

WATER SUPPLY BANK LEASE CONTRACT

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

JUN 07 2016

**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. On November 18, 2015, the Lessor filed an application to lease the water rights described below into the Water Supply Bank.
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 the 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	Priority Date	Source	Tributary	Leased Rate	Annual Leased Volume	Total Leased Acres
21-12897	04/25/1885	Henrys Fork	Snake River	16.38 cfs	786.7 af	224.8 ac
21-12912	04/01/1939	Henrys Fork	Snake River	1.88 cfs	90.5 af	25.8 ac
21-12934	03/01/1890	Henrys Fork	Snake River	16.38 cfs	786.7 af	224.8 ac
Total Annual Combined Limit				34.65 cfs	1663.9 af	475.4 ac
21-12908	04/01/1939	Henrys Fork	Snake River	1.97 cfs	131.9 af	37.7 ac
21-12921	07/29/1892	Henrys Fork	Snake River	8.19 cfs	549.6 af	157.0 ac
21-12922	06/21/1888	Henrys Fork	Snake River	49.15 cfs	3297.6 af	942.2 ac
Total Annual Combined Limit				59.31 cfs	3979.1 af	1136.9 ac
21-12910	04/01/1939	Henrys Fork	Snake River	2.87 cfs	159.5 af	45.6 ac
21-12928	06/14/1895	Henrys Fork	Snake River	32.77 cfs	1823.0 af	520.8 ac
Total Annual Combined Limit				35.64 cfs	1982.5 af	566.4 ac
21-12961	02/09/1897	Henrys Fork	Snake River	18.02 cfs	1006.0 af	287.4 ac
21-12962	02/09/1897	Henrys Fork	Snake River	9.83 cfs	548.7 af	156.8 ac
Total Annual Combined Limit				18.02 cfs	1006.0 af	287.4 ac

Lease Totals

147.63 cfs 8631.5 af 2466.1 ac

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.

SUPPORT DATA

IN FILE # 21-12897

WATER SUPPLY BANK LEASE CONTRACT

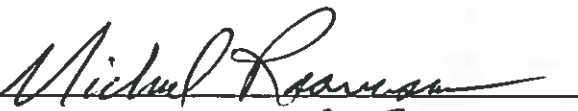
Minimum Payment Acceptable: Current Rental Rate

3. **TERM OF LEASE:** The term of this lease shall be January 1, 2016 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.
5. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

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

EGIN BENCH CANALS INC

PO BOX 15
ST ANTHONY ID 83445

By 
Printed Name Michael Rasmussen

Date June 6 2016
Title President Egin Bench Canals

IDAHO WATER RESOURCE BOARD

322 EAST FRONT ST
PO BOX 83720
BOISE ID 83720-0098

By 
Brian Patton, Acting Administrator
Idaho Water Resource Board

Date 6/8/2016

Lease approved by IDWR 

Date 6-8-2016

ATTACHMENT A

WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

WATER RIGHT NOS. 21-12897, 21-12912, 21-12934, 21-12908, 21-12921, 21-12922, 21-12910, 21-12928, 21-12961, and 21-12962

The water right or portion thereof leased to the bank is described as follows:

Lessor: EGIN BENCH CANALS INC
PO BOX 15
ST ANTHONY ID 83445
208-624-3381

Location of Point(s) of Diversion for Water Right 21-12897, 21-12912 and 21-12934

HENRYS FORK L8(ENE) Sec. 01, Twp 07N, Rge 40E, FREMONT County

Location of Point(s) of Diversion for Water Right 21-12908, 21-12921 and 21-12922

HENRYS FORK L6(ENW) Sec. 01, Twp 07N, Rge 40E, FREMONT County
HENRYS FORK L7(NENW) Sec. 33, Twp 08N, Rge 41E, FREMONT County

Location of Point(s) of Diversion for Water Right 21-12910 and 21-12928

HENRYS FORK L6(ENE) Sec. 02, Twp 07N, Rge 40E, FREMONT County

Location of Point(s) of Diversion for Water Right 21-12961 and 21-12962

HENRYS FORK L4(NWSE) Sec. 14, Twp 08N, Rge 41E, FREMONT County

<u>Water Right</u>	<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
21-12897	IRRIGATION	04/01	to 10/31	16.38 cfs
21-12912	IRRIGATION	04/01	to 10/31	1.88 cfs
21-12934	IRRIGATION	04/01	to 07/01	16.38 cfs
		07/02	to 07/16	8.19 cfs
		07/17	to 08/01	16.38 cfs
		08/02	to 10/31	8.19 cfs
21-12908	IRRIGATION	04/01	to 10/31	1.97 cfs
21-12921	IRRIGATION	04/01	to 10/31	8.19 cfs
21-12922	IRRIGATION	04/01	to 07/01	49.15 cfs
		07/02	to 07/16	40.96 cfs
		07/17	to 07/31	49.15 cfs
		08/01	to 10/31	40.96 cfs
21-12910	IRRIGATION	04/01	to 10/31	2.87 cfs
21-12928	IRRIGATION	04/01	to 07/01	32.77 cfs
		07/02	to 07/16	29.49 cfs
		07/17	to 07/31	32.77 cfs
		08/01	to 10/31	29.49 cfs
21-12961	IRRIGATION	04/01	to 07/01	18.02 cfs
21-12962	IRRIGATION	07/02	to 10/31	9.83 cfs

Total: 147.63 cfs 8631.5 af

Place of Use to be Idled Under This Lease: IRRIGATION; Large POU Not Displayed, See Attached Map

Total Acres: 2466.1

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 Board or Director to rescind acceptance of the lease.
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, nor does it improve the status of the right or accomplish the 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 after the following rental season.
11. The water rights leased to the bank are subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department.
12. Use of water under this right is 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. 100.
13. Unleased portions of rights 21-12897, 21-12912 and 21-12934 are limited to irrigation of a combined total of 5,627.6 acres in a single irrigation season.
14. Unleased portions of rights 21-12908, 21-12921 and 21-12922 are limited to irrigation of a combined total of 13,459.1 acres in a single irrigation season.
15. Unleased portions of rights 21-12928 and 21-12910 are limited to irrigation of a combined total of 6,705.6 acres in a single irrigation season.
16. Unleased portions of rights 21-12961 and 21-12962 are limited to irrigation of a combined total of 3,102.6 acres and a combined diversion rate of 201.7 cfs in a single irrigation season.
17. Unleased portions of rights 21-12897, 21-12912, 21-12934, 21-12908, 21-12921, 21-12922, 21-12910, 21-12928, 21-12961, and 21-12962 are limited to the irrigation of a combined total of 27,335.9 acres.
18. Water is delivered through the Egin Canal for water rights 21-12897, 21-12912 and 21-12934.

19. Water is delivered through the St Anthony Union Canal and St. Anthony Union Feeder for water rights 21-12908, 21-12921 and 21-12922.
20. Water is delivered through the Independent Canal for water rights 21-12910 and 21-12928.
21. Water is delivered through the Last Chance Canal for water rights 21-12961 and 21-12962.

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

1. CONTACT INFORMATION

A. An application to sell or lease a water right to the Water Supply Bank must be completed by a Designated Applicant who is a recognized owner of the water right being sold or leased to the Water Supply Bank. If there are additional owners recorded for the property to which the water right is appurtenant, 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. Email Address fmid@myidahomail.com
Mailing Address P.O. Box 15, St. Anthony, Idaho 83445 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 completed an IRS Form W-9 (Attachment 1B)? Yes ☒ No ☐

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 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 1D).

E. 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 1E).

Name of Representative Dale L. Swensen Organization Egin Bench Canals, Inc.
Professional Title Secretary/Treasurer Email Address fmid@myidahomail.com
Mailing Address P.O. Box 15, St. Anthony, Idaho 83445 Phone Number 208-624-3381

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

OR

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

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

Water Right Number 21-12910 ☐ 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 a water right is being offered, complete Attachment 2)

3. GENERAL INFORMATION

A. Please provide a description of the current water diversion system.

Earthen lined canals and headgates at a point of diversion from the Henry's Fork river. Known as the Independent Canal point of diversion.

B. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank.
21-12928

C. Are any of the water rights identified in question 3B stacked with the water right proposed for lease? Yes ☒ No ☐

Stacked water rights are water rights that are utilized 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.

D. Will the present place of use continue to receive water from any other source? Yes ☐ No ☒

If yes, describe. These overlapping irrigation rights will not be used irrigate the acres identified as being dried up.

The dried up acres on this application are not and will not be irrigated under any circumstances. See Attachment 1

E. Has any portion of this water right undergone a period of five or more consecutive years of non-use? Yes ☐ No ☒

If yes, describe and attach Watermaster records or other evidence to demonstrate that the water right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code.

F. Is this water right involved in any other IDWR process such as an application for transfer or a mitigation plan? Yes ☐ No ☒

If yes, describe. _____

4. MAP

Plat map, survey map, or aerial photograph clearly showing the specific acres proposed to be idled by this lease application.

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: 2016 to 2020 (maximum lease period 5 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 provisions are stayed.
5. Acceptance of a water right into the Bank does not, in itself, confirm the validity of the water right or any elements of the water right.

Dale L. Swensen

Signature of Designated Applicant

Dale L. Swensen

Printed Name

11-16-15

Date

Signature of Authorized Representative

Printed Name

Date

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

