

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1193

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

LESSOR: EAST VALLEY CATTLE LLC
471 N 300 W
JEROME, ID 83338-5078

RECEIVED
JUN 04 2020
DEPARTMENT OF
WATER RESOURCES

RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.
2. The Lessor has filed a completed application to lease water rights described below into the Water Supply Bank on forms supplied by the Idaho Department of Water Resources and received by the Department on March 12, 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.

NOW, THEREFORE, in consideration of the mutual covenants and contracts herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. **WATER RIGHTS:** The Lessor shall lease and the Board shall accept into the Bank the Applicant's water rights described as follows:

Summary of Water Rights or Portions Leased to the Bank

Water Right No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)
43-13448	3/2/1950	GROUND WATER	0.40	92.4	23.1
Lease Totals			0.40	92.4	23.1

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, 2020 to December 31, 2022. 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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1193

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. 1193

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

LESSOR: EAST VALLEY CATTLE LLC
471 N 300 W

JEROME, ID 83338-5078

By Michael Cleaver
Title Attorney-in-Fact under POA
Date June 4, 2020

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

By Brian Patton
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 06/19/20

Lease approved by IDWR P. Thomas

Date 06/19/20

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1193

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): 43-13448

GROUND WATER	SWNE	Sec. 2	Twp 12S	Rge 26E	CASSIA County
GROUND WATER	SWNW	Sec. 1	Twp 12S	Rge 26E	CASSIA County
GROUND WATER	L 4NWNW	Sec. 1	Twp 12S	Rge 26E	CASSIA County
GROUND WATER	SENE	Sec. 35	Twp 11S	Rge 26E	CASSIA County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From	to	To		
43-13448	IRRIGATION	03/15	to	11/15	0.40 cfs	92.4 AF
Totals:					0.40 cfs	92.4 AF

PLACES OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12S	26E	1	3.2 L1	2.8 L2	1.8	2.2	3.5 L3	2.8 L4	3.2	2.4					0.7	0.5			23.1

Total Acres: 23.1

ADDITIONAL CONDITIONS OF ACCEPTANCE

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, or the lease term expires. A right may be released from the bank upon request, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.
5. While a water right is in the bank, forfeiture provisions are stayed pursuant to Idaho Code § 42-223(5).
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

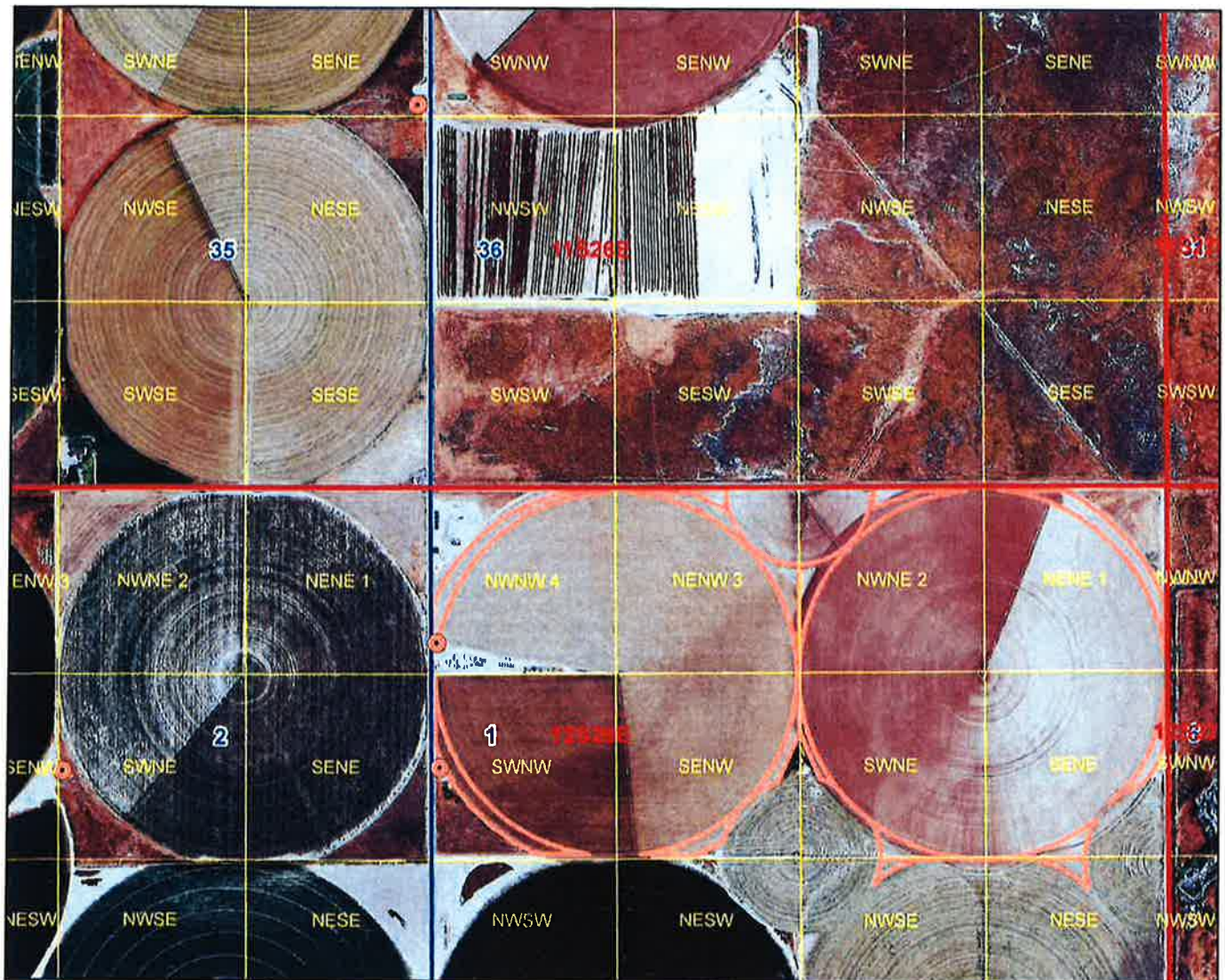
WATER SUPPLY BANK LEASE CONTRACT No. 1193






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. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.
13. Unleased portions of water right 43-13448 is limited to the irrigation of 203.3 acres with the authorized place of use in a single irrigation season.
14. The unleased portion of this right is limited to 3.53 cfs, 813.af per year, and the irrigation of 203.3 acres within the authorized place of use in a single irrigation season.
15. The unleased portion of right 43-13448, when combined with rights 43-13450, 43-13452, 43-13454, 43-13456, and 43-13807 shall not exceed a total diversion rate of 17.03 cfs, a total annual maximum diversion volume of 3,767.2 af at the field headgate, and the irrigation of 944 acres.
16. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
17. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No.143.

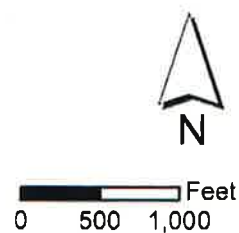
Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1193

43-13448
Effective until December 31, 2022

This map depicts the **place of use to be idled** pursuant to the lease contract and is attached to the contract solely for illustrative purposes.



-  Approved Lease Points of Diversion
-  Approved Lease Place of Use
-  Township/Range
-  Sections
-  QQ



STATE OF IDAHO
WATER RESOURCE BOARD

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

RECEIVED
MAR 12 2020
DEPARTMENT OF
WATER RESOURCES

Designated Applicant EAST VALLEY CATTLE LLC

(Select one owner – see item 1A on the application)

Water Right No. 43-13448

(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.**

MINIMUM 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 | <input type="checkbox"/> | <input type="checkbox"/> | Signatures and contact information for all owners of the water right to be leased or sold on this application. |
| 1B | <input checked="" type="checkbox"/> | <input type="checkbox"/> | An Internal Revenue Service (IRS) Form W-9 for the Designated Applicant. |
| 1C | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <i>Notice of Change in Water Right Ownership</i> form (accessible from www.idwr.idaho.gov). |
| 1D | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 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 | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Description of a water right portion offered to the Water Supply Bank. |
| 3 | <input type="checkbox"/> | <input checked="" type="checkbox"/> | A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. You have the option of printing a map using the map tool on IDWR's website at: www.idwr.idaho.gov . |
| 4A | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Written consent from irrigation district or water delivery company. |
| 4G | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Evidence demonstrating the water right has not been forfeited pursuant to Section 42-222(2), Idaho Code . |

Department Use Only

Fee Amount \$ 250Received By: JMNDate Received: 3-12-2020Receipt # C108454W-9 received? Yes ☐ No ☒

(Route W-9 to Fiscal)

Name on W-9:

1667

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 EAST VALLEY CATTLE LLC

Mailing Address 471 N 300 W JEROME, ID 83338-5078

Street

City

State

Zip Code

Email Address _____

Phone Number 2083242350

☒ The Designated Applicant is the sole owner of the water right being sold or leased to the Water Supply Bank.

OR

☐ The Designated Applicant is representing additional water right holders who have completed Attachment 1A.

- B. Has the Designated Applicant submitted an IRS Form W-9 to this Department within the last 2 years? Yes ☐ No ☒

If no, complete the form and attach to this application (Attachment 1B).

- C. Are all applicants on this form listed in IDWR's records as the current owners of the water right? Yes ☒ No ☐

If no, attach a *Notice of Change in Water Right Ownership* form along with the required documentation and fee (Attachment 1C).

- D. Is this application being completed by an authorized representative of the Designated Applicant? Yes ☒ No ☐

If yes, representatives (includes employees of Designated Applicant companies) must complete this section and submit documentary proof of their authority to represent the Designated Applicant (Attachment 1D).

Name of Representative Greg Sullivan

Organization Brockway Engineering

Professional Title Engineer

Email Address greg.sullivan@brockwayeng.com

Mailing Address 2016 N Washington St Ste 4 Twin Falls, Idaho 83301

Phone Number 208-736-8543

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

OR

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

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

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

OR

☒ A part of the water right is being offered to the Bank.

If a portion of the water right is being offered, complete Attachment 2.

3. MAP

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

STATE OF IDAHO
WATER RESOURCE BOARD

APPLICATION TO SELL OR LEASE A WATER RIGHT
(Continued)

4. GENERAL INFORMATION

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

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

- B. Please provide a description of the current water diversion and delivery system.
Existing wells, mainlines and pivot.

- 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. 43-13448, 43-13450, 43-13452, 43-13454, 43-13456, 43-13807

- D. Are any of the water rights identified in Section 4C stacked with the water right proposed for lease? Yes ☐ No ☒
Stacked water rights are used together to achieve a common beneficial use, such as irrigation of the same lands. Stacked water rights cannot be separated and must be jointly leased to the Water Supply Bank. Stacked water rights qualify for the multiple fee payment of \$500.

- E. Will the present place of use continue to receive water from any other source? Yes ☐ No ☒
If yes, explain the relationship between the different water sources and how enlargement of the authorized use will not occur if this water right is leased.

- F. Identify annual volumes and/or rates of water diverted in the last 5 years to accomplish the beneficial use authorized by this water right. See attached METRIC ET data for 2016.

- G. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes ☐ No ☒
If yes, describe the circumstances and attach evidence to demonstrate how the water right has not been lost through forfeiture (Attachment 4G). See [Section 42-223, Idaho Code](#) for exceptions to forfeiture. Your application may be denied if forfeiture concerns are not addressed.

- H. Is this water right involved in any other IDWR process, such as an application for transfer or a mitigation plan?
If yes, describe.

Yes ☐ No ☒

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: 2020 to 2022 (maximum lease period 5 calendar years).
(Year) (Year)

B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.

Current Rental Rate _____

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this water right for sale or lease to the Idaho Water Resource Board.

The Designated Applicant acknowledges the following:

1. Payment to the Designated Applicant is contingent upon the sale or rental of the water right from the Bank.
2. While a water right is in the Bank, the seller/lessor of the water right may not use the water right, even if the water right is not rented from the Bank.
3. A water right accepted into the Bank stays in the Bank until the Designated Applicant receives written confirmation from the Board or Water Supply Bank that the water right has been released from the Bank.
4. While a water right is in the Bank, forfeiture is stayed.
5. Acceptance of a water right into the Bank does not, in itself, confirm the validity of the water right or any element of the water right.

Signature of Designated Applicant

Printed Name

Date

Signature of Authorized Representative

Printed Name

Date

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

STATE OF IDAHO
WATER RESOURCE BOARD

Complete Attachment 2 if only a portion of the water right is offered to the Bank.

ATTACHMENT 2

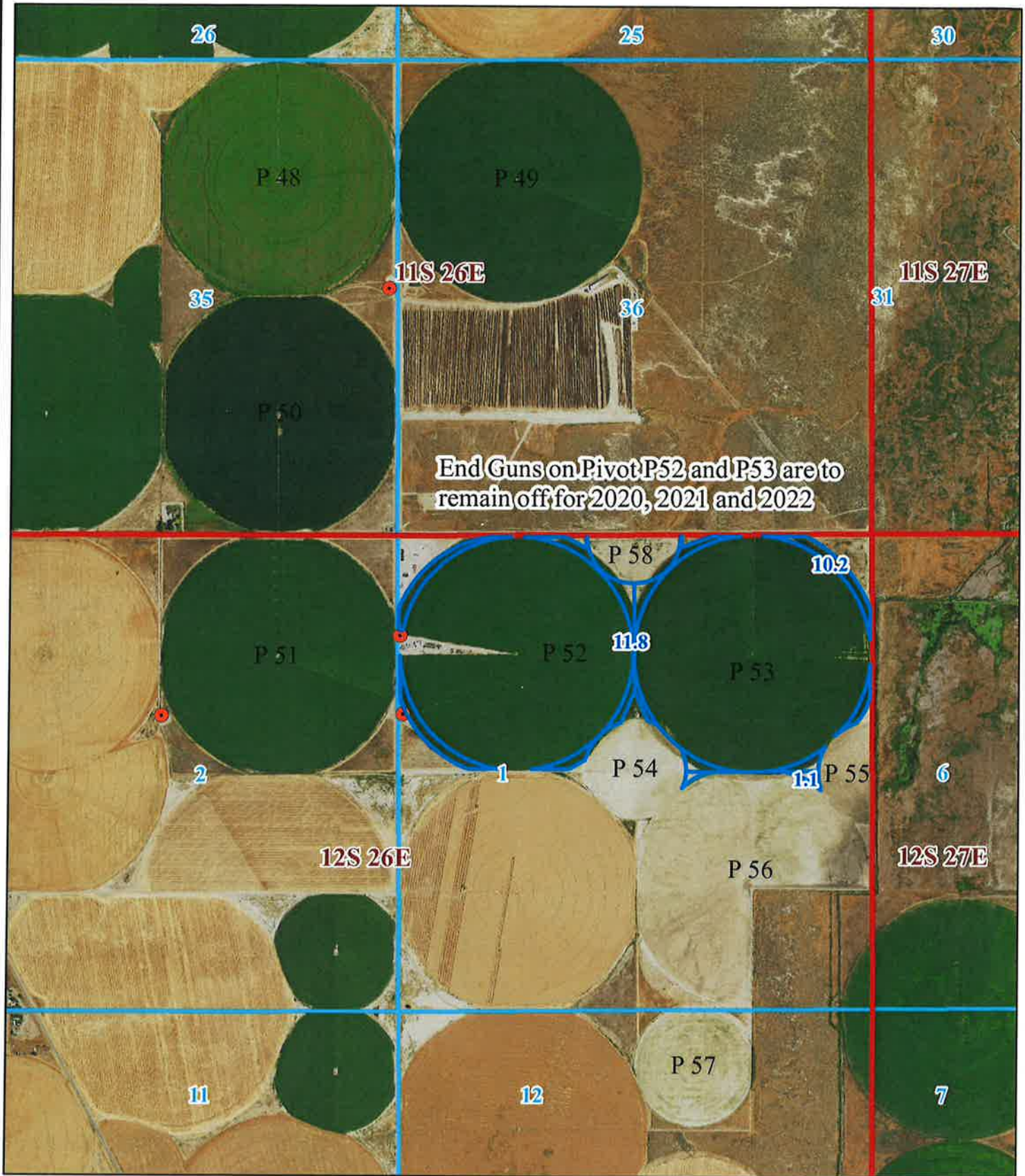
DESCRIPTION OF A WATER RIGHT PORTION OFFERED TO THE WATER SUPPLY BANK

1. <u>Water Right Number</u>	<u>Nature of Use</u>	<u>Leased Rate</u> (cfs)	<u>Leased Volume</u> (af)	<u>Leased Acres</u> (ac)
43-13448	Irrigation	0.40	92.4	23.1
Total Amounts:		0.40	92.4	23.1

2. Source of water Ground Water tributary to _____

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
26E	11S	35			SE	NE	Cassia
26E	12S	1			NW	NW	Cassia
26E	12S	1			SW	NW	Cassia
26E	12S	2			SW	NE	Cassia



0 0.25 0.5 Miles

EAST VALLEY CATTLE
2020 BUCK FARM

NAIP 2019 AERIAL

Legend

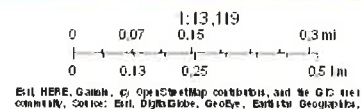
- Buck_Farm_Lease
- Points_of_Diversion



Evapotranspiration Statistics from the METRIC ET Model



Override 1



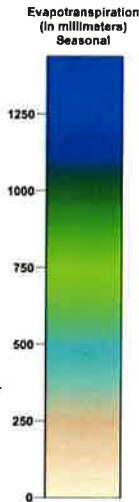
Evapotranspiration Statistics

Name User Drawn Polygon(s)
ET Dataset p3940_20160401to20161031_et.img

Area 258 acres

	ET	CIR
MEAN (mm)	1005.4	780.4
AC-FT	851.03	660.57
AC-FT/Acre	3.30	2.56

These statistics were generated by the tools provided at <http://maps.idwr.idaho.gov/ET> using the **METRIC (Mapping EvapoTranspiration at high Resolution with Internalized Calibration)** model, developed by the University of Idaho. Evapotranspiration (ET) from irrigated agriculture is synonymous with consumptive use. The consumptive irrigation requirement (CIR) is a measure of the irrigation water, exclusive of within-season effective rainfall, necessary to meet the consumptive use requirement of a crop. A detailed explanation of these data can be found at <http://idwr.idaho.gov/GIS/mapping-evapotranspiration>





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

June 24, 2020

EAST VALLEY CATTLE LLC
471 N 300 W
JEROME ID 83338-5078

**RE: WATER SUPPLY BANK LEASE CONTRACT 1193
FOR WATER RIGHTS 43-13448**

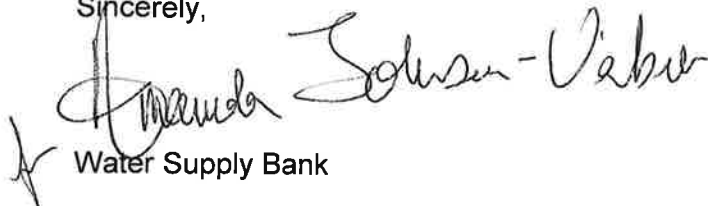
Dear Lessor:

Water rights **43-13448** was leased into the Water Supply Bank (Bank) as of January 1, 2020, 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, 2022**, 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 Schen-Vaher
Water Supply Bank

Enclosure: Executed Lease Contract

c: IDWR- SOUTHERN REGION
WATER DISTRICT NO. 143
BROCKWAY ENGINEERING



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

June 4, 2020

EAST VALLEY CATTLE LLC
471 N 300 W
JEROME ID 83338-5078

RE: APPLICATION TO LEASE WATER RIGHT 43-13448 TO THE WATER SUPPLY BANK
CONTRACT 1193

****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, 2022**, unless the right is released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. To propose a new lease period, submit a new Application to Sell or Lease a Water Right to the Water Supply Bank form along with applicable fees to the Department. These forms are available from any IDWR office or from our public website at <http://www.idwr.idaho.gov>. Please note your right may not be available for immediate release if it has been rented.

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

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

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

Sincerely,

for Water Supply Bank

Enclosures: Proposed Lease Contracts

c. Brockway Engineering PLLC

WATER SUPPLY BANK

Lease Review Checklist

Applicant(s) Name: East Valley Cattle

Memo Date: May 8, 2020

Water Right Number(s): 43-13448

Reviewers Name: Dave Betts

Quick Tools

Decreed

Year

No Forfeiture Concerns Thru:

2011

2017

2012

2018

2013

2019

2014

2020

2015

2021

	Check box	COMMENTS/CONCERNS:
1 Fill out WSB Data Entry Checklist for Leases (Front of File)		
2 Reason for lease of water rights (Brief description of lease proposal in narrative)		
Portion of right	x	0.4 cfs; 92.4 AF, 23.1 acres
All of right		
3 Check GWMA/CGWA/ADC and basin 63 areas of concern (note area in comments)	x	Raft River CGWMA; ESPA
	Yes No	
4 Rentable? (If no explain in comments or narrative)	x	
5 Authority to file		
Current owner or designated applicant	x	
SOS Web site checked for business entity	x	
Other (explain in comments)		NA
6 Water Right validity		
Decreed/Licensed/Statutory claim date (write in comments section)		Decreed 6/28/2002
Past irrigation to ensure forfeiture is not an issue if decreed or licensed over 7 years ago (consider transfers that changed the POU, rentals to the POU etc.)		Satellite imagery indicates POU to be idled was irrigated within the last 5 years
Has this right previously been leased to the bank or in CREP?	x	Different portion of right leased for 2019 -2020. (Lease Contract 977)
7 Injury to other water rights		
If the POD is through a delivery entity, was consent provided?		NA
If the POD is through a delivery entity, was holdback required? (percentage in comments)		%
Any other concerns	x	
8 Enlargement concerns	Check box	
Complete a POU comparison overlap analysis	x	
Complete a combined limits review	x	
Complete POD overlap analysis (if there is an overlap add condition to lease)	x	
	Yes No	
Are there overlapping rights that need to be placed in the bank also?		x
Will the place of use continue to receive water? (if yes explain in comments)		x
9 Local Public Interest		
Does the processor know of any problems this action will cause for the local public?	x	
10 Have you contacted regional office and watermaster for comment/concerns?	x	Reply from both: no concerns
Send the watermaster comment request form or e-mail request	x	email sent 5/4/2020
11 Area Headgate requirement (write in Comments)		4.0 AF / acre
12 Is water right involved in any other department action? Pull file and check database () Ownership Change () Transfer () Mitigation () Other - Explain in comments	x	
13 Narrative		
<p>The Department received this application to lease on March 12, 2020. The application was submitted by Brockway Engineering on behalf of East Valley Cattle LLC. The application was signed by William J (Bill) Millenkamp who is the registered agent for East Valley Cattle LLC.</p> <p>The applicants propose the lease of a portion of the water right consisting of 0.4 cfs, 92.4 AF, and 23.1 acres of irrigation. The proposed idling of acres is to be accomplished by turning off the end guns of two pivots. A previous portion of this WR was leased in 2019 (Lease Contract No. 977). This applicants have requested to withdraw and replace the previous lease with this application. The new lease, if approved, will expand the number of acres to be idled in a different location of the PPU, and extend the lease contract from 2020 through 2022. The proposed withdrawals are described in the cover letter submitted with this application and in email correspondence between Brockway Engineering and Department staff.</p> <p>This water right shares a permissible place of use (PPU) and four points of diversion (PODs) with water rights 43-13450, 43-13452, 43-13454, 43-13456, 43-13807. These authorized uses of these water rights, not stacked. If this application is approved, the remaining quantities that would be authorized for diversion from the shared PODs are 17.03 cfs, and 3,767.2 AF for the irrigation of 944 acres.</p> <p>This water right is administered by Water District 143 (Raft River). In response to my request for comments the watermaster and the Region had no concerns with the lease.</p>		

RECEIVED

MAR 12 2020

DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO
WATER RESOURCES BOARD

**WATER SUPPLY BANK
WITHDRAWAL OF RENTAL AGREEMENT**

Water Supply Bank Rental Agreement Number: 333

Name of Renter: East Valley Cattle LLC

Mailing Address: 471 N 300 W Jerome, Idaho 83338

Rental Contract Expiration Date: 12/31/2020

Request for Rental Agreement Date: ASAP

Reason for Early Withdrawal:

The lease contract No. 977 has been requested to be released from the Water Supply Bank. A new lease application for water right 43-13448 is being submitted to the Idaho Water Supply Bank for 2020, 2021 and 2022. A new rental for industrial use will be submitted to replace this agreement for the duration of the new lease contract with water right 43-13448.


Signature of Renter

William J. Millenkamp, Manager

Printed Name and Title

3-6-2020

Date

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 333

This is to certify that:

EAST VALLEY CATTLE LLC
471 N 300 W
JEROME, ID 83338-5078

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MAY 14 2019

DEPARTMENT OF
WATER RESOURCES

filed an application to rent water from the Water Supply Bank ("Bank"). The Idaho Water Resource Board ("Board"), being authorized to operate a Bank and to contract by and through the Director of the Idaho Department of Water Resources ("Director, Department") for rental of water from the Bank, agrees to rent water as follows:

Summary of Water Rights or Portions Rented from the Bank

Water Right No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)	Rate Per Acre (CFS/AC)	Volume Per Acre (AF/AC)
43-13448	3/2/1950	GROUND WATER	0.140	32.8	8.2	0.017	4.0
Rental Totals			0.140	32.8	8.2	0.017	4.0

Term of Rental: This rental agreement shall take effect when all parties have signed it and shall continue in effect until December 31, 2020. Use of rental water shall be authorized as of either the date this rental agreement takes effect or the first day of the rental season of use, in 2019, whichever occurs last.

Annual Rental Fee:

2019 and 2020: \$65.60 annually

The full fee for the rental of the above-described right(s) is \$65.60 per year for years 2019 - 2020. The rental fee includes an administrative fee of \$65.60 per year for years 2019 - 2020. Note that the renter is obligated to pay only the administrative fees associated with the water right(s): 43-13448.

An annual payment shall be received by the Department on or before December 31 each year preceding the use of the rented water rights. The agreement will be void if payment is not received by the due date in a given year. Rental fees are non-refundable. To voluntarily terminate the agreement early, notify the Department in writing prior to the rental fee due date.

Total Water Use Authorized Under Rental Agreement

Beneficial Use	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)
INDUSTRIAL	0.100	13.1	N/A
INDUSTRIAL STORAGE	0.040	4.9	N/A
Combined Total	0.140	18.0	N/A


* The authorized water usage reflects a reduction from the water right elements rented, to account for Change in Nature of Use from Irrigation to Industrial

Detailed water right conditions are attached.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 333

The undersigned renter agrees to use the water rented under this agreement in accordance with the Water Supply Bank rules and in compliance with the limitations and conditions of use described in this agreement:

 Bill Millenkamp May 12, 2019
Signature of Renter Date
William L. Millenkamp Manager
Printed Name Title

*Title required if signing on behalf of a company or organization or with power of attorney

Having determined that this agreement satisfied the provisions of Idaho Code § 42-1763 and IDAPA 37.02.03.030 (Water Supply Bank Rule 30), for the rental and use of water under the terms and condition herein provided, and none other, I hereby execute this Rental Agreement on behalf of the Idaho Water Resource Board.

By Brian Patton 5/17/2019
BRIAN PATTON, Acting Administrator Date
Idaho Water Resource Board

Rental approved by IDWR Quinn 5-17-2019
Date

RECEIVED

MAR 12 2020

DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO
WATER RESOURCES BOARD

**WATER SUPPLY BANK
WITHDRAWAL OF RENTAL AGREEMENT**

Water Supply Bank Rental Agreement Number: 330

Name of Renter: East Valley Cattle LLC


Mailing Address: 471 N 300 W Jerome, Idaho 83338

Rental Contract Expiration Date: 12/31/2020

Request for Rental Agreement Date: ASAP

Reason for Early Withdrawal:

The lease contract No. 977 has been requested to be released from the Water Supply Bank. A new lease application for water right 43-13448 is being submitted to the Idaho Water Supply Bank for 2020, 2021 and 2022. A new rental for industrial use will be submitted to replace this agreement for the duration of the new lease contract with water right 43-13448.


Signature of Renter

William J. Millenkamp, Manager
Printed Name and Title

3-6-2020
Date

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 330

This is to certify that:

EAST VALLEY CATTLE LLC
471 N 300 W
JEROME, ID 83338-5078

RECEIVED
MAY 14 2019
DEPARTMENT OF
WATER RESOURCES

filed an application to rent water from the Water Supply Bank ("Bank"). The Idaho Water Resource Board ("Board"), being authorized to operate a Bank and to contract by and through the Director of the Idaho Department of Water Resources ("Director, Department") for rental of water from the Bank, agrees to rent water as follows:

Summary of Water Rights or Portions Rented from the Bank

Water Right No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)	Rate Per Acre (CFS/AC)	Volume Per Acre (AF/AC)
43-13448	3/2/1950	GROUND WATER	0.100	23.6	5.9	0.017	3.98
Combined Rental Totals			0.100	23.6	5.9	0.017	3.98

Term of Rental: This rental agreement shall take effect when all parties have signed it and shall continue in effect until December 31, 2020. Use of rental water shall be authorized as of either the date this rental agreement takes effect or the first day of the rental season of use, in 2019, whichever occurs last.

Annual Rental Fee:

2019 and 2020: \$47.20 annually

The full fee for the rental of the above-described right(s) is \$47.20 per year for years 2019 and 2020. The rental fee includes an administrative fee of \$47.20 per year for years 2019 and 2020. Note that the renter is obligated to pay only the administrative fees associated with the water right(s): 43-13448.

An annual payment shall be received by the Department on or before December 31 each year preceding the use of the rented water rights. The agreement will be void if payment is not received by the due date in a given year. Rental fees are non-refundable. To voluntarily terminate the agreement early, notify the Department in writing prior to the rental fee due date.

Total Water Use Authorized Under Rental Agreement

Beneficial Use	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)
INDUSTRIAL	0.100	12.9	N/A
Combined Total	0.100	12.9	N/A

* The authorized water usage reflects a reduction from the water right elements rented, to account for change in nature of use from irrigation to industrial for a cement mixing facility.

Detailed water right conditions are attached.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK RENTAL AGREEMENT No. 330

The undersigned renter agrees to use the water rented under this agreement in accordance with the Water Supply Bank rules and in compliance with the limitations and conditions of use described in this agreement:


Signature of Renter
Date May 12, 2019
William J. Millenkamp
Printed Name
Manager
Title

*Title required if signing on behalf of a company or organization or with power of attorney

Having determined that this agreement satisfied the provisions of Idaho Code § 42-1763 and IDAPA 37.02.03.030 (Water Supply Bank Rule 30), for the rental and use of water under the terms and condition herein provided, and none other, I hereby execute this Rental Agreement on behalf of the Idaho Water Resource Board.

By 
BRIAN PATTON, Acting Administrator
Idaho Water Resource Board
Date 5/17/2019

Rental approved by IDWR 
Date 5-17-2019

STATE OF IDAHO
WATER RESOURCE BOARD

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MAR 12 2020
DEPARTMENT OF
WATER RESOURCES

WATER SUPPLY BANK
REQUEST TO RELEASE A WATER RIGHT FROM THE BANK

ONE FORM PER WATER RIGHT

All water rights leased into the Water Supply Bank shall remain unused by the water right holder for the duration of the Lease Contract. The water right will not be released from the Water Supply Bank until the conclusion of the Lease Contract unless otherwise authorized by the Idaho Water Resource Board. Water right holders may use this form to petition for early termination of their Water Supply Bank Lease Contract.

Water right holders seeking an early termination of a Lease Contract must demonstrate justifiable need for the release. Water rights under Lease Contract that are eligible for early termination can be released from the Water Supply Bank if the release will not impair administration of the Water Supply Bank. **If a water right is currently rented, it cannot be considered for release until the Rental Agreement concludes.** A water right is not released from the Water Supply Bank until written release confirmation is issued by the Water Supply Bank.

Water Right No: 43-13448

Name(s) of Lessor(s): East Valley Cattle LLC

Mailing Address: 471 N 300 W

City: Jerome

State: Idaho

Zip: 83338

Telephone No: _____ Email Address: _____

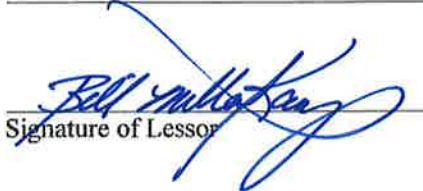
Lease Contract Expiration Date: 12/31/2020

Requested Release Date: ASAP

Reason for Early Release:

This lease release will be replaced with a 23.1 acre lease application from 43-13448 for 2020, 2021 and 2022.

Farm management plans changed after lease contract 977 was signed.


Signature of Lessor

William J. Millenkamp
Printed Name and Title*

3-6-2020
Date

Signature of Lessor

Printed Name and Title*

Date

*Please provide title of signatory if signing on behalf of a company or organization or with power of attorney.

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

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 977

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

LESSOR: EAST VALLEY CATTLE LLC
471 N 300 W
JEROME, ID 83338-5078

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MAY 14 2019

**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 January 28, 2019.
3. The Director of the Idaho Department of Water Resources has reviewed the application for compliance with the Water Supply Bank rules and has approved the Lease subject to conditions listed below.

NOW, THEREFORE, in consideration of the mutual covenants and contracts herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. **WATER RIGHTS:** The Lessor shall lease and the Board shall accept into the Bank the Applicant's water rights described as follows:

Summary of Water Rights or Portions Leased to the Bank

Water Right No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)
43-13448	3/2/1950	GROUND WATER	0.24	56.4	14.1
Lease Totals			0.24	56.4	14.1

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, 2019 to December 31, 2020. 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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 977

- 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. 977

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

LESSOR: EAST VALLEY CATTLE LLC

471 N 300 W

JEROME, ID 83338-5078

By [Signature]
Title Manager
Date 5-12-19

IDAHO WATER RESOURCE BOARD

322 East Front Street

P.O. Box 83720

Boise, ID 83720-0098

By [Signature]
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 5/17/2019

Lease approved by IDWR [Signature]

Date 5-17-2019



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

RECEIVED

MAR 12 2020

DEPARTMENT OF
WATER RESOURCES

March 10, 2020

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

Re: East Valley Cattle

Dear Mr. Buyer:

East Valley Cattle is submitting several documents to the Idaho Water Supply Bank with this letter. It is requested that these documents be processed simultaneously to help avoid any water use without proper approval by IDWR.

At this time East Valley Cattle is requesting the withdrawal of Lease Contract 977, Rental Agreement 330 and Rental Agreement 333. The contract and agreements would have expired December 31, 2020.

A lease application for water right 43-13448 is attached to this letter for 23.1 acres. The 23.1 acres cover acres that have previously been irrigated by endguns on two pivots. The end guns will be turned off for 2020, 2021 and 2022.

A rental application for industrial water at a temporary cement mixing facility is attached to this letter and will replace the previously submitted rental application. The rental proposes a 3 year rental of 22.7 acre feet of consumptive use water. The cement mixing facility is not expected to be operated continuously throughout the proposed rental period.

A rental application for a temporary gravel washing facility is attached to this letter. It is proposed to rent 29.7 acre feet of consumptive water for 3 years. The gravel washing facility will be operated as needed during the 3 year rental period and will not be continuously.

A rental application for temporary irrigation along the Raft River of 1.9 acres on property owned by East Valley Cattle. It is proposed to rent the 1.9 acre for only the 2020 irrigation season. It is expected that a flow meter will be installed to monitor this water use.

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

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

2016 NORTH
WASHINGTON
STREET • SUITE 4

TWIN FALLS,
IDAHO 83301

208•736•8543

FAX: 736•8506

A rental application for temporary irrigation along the Raft River of 1.5 acres on property owned by East Valley Cattle. It is proposed to rent the 1.5 acre for the 2020, 2021 and 2022 irrigation seasons. It is expected that a flow meter will be installed to monitor this water use.

Because East Valley Cattle owns 43-13448 it is expected that only the annual 10% rental processing fee will be paid when the rental contracts are finalized and when annual rental payments are due.

Please copy our office on all correspondence regarding these applications.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Greg Sullivan', written in a cursive style.

Greg Sullivan, M.S., Engineer

Cc: Bill Millenkamp

Enc: Lease Withdrawal, Rental Withdrawal Forms, Lease Application, Gravel Rental Application, Cement Rental Application, 1.9 Acre Rental, 1.5 Acre Rental, METRIC ET Data, Aerial Maps, Rental Calculations Spreadsheets, Brockway Engineering Check # 15798 for \$250.00