

RECEIVED
OCT 22 2015
COMPLETE
WATER RESOURCES
WESTERN REGION

RECEIVED
SEP 21 2015
INCOMPLETE
WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT
To appropriate the public waters of the State of Idaho

1. Name of applicant(s) Rocky Mountain Business Park Association, Inc. Phone (208) 323-1080
 Name connector (check one): ☐ and ☐ or ☐ and/or
 Mailing address c/o Sentry Management, Inc., 664 s. Rivershore Ln, Ste 152 City Eagle
 State ID Zip 83616 Email pliddell@sentrymgt.com
2. Source of water supply Ground Water which is a tributary of _____
3. Location of point(s) of diversion:

TWP	RGE	SEC	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
4N	1E	16			NW	NE	Ada	Ground Water	

4. Water will be used for the following purposes:
 Amount 0.32 for Irrigation purposes from 3/1 to 11/15 (both dates inclusive)
 (cfs or acre-feet per year)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
5. Total quantity to be appropriated is (a) 0.32 cubic feet per second (cfs) and/or (b) _____ acre feet per year (af).
6. Proposed diverting works:
- Describe type and size of devices used to divert water from the source. Existing 8-inch diameter well with submersible pump to irrigation system serving the business park lot and common area landscaping.
 - Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 11. For dams 10 feet or more in height OR reservoirs with a total storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☐ No
 - Proposed well diameter is 8 inches; proposed depth of well is 180 feet.
 - Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☒ No
 - If well is already drilled, when? unknown; drilling firm unknown; well was drilled for (well owner) unknown; Drilling Permit No. unknown.
7. Description of proposed uses (if irrigation only, go to item 8):
- Hydropower; show total feet of head and proposed capacity in kW. _____
 - Stockwatering; list number and kind of livestock. _____
 - Municipal; complete and attach the [Municipal Water Right Application Checklist](#).
 - Domestic; show number of households _____
 - Other; describe fully. _____

8. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	1E	9															4	1	5
		16	20	17		1	1												39
						It 1													

Total number of acres to be irrigated: 8 in 44 PPU

9. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping?

Applicant owns New Union Ditch Co shares appurtenant to property. However, a pumping, filtering and delivery system are not in place and construction costs are considered excessive compared to the existing well system.

10. a. Who owns the property at the point of diversion? Idaho Athletic Club, Inc.
- b. Who owns the land to be irrigated or place of use? Members of the business park association. ACHD right of way.
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: The business park association is responsible for providing irrigation water to the association members.

11. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary.

Existing 8-inch well supplies ground water to irrigate 8 acres of landscaping within an approximate 44-acre place of use. The well depth was measured by Caron Pump at 180 feet. Since this appropriation is within the Basin 63 concern area for shallow ground water, the applicant and New Union Ditch Company agree to mitigate this application by leaving 8 shares (0.16 cfs) of New Union's water right 63-146 undiverted. See New Union Ditch Company's authorization, attached. Diversion rate based on existing system capacity irrigating commercial facilities 12 hrs/day.

12. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).

13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant

Signature of Applicant

Matt Shannahan, President
Print Name (and title, if applicable) Rocky Mountain Business Park Association

Print Name (and title, if applicable)

Received by CJ Date 9/21/15 Time 10:30 Preliminary check by DM + AG
Fee \$ 250⁰⁰ Receipted by S.O. Receipt No. C100930 Date 8/26/15

NEW UNION DITCH COMPANY, LTD
P.O. BOX 31
Eagle, ID 83616

September 16, 2015

Rocky Mountain Business Park Association, Inc.
c/o Pat Lidell
Sentry Management, Inc.
664 South Rivershore Ln Ste 152
Eagle ID 83616

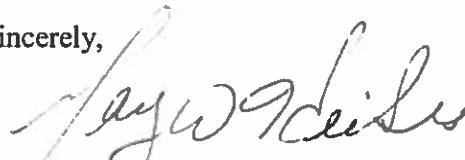
Re: Rocky Mtn Business Park Association Application for Water Right Permit

Dear Pat,

This letter confirms that the Board for New Union Ditch Company, Ltd. has reviewed the proposed Application for Permit to be filed with the Idaho Department of Water Resources by Rocky Mountain Business Park Association seeking to appropriate ground water for irrigation of landscaped areas within the Rocky Mountain Business Park in Eagle. The Board understands that the Association proposes to use surface water rights represented by eight shares of its New Union Ditch Company stock to mitigate potential impacts of this appropriation on the Boise River. The Board approves the use of New Union shares and associated water rights for this purpose as described in the Application, and the Association is authorized to submit a copy of this letter to the Department in support of the Application as evidence of New Union Ditch Company's consent.

The Board would like to receive copies of any correspondence or orders related to the Application as it is processed.

Sincerely,



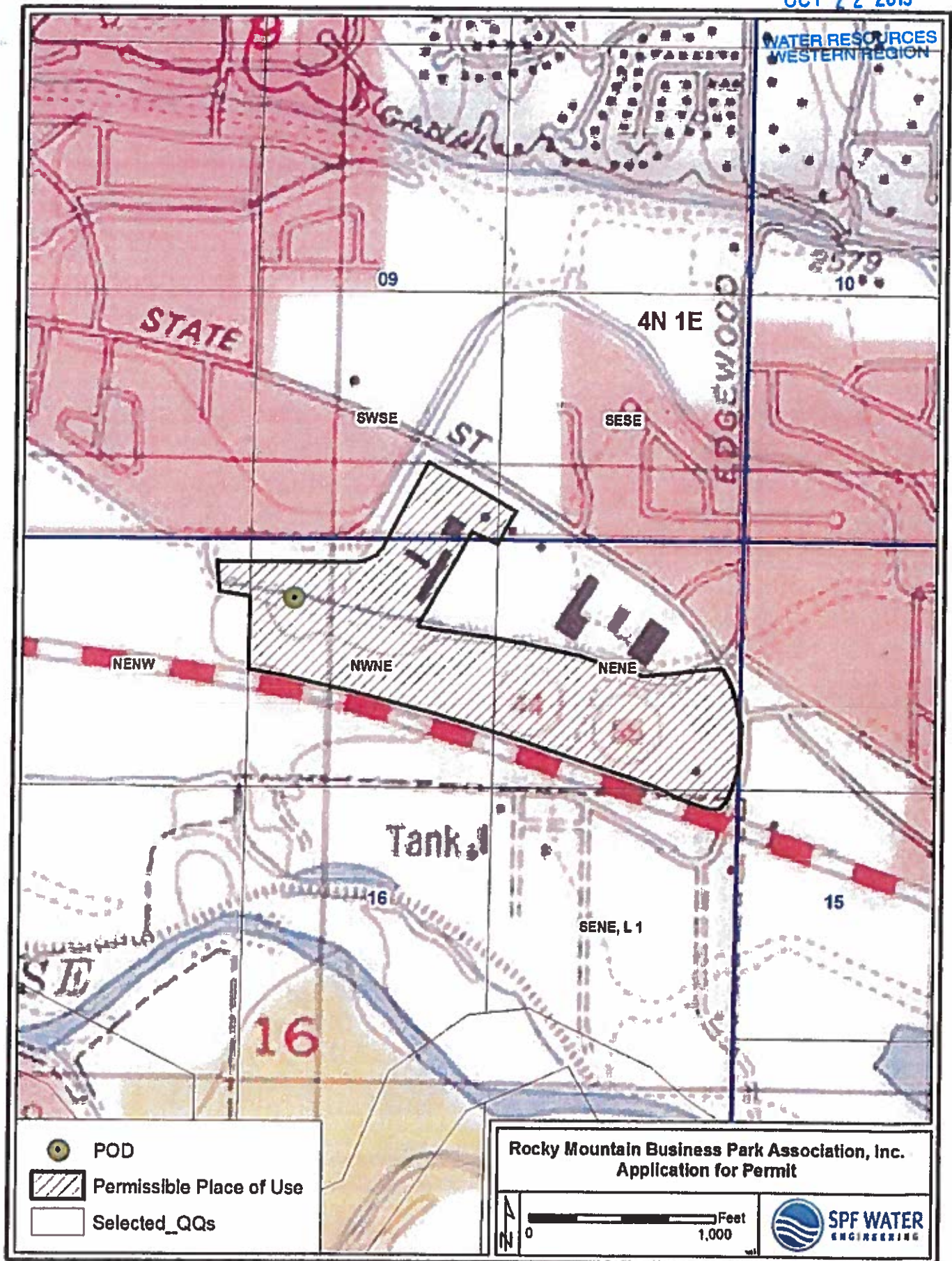
Gary Heikes, President
New Union Ditch Company, Ltd.

2545275v1

63-34154

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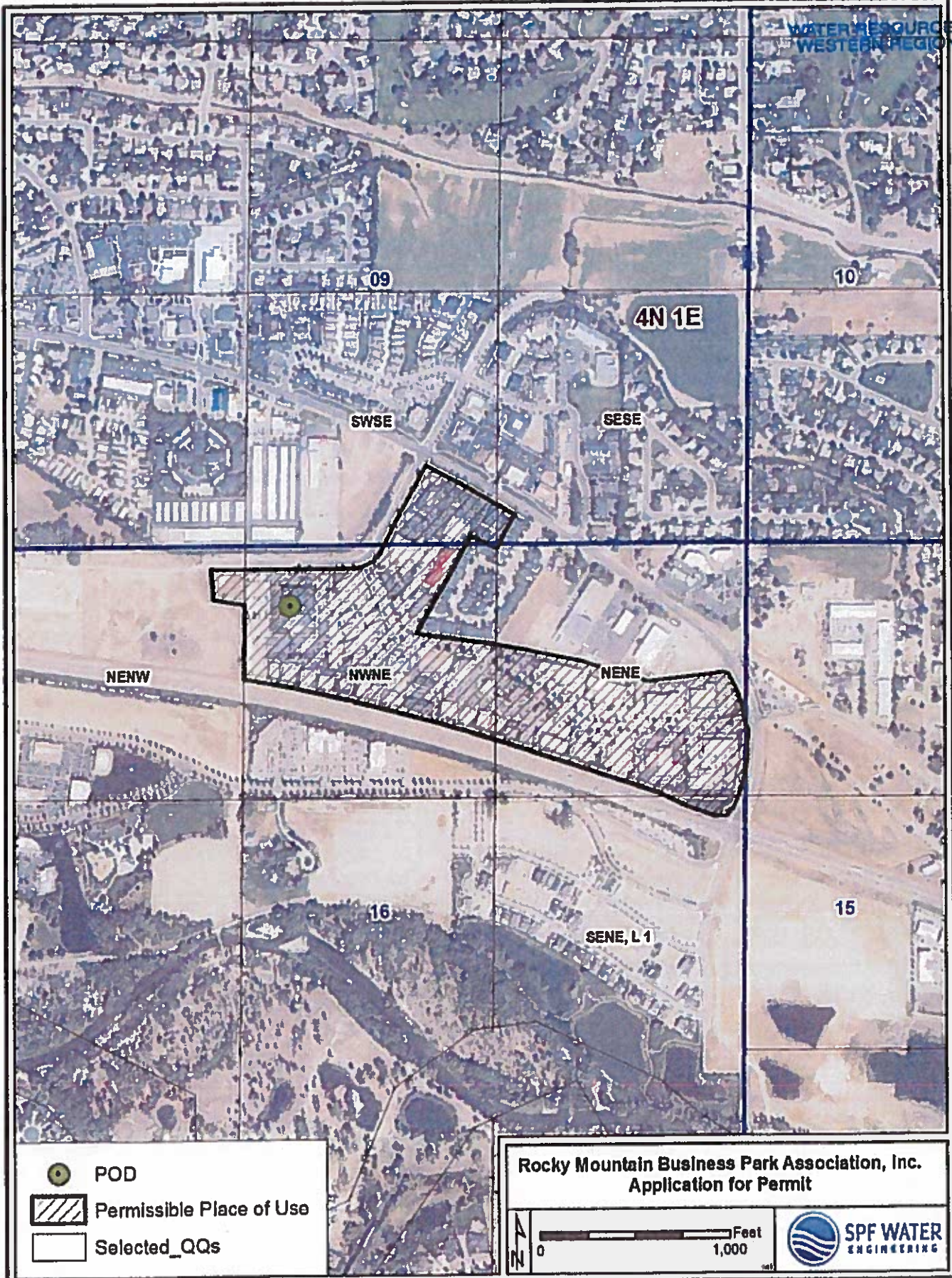
OCT 22 2015



02-20154

OCT 22 2015

WATER RESOURCES
WESTERN REGION



2013 NAIP Image

No. C 128013	Due no later than Mar 31, 2015 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. ROCKY MOUNTAIN BUSINESS PARK ASSOCIATION, INC., A NON-PROFIT CORPORATION SENTRY MGT. INC 664 S RIVERSHORE LANE SUITE 152 EAGLE ID 83616 USA		ADVANTAGE IDAHO INC 664 S RIVERSHORE LANE SUITE 152 EAGLE 83616	
			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
PRESIDENT	MATT SHANNAHAN	664 S RIVERSHORE LN. STE. 152	EAGLE	ID USA 83616
SECRETARY	DYAN CHACON	664 S RIVERSHORE LN. STE. 152	EAGLE	ID USA 83616
DIRECTOR	KARI KNOTTS	664 S RIVERSHORE LN. STE. 152	EAGLE	ID USA 83616
5. Organized Under the Laws of: ID C 128013		6. Annual Report must be signed.* Signature: Matt Shannahan Name (type or print): Matt Shannahan Date: 02/25/2015 Title: President		
Processed 02/25/2015		* Electronically provided signatures are accepted as original signatures.		



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

October 28, 2016

ROCKY MOUNTAIN BUSINESS PARK ASSOCIATION INC
C/O SENTRY MANAGEMENT INC
6149 N MEEKER PL STE 150
BOISE, ID 83713

Application for Permit No. 63-34154

Dear Applicant(s):

The Department of Water Resources has received your water right application. Please refer to the number referenced above in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the IDAHO STATESMAN on 11/3/2016 and 11/10/2016. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the permit.

Please contact this office if you have any questions regarding the application.

Sincerely,

Rachel Neely
Administrative Assistant

CC:
MICHAEL C CREAMER
GIVENS PURSLEY LLP
PO BOX 2720
BOISE, ID 83701-2720

SPF WATER ENGINEERING LLC
C/O SCOTT KING
300 E MALLARD DR STE 350
BOISE, ID 83706

Neely, Rachel

From: Neely, Rachel
Sent: Friday, October 28, 2016 9:09 AM
To: 'BOI Legals'
Subject: Ada Legal Ad
Attachments: Ada Cover Letter .docx; Ada Legal Ad.docx

Good Morning Legal Clerk,

I have another legal notice for you. This is an additional one to the ones I sent yesterday.

Please see the attached ad for publication on 11/3/2016 & 11/10/2016.

Please confirm these are okay to publish as shown.

Thank you,

Rachel Neely

Administrative Assistant I
IDWR-Western Region
2735 Airport Way Boise, ID 83705
Rachel.Neely@idwr.idaho.gov

October 28, 2016

LEGAL NOTICE DEPARTMENT
IDAHO STATESMAN
PO BOX 40
BOISE, ID 83707

RE: Application for Permit No. 63-34154

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 11/21/2016. Your cooperation is appreciated.

Sincerely,

Rachel Neely
Administrative Assistant

Enclosure(s)

The following application has been filed to appropriate the public waters of the State of Idaho:

63-34154

ROCKY MOUNTAIN BUSINESS PARK ASSOCIATION INC

C/O SENTRY MANAGEMENT INC

6149 N MEEKER PL STE 150

BOISE, ID 83713

Point of Diversion NWNE S16 T04N R01E ADA County Source GROUND WATER

Use: IRRIGATION 03/01 to 11/15 0.32 CFS

Total Diversion: 0.32 CFS

Date Filed: 10/22/2015

Place of Use: IRRIGATION

T04N R01E S9 SWSE SESE

T04N R01E S16 NENE NWNE L1(SENE) NENW

Total Acres: 44

Water bearing zone to be appropriated is from 0 to 180 feet.

Mitigation is proposed for consumptive use

Applicant proposes irrigation of 8 acres within the place of use described.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at (208) 334-2190; or for a full description of the right(s), please see www.idwr.idaho.gov/WaterManagement/WaterRights. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of the application(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 11/21/2016. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 11/3/2016 and 11/10/2016



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

October 28, 2016

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

NEW UNION DITCH CO LTD
PO BOX 31
EAGLE ID 83616

Re: Application for Permit No: 63-34154

Dear Interested Party:

The above referenced application may be of interest to you. I would like to inform you that the application has been submitted to the *Idaho Statesman* for advertising. I have enclosed a copy of the application for your convenience. This information is also available on our website www.idwr.idaho.gov.

If you desire to file a formal protest against approval of the application, a written protest along with the \$25.00 protest fee must be received in this office by November 21, 2016. A copy of the protest must also be sent to the applicant.

If you have any questions regarding the application, please contact this office at 208-334-2190.

Sincerely,

Rachel Neely
Administrative Assistant
Western Regional Office

Enclosures

Neely, Rachel

From: Neely, Rachel
Sent: Friday, October 28, 2016 9:25 AM
To: 'Rex Barrie'
Subject: Application for Permit No. 63-34154
Attachments: Watermaster Recommendation For1.docx; Application for Permit 63-34154.pdf

October 28, 2016

REX BARRIE
WATER DISTRICT #63
PO BOX 767
10769 W STATE ST
STAR ID 83669-0767

RE: Application for Permit No. 63-34154

Dear Watermaster:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you regarding the above referenced water right application. A copy of the application is enclosed with this email for your reference. Please review the application, complete a recommendation form, and submit your reply, if any, to this office by November 21, 2016.

IDWR will assume you do not object to this application if a timely response is not received. Please contact me if you have any questions in this matter. Thank you for your help.

Sincerely,

Rachel Neely

Administrative Assistant I
IDWR-Western Region
2735 Airport Way Boise, ID 83705
Rachel.Neely@idwr.idaho.gov



August 26, 2016

RECEIVED

AUG 30 2016

WATER RESOURCES
WESTERN REGION

Idaho Department of Water Resources
PO Box 83720
Boise, ID 83720-0098
Attn: Danie Merriman

*Subject: Rocky Mountain Business Park Association
Application for Permit 63-34154*

Dear Danie,

Thank you for your June 28, 2016 correspondence requesting additional information. This letter provides a response.

Fee – It appears duplicate fees were submitted. Please provide a refund to Rocky Mountain Business Park Association (RMBPA).

Point of Diversion – No other users besides those identified within RMBPA divert from this well. RMBPA and Idaho Athletic Club, Inc., entered into a Well Facilities Easement Agreement which is included as Attachment A. RMBPA's Covenants, Conditions, Restrictions and Easements are included as Attachment B.

Place of Use – All of the fifty properties included with your letter, with the exception of the Ada County Highway District (ACHD) property, are members of the RMBPA. RMBPA does not have a written arrangement with ACHD, but has been irrigating this landscaping for many years.

Mitigation Plan – I understand that Gary Hikes was in your office and provided the written authorization from New Union Ditch Company on August 9, 2016. Further, the applicant is aware that the mitigating right is regularly curtailed to the 60% level and understands that they may need to reduce diversions and/or obtain additional mitigation if needed.

Representation – Mr. Creamer has asked me to request that SPF Water Engineering be listed as RMBPA's representative for matters associated with this permit application.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Scott King". The signature is fluid and cursive, with the first name "Scott" and last name "King" clearly distinguishable.

Scott N. King, P.E.
Supervising Engineer

cc (letter only): Rocky Mountain Business Park Association
 Michael Creamer
 Gary Heikes, President, New Union Ditch Company, Ltd.

File: 1054.0010

ATTACHMENT A
WELL FACILITIES EASEMENT AGREEMENT



WELL FACILITIES EASEMENT AGREEMENT

THIS AGREEMENT (the "Agreement") is entered into effective the 5th day of June, 2013 between Idaho Athletic Club, Inc., an Idaho corporation, whose address is 930 E. Riverside Drive, Eagle, Idaho 83616 ("IAC"), and Rocky Mountain Business Park Association, Inc., an Idaho corporation whose address is c/o Carla Everhart, 664 Rivershore Lane, Ste 152, Eagle, Idaho 83616 ("Association").

RECITALS

1. The Association is a non-profit association organized pursuant to the Amended Declaration of Covenants, Conditions, Restrictions and Easements for the Rocky Mountain Business Park recorded as instrument number 99070278 in the records of Ada County, Idaho ("CCRs").
2. "Rocky Mountain Business Park" is also known as Merrill Subdivision Nos 1 through 5, Ada County, Idaho, the plats of which are recorded and filed in the records of Ada County, Idaho.
3. IAC owns Lot 15, Block 3 of Merrill Subdivision No. 2, according to the plat thereof filed in Book 79 of Plats at pages 8490 through 8494, in the records of Ada County, Idaho, aka 875 E Plaza Drive Eagle, ID 83616 (the "IAC Property"). The IAC Property is more particularly described in Exhibit A attached hereto and made a part hereof.
4. Among its responsibilities under the CCRs, the Association is responsible for the operation and maintenance of the Common Areas and Common Facilities as defined in the CCRs.
5. The Common Facilities are defined in Section 2.5 of the CCRS to "include the pressurized irrigation system which shall be installed by or on behalf of Declarant, together with an easement over each lot and Common Area for the installation, operation and maintenance of the irrigation system by the Association."
6. The pressurized irrigation system installed by the Declarant includes a well, pump and related valves, pipelines and controls located on the IAC Property, together with a system of pipelines valves and other controls connected to the well by which water is distributed to Common Areas and landscaped areas within individual lots for irrigation. The above-described well and the system of pipelines, valves and other controls connected to and served by the well are

understood by the parties to constitute the pressurized irrigation system included in the definition of "Common Facilities" under the CCRs. That portion of the pressurized irrigation system consisting of the well and related facilities located on the IAC Property are collectively referred to hereinafter as the "Well," and has been operated by the Association to divert and distribute irrigation water to Common Areas and to landscaped areas of individual lots within the Rocky Mountain Business Park. The Association's assessments to its members includes their pro rata share of the Association's costs to operate and maintain the Well.

7. IAC currently operates fitness center and other businesses on the IAC Property and the Association delivers irrigation water for IAC's landscaping from the Well.
8. The existing building on the IAC Property was constructed over and around the Well and certain of the pipelines and valves that make up part of the pressurized irrigation system. The Well has been operated and maintained by the Association with the knowledge and cooperation of the successive owners of the IAC Property.
9. IAC and the Association wish to enter this Agreement to confirm their respective rights and responsibilities concerning the Association's operation and maintenance of, and access to, the Well.

AGREEMENT

NOW, THEREFORE, in consideration of the above recitals, and other valuable consideration, the receipt and sufficiency of which the parties each acknowledge, the parties agree as follows:

1. Confirmation of Easement. IAC on behalf of itself, its successors and assigns, confirms and conveys unto the Association for the benefit of the Rocky Mountain Business Park, Merrill Subdivision Nos. 1 through 5, the plats of which are recorded in the records of Ada County, Idaho, a nonexclusive easement over, through and across the IAC Property for continued access and operation, maintenance, repair, replacement or removal (hereinafter "operation and maintenance") by the Association, its agents, successors and assigns, of the Well and related pipelines and valves constituting part of the pressurized irrigation system located on the IAC Property; provided, however, and notwithstanding the foregoing, nothing contained in said easement shall interfere or obstruct IAC's continued use and enjoyment of the IAC Property. The term of said Easement shall continue until terminated as provided for herein.
2. The Association shall:
 - a. Consult with IAC to schedule routine operation and maintenance activities on the Well, including seasonal start-up and shut-down, and other operation and repairs, to minimize interference with business operations on the IAC Property;

- b. Except in the case of an emergency, provide at least 5 business days' notice to IAC of, and consult with IAC prior to commencing, any maintenance or repair work on the Well, it being understood that only reasonable notice under the circumstances is required from the Association to perform routine inspection, monitoring or adjustments of the operation of the Well;
 - c. Remove all materials and equipment, and at the sole cost of the Association, restore the IAC Property to its original condition upon completion of operation and maintenance activities;
 - d. Keep the Well and the interior of the Well closet in good condition and repair;
 - e. Keep the IAC Property free of mechanics, materialmens and other liens for labor services, supplies equipment or material purchased by or directly or indirectly furnished to the Association;
 - f. Notify IAC promptly of any damage to the IAC Property attributable to the Well and related facilities or caused by the Association's agents, employees or representatives during the Association's operation and maintenance activities;
 - g. Pay all personal property taxes assessable to the Well and related facilities located on the IAC Property;
 - h. Maintain a separate meter and account with Idaho Power for all energy use by the Well and related facilities located on the IAC Property;
 - i. Not store any oils, lubricants, flammable, hazardous or toxic substances in the Well closet;
 - j. Obtain and maintain any permits or licenses required for the operation and maintenance of the Well and water right(s) diverted from the Well; and
 - k. Indemnify, save and hold harmless IAC from all liability and claims for damages resulting from, or arising out of, the activities of the Association, its agents and contractors on the IAC Property.
3. IAC shall:
- a. At the request of the Association, execute and deliver such documents and instruments as may be necessary or proper as determined by the Association for applying for or obtaining any permits, licenses or approvals necessary for operation and maintenance of the Well and/or the acquisition, transfer, diversion and/or use of water rights associated with the Well;
 - b. Keep the Well closet secure from entry except by the Association, its agents and contractors, and authorized IAC personnel;

- c. Unless necessary in the case of an emergency, not operate or alter the settings or controls of the Well;
 - d. Use the IAC Property so as not to unreasonably interfere with the Association's operation and maintenance of the Well; and
 - e. Indemnify, save and hold harmless the Association from all liability and claims for damages resulting from, or arising out of, the activities of IAC, its agents and contractors on the IAC Property.
4. Termination. The easement confirmed and conveyed by this Agreement: 1) may be voluntarily terminated by the Association by providing written notice of termination to IAC; and 2) shall be terminated on March 15 following the fifth full irrigation season during which no water is diverted from the Well. In the event of termination of this Agreement, the Association, at its sole costs and expense, shall remove its pump and related valves, pipelines and controls located on the IAC Property, and the IAC Property shall be restored to its original condition upon completion of the removal. If requested by IAC, the Association shall plug and abandon the well. If the easement is terminated as set forth in this paragraph, the Association, at the request of IAC, shall execute and deliver such documents and instruments as may be reasonably necessary to cancel and terminate the terms of this Agreement.
5. Insurance. The parties shall maintain general commercial liability insurance in such amounts as they determine reasonable to cover their activities under this Agreement, and shall cause to have the other party named as an additional insured on their respective policies.
6. Notices. Any notice required or permitted under this Agreement shall be given when actually delivered or 48 hours after deposited in United States mail as certified mail addressed to the address first given in this Agreement or to such other address as may be specified from time to time by either of the parties in writing.
7. Default. If either party fails to comply with any term or provision or to fulfill any obligation of this Agreement within ten (10) days after written notice by the other party specifying the nature of the default with reasonable particularity, such non-complying party will be deemed to be in default under this Agreement, and the non-defaulting party shall have the right to bring an action to enforce the Agreement and to seek any and all remedies available under applicable Idaho law.
8. Attorney Fees. In the event that either party resorts to legal action to enforce the terms and provisions of this Agreement, the prevailing party shall be entitled to recover the costs of such action so incurred, including, without limitation, reasonable attorney fees.
9. Binding Effect. This Agreement, the easement and the covenants contained herein, including the benefits and burdens hereof, shall be binding upon and inure

to the benefit of the parties and their respective successors, and assigns and shall run with the land.

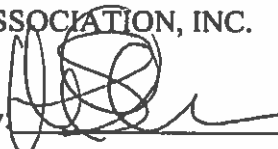
10. Recordation. This Agreement shall be recorded in the real property records of Ada County, Idaho.
11. Entire Agreement. This Agreement sets forth the entire, integrated understanding and agreement of the parties concerning the subject matter hereof, and may be amended only in writing and signed by the parties.

IN WITNESS WHEREOF, the parties hereto have executed this agreement effective as of the day and year first above written.

IDAHO ATHLETIC CLUB, INC.

ROCKY MOUNTAIN BUSINESS PARK
ASSOCIATION, INC.

By: _____

By:  _____

to the benefit of the parties and their respective successors, and assigns and shall run with the land.

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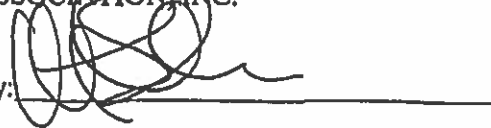
IDAHO ATHLETIC CLUB, INC.

By: _____



ROCKY MOUNTAIN BUSINESS PARK
ASSOCIATION, INC.

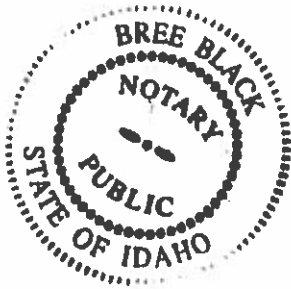
By: _____



STATE OF IDAHO)
) ss.
County of Ada)

On this 10 day of May, 2013, before me, the undersigned, a Notary Public in and for said State, personally appeared Matthew Shannahan known or identified to me to be the Director of ROCKY MOUNTAIN BUSINESS PARK ASSOCIATION, INC., the Idaho corporation that executed the within and foregoing instrument, or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Bree Black
Notary Public for Idaho
Residing at: _____
My commission expires: Feb 24, 2018

STATE OF IDAHO)
) ss.
County of Ada)

On this ____ day of _____, 2013, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, known or identified to me to be the _____ of IDAHO ATHLETIC CLUB, INC., the Idaho corporation that executed the within and foregoing instrument, or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Notary Public for Idaho
Residing at: _____
My commission expires: _____

STATE OF IDAHO)
) ss.
County of Ada)

On this 10 day of May, 2013, before me, the undersigned, a Notary Public in and for said State, personally appeared Matthew Shanahan, known or identified to me to be the Director of ROCKY MOUNTAIN BUSINESS PARK ASSOCIATION, INC., the Idaho corporation that executed the within and foregoing instrument, or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

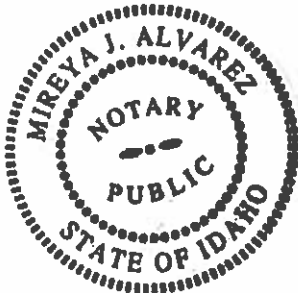


Bree Black
Notary Public for Idaho
Residing at: _____
My commission expires: Feb 24, 2018

STATE OF IDAHO)
) ss.
County of Ada)

On this 5 day of June, 2013, before me, the undersigned, a Notary Public in and for said State, personally appeared Shawn Wardle, known or identified to me to be the CFO of IDAHO ATHLETIC CLUB, INC., the Idaho corporation that executed the within and foregoing instrument, or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Mireya Alvarez
Notary Public for Idaho
Residing at: Boise, Idaho
My commission expires: 8-11-17

EXHIBIT A
(IAC Property Legal Description)

PARCEL B OF RECORD OF SURVEY NO.5907 RECORDED AUGUST 23, 2002 AS INSTRUMENT NO.102095830, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LOT 15 IN BLOCK 3 OF MERRILL SUBDIVISION NO. 2, ACCORDING TO THE PLAT THEREOF, FILED IN BOOK 79 OF PLATS AT PAGES 8490 THROUGH 8494, RECORDS OF ADA COUNTY, IDAHO.

EXCEPTING THEREFROM ANY PORTION LYING WITHIN THE FOLLOWING DESCRIBED PARCEL:

A PARCEL OF LAND SITUATED IN THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 16, TOWNSHIP 4 NORTH, RANGE 1 EAST, BOISE MERIDIAN, EAGLE CITY, ADA COUNTY IDAHO, BEING ALL OF LOT 13, BLOCK 3 AND A PORTION OF LOT 15, BLOCK 3 OF MERRILL SUBDIVISION NO. 2, AS SHOWN ON THE PLAT THEREOF ON FILE IN THE OFFICE OF THE ADA COUNTY, IDAHO RECORDER, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHERLY CORNER OF SAID LOT 13, WHICH IS THE REAL POINT OF BEGINNING; THENCE SOUTH 22°57'18" EAST 123.17 FEET ALONG THE NORTHEASTERLY BOUNDARY OF SAID LOT 13; THENCE 12.87 FEET ALONG THE NORTHEASTERLY BOUNDARY OF SAID LOT 13 ALONG A TANGENT CURVE DEFLECTING TO THE LEFT, WITH A RADIUS OF 204.00 FEET, A CENTRAL ANGLE OF 03°36'52", A LONG CHORD OF 12.87 FEET AND A CHORD BEARING OF SOUTH 24°45'44" EAST; THENCE SOUTH 10°19'29" WEST 8.97 FEET ALONG THE NORTHEASTERLY BOUNDARY OF SAID LOT 13; THENCE SOUTH 43°38'17" WEST 163.71 FEET ALONG THE SOUTHEASTERLY BOUNDARY OF SAID LOT 13; THENCE SOUTH 70°44'18" WEST 6.84 FEET ALONG THE SOUTHEASTERLY BOUNDARY OF SAID LOT 13; THENCE 76.21 FEET ALONG THE SOUTHEASTERLY BOUNDARY OF SAID LOT 13 ALONG A NON-TANGENT CURVE DEFLECTING TO THE LEFT, WITH A RADIUS OF 55.00 FEET, A CENTRAL ANGLE OF 79°23'31", A LONG CHORD OF 70.26 FEET AND A CHORD BEARING OF SOUTH 58°10'34" WEST; THENCE NORTH 89°00'00" WEST 93.53 FEET ALONG THE SOUTHERLY BOUNDARY OF SAID LOTS 13 AND 15; THENCE NORTH 01°08'57" EAST 192.83 FEET ALONG A LINE A PARALLEL TO THE WESTERLY BOUNDARY OF SAID LOT 13 TO THE EXTENSION OF THE LOT LINE COMMON TO SAID LOTS 13 AND 14; THENCE NORTH 65°49'32" EAST 237.74 FEET ALONG THE EXTENSION OF AND THE LOT LINE COMMON TO SAID LOTS 13 AND 14 TO THE REAL POINT OF BEGINNING.

EXCEPTING THEREFROM ANY PORTION LYING WITHIN THE FOLLOWING DESCRIBED PARCEL:

A PORTION OF LOT 15, BLOCK 3 OF MERRILL SUBDIVISION NO. 2, RECORDED IN ADA COUNTY, IDAHO, IN BOOK 79 OF PLATS AT PAGES 8490 THROUGH 8494 AS INSTRUMENT NUMBER 100000751, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEASTERN MOST CORNER OF SAID LOT 15, SAID CORNER ALSO BEING THE NORTHWESTERN MOST CORNER OF LOT 14 SAID BLOCK 3 AND ON THE SOUTHERLY RIGHT-OF-WAY OF EAST PLAZA DRIVE; THENCE ALONG THE LINE COMMON TO SAID LOTS 15 AND 14 SOUTH 00°00'00" WEST 134.08 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID COMMON LINE THE FOLLOWING TWO COURSES SOUTH 89°55'33" EAST 87.49 FEET; THENCE SOUTH 24°10'52" EAST 121.30 FEET TO AN ANGLE POINT COMMON TO SAID LOTS 14, 15 AND LOT 13 OF SAID BLOCK 3; THENCE ALONG THE LINE COMMON TO SAID LOTS 13 AND 15 SOUTH 65°49'32" WEST 50.65 FEET; THENCE ON A NEW LINE NORTH 34°40'21" WEST 159.90 FEET TO THE POINT OF BEGINNING.

ATTACHMENT B
ROCKY MOUNTAIN BUSINESS PARK ASSOICATION
COVENANTS, CONDITIONS, RESTRICTIONS AND
EASEMENTS

AMENDED
DECLARATION OF

COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS

Existing Instrument # 99045289

ROCKY MOUNTAIN BUSINESS PARK

ADA COUNTY RECORDER
J. DAVID NAVARRO
DOUSE, OAH9

1999 JUL 15 PM 4:26

84⁰⁰
RECORDED - REQUEST OF
Reid Merrill
FEE *84.00* DEPUTY *J. Harper*
99070278

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**AMENDED DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR
ROCKY MOUNTAIN BUSINESS PARK**

THIS DECLARATION is made on the date hereinafter set forth by ROCKY MOUNTAIN FITNESS & RECREATION CENTER, LLC, an Idaho limited liability company, organized and existing under the Laws of the State of Idaho, hereinafter referred to as "Declarant."

Recitals: Declarant is the owner of the following real property in Ada County, State of Idaho, hereinafter sometimes referred to as the "Property", to wit:

All of the land within the boundaries of Merrill Subdivision No. 1 & No. 2, with the exception of Lot #1 Block #1 & Lot #1 Block #3 of Merrill Subdivision No. 1 which are excluded from the current covenants, conditions, restrictions. However, all lots within Merrill Subdivision No. 1 & No.2, including Lot #1 Block #1 & Lot #1 Block #3 of Merrill Subdivision No. 1 are subject to and are bound by all easements show on the plat of record hereinafter referred to and shall remain intact for all lots within Merrill Subdivision No. 1 & No. 2, with all included lots within Merrill Subdivision No. 1 & No. 2, which shall be collectively known as ROCKY MOUNTAIN BUSINESS PARK, according to the plat thereof recorded in Book _____ of Plats at page _____, in the office of recorders of Ada County, State of Idaho.

ARTICLE I. DECLARATION

Declarant hereby declares that the Property shall be held, sold and conveyed subject to the following Covenants, Conditions, Restrictions and Easements which are established for the purpose of protecting the value and desirability of, and which shall be appurtenant to and run with and bind the land, and each and every part, parcel and Lot hereof and be binding on all parties having any right, title or interest in the Property or any part, parcel or Lot thereof, their heirs, transferrers, successors and assigns, and shall inure to the benefit of each Owner thereof (hereinafter referred to collectively as "OWNER").

NOW, THEREFORE, Declarant hereby declares that all of the said property is and shall be held and conveyed upon and subject to the easements, conditions, covenants, restrictions and reservations protecting the value, desirability and attractiveness of said property. Said easements, covenants, restrictions, conditions and reservations and shall constitute covenants to run with the land and shall be binding upon all persons claiming under them, and also that these conditions, covenants, restrictions, easements and reservations shall inure to the benefit of and be limitations upon future owners of said property or any interest therein.

The Declarant, for each lot owned within the Property, hereby covenant and each Owner of any lot by acceptance of a deed therefor, whether or not expressed in such deed, is deemed to covenant and agree to abide by the terms, conditions, restrictions and covenants set forth in this Declaration, together with all the

easements, rights of ways, dedications, designations, terms, conditions, restrictions and covenants set forth on the recorded plat above referenced.

The Declarant further declares that all real property described contained in Merrill Subdivision No. 1 & Merrill Subdivision No. 2, except Lot 1 Block 1 & Lot 1, Block 3 of Merrill Subdivision No. 1, are fully subject to all easements, covenants, restrictions, conditions and reservations and shall constitute covenants to run with the land and shall be binding upon all persons claiming under them, and also that these conditions, covenants, restrictions, easements and reservations shall inure to the benefit of and be limitations upon future owners of said property or any interest therein, however, said Lot 1 Blk 1 & Lot 1, Blk 3 of Merrill Subdivision No. 1 are not part of the Rocky Mountain Business Park PUD.

Lot #1 Block #1 & Lot #1 Block #3 of Merrill Subdivision No. 1 are excluded from the current covenants, conditions, restrictions, however all easements show on the plat of record referred to shall remain intact for all lots within Merrill Subdivision No. 1 & No. 2, including Lot #1 Block #1 & Lot #1 Block #3 of Merrill Subdivision No. 1 and shall run with the land and shall be binding upon all persons claiming under them, and also that those easements, easements and reservations shall inure to the benefit of and be limitations upon future owners of said property or any interest therein

ARTICLE II. DEFINITIONS

As used in this Declaration or in any Supplemental Declaration, unless the context otherwise specifies or requires, the following words and phrases shall be defined as follows:

2.1 "Annexed Property" shall mean and refer to any real property made subject to this Declaration by the supplemental Declaration pursuant to the provisions hereof for the annexation of additional parcels or real property.

2.2 "Association" shall mean and refer to ROCKY MOUNTAIN BUSINESS PARK ASSOCIATION, INC., an Idaho corporation organized and existing under the laws of the State of Idaho, or any successor or assign of the corporation.

2.3 "Association Property" shall mean Common Area and Common Facilities and in addition, such other property as may be owned and operated by the Association for the benefit of the Owners.

2.4 "Common Area" shall mean and refer to Lot 1 Block 2 of Merrill Subdivision No. 1 and Lot 1, Blk 5, Lot 1, Block 6, and Lot 13 Block 3 of Merrill Subdivision No. 2 collectively referred to as the ROCKY MOUNTAIN BUSINESS PARK and to any Lot or Parcel designated as Common Area in a Supplemental Declaration subjecting additional real property to this Declaration or on any plat of the Property. Said areas are intended to be devoted to the common use and enjoyment of the Owners (subject to the provisions hereof) and are not dedicated to the public.

2.5 "Common Facilities" shall mean and refer to those physical improvements constructed by Declarant upon Common Area, or upon the utility easement over each Lot including, without limitation, all street lights (but excluding entry way lights), benches, bridges, walkways and pedestrian paths, streams, and waterways owned or operated by the Association. Common Facilities shall include the pressurized irrigation system which shall be installed by or on behalf of Declarant, together with an easement over each Lot and Common Area for the installation, operation and maintenance of the irrigation system by the Association.

2.6 "Declarant" shall mean and refer to ROCKY MOUNTAIN FITNESS & RECREATION CENTER,

LLC, its transferrers, successors and assigns provided that such transferrer, successor or assign has acquired more than two (2) Lots and that such Lots constitute the remainder of un-conveyed Lots owned by Declarant.

2.7 "Declaration" shall mean this Declaration as it may be amended from time to time.

2.8 "Exempt Property" shall mean all properties within the Project which have been dedicated to, and accepted by, a local public authority and all properties owned by a charitable or nonprofit corporation exempt from taxation by the laws of the United States of America, including Eagle City. All of which properties shall be exempt from assessments created herein, except that such term shall not include any land or improvements devoted to the commercial use.

2.9 "Lot" shall mean and refer to all Lots within and shown upon any recorded subdivision map of the Property, except the Common Area, and except the streets dedicated to the public as shown upon the recorded plat map.

2.10 "Member" shall mean and refer to any person or entity who is a member of the Association as defined by the Articles and Bylaws of the Association and this Declaration.

2.11 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

2.12 "Project" shall mean and refer to the Property and all contemplated improvements thereto.

2.13 "Property" shall mean and refer to the real property consisting of Merrill Subdivision No. 1 & Merrill Subdivisions No. 2, collectively known as ROCKY MOUNTAIN BUSINESS PARK according to the official plat thereof and every part, parcel, and Lot thereof, and shall further mean and refer to such additional real property as may hereafter be made subject to this Declaration by Supplemental Declaration, pursuant to the provisions hereof for the annexation of additional parcels of real property.

2.14 "Miscellaneous Provision" shall mean whenever the context so requires, the use of the singular shall include the plural, the plural the singular, and the use of any gender shall include all genders.

ARTICLE III. PROPERTY OWNERS ASSOCIATION

3.1 **Formation:** It is contemplated that simultaneously with the execution and recordation of this Declaration of Covenants, Conditions, Restrictions and Easements (the "Declaration"), the Association will be incorporated and will adopt Bylaws (the "Bylaws") for its governance. ROCKY MOUNTAIN BUSINESS PARK ASSOCIATION, INC., ("Association") shall be organized by Declarant as an Idaho corporation, under the provision of the Idaho Code relating to non-profit corporations and shall be charged with the duties and invested with the powers prescribed by law and set forth in the Articles of Incorporation, Bylaws and this Declaration. Neither the Articles nor the Bylaws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration. To the extent the Articles of Incorporation or Bylaws of the Association may conflict with the provisions of this Declaration, the provisions of this Declaration shall control.

3.2 **Responsibilities:** The Association shall maintain all Common Area and Common Facilities, and all

common landscaping, pressurized irrigation system, common waterways, common fencing, common surfacing, common bridges and other improvements thereon and easements therefor. The Association shall maintain in good working order all conduit, wiring, fuse systems, service box and related parts of the street lights within the Project. Unless and until such time as the City of Eagle assumes responsibility therefor, the Association shall maintain and operate the street lights and shall pay all costs incident thereto. The Association shall maintain the public transit system shelter that may be installed and constructed by or on behalf of the Declarant.

3.3 Membership: Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Each Owner, including Grantees and Declarant, of a lot by virtue of being such an owner, and for so long as such ownership is maintained, shall be a member of the Association, and no Owner shall have more than one membership in the Association, except as hereinafter set forth with respect to voting. Memberships in the Association shall not be assignable, except to the successor in interest of the Owner, and all membership in the Association shall be appurtenant to being a lot owner. The memberships in the Association shall not be transferred, pledged or alienated in any way, except upon the transfer of title to said lot and then only to the transferee of title to said lot. Any attempt to make a prohibited membership transfer shall be void and will not be reflected on the books of the Association. The Common Area lot shall not have membership nor voting rights.

3.4 Classes of Voting Members: The Association shall have two classes of voting membership; however, all votes shall be equal and counted as such, except where voting by separate classes may otherwise be provided in the Articles and Bylaws of the Association of this Declaration.

(a) Class A Members shall be Owners with the exception of the Declarant (during the period when the Declarant is a Class B Member). Each Class A Member shall be entitled to one vote for each Lot owned. When more than one person is an Owner of a Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

(b) The sole Class B Member shall be the Declarant, who shall be entitled to three votes for each Lot owned. Class B Membership shall cease and be converted automatically to Class A membership (one Class A Membership for each Lot owned) upon the happening of either of the following events, whichever occurs earlier:

(i) When one hundred percent (100%), of Declarant Lots have conveyed by deed to Owners other than Declarant; or

(ii) On January 15, 2050

3.5 Board of Directors & Officers: The affairs of the Association shall be conducted by a Board of Directors and such officers as the directors may elect or appoint in accordance with the Articles and Bylaws, as the same may be amended from time to time. The initial Board of Directors of the Association shall be appointed by the incorporators or their successors and shall hold office until the first annual meeting at which time a new Board of Directors shall be elected in accordance with the provisions set forth in the Bylaws.

3.6 Powers of the Association: The Association shall have all of the powers of a non-profit corporation organized under the general non-profit corporation laws of the State of Idaho, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, the Bylaws and this Declaration. It shall have the power to do any and all lawful things which may be authorized, required or

permitted to be done by the Association under this Declaration, the Articles and the Bylaws, and to do and perform any and all acts which may be necessary or proper for, or incidental to, the proper management and operation of the Common Area and the performance of the other responsibilities herein assigned, including, without limitation:

(a) **Assessments.** The power to levy assessments (annual, special and limited) on the owners of lots and to enforce payment of such assessments, all in accordance with the provisions of this Declaration.

(b) **Right of Enforcement.** The power and authority from time to time in its own name, on its own behalf or in behalf of any owner or owners who consent thereto, to commence and maintain actions and suits, to restrain and enjoin any breach or threatened breach of this Declaration or the Articles or the Bylaws, including the Association rules adopted pursuant to this Declaration, and to enforce by mandatory injunction or otherwise, all provisions hereof.

(c) **Delegation of Powers.** The authority to delegate its powers and duties to committees, officers, employees, or to any person, firm or corporation to act as manager. Neither the Association nor the members of its Board shall be liable for any willful or intentional omission or exercise by the manager of any such duty or power so delegated.

(d) **Association Rules.** The power to adopt, amend and repeal by majority vote of the Board, such rules and regulations as the Association deems reasonable. The Association rules shall govern the use of the Common Area by the owners, families of an owner, or by an invitee, licensee, lessees, or contract purchaser of an owner; provided, however, that the Association rules may not discriminate among owners upon the grounds of race, creed, sex, age, or national origin unlawfully and shall not be inconsistent with this Declaration, the Articles or Bylaws. A copy of the Association rules as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each owner and a copy shall be posted in a conspicuous place within the Common Area. Upon such mailing or delivery and posting, said Association rules shall have the same force and effect as if they were set forth herein and were a part of this Declaration. In the event of any conflict between any such Association rules and any other provisions of this Declaration, or the Articles or Bylaws, the provisions of the Association rules shall be superseded by the provisions of this Declaration, the Articles or the Bylaws to the extent of any such inconsistency.

(e) **Emergency Powers.** The Association or any person authorized by the Association may enter upon any Lot in the event of an emergency involving illness or potential danger to life or property or when necessary in connection with any maintenance or construction for which it is responsible. Such entry shall be made with as little inconvenience to the owners as practicable and any damage caused thereby shall be repaired by the Association.

(f) **Licenses, Easements and Rights-of-Way.** The power to grant and convey to any third party such licenses, easements and rights-of-way in, on or under the Common Area as may be necessary or appropriate for the orderly maintenance or preservation of the health, safety, convenience and welfare of the owners. The right to grant such licenses, easements and rights-of-way are hereby expressly reserved to the Association and may be granted at any time prior to twenty-one (21) years after the death of the individuals executing this Declaration, on behalf of the Declarant, and their issue who are in being as of the date hereof.

3.7 Duties of the Association: In addition to power delegated to it by the Articles, without limiting the generality thereof, the Association or its agents, if any, shall have the obligation to conduct all business affairs of common interest to all owners, and to perform each of the following duties:

(a) **Operation and Maintenance of Common Area.** Operate, maintain or otherwise manage or provide for the operation, maintenance and management of the Common Area including the repair and replacement of the Property damaged or destroyed by casualty loss and all other property acquired by the Association. Provided, however, that the Common Area cannot be mortgaged or conveyed without the consent of not less than two-thirds (2/3) of the lot owners within the Property, excluding the Declarant.

(b) **Landscape Easements.** To direct and control the management of the landscape easements established or otherwise acquired in favor of the Association including the repair and replacement of property damaged or destroyed by casualty or loss.

(c) **Taxes and Assessments.** Pay all real and personal property taxes and assessments separately levied against the Common Area owned and managed by the Association or against the Association and/or any property owned by the Association. Such taxes and assessments may be contested or compromised by the Association; provided, however, that they are paid or a bond insuring payment is posted prior to the sale or disposition of any property to satisfy the payment of such taxes. In addition, the Association shall pay all other taxes, federal, state or local, including income or corporate taxes levied against the Association in the event that the Association is denied the status of a tax exempt corporation.

(d) **Water and Other Utilities.** Acquire, provide and/or pay for water, electrical and other necessary services for the Common Area and other property owned or managed by it.

(e) **Insurance.** Obtain, from reputable insurance companies authorized to do business in the State of Idaho, and maintain in effect policies of insurance on any improvements, equipment and fixtures owned and managed by the Association and comprehensive public liability insurance insuring the Board, the Association, the Declarant and the individual owners and agents and employees of each against any liability incident to the ownership and/or use of the Common Area or other property owned or managed by the Association, directors and officers liability insurance and such other insurance to the extent necessary to comply with all applicable laws as the Board shall deem necessary or required to carry out the Association functions or to insure the Association against any loss from malfeasance or dishonesty or any employee or other person charged with the management or possession of any Association funds or other property. Insurance premiums shall be deemed a common expense to be included in the annual assessments levied by the Association.

(f) **Rule Making.** Make, establish, promulgate, amend and repeal the Association rules.

(g) **Architectural Committee.** Appoint and remove members of the Architectural Control Committee, subject to the provisions of this Declaration.

(h) **Drainage Systems.** Operate, maintain, and repair all drainage systems located within the Property and shown on the plat which are not maintained by public authorities.

3.8 Personal Liability: No member of the Board, nor any committee of the Association, nor any officer of the Association, nor the Declarant, nor the manager, if any, shall be personally liable to any owner, or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of the Association, the Board, the manager, if any, or any other representative or employee of the Association, the Declarant or the Committee, or any other committee, or any officer of the Association, or the Declarant, provided that such person has, upon the basis of such information, as may be possessed by him, acted in good faith without willful or intentional misconduct. Any and all liability of Declarant shall pass to the Association at such time as sixty-five percent (65%) of the ownership of the lots of Property have been transferred by Declarant and the Association shall assume and pay

and shall hold Declarant harmless from and for all liability occurring within or arising from Property.

ARTICLE IV. PROPERTY RIGHTS

Every Owner shall have a right and non-exclusive easement of enjoyment in and to the Common Area and Common Facilities which shall be appurtenant to and shall pass with the title of every Lot, subject to the following provisions:

4.1 Rules and Regulation: The Association shall have the right from time to time to adopt Rules and Regulation regulating the use and enjoyment of the Common Area and Common Facilities including the right to limit the number of guests and charge admission and other fees for the use of any Common Facility;

4.2 Improvements: The Association shall have the right, in accordance with paragraph 3.7(a) above, the other provisions of this Declaration, its Articles and Bylaws, to borrow money for the purpose of maintaining and improving the Common Area and Common Facilities and in support thereof to mortgage the Common Area, provided that the rights of such mortgages shall at all times be subordinate to the rights of the Owners under this Declaration;

4.3 Enforcement: The Association, the Architectural Control Committee, the Declarant, and any Lot Owner or Owners shall have the right to enforce the provisions of this Declaration as provided for in the Declaration;

4.4 Suspension: The Association shall have the right to suspend the voting rights and right to use the Common Area and Common Facilities of any Owner for any period during which any assessment against his Lot remains unpaid and for a period not to exceed sixty (60) days for any infraction of its published rule and regulations;

4.5 Easements: The Association shall have the right to grant easements to the Common Area for utilities and similar purposes;

4.6 Dedication: The Association shall have the right to dedicate or transfer all or any part of the Common Area or Common Facilities to any public agency, authority or utility for such purposes and subject conditions as may be approved by two-thirds (2/3) of the Board of Directors of the Association; and

4.7 Delegation: Any Owner may license or delegate his right of enjoyment of the Common Area and Common Facilities to the members of his family, his tenants, or contract purchasers who own, lease or sublet the Property, subject to the provisions of this Declaration.

ARTICLE V. RIGHTS RESERVED BY DECLARANT

Notwithstanding anything to the contrary contained in this Declaration, Declarant expressly reserves unto:

(a) Itself, its employees, successors and assigns, agents, representatives, contractors and their subcontractors and employees, easements and right-of-ways on, over and across all or any part of the streets known as East Iron Eagle Drive and South Fitness Place for vehicular and pedestrian ingress to and from any part of the Property, for any adjacent real property owned by Declarant, or its successors or assigns;

(b) Itself, its employees, successors and assigns, and its agents, representatives, contractors and their subcontractors and employees (including any district, company, unit of local government, association or other entity providing water, sewer, gas, oil, electricity, telephone, cable television, storm water drainage, or other similar services), easements, access and rights-of-way on, over, under and across all or part of the Common Area and utility easements, on, over, under all Lots and Common Areas as provided on any recorded subdivision plat of the Property for installation, use, maintenance or repair of such lines, wires or pipes, provided, that all such activities conducted on said easement areas shall be performed with reasonable care and that the surface of said easement area shall be restored to the level and condition that existed prior to doing of work; and

(c) Itself, its employees, agents, representatives, contractors and their subcontractors and employees, and its successors and assigns, the right to use the Common Area and Common Facilities, where applicable, to facilitate and complete the development of the Property, and any Annexed Property, including without limitation the use of the Common Area and Common Facilities, where applicable for:

Construction, excavation, grading, landscaping, parking and/or storage;

Maintenance and operation of a sales office and model units for sales purposes:

The showing to potential purchasers of any unsold Lot, unit or improvements within the Project;

Display signs to aid in the sale of any unsold Lot, units, or all or part of the Project;

Construction, operation and maintenance of all or any portion of any Common Area or Common Facilities by Declarant, its successors, or assigns;

(d) Itself, its employees, agents, representatives, contractors and their subcontractors and employees, and its successors and assigns, all water rights over, upon or under or appurtenant to the Property, or any portion thereof, and a nonexclusive easement defined as follows: all lot lines common to a public right-of-way are hereby designated as having a fifteen (15) foot wide public utilities, irrigation, landscape, sidewalk, and Eagle City street light easement as depicted in the recorded plat filed of record. The easement is in favor of Ada County Highway District, the City of Eagle and the Rocky Mountain Business Park Association. The easement shall not preclude the construction of hard-surfaced driveways from the public right-of-way to each Lot. Each side of common lot lines shall have a five (5) foot wide permanent public utilities easement

ARTICLE VI. MAINTENANCE

6.1 **Common Area and Common Facilities:** Among its other responsibilities, the Association shall be responsible for maintenance of all Common Areas and Common Facilities. The Association may employ the services of a manager and other personnel to carry out the management of such responsibilities. Such Common Area and Common Facilities shall be maintained in a neat, landscaped and becoming manner. Common Area within the Property herein above described shall include Lot 1 Blk 2 of Merrill Subdivision No. 1 and Lot 1 Blk 5, and Lot 1 Blk 6 of Merrill Subdivision No. 2 collectively referred to as the ROCKY MOUNTAIN BUSINESS PARK, according to the plat of the Property on file in the office of the Recorder of Ada County, Idaho, and to any Lot or Parcel designated as Common Area in a Supplemental Declaration subjecting additional real property to this Declaration, together with easements and right-of-ways as shown

upon the recorded plat for pedestrian paths, bike paths, streams and other waterways of the Association, if any. Common Area and Common Facilities shall also include such other real property as may be conveyed to the Association from time to time by Declarant, or designated by it as Common Area in any Supplemental Declaration.

6.2 Private Property: Owners of Lots shall be responsible for and perform all exterior maintenance upon such Lots and all improvements thereon. In the event an Owner fails to maintain the premises of a Lot and the improvements situated thereon in a manner satisfactory to the Board of Directors of the Association, upon a 2/3 vote of the Board of Directors, the Association shall have the right to give a 30-day written notice of its intended action, and if satisfactory arrangements are not made by such Owner, the Association shall have the right through its agent, employees and contractors, to enter upon said Lot and to repair, maintain and restore the Lot and the exterior of any improvements located thereon. The cost of such activity shall be added to and become part of the assessment to which such Lot is subject. In the event the Board of Directors declares an emergency by a two-thirds (2/3) vote, such action to repair, maintain and restore may be taken at any time after written notice is given to the Owner.

ARTICLE VII. USE AND BUILDING RESTRICTIONS

The use of any Lot and the construction of any improvements thereon, shall be subject to the following requirements and restrictions.

7.1 Building Restrictions: No building, structure, or improvement shall be constructed, created, altered or maintained on, nor shall any portion of the Property covered by this Declaration be used, designed or intended to be used for any purpose other than is permitted by local ordinances and zoning laws, unless approved by Architectural Committee or Board of Directors.

Each Lot is restricted to a commercial structure together with usual and appropriate structures, if any, approved by the Architectural Control Committee. Nothing contained in this Declaration shall be construed to prohibit any construction and use approved for use by the City of Eagle.

The size, configuration, style and finish of each proposed building or structure on each Lot shall be subject to architectural and aesthetic control pursuant to Section 7.16 of this Article VII and pursuant to Article X hereof. Each Lot shall be used in such a manner as to comply with all applicable nuisance laws.

Water and sewer hookup fees as well as charges for such utility services and for delivery of irrigation water by the ROCKY MOUNTAIN BUSINESS PARK ASSOCIATION INC., shall be the responsibility of the Lot Owner. Owner shall submit to inspection upon connection to the Eagle Sewer District system and to the ROCKY MOUNTAIN BUSINESS PARK ASSOCIATION INC., irrigation system and shall pay monthly sewer and sprinkler charges following connection. This shall constitute a covenant running with the land, and the City of Eagle and the ROCKY MOUNTAIN BUSINESS PARK ASSOCIATION INC., are hereby authorized and empowered to bring actions against the Owner for the collection of the charges imposed by each of them respectively and enforcement of the conditions stated herein.

ROCKY MOUNTAIN BUSINESS PARK is not situated in an Airport Influence Area.

All Lots in ROCKY MOUNTAIN BUSINESS PARK are located within the area of the City of Eagle.

7.2 Minimum Building Size: The Building on each Lot shall satisfy the minimum floor area

requirement of the Architectural Control Committee, provided, however, that in no event, absent exceptional circumstances deemed worthy by the Architectural Control Committee, shall the floor area be less than the following number of square feet exclusive of attached or unattached structures, applicable to a building of one story or more than one story in height:

Minimum
Floor Area (in square feet) For:

One Story Structure 500
Two Story Structure 1500

7.3 Maximum Building Height: On any Lot no structure shall be more than two stories or 35 feet in height. No other structure on a Lot shall be more than four feet (4) in height unless approved in writing by the Architectural Control Committee. A basement shall not be counted as a story in determining compliance with this section.

7.4 Building Location: No building, structure, or grade, other than approved fencing, shall be constructed, used, maintained or made on any Lot closer to any exterior line (front, rear or side) of the same Lot than is permitted by the Architectural Control Committee, provided that the setbacks allowed by the committee shall not be less than required by zoning ordinances applicable to the Lot at the time a building permit is issued. (Note: See Building Set Back and Easement on face of Plat). The City of Eagle zoning ordinances will govern the minimum setbacks, but required setbacks for a particular Lot shall be determined by the Architectural Control Committee.

For the purpose of this section, eaves, steps, chimneys and gutters shall not be considered as part of the building: provided, however, that this shall not be construed to permit any eaves, steps, chimneys or gutters or any portion of the building on any Lot to encroach upon any other Lot. Open porches shall not be considered as a part of the building for purposes of this section, but any open porch shall, prior to construction, require the approval of the Architectural Control Committee.

7.5 Building Site; Subdivision: A building site shall consist of at least one (1) Lot, or a parcel composed of more than one Lot. Lots may only be subdivided by approval of the Architectural Control Committee after complete approval by any and all governing authorities

7.6 All Architectural Surfaces shall be approved by the City of Eagle Design Review Board and the Architectural Control Committee. Block, Brick, Stucco, or, Rock accents shall be encouraged on buildings. The purpose of this section is to maintain the architectural standards of this business park.

7.7 Fences; Hedges: No fence, hedge or boundary wall situated anywhere upon any Lot shall have a height greater than six (6) feet, or such other lesser height as the Architectural Control Committee may specify, above the finished graded surface of the ground upon which such fence, hedge or wall is situated. No fence shall be constructed of any material other than specifically approved by the Architectural Control Committee. No fence shall be constructed so as to extend toward the front of the Lot past the front plane of the structure constructed thereon or toward the side of a Corner Lot past the front plane of the structure constructed on the adjoining Lot. No fence, wall, hedge, tree or shrub planting which obstructs sight lines at an elevation between four (4) and eight (8) feet above the roadways shall be placed or permitted to remain on any Corner Lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street property lines within ten (10) from the

intersection of a street property line with the edge of a driveway. No trees shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

7.8 Construction: No building or structures shall be moved onto any Lot. During the course of construction no trailer houses or similar mobile units designed for overnight accommodations shall be parked in any street or within building setback lines. No trailer, basement, tent, shack, garage, barn or other unattached structure created on a Lot shall at any time be used as a residence, temporarily or permanently, nor shall any residence of a temporary character be permitted. No building of any kind shall be created or maintained on a Lot prior to the construction of the building thereon, except that a garage or other small building of permanent construction may be created with the approval of the Architectural Control Committee for the purpose of storing tools and other articles during the construction of the permanent dwelling. Notwithstanding the foregoing, a portable construction office may be placed upon a Lot during the period in which construction of a dwelling unit thereon is in progress, provided that such office may not remain or be kept upon such Lot for more than six (6) months except by Declarant, unless renewed with the approval of the Architectural Control Committee. A temporary sales office of a portable nature also may be placed upon any Lot by Declarant or its authorized agents, to facilitate Lot sales.

The construction of the building and associated structures shall be prosecuted diligently and continuously from the time of commencement thereof until such building and associated structures are fully completed and painted.

No excavation for stone, sand, gravel, earth, water or minerals shall be made upon a Lot unless and only to the extent such excavation is necessary in connection with the construction of an approved structure thereon. No irrigation drain or waste water shall be permitted to flow in open ditches to or on any Lot or tract in said Property and may be transmitted only by the irrigation and drainage system installed by Declarant and operated and maintained by ROCKY MOUNTAIN BUSINESS PARK ASSOCIATION INC..

7.9 Mining and Drilling: No derrick or other structure designed for use in boring or drilling for water, oil, natural gas or other products shall be erected, placed, permitted or maintained upon any portion of the Property, nor shall any water, oil, natural gas, petroleum, asphalt or other hydrocarbon product or substance be produced or extracted by or from any well upon, in or under said Property.

7.10 Animals: No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except that dogs, domestic cats or other household pets may be kept for an Owner's personal use, provided:

such animals are not bred or maintained for any commercial purpose;

dogs and cats shall be limited to those allowed by the City and County Ordinances

any such household pets shall be properly restrained and controlled at anytime they are within the Project. It shall be the obligation of an Owner to control his animals in accordance with the Rules and Regulation from time to time adopted by the Association.

"Household Pets" as permitted hereby shall not include livestock, poultry, swine, waterfowl, reptiles, amphibians or rodents (except hamsters and gerbils).

Notwithstanding the foregoing, household pets shall not be kept which are unreasonable, bother or constitute a nuisance to Owners of other Lots.

7.11 Landscaping: Prior to beginning of construction of the building upon any Lot, the Owner shall submit a landscaping plan to the Architectural Control Committee for approval.

Within 30 days following initial occupancy of the building structure each Lot shall be improved with the landscaping, including sprinkler systems, specified in the plan approved by the Architectural Control Committee, provided, however, that if placement and planting of landscaping is made impractical by inclement weather during the months of November, December, January, February, or March, completion of landscaping may be deferred a reasonable period of time in the discretion of the Architectural Control Committee but shall be completed no later than the next April 30 following occupancy.

All landscape areas shall be landscaped, sodded and maintained in a professional manner and in accordance with an approved landscaping plan.

Landscaping and vegetation shall be watered, pruned, cut and maintained weed-free according to good landscape practices and in good appearance.

7.12 Unsightly Structures, Property or Practices: No unsightliness shall be permitted on any Lot. Without limiting the generality of the foregoing, all unsightly facilities, equipment or structures shall be enclosed within approved structures or appropriately screened from view.

All refuse, garbage and trash shall be kept at all times in covered, reasonably noiseless containers, which shall be kept and maintained within the enclosed structure or appropriately screened from view, except when necessarily placed for pick up by garbage removal services.

No Storage piles, compost piles, trash piles permitted unless in enclosed structures or appropriately screened from view. Compost piles shall be maintained so that they do not emit offensive odors, attract insects or otherwise constitute a nuisance. No lumber or scrap, refuse, trash or other materials shall be kept, stored or allowed to accumulate on any Lot.

7.13 Material Storage: No building materials of any kind shall be placed or stored upon a building site until the Owner is ready and able to commence construction, and then such material shall be placed within the property lines of the building site upon which the structure is to be erected. If the Owner does not respond to the Architectural Control Committee and/or the Association's written notice within 30 days after receipt of said notice, the Architectural Control Committee and/or Association through its agents, shall have the right to enter upon any vacant Lot for the purpose of burning or removing weeds, brush, growth or refuse, and charge the cost thereof to the Owner and which shall become a Limited Assessment against the Lot.

7.14 Noxious Use of Property: No portion of the Common Area, or any Lot or any structure thereon shall be used for a half-way house, treatment center, nursing home, shelter home, or other similar use, including use for the full-time care and residence of unrelated physically or mentally handicapped persons (notwithstanding the provisions of Section 67-6530 and 67-6531, Idaho Code.) Noxious or undesirable acts or undesirable use of any portion of the Property, including (but not limited to acts or uses causing noise which interfered with the peaceable enjoyment of neighboring properties) is prohibited and shall not be permitted or maintained; provided however, that an office and or temporary office for the purpose of the development, construction and sale of the Lots and homes in the Project may be maintained by Declarant and provided further, that educational facilities, including schools properly licensed and zoned to operate within the Project, may be allowed with prior authorization of the Declarant.

7.15 Condition and Repair: No building or structure upon any Lot covered by this Declaration shall be permitted to fall into disrepair, and each such building and structure shall at all times be kept in good condition and repair and adequately painted as required under the provisions of, and which may be enforced as described in Paragraph 6.2.

7.16 Vehicle and Equipment Parking: No campers, recreational vehicles, trailers, boats or motorcycles shall be parked upon any Lot for longer than forty-eight (48) hours (provided, however, that visitors may park for not longer than seventy-two (72) hours), unless fully enclosed in a garage or fenced or screened in a manner specifically approved for that Lot by the Architectural Control Committee, and shall not be parked on any street or Common Area within the Project. No snowmobiles, snow removal equipment, golf carts, junk cars or other unsightly vehicles shall be parked on any Lot at any time, unless fully enclosed in a garage on said Lot or engaged in snow removal activities, and shall not be parked on any street adjacent thereto or on any Common Area.

7.17 Control of Exterior Appearance, Walls, Etc: The visual harmony and aesthetic appeal of the Project being of mutual concern to all Owners and having a direct bearing on the value of Lots and improvements thereon, the Association or the Architectural Control Committee shall have the right to control the texture, design and color scheme of the outside walls, fences, screening devices, roofs, patio roofs and covers of all structures erected upon any Lot and to require basic landscaping and maintenance thereof. The Owner shall not repaint the outside walls or fences without prior approval of the Architectural Control Committee as to color, provided, that Architectural Control Committee approval shall not be required when an Owner repaints the outside walls or fences in their previous color. All open porches and patio roofs shall require the prior approval of the Architectural Control Committee.

7.18 Exterior Antennas, Etc: Radio and television antennas on the exterior of the building or roof are prohibited. However, satellite dishes for television will be considered as long as they are not visible to the public and subject to Architectural Control Committee approval as to size and location.

7.19 Signage: No sign of any kind shall be displayed to the public view on any Lot except as approved by the Architectural Control Committee and the City of Eagle Design review Board and during the course of construction and any sales period as may be approved by Declarant. In addition, signs may also be allowed as follows:

The Association may erect and maintain uniform subdivision identification signs, street signs, and other appropriate informational signs upon the Common Area and Common Facilities, or upon utility easements, of a size and design approved by the Architectural Control Committee. No other signs shall be placed or maintained upon any of the Common Areas.

Declarant is entitled to place signs of such size, design and number as Declarant may deem appropriate, to identify the Project and display related information pertaining thereto, and to advertise Lots for sale.

7.20 Exterior Lighting: No exterior lighting shall be installed or maintained on any Lot or structure thereon, which interferes with the use of adjacent Lots, or without prior written approval of the Architectural Control Committee. All Parking lots lights shall meet the "City of Eagle, Historic Lighting Specifications" which shall be required for the ROCKY MOUNTAIN BUSINESS PARK. Exterior wall lighting to match the historic theme is encouraged, exceptions may be made by the Architectural Control Committee.

7.21 **Sewage Disposal:** No septic tank or other individual sewage disposal system shall be constructed or installed on any Lot.

7.22 **Hazardous Substances:** No Owner or occupier of any lot shall cause or permit any hazardous substance to be spilled, leaked, disposed of, or otherwise released on, under, or from the Property.

ARTICLE VIII. DECLARATION OF MISCELLANEOUS EASEMENTS & RESTRICTIONS

8.1 **General Provisions:** The following provisions contained in this Article are to be construed in addition to the general provisions contained herein and are to be supplemental terms. The Declarant for its benefit and burden and for the benefit and burden of each and every heir, transferor, successor, grantee, and assign, hereby declares that all of the Property is and shall be held and conveyed upon and subject to the easements, conditions, covenants, restrictions and reservations shown and described on the Plat for Merrill Subdivision No.1 & No. 2, protecting the value, desirability and attractiveness of the Property.

8.2 **Platted Easements:** The Declarant and/or its assigns reserves such easements as shown and noted on the Plat for Merrill Subdivision No.1 & No. 2 for the Property for the purposes of constructing meandering sidewalks, water mains, bike paths, electric distribution lines, sewer lines, site drainage, gas pipelines, irrigation lines, irrigation pumps and systems, and such other public utilities as may be necessary, convenient, and desirable for the owners of lots within the Property. The placement of meandering sidewalks above-referenced, will not be placed beyond any point which is seven and one-half (7.5) feet from the exterior boundary lines as legally described for each Owner's Lot with the Property. The Owner is further obligated to allow the Declarant and/or his assigns, its agents and/or employees access and the right for ingress and egress across the Owner's property for the surveying, development and construction of roadway and right of way, sidewalks and landscaping and installing utilities for the benefit of the Owner. In addition the Owner is further required to pursue development and/or construction of the property to allow common and joint access by adjoining lot owners within Merrill Subdivision No. 1 & No. 2 for common and joint parking lot access for ingress and egress to the streets Iron Eagle Drive and the Fitness Place.

8.3 **Drainage Easements:** Each Owner of any Lot is hereby warned of the dangers presented by the open drain ditches of Drainage District No. 2 and New Union Canal Co. located along the north and south boundaries of the Subdivision. Each owner of any lot within the "Property" hereby covenants and agrees by acceptance of a deed therefor to hold Declarant and/or its assigns, and Association and Drainage District No. 2 and the New Union Canal Co. harmless from any and all liability for damages or injuries to their children, guests or invitees caused by or occurring in or around said ditches.

(a) There shall be an exclusive fifteen (15) foot drainage easement for Drainage District No. 2 extending west from the east property line of Lots 1 through 4 of Block 5 of Subdivision and generally an exclusive twenty-five (25) foot drainage easement for Drainage District No. 2, extending east from the west property line of Lots 4 and 5 of Block 4, together with any drainage easements depicted on the recorded plat above referenced.

(b) No buildings or trees of any kind shall be constructed, erected, planted, or located within the exclusive drainage easements set forth in this paragraph.

(c) The Association shall maintain, clean, and otherwise maintain the drainage pipeline located generally along the east boundary and south boundary of Subdivision should the same require

maintenance.

(d) Each owner of any lot shall cause their developed lots and/or undeveloped lots to be so graded that all runoff runs either over the curb, or to the drainage easement, and that each lot owner covenants and agrees that no runoff shall cross any lot line onto another lot except within a drainage easement.

8.4 Utility Easements: The Declarant for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant, acknowledges and agrees that the individual lots within the Property are conveyed to Owner subject to a reservation of fifteen (15) feet for an easement for utilities, including electrical, natural gas, water, sewer, communication cable, irrigation systems, sidewalks and landscaping as shown on the recorded Plat for Merrill Subdivision No. 1 & No. 2 above referenced. Said utility installation and/or maintenance pursuant to said easement shall not be maintained beyond any point fifteen (15) feet from the exterior boundary lines of the legal description contained on the Owner's deed. Rocky Mountain Business Park Association Inc., shall maintain landscaping along public road rights of ways.

8.5 Site Drainage Easements: The Declarant hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant, acknowledge and agree that certain individual lots within the Property as shown on the Plat for Merrill Subdivision No. 1 & No. 2, are conveyed to Owner subject to a such reservation by ROCKY MOUNTAIN BUSINESS PARK ASSOCIATION, INC., for adequate site drainage, which shall cross some individual lots as shown on the recorded Plat for Merrill Subdivision No. 1 & No. 2 above referenced.

8.6 Landscape & Bike Path Easements: The Declarant for each Lot located within the Property, along the south boundary of the Property adjacent to Highway 44, also known as Eagle By-Pass, hereby covenants, and each such Owner of said Lots, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant, acknowledge and agree that such individual Lots within the Property are conveyed subject to a reservation of a thirty-five (35) foot easement as shown on the Plat for Merrill Subdivision No. 1 & No. 2, for a bikeway, walking path, sidewalk, or other like improvements as may be required by the City of Eagle. Said pathway installation and/or maintenance pursuant to said easement shall not be maintained beyond any point thirty-five (35) feet from the southern exterior boundary line of the legal description of any Owner's Lot which abuts Highway 44.

ARTICLE IX.

COVENANT FOR MAINTENANCE ASSESSMENT; LIENS AND ENFORCEMENT

9.1 Creation of the Lien and Personal Obligation of Assessments: The Declarant for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay when due all Assessments or charges made by the Association, including Regular and Annual Special and Limited Assessments and charges made against such owner pursuant to the provisions of this Declaration or other applicable instrument. Such Assessments, together with interest, costs, and reasonable attorney's fees which may be incurred in collecting the same, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such Assessment or charge is made. Each such Agreement, together with interest, costs, and reasonable attorney's fees shall also be the personal obligation of the Owner of such Lot beginning with the time when the Assessment falls due. The personal obligation for delinquent Assessments shall not pass to such Owners successors in title unless expressly assumed by them but shall remain such Owner's personal obligation regardless of whether he remains an Owner.

9.2 Regular or Annual Assessments: All owners are obligated to pay Regular Assessments to the treasurer of the Association on a schedule of payments established by the Board.

The proceeds from Regular Assessments are to be used to pay for all costs and expenses incurred by the Association, including legal and other professional fees, for the conduct of its affairs, including without limitation the costs and expenses of construction, improvement, protection, maintenance, repair, management and operation of Association Property, as well as other property managed and maintained by the Association and an amount allocated to an adequate reserve fund and to be used for repairs, replacement, maintenance and improvement of those elements of the Common Area and Common Facilities, or other property of the Association or managed by the Association that must be replaced and maintained on a regular basis (collectively "Expenses").

Until January of the year immediately following the conveyance of the first Lot to an Owner, the Regular Assessment shall be prorated for each Lot.

The Board of Directors shall fix the amount of the Regular Assessment against each Lot at least thirty (30) days in advance of each fiscal year, based on its estimate of Expenses for that year. The Regular Assessment to be paid by any particular Owner for any given fiscal year shall be computed by multiplying the net amount of the Association's total advance estimate of Expenses by the fraction produced by dividing the number of Lots attributed to the Owner by the total number of Lots in the Project.

An initial one time assessment of \$500.00 to the first Owner of each Lot will be assessed as an initial set-up fee.

9.3 Special Assessments: In the event the Board shall determine that the Regular Assessment for a given calendar year is or will be inadequate to meet the expenses of the Association for any reason, including but not limited to the cost of any construction, reconstruction, unexpected repairs or replacement of capital improvements upon the Common Area of attorney's fees and/or litigation costs, other professional fees, or for any other reason, the Board shall determine an approximate amount necessary to defray such expenses and levy a Special Assessment against the portions of the Project within its jurisdiction which shall be computed in the same manner as Regular Assessments. No Special Assessment shall be levied which exceeds ten percent (10%) of the budgeted gross expenses of the Association for the fiscal year, without the vote or written assent of the Owners representing two-thirds majority of the votes of the Members of the Association voting in person or by proxy at any meeting at which a quorum is present as provided for in Section 9.9.

9.4 Limited Assessments: Notwithstanding the above provisions with respect to Regular and Special Assessments, the Board may levy a Limited Assessment against a Member as a remedy to reimburse the Association for costs incurred in bringing the Member and/or Member's Lot into compliance with the provisions of the governing instruments for ROCKY MOUNTAIN BUSINESS PARK ASSOCIATION INC., or for damage to Association Property which is attributable to a Member as provided in this Declaration.

9.5 Assessment Period: The Assessment provided for herein shall commence as to each Lot on the first day of the month following the recordation of the deed from Declarant for that Lot or, as to the remaining Lots owned by the Declarant, when such Lots are no longer offered for sale to the general public. The owner shall be required to notify the Board of a change in ownership of the Lot within thirty (30) days following closing of the sale of the Lot. The initial Assessment against each Lot shall be adjusted according to the number of months remaining in the calendar year and shall be payable in advance for the balance of that year.

9.6 Uniform Rate of Assessment: Unless otherwise specifically provided herein, both Regular and Special Assessments shall be fixed at a uniform rate per Lot for all Members of the Association.

9.7 Notice and Assessment Due Date: Written notice of Regular and Special Assessments shall be sent to the Owner of every Lot subject thereto prior to the Assessment Period or to the due date for any Special Assessment. The due dates for payment of Regular and Special Assessments allowed by the Board to be made in installments shall be the first day of each installment period (month or quarter) unless some other due date is established by the Board. Each installment shall become delinquent if not paid on or before the due date. There shall accrue with each delinquent installment payment a late charge equal to ten percent (10%) of the delinquent installment. In addition, each installment payment which is delinquent for more than ten (10) days shall accrue interest at eighteen percent (18%) per annum calculated from the date of delinquency to and including the date full payment is received by the Association. The Association may bring an action against the delinquent Owner and may foreclose the lien against the Owner's Lot as more fully provided herein. No Owner may waive or otherwise escape liability for the Assessment provided for herein by non-use of the Common Area or abandonment of his Lot.

9.8 Estoppel Certificate: The Association shall, upon at least twenty (20) days prior written request, and for a reasonable charge, furnish a certificate signed by the officer of the Association setting forth whether the Assessments on a specific Lot have been paid. A properly executed certificate of the Association as to the status of Assessments on a Lot is binding upon the Association as of the date of its issuance. Reliance of such certificate may not extend to any default as to which the signor shall have had no actual knowledge.

9.9 Special Notice and Quorum Requirements: The Regular Assessment for any year may increase by not more than ten percent (10%) over the previous year, by action of the Board, without a vote of the membership. A Special Assessment may be made if it does not exceed ten percent (10%) of the budgeted gross expenses of the Association for that fiscal year, by action of the Board, without a vote of membership. Written notice of any meeting called for the purpose of levying a Special Assessment which exceeds ten percent (10%) of the budgeted gross expenses of the Association for that fiscal year, or for the purpose of obtaining membership vote in connection with an increase in the Regular Assessment by more than ten percent (10%) over the previous year shall be sent to all Members of the Association not less than fifteen (15) days nor more than thirty (30) days before such meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of the total votes of the Association shall constitute a quorum. If such quorum is not present, subsequent meeting may be called subject to the same notice requirement and the required quorum at the subsequent meetings shall be fifty percent (50%) of the quorum required at the preceding meeting. No such subsequent meeting shall be held more than thirty (30) days following the proceeding meeting. Action to approve any assessment requiring membership approval shall require the affirmative vote of two-thirds (2/3) of the Members voting in person or by proxy at any meeting of the Members at which a quorum is established.

9.10 Subordination of the Lien to First Mortgage: The lien for the Assessments provided for herein shall not be subordinate to the lien of any deed of trust or mortgage except the lien of the first deed of trust or first mortgage given and made in good faith and for value that is of record as an encumbrance against such Lot prior to the recordation of a claim of lien for the Assessments. Except as expressly provided herein with respect to a first mortgagee who acquires title to a Lot, the sale or transfer of any Lot shall not affect the Assessment lien provided for herein, nor the creation thereof by the recordation of a claim of lien on account of the Assessment becoming due whether before, on or after the date of such sale or transfer, nor shall such sale or transfer diminish or defeat the personal obligation of any Owner for delinquent Assessment as provided for in this Declaration.

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FIN. CHG

9.11 Rights of Mortgagee: Notwithstanding any other provision of this Declaration, no amendment of this Declaration shall operate to defeat the rights of the Beneficiary under any deed of trust upon a Lot made in good faith and for value, and recorded prior to the recordation of such amendment, provided that after the foreclosure of any such deed of trust such Lot shall remain subject to this Declaration as amended.

9.12 Right to Enforce: The Association has the right to collect and enforce its Assessments pursuant to the provisions hereof. Each Owner of a Lot, upon becoming an Owner of such Lot, shall be deemed to covenant and agree to pay each and every Assessment provided for in this Declaration and agrees to the enforcement of all Assessments in the manner herein specified. In the event an attorney or attorneys are employed for the collection of any Assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, each Owner agrees to pay reasonable attorney's fees in addition to any other relief or remedy obtained against such Owner. The Board or its authorized representative may enforce the obligations of the Owner to pay such Assessments by commencement and maintenance of a suit at law or in equity, or the Board may exercise the power of foreclosure and sale pursuant to enforce the liens created hereby. A suit to recover a money judgment for an unpaid Assessment shall be maintainable without foreclosure or waiving the lien hereinafter provided.

9.13. Assessment Liens: There is hereby created a claim of lien with power of sale on each and every Lot to secure payment of any and all Assessments levied against such Lot pursuant to this Declaration together with interest thereon at the maximum rate permitted by law and all costs of collection which may be paid or incurred by the Association making the Assessment in connection therewith, including reasonable attorney's fees. All sums assessed in accordance with the provisions of this Declaration shall constitute a lien on such respective Lots upon recordation of a claim of lien with the Ada County Recorder. Such lien shall be prior and superior to all other liens or claims created subsequent to the recordation of the notice of delinquency and claim of lien except for tax liens for real property taxes on any Lot and Assessment on any Lot in favor of any municipal or other governmental assessing body which, by law, would be superior thereto.

Upon default of any Owner in the payment of any Regular, Special, or Limited Assessment issued hereunder, or payment of any installment pursuant to an approved installment plan, the Association may cause to be recorded in the office of the Ada County Recorder a claim of lien. The claim of lien shall state the amount of such delinquent sums and other authorized charges (including the cost of recording such notice), a sufficient description of the Lot(s) against which the same have been assessed, and the name of the recorded Owner thereof. Each delinquency shall constitute a separate basis for a notice and claim of lien, but any number of defaults may be included within a single notice and claim of lien, including defaults, which occur after the notice, and claim of lien and before satisfaction of the defaults is recorded. Upon Payment to the Association of such delinquent sums and charges in connection therewith or other satisfaction thereof, the Association shall cause to be recorded a further notice stating the satisfaction of relief of such delinquent sums and charges. The Association may demand and receive the cost of preparing and recording such release before recording the same.

9.14 Method of Foreclosure: Such lien may be foreclosed by appropriate action in court or by sale by the Association establishing the Assessment, its authority or other person authorized to make the sale. Such sale shall be conducted in accordance with the provisions of the Idaho Code applicable to the exercise of powers of sale permitted by law. The Board is hereby authorized to appoint its attorney, any officer or director of the Association, or any title company authorized to do business in Idaho as trustee for the purpose of conducting such power of sale or foreclosure.

9.15 Required Notice: Notwithstanding anything contained in this Declaration to the contrary, no action may be brought to foreclosure the lien created by recordation of the notice of delinquency and claim

of lien, whether judicially, by power of sale or otherwise, until the expiration of thirty (30) days after a copy of such claim of lien has been deposited in the United States mail certified or registered, postage paid, to the Owner of Lot(s) described in such notice of delinquency and claim of lien, and to the person in possession of such Lot(s), and a copy thereof is recorded by the Association in the Office of the Ada County Recorder.

ARTICLE X. ARCHITECTURAL CONTROL

In order to protect the quality and value of the structures and sites built in the Project and for the continued protection of the Owners thereof, an Architectural Control Committee is hereby established consisting of three or more members and one non member of architectural background to be appointed by Declarant as long as Declarant owns Lots in the Project. Thereafter, the Architectural Control Committee shall be appointed by the Board of Directors of the Association, to succeed the prior committee membership upon such appointment.

10.1 Approvals Required: No building, fence, wall, patio cover, window awning or other structure or landscaping improvements of any type shall be commenced, erected or installed upon any Lot, Common Area or other property within the Project, nor shall any exterior addition to or change of alteration of existing improvements be made, until the plans and specifications showing the nature, kind, shape, configuration, height, materials, location of the same and such other detail as the Architectural Control Committee may require (including but not limited to any electrical, heating or cooling systems), and prior to submittal and acceptance by the City of Eagle Design Review Board, shall have been submitted to and approved in writing by the Architectural Control Committee as to harmony of external design and location in relation to surrounding structures and topography and as to conformity with the requirements of this Declaration. The Architectural Control Committee shall approve, disapprove, or specify the deficiency in, such plans, specification and location within thirty (30) days after submission to the Architectural Control Committee in such form as they may require.

10.2 Rules and Regulations: The Architectural Control Committee is hereby authorized to adopt Rules to govern its procedures including such rules as the Committee deems appropriate and in keeping with the spirit of due process of law with regard to the right of concerned parties due to be heard on any matter before the Committee, the Committee is further hereby empowered to adopt such regulations as it shall deem appropriate, consistent with the provision of this Declaration including matters of design, materials and aesthetic interest. The ROCKY MOUNTAIN BUSINESS PARK has adopted the City of Eagle's minimum Design Review Standards as may be revised from city ordinance per the City of Eagle, however the Architectural Control Committee may adopt more stringent Design control as deemed necessary by the Architectural Control Committee.

10.3 Fees: The Architectural Control Committee may establish by its adopted rules, a fee schedule for an architectural review fee to be paid by each Owner submitting plans and specifications to the Committee for approval. No such submission for approval will be considered complete until such fee has been paid. Such fee shall not exceed such reasonable amount as may be required to reimburse the Architectural Control Committee for the cost of professional review of submittals and the services of a consultant to administer the matter to its completion, including inspections which may be required.

10.4 Enforcement: The Architectural Control Committee may in its own name or on behalf of the Association, exercise all available legal and equitable remedies available to prevent or remove any unauthorized or unapproved construction or improvements on any Lot or the Property, or any portion thereof.

10.5 **Waivers:** The approval of any plans, drawings or specifications for any plans, improvements or construction, or for any matter requiring the approval of the Architectural Control Committee, shall not be deemed a waiver of any right to withhold approval of any similar plan, drawing, specifications or matter subsequently for approval.

10.6 **Liability:** Neither the Architectural Control Committee nor any member thereof shall be liable to the Association, to any Owner, or to any other party, for any damage suffered or claimed on account of any act, action or lack thereof, or conduct of the Architectural Control Committee, or the respective members thereof, acted in good faith on the basis of information they then possessed.

ARTICLE XI. ENFORCEMENT

11.1 **Authority to Enforce:** The provisions of this Declaration may be enforced by any of the following persons or entities under the procedure outlined herein:

- (a) The Association as to all matters, and the Architectural Control Committee as to matters subject to its enforcement.
- (b) The Declarant as long as it has any retained ownership of any of the Property.
- (c) The Owner or Owners of any Lot adversely affected, but only after written demand is made on the Association and its failure to act, provided that no such Owner shall have the right to enforce independently of the Association any assessment or lien herein.

11.2 **Methods of Enforcement:** Subject to the provisions of Paragraph 11.3 hereof, the following methods of enforcement may be utilized:

(a) Legal or equitable action for damages, injunction, abatement, specific performance, foreclosure, rescission, cancellation of any contracts of an executory nature, or such other remedies at law and equity which may be available in a court of law:

(b) Eviction for trespass by police action;

(c) Monetary penalties and temporary suspension from Association membership rights and privileges in accordance with the Bylaws of the Association provided that, except for late charges, interest, and other penalties for failure to pay, as and when due, assessments levied by the Association as provided in this Declaration, no discipline or sanction shall be effective against a Member unless:

(I) The Member is given fifteen (15) days written notice of the proposed compliance action and a timely opportunity to be heard on the matter. The opportunity to be heard may, at the election of such Member, be oral or in writing. The notice shall be given personally to such Member or sent by first-class mail to the last address of such Member as shown on the records of the Association and shall state the place, date and time of the hearing, which shall not be less than five (5) days before the effective date of the proposed expulsion, termination, or suspension.

(ii) The hearing shall be conducted by a committee composed of not less than three (3) persons, appointed by the president of the Association, which shall conduct the hearing in good faith and in a fair and reasonable manner and shall not reach a decision regarding appropriate compliance measures until

conclusion of the meeting.

(iii) Any Member challenging the compliance measures taken by the Board, including any claim alleging defective notice, must commence court action within one (1) year after the date of the contested compliance measure taken by the Board.

11.3 Limitation on Enforcement: The association may not cause a forfeiture or abridgment of an Owner's right to the full use and enjoyment of his individually owned subdivision interest on account of failure of the Owner to comply with provision of this Declaration except by judgment of a court or a decision arising out of arbitration or on account of a foreclosure for failure of the Owner to pay assessment duly levied by the Association.

11.4 Fees and Costs: The Association, or any person entitled to enforce any of the terms hereof, by any of the means contained herein, who obtains a judgment of decree from any court or arbitrator enforcing any of the provisions hereof, shall be entitled to reasonable attorney's fees and all costs incurred or anticipated to be incurred in remedying or abating the offensive condition as a part of his or its judgment or decree against the party in violation hereof.

11.5 Failure to Enforce: Neither the Association nor the Architectural Control Committee shall be liable to any person for failure to enforce any of the terms hereof, for personal injury, loss of life, damage to property, economic detriment or for any other loss caused either by their enforcement or non-enforcement. The failure to enforce any of such matters, including any covenants contained in this Declaration shall not be deemed a waiver of the right to subsequently do so.

ARTICLE XII. ANNEXATION

12.1 Procedure: Additional land may be annexed by Declarant in Declarant's sole discretion without the consent of Members at any time within twenty (20) years of the date of this instrument. Thereafter upon approval of majority vote of the Members, provided that if any projects are to be financed by HUD/VA, the annexation of additional parcels shall also require approval by HUD/VA. Amendment of the Declaration to include such restrictions, covenants and easements herein provided shall be made by the execution and recordation by Declarant of a Supplemental Declaration, which shall describe the Additional Property being annexed and any supplemental covenants, conditions and restriction applicable thereto, and shall describe the Common Area and Common Facilities thereof. The Supplemental Declaration may expressly modify the terms and conditions of this Declaration as they apply to such Additional Property. However, except for such express modifications, upon the recordation of the Supplemental Declaration, the Additional Property described therein shall be subject to the terms and provisions of this Declaration as though included originally in the Declaration of the definitions of Property, Common Area and Common Facilities shall automatically be amended to conform to such supplement or supplements, as shall all the other definitions herein, including the definitions of Lot and Owner. All Owners of Lots located within the expanded Project shall be subject to all easements, restrictions, reservations and modifications set forth in the Declaration as amended and supplemented from time to time.

12.2 Designation of Common Areas: Any Common Area and Common Facilities designated by Declarant as such on the plat of the newly annexed additional Property or in the Supplemental Declaration applicable thereto, or which may be acquired by or conveyed to the Association by Declarant, shall be subject to the same easements and other rights for the use and enjoyment of the Owners as for the other owners of Lots subject to this Declaration.

ARTICLE XIII. PRESSURIZED IRRIGATION

13.1 Irrigation Service: The Declarant will cause to be engineered, designed, and constructed a community irrigation system for the benefit of the Association. The ROCKY MOUNTAIN BUSINESS PARK ASSOCIATION INC., shall provide a pressurized irrigation water service to all Lots on the "Property". Lot Owners shall be required to pay an assessment based on Lot area to the ROCKY MOUNTAIN BUSINESS PARK ASSOCIATION INC., whether or not water is actually used. Lot Owners are prohibited from making any cross connection or tie in between the irrigation water system and their domestic water system WATER FROM THE IRRIGATION WATER SYSTEM IS NOT DRINKABLE; EACH LOT OWNER SHALL BE RESPONSIBLE TO ENSURE THAT IRRIGATION WATER WITHIN THE BOUNDARIES OF HIS LOT IS NOT CONSUMED BY ANY PERSON OR USED FOR CULINARY PURPOSES.

13.2 No Private Systems: Lot Owners shall not construct any ditch, drain, well or water system upon any Lot or Common Area for domestic use or irrigation purposes, except as approved by the Architectural Control Committee or the City of Eagle as it pertains to the property's common areas and/or irrigation pumping station.

13.3 Common Areas: The ROCKY MOUNTAIN BUSINESS PARK ASSOCIATION INC., shall provide an irrigation system for the benefit of all common areas within the "Property". Lot Owners shall be required to pay a pro-rated assessment based on their lot area to the overall "Property" area to the ROCKY MOUNTAIN BUSINESS PARK ASSOCIATION INC., for the installation, construction, and maintenance of all irrigation costs associated with the common areas which shall be considered a part of their regular assessments.

13.4 Water Master: The Association shall elect or may contract for hire a Water Master to designate any rotation schedule required for the delivery of irrigation water. The Water Master shall serve as the liaison to ROCKY MOUNTAIN BUSINESS PARK ASSOCIATION INC., for all matters of the ROCKY MOUNTAIN BUSINESS PARK Subdivision irrigation.

ARTICLE XIV. GENERAL PROVISIONS

14.1 Severability: Invalidity of any one of these covenants or restrictions by judgment or court order shall in no way effect any other provisions, which shall remain in full force and effect.

14.2 Amendment: The easement covenants, conditions and restriction of this Declaration shall run with and bind the Property for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration, other than the provisions of paragraph 8.2 hereof, may be amended during the first twenty (20) year period by a document signed and acknowledged by Owners representing not less than ninety percent (90%) of the Lots subject to this Declaration, and thereafter by a document signed and acknowledged by the Owners of not less than seventy-five percent (75)% of the Lots subject to this Declaration. Any amendment to paragraph 8.2 of the Declaration shall, until the last Lot in the Project is sold by Declarant, require, in addition to a document signed and acknowledged by the requisite number of Owners, the written consent of Declarant its successors or assigns. No amendment to the Declaration shall be effective until recorded.

14.3 Conveyance of Common Area: The Common Area and Common Facilities in each phase of development of the Project shall be conveyed to the Rocky Mountain Business Association Inc., by

Declarant, prior to the first mortgage in that phase being insured by HUD. Until conveyed, Declarant shall be solely responsible for the maintenance and management of Common Area and Common Facilities, and for all costs and expenses associated therewith not covered by the assessments provided for herein.

14.4 **HUD/VA Approval:** If any home in the Project is to be financed by HUD/VA, then as long as there is a Class B Membership, the following actions will require the prior approval of the Federal Housing Administration (HUD) or the Veterans Administration: annexation of additional real property to the Project, mergers and consolidations, mortgaging or dedication of Common Areas, dissolution or amendment of the Articles of Incorporation or Bylaws of the Association and amendment of this Declaration.

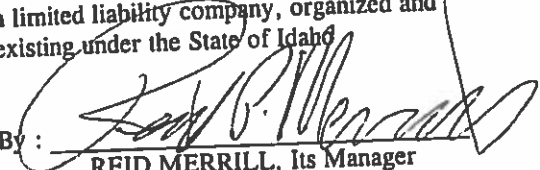
14.5 **Contracts or Agreements:** The Board of Directors may enter into such contract or agreements on behalf of the Association as are required in order to satisfy the guideline of the VA, FHA, FNMA, GNMA or any similar entity, so as to allow for the purchase, guaranty or insurance, as the case may be, by such entities of first mortgages encumbering building Lots in the Project with dwelling structures thereon.

14.6 **Governmental Regulations:** Approval by the City of Eagle or any other governmental entity vested with the responsibility of reviewing planning and zoning having jurisdiction over this "Property", of any application made by any owner which is in conflict with any covenants, conditions or restrictions of this Declaration shall in no way affect or invalidate this Declaration, but this Declaration shall remain in full force and effect, and subject to enforcement and remedies for violation hereof. In the event that a conflict between any provision of these Restrictive Covenants and zoning or building code requirements of the City of Eagle or any other governmental entity having jurisdiction over this "Property", the more restrictive or limiting requirement shall be followed.

The Declarant, for each lot owned within "Property", hereby covenant and each owner of any lot by acceptance of a deed therefor, whether or not expressed in such deed, agrees to maintain, develop, and occupy any and all lots within the "Property" to fully comply with all governmental and quasi-governmental laws, administrative declarations, rules and regulations affecting the "Property" including but not limited to the Environmental Protection Divisions of the Federal, State, and local governments, Ada County Highway District rules and regulations Drainage District #2 rules and regulations, and any irrigation district entity in which the "Property" is within, and each individual lot within the "Property" is deemed to covenant and agree to abide by all such laws, rules and regulations affecting the "Property".

IN WITNESS WHEREOF: the undersigned, DECLARANT executes this DECLARATION this 11th day of July, 1999.

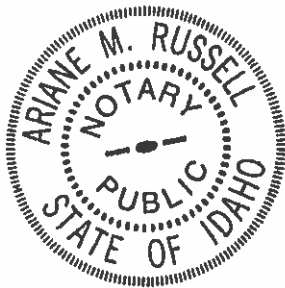
ROCKY MOUNTAIN FITNESS & RECREATION CENTER LLC,
a limited liability company, organized and
existing under the State of Idaho

By : 
REID MERRILL, Its Manager

STATE OF IDAHO)
) ss.
County of Ada)

On this 15th day of July, 1999, before me, a Notary Public in and for said State, personally appeared REID MERRILL, Manager of ROCKY MOUNTAIN FITNESS & RECREATION CENTER, LLC, a limited liability company, organized and existing under the State of Idaho, known to me to be the person whose name is attached to the foregoing instrument, and acknowledged execution thereof to me, as agent for ROCKY MOUNTAIN FITNESS & RECREATION CENTER, LLC, a limited liability company, organized and existing under the State of Idaho.

IN WITNESS WHEREOF, I have hereunto placed my official hand and seal the day and year in this Certificate first above written.



Ariane M. Russell
Notary Public for Idaho
Residing at: Boise, Idaho
Commission Expires: 07/18/2004

Merriman, Danielle

From: Scott King [SKing@spfwater.com]
Sent: Friday, August 26, 2016 10:26 AM
To: Merriman, Danielle
Cc: Michael Creamer; Pat Liddell
Subject: Rocky Mountain Business Park
Attachments: RMBPA Response.pdf; ATTACHMENTS.PDF

↳ SPF LETTER DATED 8/26/16 HARDCOPY RECEIVED 8/30/16

Hello Danielle,

The attached documents are going into today's mail.
Please let me know if you have any questions.

Thank you,
Scott

Scott N. King, P.E. | Supervising Engineer

SPF Water Engineering, LLC

300 E Mallard Drive, Suite 350 | Boise, ID 83706

phone 208.383.4140 | fax 208.383.4156

email sking@spfwater.com | web www.spfwater.com

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Grimm, Angie

From: Grimm, Angie
Sent: Tuesday, August 09, 2016 11:01 AM
To: Scott King
Cc: Merriman, Danielle
Subject: 63-34154 Rocky Mountian Business Park - New Union Ditch Co. Submittal Re Mitigation Plan
Attachments: DOC000.pdf

↳ 8/9/16 LTR FROM NEW UNION DITCH CO.

Scott,

Good morning! As I mentioned in our conversation yesterday, this morning Nick Miller and myself met with Gary Heikes, President of New Union Ditch Co. LTD to discuss the above referenced permit application, specifically the acknowledgement from New Union Ditch Co. LTD required to update their water right record to reflect the mitigation by non-use proposed via the mitigation plan submitted with Permit Application No. 63-34154 for Rocky Mountain Business Park. This acknowledgement was requested via the Department's letter dated 6/28/16. Attached is a copy of a letter received from Gary Heikes this morning documenting New Union Ditch Co. LTD's acknowledgment that the record of water right 63-146 will be changed to reflect the mitigation by non-use. Please let me know if you have any questions.

Regards,
Angie

Angela M. Grimm, P.G.
Water Rights Supervisor
IDWR - Western Region
2735 Airport Way
Boise, ID 83705-5082
(208) 334-2190 phone
(208) 334-2348 fax

August 9, 2016

IDWR Western Region
2735 Airport Way
Boise ID 83705

RECEIVED

AUG 09 2016

WATER RESOURCES
WESTERN REGION

RE: Mitigation Plan for 63-34154

To Whom it May Concern:

New Union Ditch Co. understands that mitigation plan authorized in our Sept 16, 2015 letter to Rocky Mtn. Business Park will require IDWR to change the description on New Union's WR 63-146 of 0.16 cfs irrigation use to Mitigation By Non-Use and that the mitigation plan requires New Union Ditch Co. to cease irrigating 8 acres under WR 63-146.

Regards,

A handwritten signature in dark ink, appearing to read "Gary W. Heikes", written over a horizontal line.

Gary W. Heikes, President
New Union Ditch Co. LTD

Merriman, Danielle

From: Merriman, Danielle
Sent: Wednesday, July 27, 2016 3:45 PM
To: 'Scott King'
Subject: RE: Rocky Mountain Business Park

Hi Scott,

Your request for a thirty (30) day extension is approved. The information requested by the Idaho Department of Water Resources on June 28, 2016 is now due on August 27, 2016 to prevent the application from being voided. Thank you for keeping me in the loop.

More information about water rights and other matters administered by IDWR is available on the Internet at www.idwr.idaho.gov. Please contact me at 208-334-2190 if you have any questions.

Danie Merriman

Water Resource Agent, Sr.

Idaho Department of Water Resources

Phone: (208) 334-2190

Fax: (208) 334-2348

Email: danie.merriman@idwr.idaho.gov

From: Scott King [<mailto:SKing@spfwater.com>]
Sent: Wednesday, July 27, 2016 3:30 PM
To: Merriman, Danielle
Cc: Michael Creamer; pat@advantage-idaho.com
Subject: Rocky Mountain Business Park

Danielle,

I'm assisting Rocky Mountain Business Park and Michael Creamer in responding to your June 28 letter requesting additional information regarding Application for Permit 63-34154. I believe the 30-day due date is tomorrow. We would like to request some additional time. I expect we can have everything in a couple weeks, but just in case we'd like to request an additional 30 days. I believe this would place the due date at August 27.

Thank you,
Scott

Scott N. King, P.E. | Supervising Engineer

SPF Water Engineering, LLC

300 E Mallard Drive, Suite 350 | Boise, ID 83706

phone 208.383.4140 | fax 208.383.4156

email sking@spfwater.com | web www.spfwater.com

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
2735 Airport Way
Boise, Idaho 83705-5082

Return Service Requested

Re: letter sent on 6-28-16
"Application for Permit 63-34154"

- called Sentry Management 7-6-16
- confirmed new address on
Meeker Place.

ROCKY MOUNTAIN BUSINESS PARK ASSOCIATION, INC.
C/O SENTRY MANAGEMENT INC.
664 S RIVERSHORE LN, STE 152
EAGLE, ID 83616

RECEIVED
JUL 01 2016
WATER RESOURCES
WESTERN REGION

PRESORTED
FIRST CLASS



83705 05082

RETURN TO SENDER
ROCKY MOUNTAIN BUSINESS PARK
664 S RIVERSHORE LN, STE 152
EAGLE, ID 83616
RETURN TO SENDER



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

June 28, 2016

ROCKY MOUNTAIN BUSINESS PARK ASSOCIATION, INC.
C/O SENTRY MANAGEMENT INC.
664 S RIVERSHORE LN, STE 152
EAGLE, ID 83616

COPY

Re: Application for Permit 63-34154

Dear Applicant,

The purpose of this letter is to request additional information related to the application for permit 63-34154 submitted on October 22, 2015. There are a few aspects of your application that need to be clarified before it can be processed.

Fee – First, some clarification is needed regarding the fee you paid for your application. You are requesting a diversion rate of .32 cfs, which falls in the second tier of the fee schedule and requires a payment of \$250. The Department received a check for \$250 from you on August 26th, 2015, before the application was received. On September 17, Mike Creamer called to inform the Department that the fee had already been paid, the application was forthcoming, and the two should be paired together. On September 21, the Department received the Application for Permit. On September 23, the Department received another check from Rocky Mountain Business Park for \$250. There is no record of another Application for Permit being submitted by Rocky Mountain Business Park. Please let us know if the check was intended for something else or if you would like us to refund the overpayment.

Point of Diversion – There are a couple of questions regarding the well that you are planning on using for irrigation. Are there any other users who pull water from the same well? If so, do they use the water to irrigate nearby acres? Section 10a of your application form states that the Idaho Athletic Club, Inc. owns the land where the well is located. Please explain the arrangement you have with this entity that allows you access to water from this well.

Place of Use – According to Ada County Tax Lot Data from January 11, 2016 there are approximately 50 properties within the permissible place of use described. A list of these properties is enclosed. Please confirm that all of these properties are members of the business park association and, thus, are part of an arrangement that allows you to file for water rights on their land.

Mitigation Plan – More information is required pertaining to the mitigation consent letter submitted by New Union Ditch Company. The letter in its current form confirms that the ditch company is aware of the filing of the application and they approve the use of eight (8) New Union shares to mitigate potential impacts of this appropriation. Once a delivery entity agrees to use a portion of its shares for mitigation, they must also consent to changing the water records to reflect the non-use of the water for mitigation purposes. Please obtain written confirmation that New Union Ditch Company agrees that the water right record of IDWR can be changed to reflect the non-use of the water for mitigation purposes.

IDWR will condition any approval with a condition similar to the following (amounts listed will reflect actual amounts committed to mitigation):

To mitigate for the depletion of water resulting from the use of water under this right and to prevent injury to senior water right holders, the right holder shall cease diverting and using water as authorized by the following water rights for the purposes and amounts specified below. Moreover, the official record for the following water right will be changed to show that diversion and use of water is not authorized because the rights, or portion thereof, are being dedicated to mitigation purposes.

Right No	Use Changed to Mitigation	Mitigation Rate (cfs)	Mitigation Volume (AF)	Mitigation Acres
63-146	Irrigation	0.16	32	8

The land that will no longer be irrigated under this right is located within the service area of New Union Ditch Company LTD.

If the specified mitigation right, or portion thereof, is sold, transferred, leased, used on any place of use, or is not deliverable due to a shortage of water or a priority call, then the amount of water authorized for diversion under this right approval shall be reduced by the same proportion as the reduction to the mitigation rights.

Note that the approval of a mitigation plan with the above condition does not fully protect the applicant from the threat of curtailment. While the proposed mitigating right has a very senior priority date and faces a negligible chance of full curtailment, it is subject to a step down provision whereby it is reduced to 60% of its face value for much of the season almost every year. During those periods the mitigating right is reduced to 60%, the applicant's use is not fully mitigated and the applicant must reduce the diversion amount by 40%. This outcome can be avoided by securing additional shares of the water right so a reduction to the 60% level continues to provide full mitigation for the applicant's diversion. The application can be approved with the proposed 8 shares, but the applicant should be aware of frequent partial curtailment under that proposal.

Representation – Finally, it appears as though Mr. Michael Creamer may be your representative for matters involving this application. Please submit written confirmation that Mr. Creamer is authorized to make changes to the application on your behalf.

Please submit the requested information for the application to be processed. You may seek additional time to provide the information by making a written request to interrupt processing for up to six months. The application will be voided without a timely written reply within the next thirty (30) days. Refunds are not issued for voided applications. You may call the Western office and provide the needed information over the phone or you may email me at danie.merriman@idwr.idaho.gov.

IDWR forms and other information are available on the Internet at www.idwr.idaho.gov. Please contact me at 208-334-2190 if you need more information. Thank you for your attention to these matters.

Sincerely,



Danie Merriman
Water Resource Agent, Senior
IDWR, Western Region

Enclosure

cc:
Michael Creamer, Givens Pursley LLP
Scott King, SPF Engineering
Gary Heikes, New Union Ditch Company

63-34154 Application for Permit
Properties within PPU

OWNER	P_ADDRESS	LEGAL1
EAGLELAND CONDOMINIUM OA	1117 E PLAZA DR	COMMON AREA
GEMSBOK CONDO ASSOCIATION INC	951 E PLAZA DR	COMMON AREA
SPRING CREEK OFFICE LLC	1071 E IRON EAGLE DR	LOT 02 BLK 01
BOISE-EAGLE LLC	1539 E IRON EAGLE DR	LOT 01 BLK 03
SFP-B LIMITED PARTNERSHIP	1467 E IRON EAGLE DR	LOT 02 BLK 03
IRON EAGLE PROPERTIES LLC	1317 E IRON EAGLE DR	PAR #0815 OF W'LY POR LOT 4 &
JONES BROTHERS PROPERTIES LLC	1323 E IRON EAGLE DR	PAR #0820 OF LOTS 3 & 4 BLK 3
BAYSHORES DEVELOPMENT CO LLC	1250 E IRON EAGLE DR	LOT 04 BLK 01
ROCKY MOUNTAIN BUSINESS PARK ASSOCIATION INC	E PLAZA DR	LOT 16 BLK 03
DGC 863 E MAIN LLC	781 E PLAZA DR	LOT 17 BLK 03
EAGLE FIRE PROTECTION DISTRICT	966 E IRON EAGLE DR	PAR #0155 OF LOTS 1
BEAR LLC	1036 E IRON EAGLE DR	PAR #0203 OF LOT 6 BLK 4
CHILDRENS THERAPY & LEARNING CENTER LLC	449 S FITNESS PL	LOT 21 BLK 03
BRAG LLC	507 S FITNESS PL	LOT 22 BLK 03
BCPA ASSOCIATES LLC	1175 E IRON EAGLE DR	LOT 03 BLK 01
ACORN LAND LLC	1243 E IRON EAGLE DR	LOT 07 BLK 01
ROCKY MOUNTAIN BUSINESS PARK ASSOCIATION INC	E IRON EAGLE DR	LOT 05 BLK 01
FITNESS PLACE 460 LLC	460 S FITNESS PL	PAR #0087 @ CTR POR OF
IDAHO ATHLETIC CLUB INC	875 E PLAZA DR	PAR #0126 W'LY POR OF
EAGLE FIRE PROTECTION DISTRICT	966 E IRON EAGLE DR	PAR #0157 OF LOTS 01 02
ROCKY MOUNTAIN BUSINESS PARK ASSOCIATION INC	E IRON EAGLE DR	LOT 07 BLK 04
KERSTEIN CHESTER & JOANN TRUST; KERSTEIN CHESTER C TRUSTEE	445 S FITNESS PL	LOT 20 BLK 03
HAGLUND RANCH INC	531 S FITNESS PL	LOT 24 BLK 03
CULLIGAN KEVIN; CULLIGAN LINDA	553 S FITNESS PL	LOT 27 BLK 03
S & C PARTNERS LLC	1151 E IRON EAGLE DR	LOT 01 BLK 01
MERRILL SUBDIVISION NO 5 OWNERS ASSOCIATION INC	E IRON EAGLE DR	LOT 02 BLK 01
JENILAND LLC	1281 E IRON EAGLE DR	LOT 05 BLK 01
SBGE HOLDINGS LLC	1299 E IRON EAGLE DR	LOT 06 BLK 01
CHARNEY DENNIS M ATTY	1191 E IRON EAGLE DR	LOT 11 BLK 01
EAGLE OFFICE LLC	1217 E IRON EAGLE DR	LOT 12 BLK 01
EAGLE PLACE ASSOCIATION INC	1125 E STATE ST	PAR#0016 S'ELY POR
SPOTLIGHT PROPERTIES LLC	1540 E IRON EAGLE DR	LOT 01 BLK 01
RODRIGUEZ ARMANDO; RODRIGUEZ ROBIN JEAN	1396 E IRON EAGLE DR	LOT 03 BLK 01
ROCKY MOUNTAIN BUSINESS PARK ASSOCIATION INC	E IRON EAGLE DR	LOT 01 BLK 02
AIX SPONSA COMPANY INC	1059 E IRON EAGLE DR	LOT 10 BLK 03
TONG CAROL	500 S FITNESS PL	PAR #0083 W'LY POR OF

**63-34154 Application for Permit
Properties within PPU**

ROCKY MOUNTAIN BUSINESS PARK ASSOCIATION INC	E IRON EAGLE DR	LOT 01 BLK 06
KERSTEIN CHESTER & JOANN TRUST; KERSTEIN CHESTER C TRUSTEE	453 S FITNESS PL	LOT 19 BLK 03
HERITAGE ENTERPRISES LLC	547 S FITNESS PL	LOT 26 BLK 03
EAGLE PLACE ASSOCIATION INC	E STATE ST	PAR#0012 N'WLY POR
ADA COUNTY HIGHWAY DISTRICT	E PLAZA DR	PAR #2420 POR NE4NW4
COHIBA CONDO ASSOCIATION INC	E IRON EAGLE DR	COMMON AREA
INLAND CONDO OWNER'S ASSOC INC	E IRON EAGLE DR	COMMON AREA
SFP-B LIMITED PARTNERSHIP	1395 E IRON EAGLE DR	PAR #0720 E'LY POR OF
LANGLEY RANDALL K; LANGLEY JACQUELYN	457 S FITNESS PL	LOT 18 BLK 03
EAGLE PROFESSIONAL PROPERTIES LLC	515 S FITNESS PL	LOT 23 BLK 03
GMB LLC	539 S FITNESS PL	LOT 25 BLK 03
RESEARCH SOURCE LLC	1205 E IRON EAGLE DR	LOT 04 BLK 01
GENESIS ONE LLC	1167 E IRON EAGLE DR	LOT 09 BLK 01
MERRILL CONDOMINIUM NO 01 HOA INC	E IRON EAGLE DR	COMMON AREA



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

RECEIVED

OCT 13 2015

DIVN 95

GARY SPACKMAN
Director

10/9/15

RECEIVED

OCT 22 2015

ROCKY MOUNTAIN BUSINESS PARK ASSN INC
C/O SENTRY MANAGEMENT INC
644 S RIVERSHORE LN STE 152
EAGLE ID 83616

WATER RESOURCES
WESTERN REGION

*Maps attached
10/20/15
P. Liddell*

Re: **Water Right Application Incomplete - Returned**

Dear Applicant:

This office received your application on 9/21/2015. The application cannot be accepted into the records of the Idaho Department of Water Resources (IDWR) until the following items are addressed:

- 13-The Map was not provided.
You must include an 8½" x 11" map that clearly identifies the proposed point of diversion, place of use, section #, township, and range. This can be accomplished using the mapping tool found on our website at <http://maps.idwr.idaho.gov/map/>. Click on the "Change layers" button at the top of the screen, select the background drop down menu and add 2011 NAIP background. Then click on the "Locate" button to find the location of the proposed project. Please use the website and instructions provided to create and print a map, then clearly mark the place of use and an approximate location of the well.

The original incomplete application is enclosed. Please make the necessary amendments to the original form and re-submit within the next thirty (30) days. This letter is an attempt to ensure that your application is complete in order to establish a priority date. You may receive future correspondence regarding more specific details of your application. IDWR forms and other information are available on the Internet at www.idwr.idaho.gov. Please consult the IDWR website or contact this office at 208-334-2190 and ask for the "office day person" if you have any questions about the necessary information or fee.

Sincerely,

Western Region Water Rights Staff

Enclosure: Original Application

RECEIVED

SEP 21 2015

COPY

Ident. No. _____

WATER RESOURCES
WESTERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant(s) Rocky Mountain Business Park Association, Inc. Phone (208) 323-1080
 Name connector (check one): ☐ and ☐ or ☐ and/or
 Mailing address c/o Sentry Management, Inc., 664 s. Rivershore Ln, Ste 152 City Eagle
 State ID Zip 83616 Email pliddell@sentrymgt.com

2. Source of water supply Ground Water which is a tributary of _____

3. Location of point(s) of diversion:

TWP	RGE	SEC	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
4N	1E	16			NW	NE	Ada	Ground Water	

4. Water will be used for the following purposes:

Amount 0.32 for Irrigation purposes from 3/1 to 11/15 (both dates inclusive)
 (cfs or acre-feet per year)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)

5. Total quantity to be appropriated is (a) 0.32 cubic feet per second (cfs) and/or (b) _____ acre feet per year (af).

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source. Existing 8-inch diameter well with submersible pump to irrigation system serving the business park lot and common area landscaping.

b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 11. For dams 10 feet or more in height OR reservoirs with a total storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☐ No

c. Proposed well diameter is 8 inches; proposed depth of well is 180 feet.

d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☒ No

e. If well is already drilled, when? unknown; drilling firm unknown;
 well was drilled for (well owner) unknown; Drilling Permit No. unknown

7. Description of proposed uses (if irrigation only, go to item 8):

a. Hydropower; show total feet of head and proposed capacity in kW. _____

b. Stockwatering; list number and kind of livestock. _____

c. Municipal; complete and attach the [Municipal Water Right Application Checklist](#).

d. Domestic; show number of households _____

e. Other; describe fully. _____

8. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	1E	9															4	1	5
		16	20	17		1	1												39
						lt 1													

Total number of acres to be irrigated: 8 in 44 PPU

9. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping?

Applicant owns New Union Ditch Co shares appurtenant to property. However, a pumping, filtering and delivery system are not in place and construction costs are considered excessive compared to the existing well system.

10. a. Who owns the property at the point of diversion? Idaho Athletic Club, Inc.
- b. Who owns the land to be irrigated or place of use? Members of the business park association. ACHD right of way.
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: The business park association is responsible for providing irrigation water to the association members.

11. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary.

Existing 8-inch well supplies ground water to irrigate 8 acres of landscaping within an approximate 44-acre place of use. The well depth was measured by Caron Pump at 180 feet. Since this appropriation is within the Basin 63 concern area for shallow ground water, the applicant and New Union Ditch Company agree to mitigate this application by leaving 8 shares (0.16 cfs) of New Union's water right 63-146 undiverted. See New Union Ditch Company's authorization, attached. Diversion rate based on existing system capacity irrigating commercial facilities 12 hrs/day.

12. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).

13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant

Signature of Applicant

Matt Shannahan, President
Print Name (and title, if applicable) Rocky Mountain Business Park Association

Print Name (and title, if applicable)

Received by CJ Date 9/21/15 Time 10:30 Preliminary check by
Fee \$ 250⁰⁰ Received by S.O. Receipt No. C100930 Date 8/26/15

NEW UNION DITCH COMPANY, LTD
P.O. BOX 31
Eagle, ID 83616

September 16, 2015

Rocky Mountain Business Park Association, Inc.
c/o Pat Lidell
Sentry Management, Inc.
664 South Rivershore Ln Ste 152
Eagle ID 83616

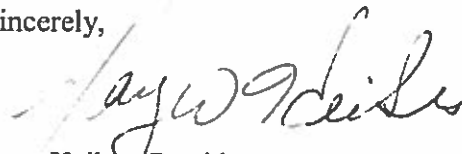
Re: Rocky Mtn Business Park Association Application for Water Right Permit

Dear Pat,

This letter confirms that the Board for New Union Ditch Company, Ltd. has reviewed the proposed Application for Permit to be filed with the Idaho Department of Water Resources by Rocky Mountain Business Park Association seeking to appropriate ground water for irrigation of landscaped areas within the Rocky Mountain Business Park in Eagle. The Board understands that the Association proposes to use surface water rights represented by eight shares of its New Union Ditch Company stock to mitigate potential impacts of this appropriation on the Boise River. The Board approves the use of New Union shares and associated water rights for this purpose as described in the Application, and the Association is authorized to submit a copy of this letter to the Department in support of the Application as evidence of New Union Ditch Company's consent.

The Board would like to receive copies of any correspondence or orders related to the Application as it is processed.

Sincerely,

A handwritten signature in dark ink, appearing to read "Gary Heikes", is written over a faint, larger signature that also appears to be "Gary Heikes".

Gary Heikes, President
New Union Ditch Company, Ltd.