-up) for this application.

3. An updated shapefile of the 2,325.9 acres to be idled (dried-up) under the proposed lease has been uploaded to the SFTP server.

4. EBC anticipates 25,443 acres will be irrigated within its place of use boundaries each year over the next 5 years, under the portions of EBC's 10 water rights that are not being proposed for lease in application 1788.

5. As in question 2 there are not any acres within EBC's boundaries irrigated with any other surface water rights. We anticipate 297 acres will continue to be solely irrigated with groundwater rights, 21-2122, 21-7024, 21-7027, 21-7060, 21-12957, 21-7033, 21-10930, 21-7104, 21-13132, 21-7170, 21-7194, 21-7377, 21-2142, 21-12994, 22-13438.

Since EBC stated they irrigated 25,443 acres under authorization of the its water rights during the term of contract 387, and the contract allowed for irrigation 27,635.9 acres under the unleased portions of the rights, there are no further concerns of enlargement of these water rights during the term of the prior lease. Additionally, EBC identified acres within the prior lease POU boundaries that it agreed were irrigated and subsequently reduced the amount of acres it proposes for the new lease by those amounts (down to 2,325.9 acres). EBC also stated it plans to continue only irrigating 25,443 acres during the term of the new lease. Given the reduction in leased acres, the allowable irrigable acres on the unleased portion of the new contract will be 27,776.1 acres. Since EBC plans to only irrigate 25,443 acres during the term of the new contract, there are no further concerns of enlargement for the new lease.

EBC also stated that there were no acres irrigated using any other surface water rights within the boundaries of its POU. The answer to this question also acknowledged the use by other right holders of ground water rights for irrigation within the EBC boundaries, and this situation has already been addressed earlier in the memo. Since EBC states no other surface water rights were used to irrigate acres within the POU, there are no further concerns of enlargement related to other overlapping surface water rights, namely those held by North Fork Reservoir Company or Fremont Madison Irrigation District.

Although there are no prior or future concerns of enlargement of the EBC or other water rights, the letter did refer to EBC taking a "conservative" approach to idling acres and reported that the company dried up an additional 2,006 acres within the POU boundaries that were not included in lease contract 387. In true calculations, using the irrigated acres number provided by EBC of 25,443 acres during the term of contract 387 and leased 2,466.1 acres, a total of 27,909.1 acres were utilized or protected from forfeiture though Bank lease. Since the combined limit on all the EBC rights authorizes irrigation of 30,102 acres, this leaves a 2,192.9 acres that would appear to have been unirrigated and unprotected during the term of contract 387. Since these acres

were neither exercised nor protected through lease to the Bank for the 5 year term, these acres may potentially be subject to forfeiture/reduction. Additionally, with a reduction on the new lease to 2,325.9 acres while remaining to irrigate 25,443 acres, that could subject up to 2333.1 acres to potential forfeiture or reduction, if those acres are not otherwise protected. An email explaining this situation was sent to EBC on February 10, 2021.

LOCAL PUBLIC INTEREST: Review staff has no information to suggest this application is inconsistent with the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: The lease appears consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: The location for the rental PD is subject to Water District #01 and is within the IDWR Eastern Region. Easter region contact James Cefalo and Water District #01 Watermaster Tony Olenichak have been provided with this memo for review and comment.

Storms, Scott

From: Olenichak, Tony
Sent: Tuesday, February 23, 2021 3:22 PM
To: Storms, Scott
Subject: RE: Egin Bench Lease Review

Scott,

We have something in common. I made the same spelling mistake when I was working for the USFS many years ago inventorying all the water rights for the Fremont National Forest. There's only one "e'" in Fremont Madison Irrigation District. You and I both spelled Fremont incorrectly as "Freemont" in our draft reports.

Tony

From: Storms, Scott
Sent: Tuesday, February 23, 2021 12:04 PM
To: Olenichak, Tony <Tony.Olenichak@idwr.idaho.gov>; Cefalo, James <James.Cefalo@idwr.idaho.gov>
Subject: Egin Bench Lease Review

Tony and James,

Attached is review of the Egin Bench Canal Company lease proposal for 2021 to 2025. This is essentially a renewal of prior contract 378 that went from 2016 to 2020, only with a slight reduction, which is all outlined in the review memo. This lease is also once again part of a lease/rental package where they wish to rent this leased amount back to divert the Egin Bench Recharge lakes for recharge purposes. I am still waiting on some results from Hydrology from a diversion analysis before I wrap up the rental review and recomendation, but I wanted to get this lease review off to you two so we can keep things rolling. Please respond within 14 days if you have any comments or concerns.

Scott

Scott Storms
Senior Water Resource Agent
Idaho Department of Water Resources
208-287-4915
Scott.Storms@idwr.idaho.gov

Storms, Scott

From: Cefalo, James
Sent: Tuesday, February 23, 2021 1:51 PM
To: Storms, Scott
Subject: RE: Egin Bench Lease Review

Scott,

I don't have any concern with the proposed WSB lease. I was surprised to see a discussion of forfeiture in the review memo. Section 42-223(7) states that canal company rights are not subject to forfeiture as a result of non-use by shareholders. The forfeiture review should not require more than a citation of Section 42-223(7).

James

From: Storms, Scott
Sent: Tuesday, February 23, 2021 12:04 PM
To: Olenichak, Tony <Tony.Olenichak@idwr.idaho.gov>; Cefalo, James <James.Cefalo@idwr.idaho.gov>
Subject: Egin Bench Lease Review

Tony and James,

Attached is review of the Egin Bench Canal Company lease proposal for 2021 to 2025. This is essentially a renewal of prior contract 378 that went from 2016 to 2020, only with a slight reduction, which is all outlined in the review memo. This lease is also once again part of a lease/rental package where they wish to rent this leased amount back to divert the Egin Bench Recharge lakes for recharge purposes. I am still waiting on some results from Hydrology from a diversion analysis before I wrap up the rental review and recomendation, but I wanted to get this lease review off to you two so we can keep things rolling. Please respond within 14 days if you have any comments or concerns.

Scott

Scott Storms
Senior Water Resource Agent
Idaho Department of Water Resources
208-287-4915
Scott.Storms@idwr.idaho.gov

Storms, Scott

From: aaron.fmid@myidahomail.com
Sent: Wednesday, February 10, 2021 10:22 AM
To: Storms, Scott
Cc: 'Mike Rassmussen'
Subject: RE: Information Request for Egin Bench Water Supply Bank Application

Scott,

Thank you for your review and we also appreciate your advice on potential forfeiture.

We would like to move forward with the 2,325.9 acres in this lease.

To protect against forfeiture, we will submit an additional lease application to the Water Supply Bank in the coming weeks. We will not plan to rent this block of water back.

Thanks,

Aaron

From: Storms, Scott <Scott.Storms@idwr.idaho.gov>
Sent: Wednesday, February 10, 2021 6:18 AM
To: aaron.fmid@myidahomail.com
Cc: 'Mike Rassmussen' <mmras@earthlink.net>
Subject: RE: Information Request for Egin Bench Water Supply Bank Application

Aaron,

I want to let you know, I have reviewed the responses you provided on behalf of Egin Bench Canals, Inc. to the questions posed in the information request sent December 30, 2020. Given the fact that EBC only irrigated 25,443 acres within the POU of the water rights, and that there were 27,635.9 unleased acres still authorized for irrigation during the term of lease contract 387, and the fact that EBC anticipates irrigating the same amount of acres during the term of the new lease, I do not foresee any further concerns of enlargement of the water rights. Furthermore, since it was stated that no other surface water rights were utilized to irrigate any acres within the POU of the EBC rights, I also do not foresee any concerns of enlargement of other surface water rights that contain overlapping POUs.

At this point, without any further concerns of enlargement, I am able to move forward with processing of the lease and the subsequent rental agreement. I do however see a potential forfeiture issue I want to be sure EBC is aware of. The response letter stated there was an additional 2,006 acres EBC dried up during the term of lease 387. In examining the numbers of the acres stated as irrigated during that term of 25,443, and subtracting that from the number of unleased acres under the contract of 27,635.9 acres, I believe that number of additionally idled acres would actually be 27,635.9 – 25,443 = 2,192.9 acres. Although these additionally idled acres do help to alleviate any concerns of enlargement of the rights, there is a concern that these acres could now potentially be subject to forfeiture/reduction on the rights. Per Idaho Code §42-222(2):

> *"All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated and when any right to the use of water shall be lost through nonuse or forfeiture such rights to such water shall revert to the state and be again subject to appropriation under this chapter; except that any right to the use of water shall not be lost*

through forfeiture by the failure to apply the water to beneficial use under certain circumstances as specified in section 42-223, Idaho Code. The party asserting that a water right has been forfeited has the burden of proving the forfeiture by clear and convincing evidence."

Additionally, if EBC wishes to move forward with submitting the reduced acre amount of 2,325.9 to the Bank for a 5 year term while continuing to irrigate 25,443 acres, this could increase the acres potentially subject to forfeiture up to 2333.1 (30,102 – 25,443 - 2,325.9 = 2,333.1) after that 5 year period.

As referenced in the code listed above, there are several circumstance that would provide defense against forfeiture of unused acres, above and beyond leasing acres to the Water Supply Bank, and those defenses can be found at this link to Idaho code §42-223. Additionally, the Department of Water Resources does not currently seek out and actively pursue the forfeiture of unutilized acres, however this could pose issues in other processes EBC may be interested in applying for in the future, such as leasing additional acres to the Bank or filing for transfer on any of the water rights involved.

Again, this situation does not pose any sort of road block moving forward with the current lease application and subsequent rental, it is just a situation I believe EBC should be aware of and may want to take some form of action on.

Feel free to contact me if there are any further questions.

Scott

Scott Storms
Senior Water Resource Agent
Idaho Department of Water Resources
208-287-4915
Scott.Storms@idwr.idaho.gov

From: aaron.fmid@myidahomail.com [mailto:aaron.fmid@myidahomail.com]
Sent: Thursday, January 28, 2021 2:57 PM
To: Storms, Scott <Scott.Storms@idwr.idaho.gov>
Cc: Cefalo, James <James.Cefalo@idwr.idaho.gov>; Olenichak, Tony <Tony.Olenichak@idwr.idaho.gov>; 'Mike Rassmussen' <mmras@earthlink.net>; Buyer, Remington <Remington.Buyer@idwr.idaho.gov>
Subject: RE: Information Request for Egin Bench Water Supply Bank Application

Mr. Scott Storms,

Please find attached a letter responding to your requestion for information. If you would like to discuss anything in further detail, please give us a call.

Thanks,

Aaron Dalling
Office: 208-624-3381
Cell: 208-403-8474

From: Storms, Scott <Scott.Storms@idwr.idaho.gov>
Sent: Thursday, December 31, 2020 9:29 AM
To: aaron.fmid@myidahomail.com

Cc: Cefalo, James <James.Cefalo@idwr.idaho.gov>; Olenichak, Tony <Tony.Olenichak@idwr.idaho.gov>
Subject: Information Request for Egin Bench Water Supply Bank Application

Mr. Aaron Dalling,

Upon review of Egin Bench Canal Company's Water Supply Bank lease application 1788, some concerns have arisen regarding prior lease contract 387 and whether the acres that were to have been idled under that contract were indeed fully idled during the term of the lease. A letter has been sent that fully outlines these concerns and requests further information in order to continue processing of this lease application, and subsequent rental application 1791.
To hasten this request and lessen delays in processing, I have attached a copy of this letter to this email for your review. Additionally, I have placed a compressed file on the Department's secure file transfer server that contains GIS shaperfiles for every year of contract 387 that outlines the acres that appear irrigated in that year. Instructions on how to access this server are also attached to this email. The file name is Egin_Lease_Acres_in_Question.zip

Please review this letter and associated shapefiles and if you have any further questions or would like further clarification, please feel free to contact me by responding to this email address or call me at 208-287-4915.

Regards,

Scott Storms

Scott Storms
Senior Water Resource Agent
Idaho Department of Water Resources
208-287-4915
Scott.Storms@idwr.idaho.gov

Egin Bench Canals, Inc.
PO Box 15
Saint Anthony, Idaho 83445
208-624-3381

January 28, 2021

Idaho Water Supply Bank
Attn: Scott Storms
322 E. Front Street, Suite 648
PO Box 83720
Boise, Idaho 83720-0098

RE: Action Required on WSB Applications 1788 and 1791

Dear Mr. Scott Storms,

Thank you for your detailed review of our Water Supply Bank (WSB) applications. Egin Bench Canals, Inc. (EBC) appreciates the opportunities WSB least contract 387 provided us and hope to complete the applications under consideration in the near future. We understand the Departments concern for enlargement and certainly do not intend to enlarge our water rights and do not believe we have done so. EBC took a conservative approach to selecting acres to dry-up (idle) for the purpose of this lease application and former WSB lease contract 387. There are approximately 2,006 acres within EBC's place of use boundary that did not receive irrigation water from any source during the years 2016-2020 and were not included in the dried-up acres under lease contract 387. Most of these same acres were also not included in this year's WSB application despite the fact they will not receive irrigation water during the years 2021 to 2025 either. Our intention was to leave a buffer in case the acres we have identified as dried-up came into question.

As an additional precaution, we did not sell all the recharge credits associated with WSB lease contract 387. There remains 4,151-acre feet of unsold recharge credit. If after review of this letter the Department is still concerned with enlargement of our water rights, we could adjust the reported aquifer recharge down each year to reflect the appropriate dried-up acres without consequence.

We reviewed the shapefiles you provided. Many of the areas you identified as potentially irrigated we agreed with and took them out of our "dried-up acres" shapefile. However, some of the areas identified as potentially irrigated we believe really are dried-up and do not receive irrigation water. Some of these do appear green in the arial imagery, however they are not irrigated. We can discuss each of these with you individually if you would like. One example of an area you identified as potentially irrigated but is not, is a livestock winter feeding area that grows up in weeds during the summer. These weeds (mostly kochia) keep their green color without irrigation. Additionally, we adjusted some of the shapes to better fit the dried-up areas. In all, we have adjusted the dried-up acres down from 2,466.1 to 2,325.9 acres.

To answer each of your specific questions we have numbered the answers in the same order as the questions in your request for information:

1. The total acres irrigated within Egin Bench Canals, Inc's (EBC) place of use boundary under the unleased extent of water rights 21-12897, 12912, 12934, 12908, 12921, 12922, 12910, 12922, 12961 and 12962 in the years 2016 through 2020 was 25,443 acres. Though some of the acres we reported as dried up did indeed come into irrigation during the term of the lease we remained well under the maximum acres authorized for irrigation under the unleased portion of our water rights of 27,635.9 acres.

2. There were not any acres irrigated with any other surface water rights within EBC's service area boundary. However, there are a handful of parcels irrigated solely with groundwater rights. Namely, groundwater rights-21-2122, 21-7024, 21-7027, 21-7060, 21-12957, 21-7033, 21-10930, 21-7104, 21-13132, 21-7170, 21-7194, 21-7377, 21-2142, 21-12994, 22-13438 irrigated 297 acres within EBC's irrigated place of use boundary. None of the associated acres with these water rights are included in the land to be idled (dried-up) for this application.

3. An updated shapefile of the 2,325.9 acres to be idled (dried-up) under the proposed lease has been uploaded to the SFTP server.

4. EBC anticipates 25,443 acres will be irrigated within its place of use boundaries each year over the next 5 years, under the portions of EBC's 10 water rights that are not being proposed for lease in application 1788.

5. As in question 2 there are not any acres within EBC's boundaries irrigated with any other surface water rights. We anticipate 297 acres will continue to be solely irrigated with groundwater rights, 21-2122, 21-7024, 21-7027, 21-7060, 21-12957, 21-7033, 21-10930, 21-7104, 21-13132, 21-7170, 21-7194, 21-7377, 21-2142, 21-12994, 22-13438.

We hope that we have answered each of your questions clearly and that you will be able to complete your evaluation of our lease and rental applications with this information. However, if any other questions arise please do not hesitate to contact me, Aaron Dalling at (208) 624-3381.

Sincerely,

Aaron Dalling

Aaron Dalling
Secretary

CC: Tony Olenichak-Water District 01 Watermaster
James Cefelo-IDWR Eastern Region Manager
Mike Rasmussen-President, Egin Bench Canals, Inc.

State of Idaho
DEPARTMENT OF WATER RESOURCES
322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098
Phone: (208) 287-4800 • Fax: (208) 287-6700
Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

December 30, 2020

Egin Bench Canal Company
PO BOX 15
ST ANTHONY ID 83445

RESPONSE DEADLINE:
January 30, 2021

RE: Action Required on WSB Applications 1788 and 1791

Dear Applicant,

On October 19, 2020, the Department of Water Resources (Department) received from you a request to lease and rent water rights 21-12897, 12912, 12934, 12908, 12921, 12922, 12910, 12922, 12961 and 12962 through the Water Supply Bank (WSB), from 2021 through 2025. Your lease proposal (application 1788) is to place portions of these ten irrigation water rights, proportionate to the irrigation of 2,466.1 acres within your canal company service area boundaries, into the Bank, so that they might be rented out (through application 1791) for ground water recharge purposes. These new lease and rental applications appear to be a continuation of your current irrigation to ground water recharge water use authorizations under WSB Lease Contract 387 and Rental Agreement 51, which began in 2016.

EBCC's above-listed ten irrigation water rights authorize a maximum irrigation of 31,661 acres within EBCC's canal company service area. This authorized place of use is also represented by a 30,102 acre digital shapefile. The difference between these two acreages is 1,559 acres.

As part of the application process that precipitated Lease Contract 387, EBCC provided IDWR with the exact location of 2,466.1 acres that were identified as lands that would not receive irrigation water under EBCC's water rights during the term of the lease. To guard against enlargement of EBCC's water rights leased through Contract 387, the 2,466.1 acres identified to be idled, and the 1,559 acre difference associated with EBCC's irrigation water right places of use, were subtracted from the decreed 31,661 acre total for EBCC's ten water rights, to calculate an annual maximum irrigation total for the unleased extent of EBCC's ten irrigation water rights. This annual maximum irrigation authorization under the unleased extent of EBCC's ten irrigation water rights was calculated as 27,635.9 acres, and it was recorded as condition 17 on Lease Contract 387.

As part of the review process for lease application 1788, IDWR has analyzed the 2,466.1 acres identified to be idled under Lease Contract 387, to validate that no irrigation occurred on these acres during the term of the lease. Using satellite imagery, IDWR has identified that portions of the 2,466.1 acres appear vegetated during each of the past five years.

If the vegetated acres were irrigated during the term of the lease, it would not necessarily constitute enlargement of EBCC's water rights, or a violation of the conditions of approval for Lease Contract 387, provided that either: 1) no more than 27,665.9 acres of EBCC's service area were irrigated in any of the past five years under the unleased extent of EBCC's ten irrigation water rights; or, 2) the acres were irrigated under the authorization of other water rights.

Notwithstanding the above, the Department is concerned about the possible past and/or future enlargement of the portions of EBCC's water rights which are again proposed to be leased and rented through applications 1788 and 1791. The purpose of this letter is to request from EBCC information, to address the Department's enlargement concerns.

Specifically, the Department is requesting that EBCC provide our office with the following:

1. The sum total number of acres that were irrigated within EBCC's service area boundaries, from 2016 through 2020, under the unleased extent of water rights 21-12897, 12912, 12934, 12908, 12921, 12922, 12910, 12922, 12961 and 12962;

2. The sum total number of acres that were irrigated within EBCC's service area boundaries, from 2016 through 2020, not under the unleased extent of EBCC's ten irrigation water rights, but instead, under the authorizations of any other water right approvals;

3. The confirmed location and exact sum total number of acres that can and will be idled under EBCC's ten irrigation water rights, during the next five years, from 2021-2025;

4. The sum total number of acres that EBCC anticipates will be irrigated within its service area boundaries during the next five years, under the portions of EBCC's ten irrigation water rights that are not being proposed for lease through WSB application 1788;

5. The sum total number of acres that EBCC anticipates will be irrigated within its service area boundaries during the next five years, under water right authorizations other than water rights 21-12897, 12912, 12934, 12908, 12921, 12922, 12910, 12922, 12961 and 12962, if any.

To continue processing of your applications, our office requests that the above information be provided within the next thirty days (deadline of January 30th, 2021). If the information requested above is not received prior to the established deadline, our office will continue review of your lease and rental applications, as proposed, however we may reduce the amount rentable under application 1791 by the sum total acreage that was observed as potentially irrigated during all years, 2016-2020.

If you have any questions, please contact me at (208) 287-4915.

Regards,

Scott Storms
Water Resource Agent, Senior

CC: Tony Olenichak – Water District 01 Watermaster,
James Cefalo – IDWR Eastern Region Manager

Stacked Rights

	Rate	% by Rate	Volume	Acres	Acres by %	Rate/Acre	
21-12897	200	47.28%		6103	2885.6	0.07	
21-12912	23	5.44%		6103	331.8	0.07	
21-12934	200	47.28%		6103	2885.6	0.07	
	423	100.00%			6103.0		
21-12910	35.00	8.05%		7272	585.1	0.06	
21-12928	400	91.95%		7272	6686.9	0.06	50
	435	100.00%			7272.0		
21-12908	24.00	3.31%		14596	483.8	0.05	
21-12921	100	13.81%		14596	2016.0	0.05	150
21-12922	600	82.87%		14596	12096.1	0.05	
	724.00	100.00%			14596.0		
21-12961	220	100.00%		3690	3690.0	0.06	
21-12962	120	54.55%		3690	2012.7	0.06	25
	220	100.00%			3690.0		
	1802.00				31661.0	0.06	

Lease Ammounts	Rate	Volume	Acres	Vol/Acre	% by Rate	Acres by %
	16.38	786.7	224.8	3.50	47.29%	0.4729
	1.88	90.5	25.8	3.51	5.43%	0.0543
	16.38	786.7	224.8	3.50	47.29%	0.4729
	34.64	1663.9	475.4			
	2.87	159.5	45.6	3.50	8.05%	0.0805
0.0529	32.77	1823	520.8	3.50	91.95%	0.9195
	35.64	1982.5	566.4			
	1.97	131.9	37.7	3.50	3.32%	0.0332
0.0393	8.19	549.6	157	3.50	13.81%	0.1381
	49.15	3297.6	942.2	3.50	82.87%	0.8287
	59.31	3979.1	1136.9			
	18.02	1006	287.4	3.50	64.70%	1.0000
0.0854	9.83	548.7	156.8	3.50	35.30%	0.5456
	18.02	1006	287.4			
	147.61	8631.5	2466.1			
	139.20	8139.5	2325.9			

Reduced Lease Ammounts	Rate	Volume	Acres	Vol/Acre	% by Rate	Acres by %	
	15.45	741.9	212.0	3.50	47.29%		0.4729
	1.77	85.3	24.3	3.51	5.43%		0.0543
	15.45	741.9	212.0	3.50	47.29%		0.4729
	32.67	1569.1	448.4			Comb Limit	
						Comb Limit Unleased	
	2.71	150.4	43.0	3.50	8.05%		0.0805
	30.90	1719.1	491.2	3.50	91.95%		0.9195
	33.61	1869.5	534.2			Comb Limit	
						Comb Limit Unleased	
	1.86	124.4	35.6	3.50	3.32%		0.0332
	7.72	518.3	148.1	3.50	13.81%		0.1381
	46.35	3109.6	888.6	3.50	82.87%		0.8287
	55.93	3752.3	1072.3			Comb Limit	
						Comb Limit Unleased	
	16.99	948.66	271.1	3.50	64.70%		1.0000
	9.27	517.42	147.9	3.50	35.30%		0.5456
	16.99	948.66	271.06			Comb Limit	
						Comb Limit Unleased	
	139.20	8139.5	2325.9				
			2325.9	0.05685			
			2473.8				

Egin Bench Canals Inc.
Saint Anthony, Idaho 83445
208-624-3381

RECEIVED
OCT 19 2020
DEPARTMENT OF
WATER RESOURCES

Remington Buyer
Water Supply Bank
Idaho Department of Water Resources
322 E Front ST STE 648
PO BOX 83720
Boise, ID 83720-0098

October 13, 2020

Dear Remington,

Please find our applications to lease water and application to rent water enclosed. We are submitting the lease applications and rental application as a package in order to lease back our own water. The purpose of the lease is to temporarily dry up some of the acreage within the Canal Company's water right place of use and use the water for aquifer recharge at the Egin Lakes recharge sites.

We did not submit a W-9 form because we will not be receiving a payment from the Water Supply Bank.

We used the same volume numbers used in the original lease which expires at the end of this year.

If you have questions, please contact Aaron Dalling (208)624-3381.

Sincerely,

Mike Rasmussen
President-Egin Bench Canals

Enclosures:

1788