

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1010

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

RECEIVED

JUL 01 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 March 21, 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)
21-12961	2/9/1897	HENRYS FORK, tributary to SNAKE RIVER	9.54	Not Stated	160.0
21-12962	2/9/1897	HENRYS FORK, tributary to SNAKE RIVER	5.20	Not Stated	160.0
Combined Lease Totals			9.54	Not Stated	160.0

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)
21-12961	9.54	560.0	160.0	0.060	3.5
21-12962	5.20	560.0	160.0	0.033	3.5
Combined Limit Totals	9.54	560.0	160.0	0.060	3.5

** The water right elements rentable have been reduced from the water right elements leased to account for combined limits and Season of Use conditions*

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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1010

Minimum Payment Acceptable: Current Rental Rate

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2019 to December 31, 2023. 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. 1010

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

Melvin P. Caruso
Title President Egin Bench Canals

Date June 27 2019

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

7/2/2019

Lease approved by IDWR

Chris Webb

Date

7-2-2019

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1010

**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): 21-12961, 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		
21-12961	IRRIGATION	04/01	to	07/01	9.54 cfs	Not Stated
21-12962	IRRIGATION	07/02	to	10/31	5.20 cfs	Not Stated
Totals:					9.54 cfs	Not Stated

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	
08N	41E	28					3.9	2.6	24.0	12.0	5.5	17.0							65.0
08N	41E	29	2.8		1.1	32.0				0.1	16.0				24.0	19.0			95.0

Total Acres: 160.0

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

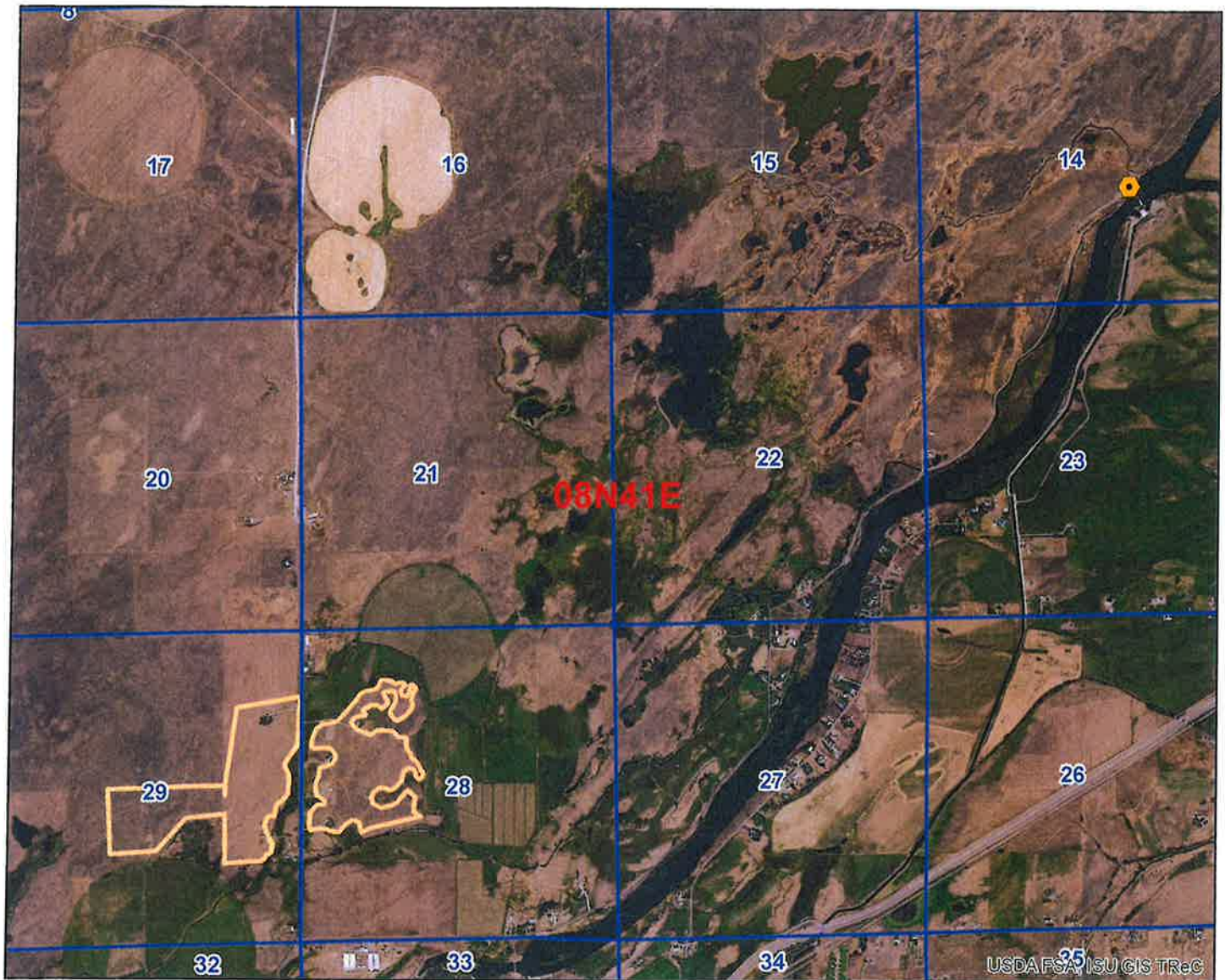
WATER SUPPLY BANK LEASE CONTRACT No. 1010

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 rights 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. The unleased portions of Right Nos. 21-12961 and 21-12962 after Lease Contracts 1010 are limited to the irrigation of a combined total of 3530 acres in a single irrigation season and a total combined diversion rate of 210.46 cfs.
13. The unleased portions of Right Nos. 21-12961 and 21-12962 after Lease Contracts 378 & 1010 are limited to the irrigation of a combined total of 3242.6 acres in a single irrigation season and a total combined diversion rate of 192.44 cfs.
14. Water is delivered through Last Chance Canal.

Idaho Water Resource Board
Water Supply Bank Lease Contract No. 1010

21-12961 & 21-12962
Effective until December 31, 2023

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 Point of Diversion
-  Approved Lease Place of Use
-  Township/Range
-  Sections



0 0.5 1 1.5 Miles

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED DE

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

MAR 21 2019

DEPARTMENT OF
WATER RESOURCES

Designated Applicant Egin Bench Canals Inc.

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

Water Right No. 21-12961

(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 | ☒ | ☐ | Signatures and contact information for all owners of the water right to be leased or sold on this application. |
| 1B | ☒ | ☐ | An <u>Internal Revenue Service (IRS) Form W-9</u> for the Designated Applicant. |
| 1C | ☒ | ☐ | <i>Notice of Change in Water Right Ownership</i> 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 | ☐ | ☒ | <i>Sent as a separate via email</i>
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 | ☒ | ☐ | Written consent from irrigation district or water delivery company. |
| 4G | ☒ | ☐ | Evidence demonstrating the water right has not been forfeited pursuant to <u>Section 42-222(2), Idaho Code</u> . |

Department Use Only

Fee Amount \$ <u>500</u>	Received By: <u>[Signature]</u>	Date Received: <u>3/21/19</u>	Receipt # <u>C106431</u>
W-9 received? Yes ☐ No ☒ (Route W-9 to Fiscal)		Name on W-9:	

1381

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 ID 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 through the Last Chance Canal Diversion

- 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.

- 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. Enlargement will not occur because acres currently in the irrigated place of use will not be irrigated for the period of the lease.

- 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 annual diversion through the Last Chance Canal over the last five years was 21,373 Acre Feet. The total allowable irrigated acreage is 3,690. Average diversion divided by total acreage equals 5.8 AF per acre.

- 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: 2019 to 2023 (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.
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

Aaron Dalling

Printed Name

Date

3/20/19

Signature of Authorized Representative

Micheal Rasmussen

Printed Name

Date

March 20 2019

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>	Nature of Use	Leased Rate (cfs)	Leased Volume (af)	Leased Acres (ac)
<u>21-12962</u>	<u>Irrigation</u>	<u>9.46</u>	<u>463.4</u>	<u>160</u>
Total Amounts:		<u>9.46</u>	<u>463.4</u>	<u>160</u>

2. Source of water Henry's Fork tributary to Snake River

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
8N	41E	14	4	NW	SE		Fremont County

Attachment 1D

No. C 105872		Due no later than Apr 30, 2018 Annual Report Form		2. Registered Agent and Address (NO PO BOX)			
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE		1. Mailing Address: Correct in this box if needed. EGIN BENCH CANALS, INC. AARON R DALLING PO BOX 15 ST ANTHONY ID 83445		DALE L SWENSEN 350 N 6TH W ST ANTHONY ID 83445			
				3. <u>New</u> Registered Agent Signature: *			
4. Corporations: Enter Names and Business Addresses of President, Secretary, and Directors. Treasurer (optional).							
Office Held	Name	Street or PO Address	City	State	Country	Postal Code	
DIRECTOR	BLAIR PARKER	1970 E 600 N	ST ANTHONY	ID	USA	83445	
SECRETARY	AARON R DALLING	279 NORTH 2450 EAST	ST ANTHONY	ID	USA	83445	
DIRECTOR	GEORGE M CRAPO	726 N 2100 E	ST ANTHONY	ID	USA	83445	
PRESIDENT	MIKE RASMUSSEN	4991 W 5000 N	REXBURG	ID	USA	83440	
DIRECTOR	JEFFERY D RAYBOULD	301 N 1500 E	ST ANTHONY	ID	USA	83445	
DIRECTOR	MIKE LOVELAND	662 SAND CREEK ROAD	ST ANTHONY	ID	USA	83445	
DIRECTOR	LEE MILLER	535 E MAIN	ST ANTHONY	ID	USA	83445	
DIRECTOR	RANDOLPH H BROWN	6028 N 4000 N	REXBURG	ID	USA	83440	
DIRECTOR	DOUGLAS HANKS	624 NORTH SPRUCE - PARKER	ST ANTHONY	ID	USA	83445	
5. Organized Under the Laws of: ID C 105872		6. Annual Report must be signed.* Signature: Aaron R. Dalling Name (type or print): Aaron R. Dalling		Date: 02/27/2018 Title: Secretary			
Processed 02/27/2018		* Electronically provided signatures are accepted as original signatures.					

RECEIVED

MAR 21 2019

DEPARTMENT OF
WATER RESOURCES

Attachment 1D

3-18-2019

TO: The Idaho Water Supply Bank

Egin Bench Canals Inc. authorizes Aaron Dalling as the authorized representative in regard to the Water Supply Bank application to lease water.



Mike Rasmussen, President Egin Bench Canals Inc.

STATE OF IDAHO
WATER RESOURCE BOARD

RECEIVED

MAR 21 2019

DEPARTMENT OF
WATER RESOURCESAPPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANKDesignated Applicant Egin Bench Canals Inc.

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

Water Right No. 21-12962

(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 ☒ ☐ 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.
Sent as Shapefile via email
- 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 \$ 500Received By: AWDate Received: 3/21/19Receipt # C10631W-9 received? Yes ☐ No ☒ (Route W-9 to Fiscal)

Name on W-9:

1381

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 ID 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 through the Last Chance Canal Diversion

- 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.

- 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. Enlargement will not occur because acres currently in the irrigated place of use will not be irrigated for the period of the lease.

- 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 annual diversion through the Last Chance Canal over the last five years was 21,373 Acre Feet. The total allowable irrigated acreage is 3,690. Average diversion divided by total acreage equals 5.8 AF per acre.

- 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: 2019 to 2023 (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.
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

Aaron Dalling

Printed Name

Date

Signature of Authorized Representative

Micheal Rasmussen

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>	Nature of Use	Leased Rate (cfs)	Leased Volume (af)	Leased Acres (ac)
<u>21-12962</u>	<u>Irrigation</u>	<u>5.16</u>	<u>463.4</u>	<u>160</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Total Amounts:		<u>5.16</u>	<u>463.4</u>	<u>160</u>

2. Source of water Henry's Fork tributary to Snake River

3. Point(s) of diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County
8N	41E	14	4	NW	SE		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

July 3, 2019

EGIN BENCH CANALS INC
PO BOX 15
ST ANTHONY ID 83445

**RE: WATER SUPPLY BANK LEASE CONTRACT 1010
FOR WATER RIGHTS 21-12961 and 21-12962**

Dear Lessor:

Water rights **21-12961** and **21-12962** were leased into the Water Supply Bank (Bank) as of March 21, 2019, 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, 2023**, 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 287-4800.

Sincerely,


for Water Supply Bank

Enclosure: Executed Lease Contract

c: James Cefalo - IDWR Eastern Region
Tony Olenichak – Water District 01



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 21, 2019

EGIN BENCH CANALS INC
PO BOX 15
ST ANTHONY ID 83445

RE: **APPLICATIONS TO LEASE WATER RIGHTS 21-12961 and 21-12962
TO THE WATER SUPPLY BANK - CONTRACT 1010**

******TIME SENSITIVE RESPONSE REQUIRED*****

Dear Applicant:

The Department of Water Resources has completed its review of your application to lease the above-mentioned water rights 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 rights will automatically be released from the Bank on **December 31, 2023**, unless the rights are released earlier by the Board, or upon your request. To release the 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. 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 rights may not be available for immediate release if they have 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 287-4800.

Sincerely,

Water Supply Bank

Enclosures: Proposed Lease Contracts
Receipt # C106431

MEMORANDUM FOR APPLICATION # 1381

To: Water Right(s) 21-12961 & 21-12962

From: Mary Condon

Date: June 1, 2019

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

PURPOSE/NARRATIVE: Companion applications to lease and rent water rights received on March 21, 2019, to change the POU for irrigation water from 2019 thru 2023. This memo will address the lease.

A shapefile for the portion of irrigation water to be idled accompanied this additional/new application for lease.

AUTHORITY TO FILE: Application to lease signed by Aaron Dalling, as the secretary for Egin Bench Canals Inc, with a letter from the company president authorizing Mr. Dalling to represent the canal company for the lease and rental package. 2018 Annual Report to the Secretary of the State of Idaho also lists Mr. Dalling as the secretary and Mr. Rasmussen as the company president. Both water rights are held by Egin Bench Canals, Inc. Authorized POU is a boundary for the irrigation company and leased acres are held by private owners. No concerns with authority to file.

WATER RIGHT VALIDITY: Both water rights were decreed in 2012 for a combined limit of 3690 acres and 220 cfs, which is equal to the single limit of 21-12961; however, the SOU is the difference between these two rights. The first allows for max diversion from 4/1 to 7/1, while the second is for nearly half the cfs from 7/2 to 10/31, for the same acres of irrigation. The second has two other beneficial uses as well for stockwater (1/1-12/31) & subirrigation (11/01-03/31). Right 21-12962 is not a supplemental right in terms of adding any diversion, volume, acres or source for irrigation, but to extend the season of use at a lower diversion rate. They are both from right 21-12626, previously claim numbers 1-0095 and 1-0096. 21-12626 was for slightly more than the total diversion and acres and from 4/1 through 11/01, but a portion of the acres were lost through forfeiture. It appears through these two claims, it was split into the pre-July season and post July season.

A portion for 287.4 acres of these two rights were brought into the bank from 2016 through 2020, along with 21-12897 et.al at varying acres (see Lease Contract 378). This lease package proposal is for another portion of 160 total acres on separate idled land. Of note, the previously mentioned lease contract 378 does have a typo in the remaining unleased limits to these two rights, which should be 3402.6 acres, not the 3102.6 in the conditions.

Review of satellite imagery for the proposed leased POU acres shows no irrigation has occurred since they were decreed in October 2012, and is expected to stay idled throughout the term of the lease contract. Per Idaho Code 42-223, subsection 7, they would be protected from forfeiture as an irrigation company. No concerns with validity of the water rights.

INJURY TO OTHER WATER RIGHTS: Injury through the lease of these rights is not expected.

ENLARGEMENT OF USE: Of some concern may be the volume average for the two rights as stated on the lease applications, claiming 5.8 af per acre. This may be to carry enough water

throughout the canal system. The value calculated per the 2016 review memo for previously mentioned lease contract 378 is for 3.5 af per acre, versus the 2.9 af per acre calculated by the applicant on attachment 2 of this lease application, and consistent with the area headgate standard would be appropriate to continue to use for rental purposes.

LOCAL PUBLIC INTEREST: The lease of these rights appears to be in 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 lease PD is subject to Water District # 01.

Email requesting comments or concerns sent to the Watermaster and Eastern Region manager on 6/5/2019.

RECEIVED

MAR 21 2019

DEPARTMENT OF
WATER RESOURCES

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

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

March 18, 2019

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 application is to temporarily dry up some of the acreage within the Canal Company water right place of use and irrigate 160 acres using the same point of diversion and canal but the fields are located just outside of the Canal Company's water right boundary.

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

The map detailing the acreages to be dried up was sent via email as a shapefile.

We calculated the volume for the lease based on the 5-year diversion average for the Last Chance Canal and divided it by the total acres listed on the water rights.

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

Sincerely,



Mike Rasmussen
President-Egin Bench Canals

Enclosures: