



Holden Kidwell
Hahn & Crapo P.L.L.C.
LAW OFFICES

RECEIVED

JUL 02 2014

Department of Water Resources
Eastern Region

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Idaho Falls, Idaho 83405

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July 2, 2014

Lyle Swank
Water Master, Water District 1
900 N. Skyline Drive, Suite A
Idaho Falls, ID 83402

James Cefalo
900 N. Skyline Drive, Suite A
Idaho Falls, ID 83402

RE: *Water Right Subordination Agreement Between the City of Driggs and Grand Teton Canal Company.*

Dear Gentlemen:

The City of Driggs and Grand Teton Canal Company wish to make you aware of the enclosed *Water Right Subordination Agreement* entered into between the parties, which is dated June 27, 2014. As described in the agreement, Grand Teton Canal Company has agreed to subordinate Water Right No. 22-277A, which has a priority date of May 1, 1892, to Water Right No. 22-14003, which has a priority date of June 28, 1912. The agreement describes the benefits accruing to both parties under the agreement. Based upon our view of Idaho law, it does not appear that a transfer application is necessary to subordinate one water right to another. Rather, the subordination is a function of contractual principles privately entered into between the parties. Of course, we recognize that the subordination cannot impact other water rights, which is why we made it clear in paragraph 5 of the agreement that the water rights remain subject to Water District 1 administration. Nevertheless, after the futile call is entered on Teton Creek, the subordination provides benefits to the City of Driggs to allow them to divert spring water which is tributary in Teton Creek which would be subject to Grand Teton's Water Right No. 22-277A.

We request that the provisions of the agreement be included in any water rights accounting that occurs within Water District 1. With regard to the water rights, to the extent that Department of Water Resources believes that a transfer application is necessary, please call me to discuss the rationale if that conclusion is reached. We appreciate your attention to this matter. If you have any questions or concerns, please do not hesitate to give me a call.

Best Regards,

Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Enclosures

Established in 1896

RECEIVED
JUL 02 2014
Department of Water Resources
Eastern Region

WATER RIGHT SUBORDINATION AGREEMENT

THIS WATER RIGHT SUBORDINATION AGREEMENT (this "Agreement") is made this 27th day of June, 2014, by and between the **CITY OF DRIGGS**, an Idaho municipal corporation, of P.O. Box 48, Driggs, Idaho, 83422, ("Driggs"), and **GRAND TETON CANAL COMPANY**, an Idaho nonprofit corporation, of P.O. Box 1099, Driggs, Idaho, 83422 ("GTCC"). Collectively, Driggs and GTCC are hereinafter referred to as the "Parties," or individually, a "Party."

WITNESSETH:

- A. GTCC is the owner of the following water rights which divert from Teton Creek¹ for delivery through what is commonly referred to as the "Grand Teton Canal" for beneficial use in Idaho"

Idaho Water Right No. (SRBA Subcase No.)	Wyoming Water Right/Permit Counterpart Upon Which Idaho SRBA Claim is Based	Source	Priority Date	Diversion Rate (cfs)
22-277A	None	Teton Creek	May 1, 1892	109.97
22-144	None	Teton Creek	January 22, 1916	210.00
			TOTAL	319.97

The heading for the Grand Teton Canal in Wyoming is the NWNW of Section 29, Township 44N, Range 118W Sixth Principal Meridian. The point at which the Grand Teton Canal enters Idaho is the NENWNE of Section 20 (Gov't Lot 1), Township 5N, Range 46E, E.B.M.

- B. 22-277A was decreed in the Snake River Basin Adjudication ("SRBA") on December 3, 2008, but was later amended under Idaho law pursuant to Idaho Code § 42-222 after a contested case before the Idaho Department of Water Resources ("IDWR") to allow for

¹ In addition to Water Right No. 22-277A, as of the date of this Agreement, GTCC owns two other water rights (Water Right Nos. 22-144 and 22-4140), both of which have a priority date of January 22, 1916. Because these rights are junior to 22-14003 (as that term is defined below) there is no need for subordination of these other GTCC water rights, and therefore they are not subject to this Agreement. Only 22-277A is subordinated under this Agreement.

the beneficial use of water under this water right for recreational and water distribution ponds. A copy of the most recent water right report for 22-277A is attached hereto as **Exhibit 1**.

- C. Driggs has claimed certain water rights in the SRBA, and is in the process of finalizing, or has finalized, the adjudication of the following water rights diverted from Teton Creek and a municipal spring tributary to Teton Creek:

Idaho Water Right No. (SRBA Subcase No.)	Wyoming Water Right/Permit Counterpart Upon Which Idaho SRBA Claim is Based	Source	Priority Date	Diversion Rate (cfs)
22-14003	WY Permit No. 11330	Spring	June 28, 1912	1.0
22-626	None	Teton Creek	January 22, 1916	.7
22-14109	WY Certificate of Appropriation No. 7265E	Spring	January 22, 1916 ²	1.5
			TOTAL	3.2

- D. 22-626 is delivered through the Grand Teton Canal.³ 22-14003 and 22-14019 are delivered to Driggs through a pipeline system as depicted on **Exhibit 2**. The point of diversion into the pipeline system in Wyoming is the NWSE of Section 21, Township 44N, Range 118W, Sixth Principal Meridian. The point at which the pipeline system enters Idaho is the SWSE (Lot 4) of Section 17, Township 5N, Range 46E.
- E. 22-277A is senior in priority to 22-14003.
- F. Pursuant to Idaho Code § 42-602 *et seq.*, the State of Idaho, acting through the IDWR, is charged with the orderly distribution of water consistent with the prior appropriation doctrine within the State of Idaho, including the Upper Teton River Basin in Idaho. Idaho Water District No. 1 ("Water District 1") is the instrumentality by which the IDWR administers water rights in the Upper Teton River Basin, including 22-277A and 22-14003.
- G. Many water users in the Upper Teton Basin who divert from tributaries of the Teton River—including GTCC—benefit during the summer months from the futile call doctrine. The futile call doctrine involves a situation where it is futile for downstream senior water rights to call for additional water from upstream junior diversions when curtailment of a diversion does not provide an appropriate amount of additional water to the downstream senior diversion, as determined by the watermaster of Water District 1. A futile call occurs after all diversions on a tributary stream—such as Teton Creek—to the Teton River have been curtailed and the tributary becomes intermittent, at which

² This water right has a listed priority date of June 8, 1999 to match the Wyoming Certificate of Appropriation, but January 22, 1916 is the priority date for purposes of water right administration under the SRBA decree.

³ To the best of the Parties' knowledge, there is no formal agreement for carrying water diverted under this water right, but the Parties anticipate that this practice will continue perhaps subject to a more formal agreement in the future.

time, priorities on the tributary upstream from the dry section(s) are delivered according to water right priorities that can be filled on the tributary upstream from the dry section, independent of the water right priorities that can be filled downstream of the dry section until such time the tributary once again becomes connected on the surface to the downstream reaches.

- H. GTCC delivers water to its stockholders by diverting water under its water rights, and then at the discretion of GTCC's manager, allocates the available supply to individual stockholders upon request. When supplies diminish to where there is not a sufficient supply to meet all demands, the GTCC manager utilizes his discretion to rotate such supplies among stockholders. Water otherwise available to stockholders who decide not to utilize such water is then distributed to other stockholders calling for water under their shares. There is no established formula for an allocation of water per share of GTCC stock because the water supply varies throughout the year. Stockholders cannot demand water allocated to its shares for uses inconsistent with GTCC's water rights.
- I. There are currently issued and outstanding five thousand eight hundred and fifty-five (5,855) GTCC shares, and under GTCC's current bylaws, no additional shares will be issued by GTCC.
- J. Driggs is the owner of 152 shares of GTCC stock, but in the recent past, no GTCC water has been used by Driggs because the lateral ditches from the GTCC system that formerly delivered water to Driggs have been obliterated. Because of this action, nearly the entire municipal boundary of Driggs was excluded from the service area of GTCC when its water rights were adjudicated in the SRBA.
- K. 22-14003 is an important source of municipal water for Driggs because it provides clean spring water that does not require use of electricity for its diversion. However, because 22-14003 is junior in priority to 22-277A, 22-14003 is curtailed during the irrigation season to satisfy 22-277A. 22-14003 is, or should be, curtailed to satisfy 22-277A even during the futile call because both water rights are diverted above the dry section in Teton Creek when the futile call is in place.
- L. In light of the foregoing, and for the mutual benefit of both Parties concerning their respective water rights, the Parties hereto hereby agree as follows:

AGREEMENTS:

- 1. **Prohibition on Objections to 22-626, 22-14003, and 22-14109 in the SRBA.** Neither Party shall object to the current recommendations or proposed SF5s for Driggs' water rights as they are described on Exhibits 3 through 5.
- 2. **22-277A Subordination.** Subject to the conditions of paragraph 3 below, GTCC hereby agrees to forever subordinate 22-277A to 22-14003 such that the priority for 22-277A is subordinate to 22-14003 only. A copy of this Agreement shall be provided to the

necessary State of Idaho and/or Water District 1 officials to ensure 22-277A and 22-14003 are administered accordingly.

3. **Driggs' 152 GTCC Shares.** As consideration for the subordination contemplated herein, as to the 152 GTCC shares it owns as of the date of this Agreement, Driggs agrees as follows:
 - a. **Assessments.** Driggs shall continue to pay any regular, special, or limited assessments as called for in GTCC's bylaws lawfully charged against the 152 GTCC shares.
 - b. **No Ability to Call for GTCC Water.** Driggs shall not call for any irrigation or recreational pond water allocated to its GTCC shares to be used for any purpose, including, but not limited to, instream flow uses. Driggs acknowledges that any use of GTCC water for instream flows may jeopardize the historic administration of the futile call as described herein, which would be extremely detrimental to GTCC's other stockholders and water users on other tributaries in the Upper Teton River Basin. Notwithstanding the foregoing, nothing herein shall prevent Driggs from otherwise participating in or supporting stream restoration or other environmental projects on Teton Creek and elsewhere.
 - c. **Limitations on Future Procurement of GTCC Shares.** Other than through a purchase of real property with shares of GTCC associated with such property, Driggs shall not obtain any additional shares of GTCC stock above the 152 it has as of the date of this Agreement, without the written consent of GTCC, which consent may be given or withheld in the sole and absolute discretion of GTCC. Provided, however, that Driggs may obtain additional GTCC shares through the purchase of real property which has GTCC shares associated with the purchased property without GTCC consent.
4. **Idaho Code § 42-222 Transfer.** It is understood by the Parties that it will not be necessary to add a subordination condition to 22-277A pursuant to Idaho Code § 42-222. Nevertheless, if after execution of this Agreement the IDWR determines that such a filing is necessary, GTCC will prepare and submit such an application with both Parties sharing all expenses associated with the transfer—including attorney fees for preparation of the transfer and the contested case, if any, associated with any protest of the transfer—on a 50/50 basis.
5. **Water District 1 Administration.** Notwithstanding the subordination of 22-277A, the Parties understand that Driggs will remain subject to Water District 1 administration described herein, and that 22-14003 may be curtailed by senior water rights other than 22-277A as determined by Water District 1 at various times of the year.
6. **Other Water Rights Unaffected.** This Agreement shall have no impact on any other water rights—currently held or acquired in the future—owned by the Parties.



7. **Future Development of the Spring Associated with 22-14003.** It is understood that 22-14003 only allows for the diversion of 1.0 cfs from its spring as described in its elements. To the extent the spring is developed to allow for diversion of more than 1.0 cfs from the spring, Driggs acknowledges that such future developed supplies will remain subject to the Idaho water rights permitting process outlined in Title 42 of the Idaho Code, and further, that any such future developed water will be subordinated to 22-277A because of its junior priority date, unless otherwise agreed to in a separate agreement between the Parties.
8. **Miscellaneous.**
- a. **Attorneys' Fees.** If either party commences any legal action or proceeding to enforce any of the terms of this Agreement (or for damages by reason of an alleged breach hereof), the prevailing party therein shall be entitled to recover from the other, in addition to any other relief granted, its reasonable attorney's fees, costs and expenses incidental to such legal action.
 - b. **Merger.** This Agreement supersedes any and all other written or verbal agreements between the Parties hereto. None of the Parties shall be bound by any understanding, agreement, promise, representation or stipulation, express or implied, not specifically contained herein.
 - c. **Remedies Cumulative.** Upon any breach, any and all rights and remedies which either Party may have under this Agreement or by operation of law or equity, shall be distinct, separate and cumulative and shall not be deemed inconsistent with each other. No such right or remedy, whether exercised by said Party or not, shall be deemed to be in exclusion of any other right or remedy, any two or more of all such rights and remedies may be exercised at the same time or separately as desired.
 - d. **Further Documents.** The Parties hereby agree that they shall sign such other and further documents as may be required to carry into effect the terms and conditions of this Agreement.
 - e. **Enforceability.** The validity or enforceability of any term, phrase, clause, paragraph, restriction, covenant, agreement or other provision hereof, shall in no way affect the validity or enforcement of the remaining provisions, or any part hereof.
 - f. **Counterparts.** This Agreement may be executed in any number of counterparts for all the convenience of the Parties, all of which, when taken together and after execution by all Parties hereto, shall constitute one and the same Agreement.
 - g. **Governing Law.** This Agreement shall be governed by the laws of the State of Idaho.

- h. **Successors.** This Agreement is for the benefit only of the Parties hereto and shall inure to the benefit of and bind their respective heirs, agents, personal representatives, successors and assigns.

"Driggs"

THE CITY OF DRIGGS

Dated: June 18th, 2014

By: [Signature]

Its: Mayor

ATTEST: [Signature]

"GTCC"

GRAND TETON CANAL COMPANY

Dated: 27 June 2014

By: [Signature]

Its: Manager

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IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

7/1/2014

WATER RIGHT NO. 22-277A

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	GRAND TETON CANAL CO LTD PO BOX 1099 DRIGGS, ID 83422 (208)354-2534

Priority Date: 05/01/1892
Basis: Decreed
Status: Active

<u>Source</u>	<u>Tributary</u>
TETON CREEK	TETON RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	10/31	109.97 CFS	
IRRIGATION STORAGE	01/01	12/31		1250 AFA
IRRIGATION FROM STORAGE	04/01	10/31		1250 AFA
RECREATION STORAGE	01/01	12/31		1250 AFA
AESTHETIC STORAGE	01/01	12/31		1250 AFA
DIVERSION TO STORAGE	04/01	10/31	10 CFS	
Total Diversion			109.97 CFS	

Location of Point(s) of Diversion:

TETON CREEK|NENWNE Lt 1|Sec. 20|Township 05N|Range 46E|TETON County

Place(s) of use: Large POU Info

Conditions of Approval:

1. 172 The boundary encompassing the place of use for this water right is described with a digital boundary as authorized by Idaho law. The data comprising the digital boundary are stored in the electronic document management system of the Department and are incorporated into this approval by this reference. A map depicting the place of use is attached to this approval document to illustrate the place of use described by the digital boundary.
2. 129 Place of use is within the area served by Grand Teton Canal Company.
3. 158 The quantity of water diverted under this water right shall be from the portion awarded to Idaho and deducted there from as set forth in Roxana Canal Co. v. Daniels, Equity No. 2447 (D. Wy. Feb. 4, 1941).
4. F15 The point of diversion for this water right is in Wyoming in T44N R118W, Section 29 NWNW. The point of diversion shown above is where the conveyance system enters Idaho.
5. F01 Water is delivered through Grand Teton Canal.
6. R05 Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 01.
7. R43 The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
8. 160 This water right is subject to the delivery provisions contained in Roxana Canal Co. v. Daniels, Equity No. 2447 (D. Wy. Feb. 4, 1941) ("Roxana decree"). Nothing in this water right is intended to relieve or alter the state of Idaho nor the state of Wyoming from their obligations contained in the Roxana decree.
9. 020 The diversion and use of water described in Transfer 76075 may be subject to additional limitations agreed to by the protestant(s) and the right holder under a separate agreement identified as Instrument No. 212995 that was filed with Teton County on September 2, 2010 ("agreement") to which the Department is not a party and which may be enforceable by a court of law.
10. Use of water for filling ponds under this water right shall not occur prior to May 15 in any year except as described in the agreement and authorized by the Water District 01 Watermaster when other rights would not be injured.
11. Aesthetic Storage, Recreation Storage and Irrigation Storage uses are for a series of ponds located within the service area of the Grand Teton Canal Company.
12. 219 Right 22-277A authorizes diversion of water to be used for the initial fill or single annual refill of the ponds authorized to be developed under the water right and for the replacement of losses caused by evaporation from the reported ponds.
13. In the approval conditions of Transfer 76075 pertaining to this right, the term "mitigation" refers to the change in nature of use from irrigation use to irrigation storage, recreation storage and aesthetic storage uses under this right. Mitigation from another water right or water source is not required.
14. The right holder shall provide mitigation for every pond that cannot be filled within a 24-hour period by the amount of water available under the shares of Grand Teton Canal Company stock associated with the property on which the pond is located. Mitigation shall consist of a reduction in the number of acres irrigated under this water right. This right does not authorize more than 500 acres committed for mitigation purposes in any given year.

- 15.221 To eliminate seepage losses, the right holder shall ensure that an impermeable liner is installed and maintained in all ponds that require mitigation developed under this right. On or before November 15 of each year the right holder shall submit to the department a report that includes the following information about the water diverted to storage in connection with this right: 1. Pond Information for every pond receiving water under this water right including pond name, pond ID number, specific location, type, surface area in acres, capacity in acre-feet and type of lining. 2. Grand Teton Canal Company Shareholder Information including owner name, stock certificate number(s) and total shares. 3. Mitigation Requirements including the amount of water needed for the initial fill or single annual refill of each pond (identified separately) and for annual evaporation expressed in acre-feet. 4. Actual Mitigation including irrigated acres dried-up, specific location of acres dried-up, former crop on dried-up acres, mitigation volume from acres dried-up, contributions of water from other sources, total quantity of mitigation water and mitigation surplus or deficit expressed in acre-feet. 5. A geographic information system (GIS) shapefile or other map acceptable to the department depicting all reported ponds and specific acres dried-up for mitigation purposes.
16. Rights 22-277A, 22-144 and 22-4140 when combined shall not exceed the irrigation of 6911.1 acres and shall be reduced under all rights in direct proportion to annual pond development and mitigation requirements reported under Right 22-277A pursuant to approved Transfer 76075.
- 17.X35 The approval of this transfer redefines all of the elements of this water right, and the new use of water authorized by this approval shall constitute the full extent of the right.
- 18.205 This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
- 19.R59 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
- 20.T08 Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
- 21.T19

Dates:

Licensed Date:

Decreed Date: 12/03/2008

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

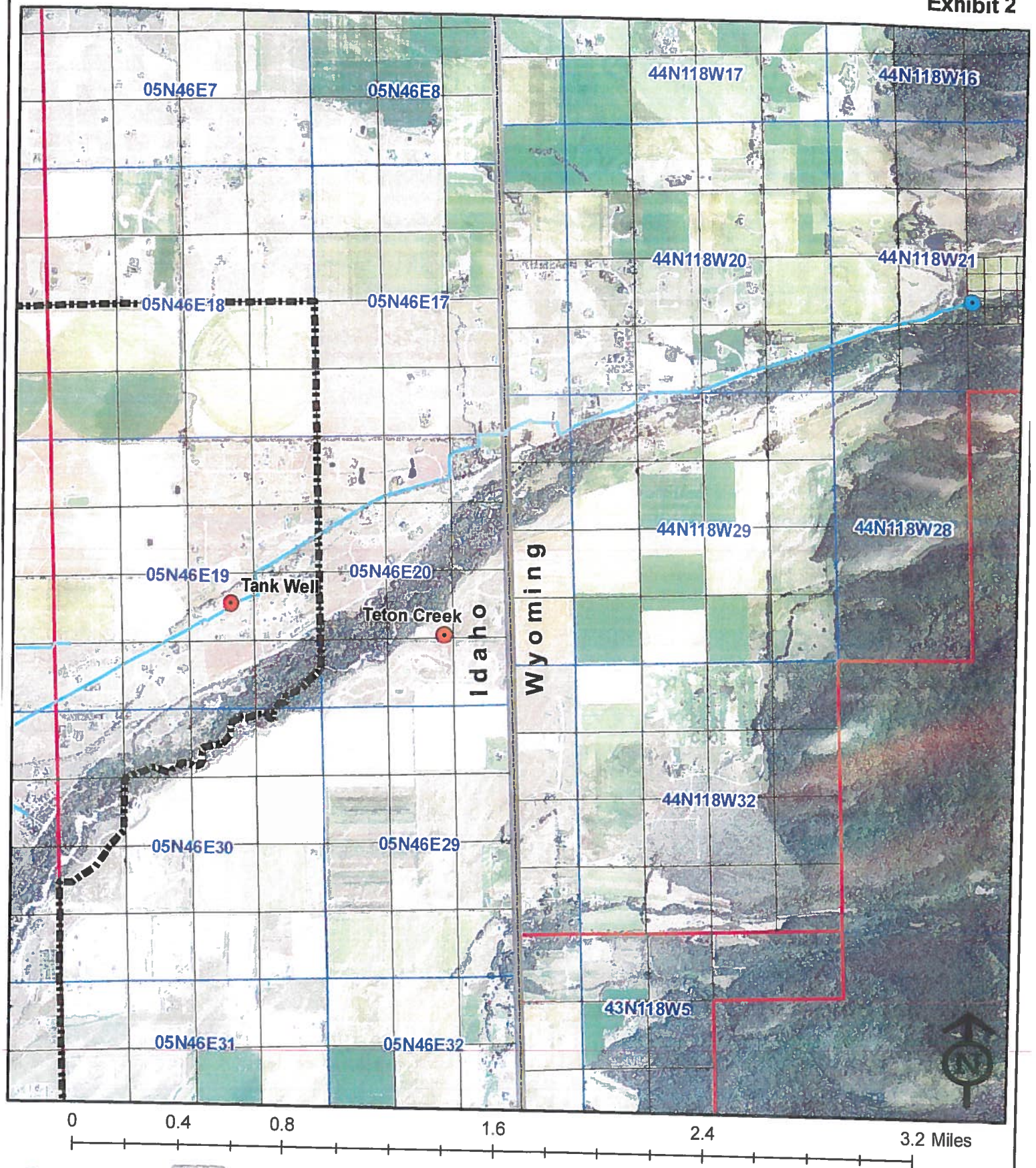
State or Federal:

Owner Name Connector:

Water District Number: 01

Generic Max Rate per Acre:
Generic Max Volume per Acre: 3.5
Civil Case Number:
Old Case Number:
Decree Plaintiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

Close



- Municipal Well
- Spring
- Water Lines
- Municipal Service Area
- Idaho State Boundary
- Twp and Rng
- Sections
- QQ

2013 NAIP Photography

City of Driggs Location of Spring Pipeline

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

04/28/2014

RIGHT NUMBER: 22-626
NAME AND ADDRESS: CITY OF DRIGGS
PO BOX 48
DRIGGS ID 83422
SOURCE: TETON CREEK
QUANTITY: 3-20 0.70 CFS
TRIBUTARY: TETON RIVER
The quantity of water diverted under this water right shall be from the portion awarded to Idaho and deducted therefrom as set forth in Roxana Canal Co. v. Daniels, Equity No. 2447 (D. Wy. Feb. 4, 1941).
PRIORITY DATE: 01/22/1916
POINT OF DIVERSION: T05N R46E S20 NWNE Lot 1 Within TETON County
The point of diversion for this water right is in Wyoming, T44N, R116W, S29, NWNW, Sixth Principal Meridian.
The point of diversion shown above is where the conveyance system enters Idaho.
PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
MUNICIPAL	01/01 12/31	3-20 0.70 CFS

PLACE OF USE:
Place of use is within the service area of the City of Driggs municipal water supply system as provided for under Idaho Law.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

This water right is subject to the delivery provisions contained in Roxana Canal Co. v. Daniels, Equity No. 2447 (D. Wy. Feb. 4, 1941) ("Roxana decree"). Nothing in this Partial Decree is intended to relieve or alter the state of Idaho nor the state of Wyoming from their obligations contained in the Roxana decree.

The remainder of this right was recommended as right nos. 22-14003 and 22-14109.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Right includes accomplished change in purpose of use pursuant to Section 42-1425, Idaho Code.

Water is delivered through the Grand Teton Canal.



Close

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommended Right Report

6/30/2014

WATER RIGHT NO. 22-14003

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CITY OF DRIGGS PO BOX 48 DRIGGS, ID 83422 (208) 354-2362
Attorney	JERRY R RIGBY RIGBY ANDRUS & MOELLER CHTD 25 N 2ND E PO BOX 250 REXBURG, ID 83440 (208)356-3633

Priority Date: 06/28/1912

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
SPRING	TETON CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
MUNICIPAL	01/01	12/31	1 CFS	
Total Diversion			1 CFS	

Location of Point(s) of Diversion:



SPRING|SWSE Lt 4|Sec. 17|Township 05N|Range 46E|TETON County

Place(s) of use: Large POU Info

Conditions of Approval:

1. This right is based on Wyoming Certificate of Appropriation of Water under Permit No. 11330.
2. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
3. F15 The point of diversion for this water right is in Wyoming, T44N, R118W, S21 NWSE, Sixth Principal Meridian. The point of diversion shown above is where the conveyance system enters Idaho.
4. 124 Place of use is within the service area of the City of Driggs municipal water supply system as provided for under Idaho Law.
5. 160 This water right is subject to the delivery provisions contained in Roxana Canal Co. v. Daniels, Equity No. 2447 (D. Wy. Feb. 4, 1941) ("Roxana decree"). Nothing in this Partial Decree is intended to relieve or alter the state of Idaho nor the state of Wyoming from their obligations contained in the Roxana decree.
6. 158 The quantity of water diverted under this water right shall be from the portion awarded to Idaho and deducted therefrom as set forth in Roxana Canal Co. v. Daniels, Equity No. 2447 (D. Wy. Feb. 4, 1941).

Dates:

Other Information:

State or Federal:

Owner Name Connector:

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

04/28/2014

RIGHT NUMBER: 22-14109

NAME AND ADDRESS: CITY OF DRIGGS
PO BOX 48
DRIGGS ID 83422

SOURCE: SPRING

TRIBUTARY: TETON CREEK

QUANTITY: 1.500 CFS

The quantity of water diverted under this water right shall be from the portion awarded to Idaho and deducted therefrom as set forth in Roxana Canal Co. v. Daniels, Equity No. 2447 (D. Wy. Feb. 4, 1941).

PRIORITY DATE: 06/08/1999

Pursuant to a call in times of scarcity when water diverted under this right is charged against that part of the flow of the Teton Creek Drainage allocated to Idaho by the stipulation which is part of the "Roxanna Decree" of the United States District Court entered on February 4, 1941, including the clarifying agreement attached thereto, this water right has an Idaho priority date of January 22, 1916.

POINT OF
DIVERSION:

T05N R46E S17 SWSE Lot 4 Within TETON County

The point of diversion for this water right is in Wyoming, T44N, R118W, S21, SWSE, Sixth Principal Meridian.
The point of diversion shown above is where the conveyance system enters Idaho.

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
MUNICIPAL

PERIOD OF USE
01/01 12/31

QUANTITY
1.500 CFS

PLACE OF USE:

Place of use is within the service area of the City of Driggs municipal water supply system as provided for under Idaho Law.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

This water right is subject to the delivery provisions contained in Roxana Canal Co. v. Daniels, Equity No. 2447 (D. Wy. Feb. 4, 1941) ("Roxana Decree"). Nothing in this Partial Decree is intended to relieve or alter the state of Idaho nor the state of Wyoming from their obligations contained in the Roxana decree.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

This right is based on Wyoming Certificate of Appropriation of Water under Permit No. 726SE.

27
we
Jill

