

WATER SUPPLY BANK LEASE CONTRACT

This Lease Contract ("**Lease**") is effective November 18, 2013, between the Idaho Water Resource Board ("**Board**"), and

Lessor: TOM HUNTER
DEBBIE HUNTER
PO BOX 760
DRIGGS ID 83422
(307)353-2236

RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.
2. The Lessor has filed a completed application to lease water rights described below into the Water Supply Bank on forms supplied by the Idaho Department of Water Resources.
3. The Director of the Idaho Department of Water Resources has reviewed the application for compliance with the Water Supply Bank rules and has approved the Lease subject to conditions listed below.

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

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

Summary of Water Rights or Portions Leased to the Bank

<u>Water Right</u>	<u>Lease Rate</u>	<u>Lease Volume</u>	<u>Acre Limit</u>	<u>Total Leased Acres</u>
22-14053	0.82 CFS	136 AF	NA	38.9 AC
Combined Lease Totals:	0.82 CFS	136 AF	NA	38.9 AC

The water rights described herein shall be available for rental from the Bank as follows:

Authorized Period of Use under Lease: April 15th to October 31st

2. **COMPENSATION:** The Lessor shall accept and the Board shall pay compensation determined by the amount of water rented under the following rental rate during such times as the water is rented from the Bank over the term of this Lease.

Minimum Payment Acceptable: Negotiated Rental Rate

3. **TERM OF LEASE:** This Lease shall take effect when both parties have signed it and shall continue in effect until December 31, 2014.
4. **WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE:** The Lessor shall abide by all terms and conditions contained in the Water Supply Bank Conditions of Acceptance, attached hereto as "Attachment A" and incorporated herein by this reference.
5. **DUPLICATE ORIGINAL:** This Lease is executed in duplicate. Each of the documents with an original signature of each party shall be an original.

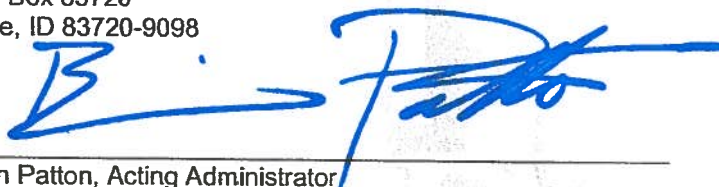
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FEB 13 2014
DEPARTMENT OF
WATER RESOURCES

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

TOM HUNTER
DEBBIE HUNTER
PO BOX 760
DRIGGS ID 83422

By  Date 2/10/2014
Printed Name Debbie Hunter Title Owner

IDAHO WATER RESOURCE BOARD
322 East Front Street
P.O. Box 83720
Boise, ID 83720-9098

By  Date 2/13/2014
Brian Patton, Acting Administrator
Idaho Water Resource Board

Lease approved by IDWR  Date 2/13/2014

ATTACHMENT A
WATER RIGHT NO. 22-14053
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE

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

Lessor: TOM HUNTER
DEBBIE HUNTER
PO BOX 760
DRIGGS ID 83422
(307)353-2236

Priority Date: 6/1/1890

Source: FOX CREEK

Tributary to: TETON RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15 to	10/31	0.82 CFS	136 AF
	Total:		0.82 CFS	136 AF

LOCATION OF POINT(S) OF DIVERSION:

FOX CREEK L4(SWSWNE) Sec. 29, Twp 04N, Rge 46E, TETON County

PLACE OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	45E	23													17.4			21.5	38.9

Total Acres: 38.9

ADDITIONAL CONDITIONS OF ACCEPTANCE

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

8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.
9. In accordance with Idaho Code §§ 42-248 and 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
 - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season.
 - b. If a change in ownership is processed by the Department during a rental season, rental payment will be made to the person or entity who is the lessor of record at the beginning of that rental season.
 - c. New lessor(s) of record will receive payment after the following rental season.
11. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.
12. Use of water under this water right will be regulated by the watermaster of State Water District No. 01.

RECEIVED

Form 42-1761-1 04/13

NOV 25 2013

DEPARTMENT OF
WATER RESOURCES

RECEIVED

NOV 18 2013

Department of Water Resources
Eastern Region
 Receipt No. E039309
 Fee Amount \$ 250.00
 Date by 11/18/13 SC
 (For Department Use Only)

 STATE OF IDAHO
 WATER RESOURCE BOARD

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

 Name of Seller/Lessor Tom and Debbie Hunter Phone (307) 353-2236
 Mailing address PO Box 760, Driggs, ID 83422 Email _____

A. DESCRIPTION OF WATER RIGHT, OR PORTION THEREOF, OFFERED TO THE BANK

 If the entire right is for sale or lease, check here ☒, list the water right number, and skip to Part B.

1. <u>Water Right Number</u>	<u>Amount (cfs/ac-ft)</u>	<u>Nature of Use</u>	<u>Period of Use</u>
<u>22-14053</u>	_____	_____	_____ to _____
_____	_____	_____	_____ to _____
_____	_____	_____	_____ to _____
Total Amount: _____			

2. Source of water _____ tributary to _____

3. Point(s) of Diversion:

Twp	Rge	Sec	Lot	¼	¼	¼	County

4. Lands irrigated or place of use: * See Part D for additional information regarding place of use.

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

If the right is for irrigation, show total number of acres offered to the bank. Total Acres _____

B. OWNERSHIP

1. Are you currently listed in IDWR's records as the owner of the water right being offered to the bank? Yes ☒ No ☐
 If no, provide documentation of your authority to sign on behalf of the right holder OR attach a Notice of Change in Water Right Ownership form along with the required documentation and fee.
2. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☒ No ☐
 If yes, provide written consent from the company, corporation or irrigation district to the proposed sale or lease and list name of entity:
Northwest Fox Creek Sprinkler Irrigation Co., Inc. delivers the water right. A consent letter is included.

C. GENERAL INFORMATION

1. Please provide a description of the current diversion system.

Pipeline to risers to mainline at place of use.

2. Describe any other water rights used for the same purpose or at the same place of use as described above.

None

3. Will the present place of use continue to receive water from any source?

Yes ☐ No ☒

If yes, describe.

4. Has any portion of this water right undergone a period of five or more consecutive years of non-use?

Yes ☐ No ☒

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

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

If yes, describe.

D. REQUIRED ITEMS

This form must be signed and submitted with the following REQUIRED items:

1. Plat map, survey map or aerial photograph clearly showing the specific acres proposed to be idled by this lease application.
2. Filing fee of \$250.00. If you are submitting more than one lease application and the rights have a common place of use or common diversion rate or common diversion volume, the combined maximum fee is \$500.00.
3. A completed Internal Revenue Service (IRS) Form W-9 (attached). If your water right is rented, we will be unable to issue payment to you without a current W-9 form.

E. SALE/LEASE AGREEMENT

1. Is the water right, or portion thereof, described above offered to the Idaho Water Resource Board (IWRB) for sale
- ☐
- or lease
- ☒
- .

If lease, for a period from 11/6/2013 to 12/31/2014 (not to exceed 5 years).
(Month / Day / Year) (Month / Day / Year)

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

Private lease pending with Northwest Fox Creek Sprinkler Irrigation Co., Inc.

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

The owner/lessor acknowledges the following:

1. Payment to the owner/lessor is contingent upon the sale or rental of the right from the bank.
2. While a right is in the bank, the owner/lessor of the right may not use the right even if the right is not rented from the bank.
3. A right accepted into the bank stays in the bank until the Board releases it or the lease term expires.
4. While a right is in the bank, forfeiture provisions are stayed.
5. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right.

Signature of Applicant

Printed Name and Title*

Date

Signature of Applicant

Printed Name and Title*

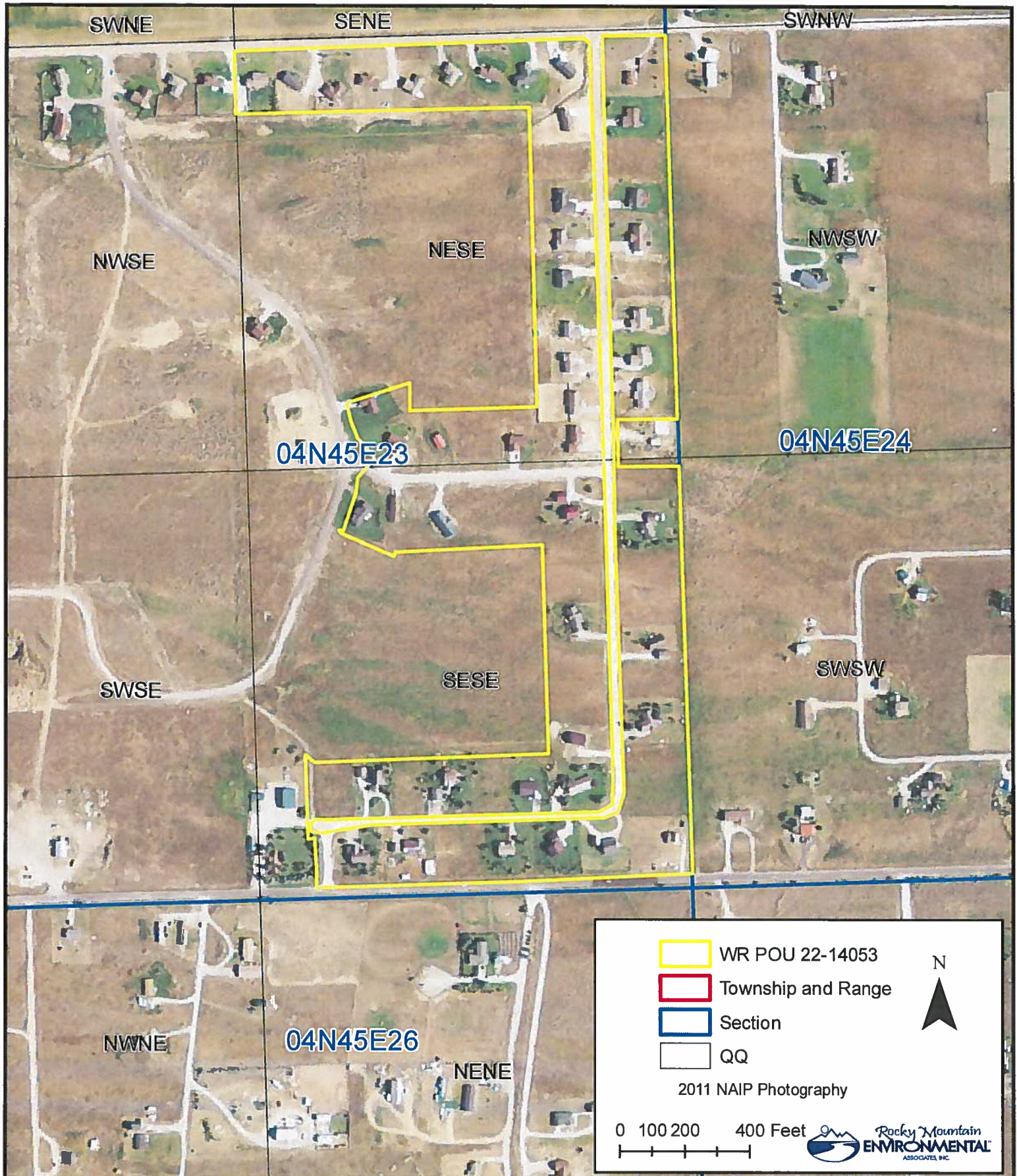
Date

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

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

Application to Lease a Water Right to the Water Supply Bank

Water Right No. 22-14053



NORTHWEST FOX CREEK SPRINKLER IRRIGATION CO., INC.**SHAREHOLDER AND DECREE DATES** (only older dates listed,

All other dates would be 1916 on up.)

NAME**DECREE/ DATE**

Backwater LLC (J. Hegwer)

Balmforth, Ted

PER 17156/1929

Conner, Mark

22-0350/1890

Egbert, Wayne

PER 17156/1929

FCCCEPOA—SUB

(NEW)
(22-14053) See Hunter/Kincaid (1890)

Hunter/Kincaid Prop

Foster, Boyd

Fox Creek Village—SUB

(NEW)
(22-14053) See Hunter/Kincaid (1890)

Hunter/Kincaid Prop

Furney, Matt

Griffin, Stephen

Hashagen, Red Estate

22-0350/1890

Hays, Tyler

Hunter, Tom

22-0350/1890

Johnson, Joanna

22-1066/1890

Kincaid, Robert

22-0350/1890

Knobe, Christopher

Koch, Tony

PER 17156/1929

McCarthy Trust

Morley, Tim

PER 17156/1929

Nield, Van

O'Brien, Sean

Petersen, Doug

Preston, Eli

Richman, Gordon

Robbins, Virginia

22-1066/1890

Sayler, Karen Estate

22-1066/1890

Shidner, Nick

Stanton, Tom

Stoebner, David

Stone, Dawn

Stone, Melvin/Sam

22-1065/1889

Sweet Home Ranches HOA

Tescher, Jessica

PER 17156/1929

Thompson, Don

22-1066/1890

Ward, Tory

Wilcox, Harley

PER 17156/1929

TED BALMFORTH
133 E. 4000 S.
VICTOR, ID 83455

MARK CONNER
246 W. 5000 S.
VICTOR, ID 83455

WAYNE EGBERT
P.O. Box 271
VICTOR, ID 83455

BOYD FOSTER
P.O. Box 118
LEADORE, ID 83464

STEPHEN GRIFFIN
343 E. 4500 S.
VICTOR, ID 83455

BOB KINCAID
P. O. Box 136
VICOTR, ID 83455

JOANNA JOHNSON
P. O. Box 133
DRIGGS, ID 83422

DAVID STOEGBNER
4585 S. 60 EAST
VICTOR, ID 83455

CHRIS KNOBE
P. O. Box 14820
JACKSON, WY 83002

TONY KOCH
33 E. 4000 S.
VICTOR, ID 83455

NICHOLAS SHIDNER
4595 COUNTRY CLUB DR
VICTOR, ID 83455

MCCARTHY TRUST
11 HIGUERA ST.
SAN LUIS OBISPO, CA
93401

VAN NIELD
1962 FAIRFAX RD.
ANNAPOLIS, MD 21401

SEAN O'BRIEN
1003 EDDY CT 4
GIBSONIA, PA 15044

DOUG PETERSEN
P. O. Box 681
DRIGGS, ID 83422

ELI PRESTON
4654 S. 360 E.
VICTOR, ID 83455

KAREN SAYLER
% DONNER SKI SHOP
620 ROCK BLVD.
SPARKS, NV 89431

VIRGINIA ROBBINS
375 W. 4000 S.
VICTOR, ID 83455

MELVIN/SAM STONE
3761 E. 200 N.
RIGBY, ID 83442

SWEET HOME RANCHES,
HOA/ %T. SPERBER
14 E. 4500 SOUTH
VICTOR, ID 83455

JESSICA TESCHER
P. O. Box 393
VICTOR, ID 83455

DON THOMPSON
P. O. Box 47
VICTOR, ID 83455

HARLEY WILCOX
P.O. Box 362
VICTOR, ID 83455

TYLER HAYS
212 E. 4500 SOUTH
VICTOR, ID 83455

BACKWATER LLC
970 W. BROADWAY
E 209
JACKSON, WY 83001

TORY WARD
P.O. Box 353
WILSON, WY 83014

GORDON RICHMAN
2001 CORNER CREEK LN.
#54
JACKSON, WY 83001

**TOM HUNTER
155 S. 1ST STREET E.
DRIGGS, ID 83422**

**RED HASHAGEN ESTATE
RED'S CABIN LLC
21316 SE 20TH STREET
SAMMAMISH, WA 96075**

**FOX CREEK VILLAGE
% JOHN EAGAN
P.O. Box 128
VICTOR, ID 83455**

**FCCCEPOA
% ROBERT SPOELHOF
51 COUNTRY CLUB DR.
VICTOR, ID 83455**

**MATT FURNEY
P.O. Box 10348
JACKSON, WY 83002**

**DAWN STONE
4940 S. 500 WEST
VICTOR, ID 83455**

**TIM MORLEY
399 E. 4000 SOUTH
VICTOR, ID 83455**

**THOMAS STANTON
P.O. Box 4698
JACKSON, WY 83001**



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

September 30, 2014

DEBBIE AND TOM HUNTER
PO BOX 760
DRIGGS, ID 83422

**RE: NOTIFICATION OF WATER SUPPLY BANK LEASE EXPIRATION FOR WATER
RIGHT(S): 22-14053**

Dear Lessor:

The Idaho Department of Water Resources (Department) records show that all or a portion of the above referenced water right, currently leased to the Water Supply Bank (Bank), will expire December 31, 2014. This letter is notice that the right will be considered released from the Bank at that time.

If you would like the right to remain leased to the Bank, please complete the enclosed Application to Lease a Water Right to the Water Supply Bank.

Please consider that the five (5) year period of nonuse related to forfeiture of a water right shall begin to accrue upon release of the right from the Bank or shall continue to accrue if a period of nonuse occurred prior to the lease date of the right to the Bank.

If you have questions regarding this matter, you may contact the Department at any time.

Sincerely,

A handwritten signature in black ink that reads "Cherie Palmer". The signature is fluid and cursive, with the first name "Cherie" and last name "Palmer" clearly distinguishable.

Cherie Palmer
Water Rights Supervisor
Water Allocation Bureau

Enclosure: Application to Lease a Water Right

c: IDWR Regional Office

DEPT. OF WATER RESOURCES
322 E. FRONT ST.
P. O. BOX 83720
BOISE, ID 83720-0096

ADDRESS SERVICE
REQUESTED

836 834 83422 **B2-27**

PRSR FIRST-CLASS MAIL
US POSTAGE PAID
Boise, ID
PERMIT# 1



6020140214-110610

8

RETURN SERVICE REQUESTED

83422



NIXIE 834223031-1N 02/21/14Z

RETURN TO SENDER
NO MAIL RECEPTACLE
UNABLE TO FORWARD
RETURN TO SENDER



RECEIVED

FEB 25 2014

DEPARTMENT OF
WATER RESOURCES

Tom Hunter
Debbie Hunter
PO BOX 760
DRIGGS ID 83422

*Originals
Re-mailed
To Harvey Walker
2338 N 2930 W
Arbo ID 83213
on 2-27-14*

DEPT. OF WATER RESOURCES
322 E. FRONT ST.
P. O. BOX 83720
BOISE, ID 83720-0098

ADDRESS SERVICE
REQUESTED

836 834 83422

B2-27

PRSR FIRST-CLASS MAIL
US POSTAGE PAID
Boise, ID
PERMIT# 1

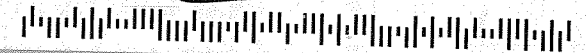


6020140205-112509

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SERVICE REQUESTED

83422



RECEIVED

FEB 24 2014

DEPARTMENT OF
WATER RESOURCES

NOPEC

834226019-1N

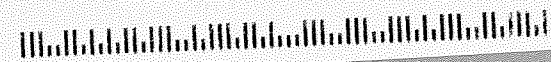
02/11/14

NIXIE

834223052-1N

02/19/14

RETURN TO SENDER
UNABLE TO FORWARD
UNABLE TO FORWARD
RETURN TO SENDER



Tom Hunter
Debbie Hunter
PO BOX 760
DRIGGS ID 83422



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

February 14, 2014

Tom Hunter
Debbie Hunter
PO BOX 760
DRIGGS ID 83422

RE: WATER SUPPLY BANK LEASE CONTRACT FOR RIGHTS 22-14053

Dear Lessor:

Water Right 22-14053 was leased into the Water Supply Bank on November 18, 2013 in accordance with the executed original Lease Contract enclosed. **Your water rights as described on the Lease Contract are considered leased into the Bank and should remain unused until they are formally released from the Bank.**

The rights will automatically be released from the Bank on **December 31, 2014**, unless the rights are released earlier by the Board, or upon your request. **Please note your rights may not be available for immediate release if they have been rented.** To release the right from the Bank prior to the release date, submit a written request on the *Request to Release a Water Right from the Bank* form. This form is available from our public website at www.idwr.idaho.gov.

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

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

If you have questions regarding this matter, please contact me at 287-4897.

Sincerely,

for Clay Webb
Sandra Thiel

Water Resource Planner

Enclosure: Executed Lease Contract

c: Harvey Walker –Water Consultant
James Cefalo- IDWR Eastern Region



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

February 4, 2014

Tom Hunter
Debbie Hunter
PO BOX 760
DRIGGS ID 83422

RE: APPLICATION(S) TO LEASE WATER RIGHT(S) 22-14053 TO THE WATER SUPPLY BANK

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

Dear Applicant:

The Department of Water Resources has completed its review of your application to lease the above-mentioned water right to the Water Supply Bank. **I have enclosed two original Water Supply Bank Lease Contracts for your review and signature. Please sign and return BOTH Lease Contracts within 14 days.** Upon signature and return of the contracts, the Department will also sign the original contracts and return an executed copy to you. The Lease Contract is not considered final until you and the Department have both signed.

The rights will automatically be released from the Bank on **December 31, 2014**, unless the rights are released earlier by the Board, or upon your request. To release the right from the Bank prior to the release date, submit a written request on the Request to Release a Water Right from the Bank form. To request an extension of the lease period, submit a Request to Extend the Lease Term form along with applicable fees to the Department prior to the release date. These forms are available from any IDWR office or from our public website at <http://www.idwr.idaho.gov>. Please note your rights may not be available for immediate release if they have been rented.

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

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

If you have questions regarding this matter, please contact me at 287-4879.

Sincerely,



Sandra Thiel
Water Resource Planner
WSB Process Point of Contact

Enclosure: Proposed Lease Contracts

Receipt: E039309

c: Harvey Walker -Water Consultant

Thiel, Sandra

From: Olenichak, Tony
Sent: Monday, January 27, 2014 12:00 PM
To: Thiel, Sandra
Cc: Swank, Lyle
Subject: RE: Water supply bank Northwest Fox Creek

Sandra,

Thanks for giving me the opportunity to provide input to the water bank transactions in the Upper Teton Valley. As I've said previously, we (Water District #1 staff) do not analyze what has and hasn't been irrigated each year. We only provide a record and measurement of the total amount of water diverted at the headgate from the stream. When there are multiple water rights assigned to a canal, it is often difficult or impossible to determine if the water diverted through the headgate is actually going to the correct place(s)-of-use for each water right. However, the concern that you have expressed in your email reinforces my suspicions that the water bank process may be being used to circumvent the prior appropriation doctrine in the Upper Teton Valley. Let me explain.....

There currently has been an escalation in the battle between two factions in the Upper Teton Valley. Faction #1 is using the water bank process to provide for instream flows while protecting the water right owner from forfeiture. I suspect Faction #1 approaches a water owner that is no longer using their water right for irrigation and convinces them that it is in their best interest to deposit the water right in the water bank and assign it to be used for instream flow. This way, the water right owner maintains ownership of the water right that increases the value of their land if they ever decide to sell their property in the future, and it meets the intended purpose of Faction #1 through facilitating the transaction into the water bank. The water bank process is being abused if the water right owner never intends to use the water right for irrigation on their property in the future, especially if it has been evidenced by the destruction of the means to convey the surface water to that property.

Faction #2 is using the same water bank process to accomplish a completely different objective. Faction #2 wants to keep the same amount of water diverted from the stream into the canal as users on the canal cease using their water right for irrigation. I suspect Faction #2 is approaching water users that no longer use their water rights and try to convince them that it is in their best interest to deposit their water right into the water bank and assign it to other property served by the same canal. That way, the water users of the canal still enjoy the use of the same amount of water that has always flowed down the canal and the water right owner gets to retain ownership of their water right. The water bank process is being abused by Faction #2 in the same manner as Faction #1 if the property can no longer be physically irrigated with surface water or the property owner never intends to irrigate with the surface water right in the future.

Propositions made from either faction are attractive to the water right owners because the owners are no longer in fear of losing their water right to forfeiture after they have been placed in the water bank.....even though the water right owners may never plan on using the water rights again on their property for irrigation. Retaining ownership of the water right tends to increase the value of their land (and increase revenue from either Faction #1 or #2) and, if they decide to sell the property in the future, they can always cancel the water bank transaction until the sale has been completed.

Water users in the Upper Teton Valley have discovered a loophole in the water bank process to circumvent prior appropriation doctrine to meet their objectives of changing the place-of-use of the water right and avoiding forfeiture. In some cases, it seems to me that there is a potential for abusing the water bank procedures and perhaps the department should investigate the possibility that a permanent water right transfer or forfeiture would be more appropriate than using the water bank procedures to control the place-of-use certain water rights that haven't been recently used and there's evidence they may never be used again in the future. Absent this analysis, I don't see any

reason to treat the transactions for 22-14053 and 22-14026 any differently than other water bank transactions that have been approved previously in the Upper Teton Valley.

Tony

From: Thiel, Sandra
Sent: Friday, January 24, 2014 3:28 PM
To: Olenichak, Tony
Subject: Water supply bank Northwest Fox Creek

Hello, I have been talking to Harvey Walker and Kristin Moore of Rocky Mountain Environmental about the Northwest Fox Creek water supply bank lease and rental options. We had questions about the lease of water right 22-14053. My concern was that this right has the same place of use as permit 22-13306. It is my understanding that the surface water from Fox Creek under right 22-14053 does not comingle with the groundwater from 22-13306. It doesn't appear that the subdivision receives the surface water from Fox Creek. I reread your email from New Years Eve and see that you may not be able to comment on the place of use within their system but I wanted to give you the background. We have two rental applications for the water.

Harvey and Kristin submitted rental applications for the Fox Creek water that has been leased into the bank under right 22-14053 and 22-14026. They do not plan to change the point of diversion on Fox Creek. I've attached the map they provided to show the proposed places of use. Dawn Stone, whose property is shown on the southwest of the map, does not have a water right for irrigation. The rental application proposes to irrigate 19 acres on her property. The second rental application is for 40.4 acres and includes the 5 parcels shown on the northeast. Please let me know if you have any concerns about these rentals by February 3 if possible. Thanks Tony. Let me know if you have any questions.

Sandra Beer Thiel
Idaho Department of Water Resources
322 East Front Street
Boise, Idaho 83720-0098
(208)287-4881
sandra.thiel@idwr.idaho.gov

MEMORANDUM

To: Water Right No. 22-14053
From: Sandy Thiel
Date: December 18, 2013
Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE: Kristin Moore of Rocky Mountain Environmental Ass. submitted an application to lease water under right 22-14053 for Tom and Debbie Hunter. The entire right will be leased to the bank until December 31, 2014.

AUTHORITY TO FILE: Tom and Debbie Hunter are the current water right holders.

WATER RIGHT VALIDITY: This water right was decreed in 2008 making it valid at the time of this lease. Leasing the right will protect against forfeiture.

INJURY TO OTHER WATER RIGHTS: No injury is apparent.

ENLARGEMENT OF USE: No enlargement is evident through the lease alone. Proper rental review should protect against enlargement. This water right is for surface water and the decree did not include a volume. The 136 acre feet are based on 3.5 headgate requirement for 38.9 acres.

Permit 22-13306 for domestic use for 97 homes shares the place of use with 22-14053. The permit is for groundwater. This right does not share a delivery system with right 22-14053.

LOCAL PUBLIC INTEREST: Review staff has no information to suggest this application is inconsistent with the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: The lease appears consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: Comments were requested from the eastern regional office. Tony Olenichak responded on 12/31/2013 (see attached email). One of the primary concerns was that there be no change to the point of diversion. The water right, when rented, will be delivered through the system that currently supplies water to the Hunter's place of use. The point of diversion will remain the same.



22-14053 Place of Use

Township/Range

Sections

QQ

SWNE

SENE

NWSE

NESE

04N45E23

04N45E24

SESE

SWNW

NWNE

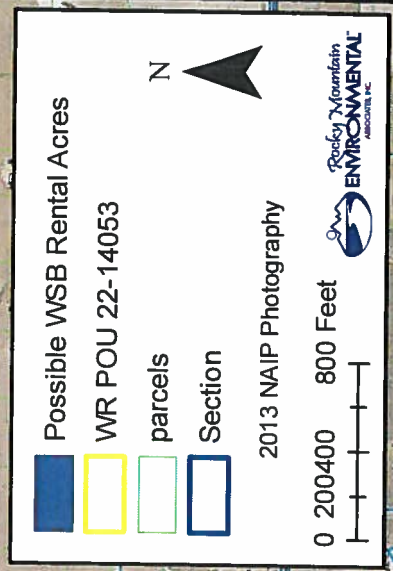
04N45E26

NESE

NWNW

04N45E25

USDA/ESA





Thiel, Sandra

From: Keen, Shelley
Sent: Thursday, December 05, 2013 5:31 PM
To: Thiel, Sandra
Subject: Conversation with Harvey Walker -- notes for your file

Sandy,

This evening I spoke with Harvey Walker about the Fox Creek Pipeline. I explained our concern that spreading the rented water right over more than 19 acres could result in the consumption of more water than would have occurred on 19 acres. I recommended that Harvey identify 19 acres somewhere within the pipeline distribution area to put the rented right. When water is short, that 19 acres will get the rented water, and more of the remaining water will be available to the other water right owners in the pipeline system.

Harvey agreed to identify 19 acres and respond to you soon.

Shelley Keen
Idaho Department of Water Resources
Shelley.Keen@idwr.idaho.gov
208-287-4947

Thiel, Sandra

From: Thiel, Sandra
Sent: Friday, December 06, 2013 1:38 PM
To: Olenichak, Tony
Subject: Water Supply Bank lease 22-14053
Attachments: WR.pdf

Tracking:	Recipient Olenichak, Tony	Delivery Delivered: 12/6/2013 1:38 PM
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Hello Tony,

I have another water right lease application with the same source, Fox Creek, and the one mentioned below. Tom and Debbie Hunter intend to lease all of water right 22-14053 into the bank until Decemblers 31, 2014. The attached map shows both the pod and the pou. I understand that you will have the same concerns as with 22-14054. But if there is anything additional issues please let me know Monday, December 16, 2013. Thank you.

Sandy

From: Thiel, Sandra
Sent: Friday, November 15, 2013 4:21 PM
To: Olenichak, Tony
Subject: RE: Water Supply Bank lease 22-14054

Thank you for your help Tony. Have a good weekend.

From: Olenichak, Tony
Sent: Friday, November 15, 2013 4:19 PM
To: Swank, Lyle
Cc: Thiel, Sandra
Subject: RE: Water Supply Bank lease 22-14054

Sandra and Lyle,

Water right 22-14054 is a 6/1/1890-priority water right for 0.7 cfs on Fox Creek and a POD at the Upper Fox Creek Canal. Based on the disputes amongst water users that occurred on Fox Creek this past year (and previous years) and the "futile call" situation that frequently occurs on Fox Creek, I doubt that the POD for 22-14054 could be changed through a Water Bank transaction because of the potential to injure other water rights on Fox Creek if the POD is moved. If the lease proposes to change only the place of use or nature of use without changing the POD, there may not be a problem with the transaction.

Tony Olenichak
Program Manager
Water District #1
208-525-7171

From: Swank, Lyle
Sent: Thursday, November 14, 2013 6:26 AM
To: Olenichak, Tony
Cc: Thiel, Sandra
Subject: Fwd: Water Supply Bank lease 22-14054

Tony,
Since I am out of the office, I'd like you to take a look at this.
Thanks,
Lyle

Sent from my iPhone

Begin forwarded message:

From: "Thiel, Sandra" <Sandra.Thiel@idwr.idaho.gov>
Date: November 13, 2013 5:25:11 PM CST
To: "Swank, Lyle" <Lyle.Swank@idwr.idaho.gov>
Subject: Water Supply Bank lease 22-14054

Hello Lyle ,

I am processing an application to lease water right 22-14054 into the water supply bank. They requested to lease the entire right through 12/31/2014. Do you have any concerns that I should be aware of? Thanks for your help in advance.

Sandra Beer Thiel
Idaho Department of Water Resources
322 East Front Street
Boise, Idaho 83720-0098
(208)287-4881
sandra.thiel@idwr.idaho.gov

Thiel, Sandra

From: Kristin M. Moore [kristin.rmea@gmail.com]
Sent: Friday, December 06, 2013 12:28 PM
To: Thiel, Sandra; why@atcnet.net
Subject: hunter/kincaid

Here is Dawn's response about the "PER" notation. Not real definitive yet.

Kristin Moore
Rocky Mountain Environmental Associates, Inc
208-524-2353

From: Dawn Stone [mailto:foxcreekh2o@gmail.com]
Sent: Friday, December 06, 2013 12:14 PM
To: Kristin M. Moore
Subject: Re: Requested copy

Hi Kristin--isn't this such a fun, convoluted system??? NOT!!

The only thing I can relate that to would be a special permit that was granted for 1929 water for Shirley Setter, the last full owner of that property. I have looked through my late husband's records on this and cannot find a reference, and now that adjudication deleted all the old records, it would hard for me to find any info. I will check with my brother in law, and see if he has any info as well, but I cannot contact him until later on this afternoon. I wonder if it would be tied to the older right of Setter's somehow. I did just find a note written in for the original owner, Beaszley for a June, 1890 right, with a number listed as Transfer #2096--noted from the old water right number #21-0022; perhaps that refers to this property as well--just not sure. Hope this helps, and I will get back with you with any info I get from my brother in law. Thanks Dawn

On Fri, Dec 6, 2013 at 10:54 AM, Kristin M. Moore <kristin.rmea@gmail.com> wrote:

Dawn,

We were looking at the shareholder list and wondering what the "PER 17156" means under the Decree/Date list. It doesn't correspond to a water right number. Do you have any insight for us?

Kristin Moore

Rocky Mountain Environmental Associates, Inc

208-524-2353

To: Water Right Files 22-14053 and 22-14054

From: Sandra Thiel

Date: December 6, 2013

Subject: Phone conversation with Harvey Walker and Kristin Moore of Rocky Mountain Environmental

Mr. Walker and Ms Moore called to discuss the status of the rental applications for water rights 22-14053 and 22-14054. Mr. Walker has called over the past few days about finding a place of use for water rented under 22-14054. Ms Moore also needed to identify a place of use to rent water under right 22-14053.

Mr. Walker and Ms. Moore asked if there was a deadline because of forfeiture. Both rights were partially decreed on November 24, 2008. However, Kristin said she talked to Pam and Pam said that we have received their application and the beginning date for the lease would be the date the Department received the application.

They have been in contact with Dawn Stone secretary of the NW Fox Creek Irrigation Company. She is working with them to identify acres for rental of both rights. They said they would contact me with the rental acres early next week.

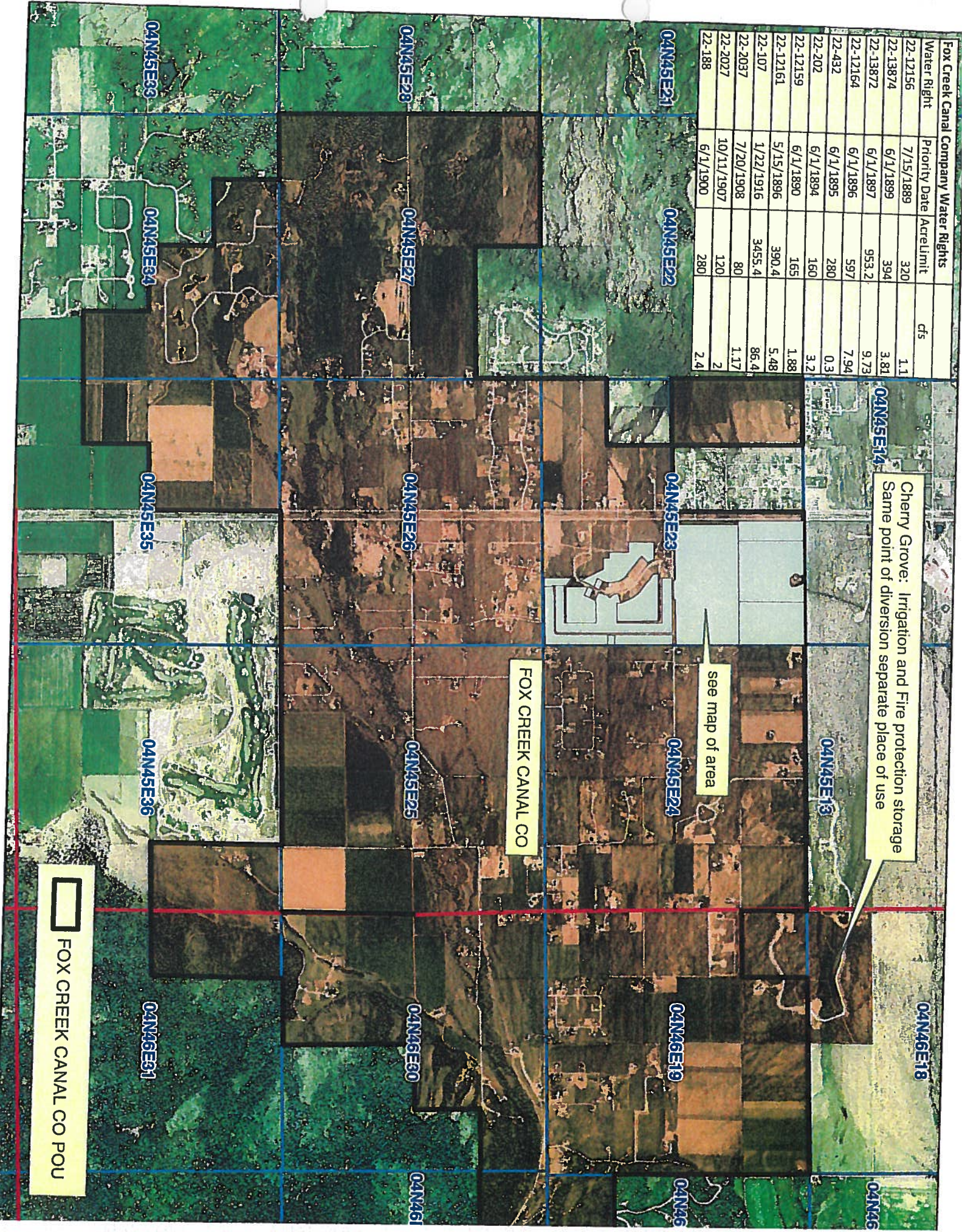
Fox Creek Canal Company Water Rights				
Water Right	Priority Date	Acre Limit	cfs	
22-12156	7/15/1889	320	1.1	
22-13874	6/1/1899	394	3.81	
22-13872	6/1/1897	953.2	9.73	
22-12164	6/1/1896	597	7.94	
22-432	6/1/1895	280	0.3	
22-202	6/1/1894	160	3.2	
22-12159	6/1/1890	165	1.88	
22-12161	5/15/1896	390.4	5.48	
22-107	1/22/1916	3455.4	86.4	
22-2037	7/20/1908	80	1.17	
22-2027	10/11/1907	120	2	
22-188	6/1/1900	280	2.4	

Cherry Grove: Irrigation and Fire protection storage
Same point of diversion separate place of use

FOX CREEK CANAL CO

see map of area

FOX CREEK CANAL CO POU



BY -LAWS

of

NORTHWEST FOX CREEK SPRINKLER IRRIGATION
COMPANY, INC.

Article 1 - Area Served

Section 1. The area included within the system of this corporation, hereinafter called "the system lands" is located in Teton County, Idaho, and more particularly described as follows, to-wit:

W $\frac{1}{2}$ of Section 24, and E $\frac{1}{2}$ of Section 23, Township 4 North, Range 45, E. B. M., excepting therefrom all County road rights-of-way and Highway #33 and the Railroad right-of-way, also excepting Tax No. 1105 in the corner of the SE $\frac{1}{4}$ of said Section 23, belonging to the Utah Idaho Sugar Company, containing approximately 544.4 acres, more or less;

The corporation system also includes the metal pipeline which shall receive this corporation's stockholders' water by virtue of their water rights as represented by stock in the Fox Creek Canal Company, Incorporated, and said water shall be discharged from the Fox Creek Company Canal into said metal pipeline at a point in the Southeast corner of the Northeast quarter of the Southwest quarter in Section 19, Township 4 North, Range 46, E. B. M.; and said pipeline then extends at a grade to provide for gravity flow and pressure through the system lands to points of delivery to the stockholders, which points of delivery shall be lateral pipelines attaching to the corporation's mainline.

Section 2. There shall be no other lands included within the system; providing, however, new lands may be included within the system if by the consent of at least two-thirds of the stockholders present at a meeting called for that purpose at which there is a quorum present in person or by proxy.

ARTICLE 11 - Directors

Section 1. The corporate powers of this corporation shall be vested in a board of five directors, all of whom must be stockholders of Northwest Fox Creek Sprinkler Irrigation Company, Inc.

Section 2. The directors shall be elected by written, secret ballot at the annual meeting by a majority of the stock represented at said meeting either in person or by proxy. The term of office of the directors, after such organization, shall be one year each. At each and every annual meeting thereafter, new directors shall be elected to succeed those presently in office, to hold office for a term of one year, or until their successors are elected and qualified. Their term of office shall begin immediately after their election.

Section 3. Vacancies in the board shall be filled by the other members of the board in office, and such person so elected shall fill out the unexpired term of the person causing the vacancy.

Section 4. The directors shall have the power:

- (a) To call meetings of the board of directors when they deem it necessary, by giving such notice as the exigency of the case and the importance of the business may require.
- (b) To appoint and remove all officers, agents and employees of the company, prescribe their duties, fix their compensation and require from them security for faithful service.
- (c) To make rules and regulations, not inconsistent with the laws of the State of Idaho, or the general laws of the United States and the By-Laws of this corporation, for the guidance of the officers and management of the affairs of the corporation.

Att
Sandra Thiel
287-6600

(d) to levy assessments at such times and of such amounts as may be necessary for paying off the indebtedness of the corporation and for carrying on the business of the corporation, or for any other purpose that the said directors may believe to be to the better interest of the company, in conformity with the statutes of the State of Idaho.

(e) To give notice to the stockholders of the assessments so levied, and requiring each stockholder to pay to the Secretary-Treasurer the amount of said assessment in a manner provided for in these By-Laws.

(f) To cause to be kept a complete record of all their acts and proceedings and of the proceedings of the stockholders, and present a summary of all their acts and doings at the regular annual meeting of the stockholders, showing in detail the assets and liabilities of the corporation, and generally the condition of its affairs. A similar statement shall be presented at any other meeting of the stockholders when required to do so by persons holding at least one-third of the capital stock of the corporation.

(g) To supervise all of the officers of the corporation, and see that their duties are properly discharged; to require the Secretary-Treasurer to keep full and accurate books and to prescribe the form and mode of keeping said books.

(h) To cause to be issued to the stockholders, in proportion to their several interests, certificates of stock, not to exceed in the aggregate the amount of the capital stock of said corporation.

Section 5. The members of the Board of Directors shall receive no salary as such, but may be paid for their actual time and expenses at a rate to be determined from time to time by the board of directors.

ARTICLE III - Officers

Section 1. The officers of this corporation shall consist of a president, a vice-president and a secretary-treasurer. These officers shall be elected by written, secret ballot by the Board of Directors at a meeting of the directors, immediately following the annual meeting of the stockholders, and shall serve for a term of one year or until their successors have been elected and qualified. The board of directors shall have the power to fill any vacancy that may occur by death or otherwise of any one or more of said officers; providing, however, all officers must be members of the board of directors and any officer so appointed shall hold office until the next regular meeting of the board of directors immediately following the annual meeting of the stockholders.

Section 2. The President shall preside at all meetings of the stockholders and directors. He shall sign instruments in writing which have first been approved by the board of directors; he shall call meetings of the board of directors whenever he deems it necessary, or when required to do so as hereinafter provided, and he shall have, subject to the advice and control of the board of directors, the general superintendency of the affairs of the corporation. In the absence of inability to act of the President the Vice-President shall perform his duties. The president shall have the same vote as all other directors and stockholders.

Section 3. It shall be the duty of the Secretary:

(a) To keep a record of the proceedings of the board of directors and the stockholders.

(b) To keep a book of blank certificates of stock, fill up and countersign all certificates issued, and make the corresponding entries in the margin of such book on the issuance of the same.

(c) To keep a proper transfer book and a stock ledger in debit and credit form, showing the number of shares issued to and transferred by any stockholder, and the date of such issuance and transfer, and to whom transferred.

(d) To keep safely all money and evidences of debts and certificates of deposit belonging to the corporation, a list of all debts owing by the corporation, and to pay out and disburse the money on hand under and by direction of the board of directors and in conformity with the By-Laws of this corporation.

(e) At the annual meeting of the stockholders, to submit a statement of his accounts with proper vouchers and at any other meeting when required to do so by the directors, showing in detail the amount of money received by him, to whom paid, and the amount still remaining then in the treasury; also the securities for money, and showing generally the financial condition of the corporation.

(f) To countersign all checks drawn by the President, keep proper account books and discharge such other duties as pertain to his office, and as shall be prescribed by the directors.

Section 4. All officers of this corporation shall receive such salary and compensation for their services as may be fixed by the stockholders at the annual meeting of the corporation, and all such claims shall be audited and allowed under the By-Laws.

ARTICLE IV - Distribution of Water

Section 1. Since the stockholders of this corporation are also stockholders of Fox Creek Canal Company, Incorporated, and since this corporation's irrigation pipeline replaces irrigation canals which were under the jurisdiction and were regulated by said Fox Creek Canal Company's board of directors, and particularly its watermaster, said Fox Creek Company's watermaster shall regulate the distribution of this corporation's stockholders' water through the mainline into each stockholder's lateral pipeline; providing, however, the board of directors of this corporation shall be responsible to see that there is always a watermaster available to regulate the distribution of the water among the stockholders, according to their respective rights.

Section 2. The watermaster shall, annually and at all times when called upon by the directors, make a written report to such directors as to the services performed by him, the water distributed, and to whom, and in what quantities distributed, and of the general condition of the canal system and distribution works owned by the corporation, and what repairs, if any, may be necessary, as well as about such other matters as may pertain to the general welfare of the corporation and its property.

Section 3. The watermaster shall have authority to make any repairs that require immediate attention, not exceeding a cost of \$50.00. All other repairs, alterations or construction work shall be first authorized by the board of directors.

Section 4. The holders of certificates of stock in this corporation shall be entitled to a pro rata distribution of the water delivered into its system, in proportion to the amount that the stock so held by the stockholder bears to all of the stock issued by the corporation; and the holders of storage water, purchased or leased water, or other water conveyed through the facilities of the corporation shall make arrangements by specific agreement with the board of directors for the delivery of the water.

Section 5. This corporation shall only be required to convey its stockholders' water from the Fox Creek Canal system through the main pipeline to the lateral pipelines owned by the stockholders at which points the corporation shall install risers on said main pipeline and the stockholders shall, at their own expense, install lateral pipelines extending from an attachment to the risers upon the mainline to their respective lands, where they shall also install their own sprinkler heads and other means of

irrigation; providing, however, all lateral pipelines, nozzles, sprinkler heads and all other irrigation equipment shall be of a type and installed in a manner approved by the board of directors, and providing further, there shall be one lateral for each 40 acres of land, and there shall be no priorities among the stockholders to the use of the water. The board of directors, through the watermaster, shall regulate the flow of water to each of the stockholders by regulating the opening of the discharge nozzles according to the available water, and no stockholder shall interfere with such discharge nozzles to change the rate of flow without the knowledge and consent of the watermaster, and no water shall be delivered to a stockholder unless and until the lateral pipeline, sprinkler heads and all other parts of the irrigation equipment have been properly installed under the direction of the board of directors.

Section 6. Any person diverting water from the corporation's system in any other manner than the manner provided herein, and as provided by the statutes of the State of Idaho shall be punished in accordance with the law.

Section 7. If any stockholder wishes to use his water right on lands outside of the corporation's system, or if any stockholder wishes to use any other water right upon lands within the corporation's system, he may do so with the consent of the board of directors, in the following manner:

First: Application in writing must be made to the board of directors, giving in detail the plan of the applicant.

Second: The board, shall make an investigation of the facts and circumstances surrounding the proposal, and if it is found that no one is or will be injured by such transfer, a permit shall be granted by the board.

ARTICLE V - Capital Stock

Section 1. The total number of shares which may be issued by the corporation is 544.4 representing one share for each acre of land within the corporation's system, all of which stock is for no nominal or par value.

Section 2. Each stockholder shall be entitled to receive certificates representing the shares of stock he owns in the company.

Section 3. Shares of stock shall be in such form and device as the board of directors may direct, and each certificate of share shall be signed by the President and countersigned by the Secretary-Treasurer, and express on its face its number, date of issuance, the number of shares and to whom issued; the same to be under seal.

Section 4. Such shares of stock may be transferred at any time when all assessments against said shares are fully paid up by the owner thereof; provided, that the Secretary-Treasurer shall be allowed a fee of fifty cents for each transfer. No transfer shall be valid until the original certificate has been surrendered, and a record made of the transfer on the books of the corporation; and no certificates shall be issued for less than one-half share of stock.

Section 5. No new certificate shall be issued in lieu of any other certificate except such other certificate has been surrendered and canceled, except where a certificate of stock has been lost or destroyed, and a duplicate certificate is required in lieu thereof in which event a duplicate certificate may be issued upon the holder of said certificate presenting to the board of directors satisfactory evidence that the said certificate has been lost or destroyed, and filing an affidavit, setting forth the facts pertaining to such lost or destroyed certificate.

ARTICLE VI. Borrowing Money

Section 1. This corporation shall have the power to borrow money and to mortgage the facilities of the corporation and the corporation's system as security for the payment thereof, but no loans shall be obtained by the corporation except by the consent of two-thirds of the stockholders voting on such a proposal at a meeting called for that purpose at which time there is a quorum present in person or by proxy, and said meeting shall be called in accordance with Article IX of these By-Laws, providing, however, the stockholders have, by the Articles of Incorporation, and they do hereby consent to the borrowing by the corporation of approximately \$40,000.00 from the United States of America, Farmers Home Administration, and the President and Secretary are hereby authorized and directed to make, execute and deliver the required notes, mortgages and other documents necessary for the acquisition of said loan to obtain the proceeds necessary for the acquisition and installation of the corporation's irrigation facilities.

ARTICLE VII - Levy, Assessment
and Collection of Assessments

Section 1. Each stockholder shall be required to pay annual assessments levied by the board of directors necessary to meet the loan repayment schedules of the corporation for the original construction of the system and any other additions, repairs and alterations thereto, and to pay the annual costs of maintaining and operating the system. No stockholder shall be entitled to the use of any water through the corporation's facilities until his assessments have been paid in full.

Section 2. Each stockholder shall be notified in writing of his assessment and said notice shall require the stockholder to make payment in full of said assessment within thirty days thereof. In the event said assessment is not paid in full within said 30 day period, it shall become delinquent and the stockholder whose delinquency occurs, should not be entitled to receive water until it is paid in full. The board of directors shall notify such delinquent stockholder of the delinquency by certified mail and shall charge such stockholder, in addition to the assessment, eight per cent interest per annum from the date of the delinquency until paid. In the event said delinquency and interest are not paid within 15 days after the delinquency notice has been deposited in the postoffice addressed to the delinquent stockholder, postage prepaid, then the board of directors shall advertise a notice of sale of the capital stock of said delinquent stockholder by publishing in a newspaper published and circulated within Teton County, Idaho. Said publication shall be made in two consecutive weekly issues and shall specify the date, time and place of sale of said stock, which shall not be less than 15 days nor more than 20 days from the date of the first publication of notice. At said sale, to be conducted by or at the direction of the board of directors in accordance with the published notice, the stock of the delinquent stockholder or so much thereof as is necessary to pay the delinquent assessment, together with the accrued interest therein, the costs of advertising and the costs of conducting of sale, shall be sold. Said delinquent stockholder shall have the right to redeem his stock from said sale at any time prior to the actual sale thereof by paying the amount of the delinquent assessment together with accrued interest and all advertising costs of said sale, and any other expenses incurred by the board of directors in connection with said sale. At said sale, any purchaser of stock thereat must qualify as a stockholder under the provisions of these By-Laws, and shall be issued a certificate of stock representing the shares purchased in the same manner as any other stockholder.

ARTICLE VIII RIGHT-OF-WAYS

Section 1. Each stockholder of this corporation hereby grants, conveys and confirms unto the corporation and to every other stockholder hereof, such rights of way and easements over and across their lands as may be necessary to install and maintain the corporation's system and the respective laterals and irrigation systems of the stockholders.

ARTICLE IX MEETINGS OF STOCKHOLDERS

Section 1. There shall be an annual meeting of the stockholders of the corporation held on the first Monday in March of each year at the hour of 2 o'clock p.m. in Driggs, Teton County, Idaho. All meetings of stockholders shall be called by a notice mailed at least ten days before said meeting, giving the date, place and time of meeting, and shall be signed by the Secretary pursuant to the order of the board.

Section 2. (a) At all stockholders' meetings, each holder of stock shall be entitled to one vote regardless of the number of shares subscribed. Each stockholder may vote either in person or by proxy, providing, however, each proxy must be in writing and filed with the Secretary-Treasurer. (b) No business shall be transacted at any meeting of the stockholders without the presence of a quorum, and a quorum shall consist of a majority of outstanding capital stock. (c) Special meetings of the stockholders may be called at any time by the concurrence of at least five percent of the issued and outstanding shares of capital stock, or by the board of directors, or by at least three of said board of directors, or by one shareholder if the time has expired for the holding of the annual meeting, by giving notice in the manner and for the time prescribed for the annual meeting; providing, however, said notice shall state the object of the meeting, designating the items to be discussed and providing for the discussion of any other business that may properly come before the meeting.

ARTICLE X - Amendments

Section 1. These By-Laws may be amended at any annual meeting of the corporation or at any special meeting called for that purpose by a two-thirds vote of the allotted shares of the corporation present at such meeting either in person or by proxy.

These By-Laws adopted at a meeting of the stockholders of Northwest Fox Creek Sprinkler Irrigation Company, Inc. held this

<u>Jack Rasmussen</u>	<u>Dwight C. Stone</u>
<u>Merle Kunz</u>	<u>Diane Kunz</u>
<u>Lyle Kay</u>	<u>Donald Beard</u>

STATE OF IDAHO

COUNTY OF TETON

On this 28th day of February, 1969, before me, the undersigned a Notary Public in and for said State, personally appeared Merle Kunz, Lyle Kay, Dwight C. Stone, Jack Rasmussen, Diane Kunz, and Donald Beard, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they 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 residing at
Bozberg, Idaho

CERTIFICATION
STATE OF IDAHO
COUNTY OF TETON
Dwight C. Stone, certify that I am the Secretary-Treasurer
of the Northwest Fox Creek Sprinkler Irrigation Company, Inc.;
that I have custody of the records of said corporation, which
include the Bylaws, that the foregoing is a true and correct
copy of the original Bylaws of said Northwest Fox Creek Sprinkler
Irrigation Company, Inc.

IN WITNESS WHEREOF, I have set my hand and affixed the
official seal of the Corporation this 28th day of February, 1969.
(Corporation Seal) Sec. Treasurer of the Northwest Fox
Creek Sprinkler Irrigation Co. Inc.



November 18, 2013

RMEA 13-0132

Idaho Department of Water Resources
322 Front St
PO Box 83720
Boise, ID 83720-0098

Re: Water Supply Bank Applications for water right no. 22-14053

Dear Agent,

Please find enclosed two Water Supply Bank applications for the above mentioned water right. This privately owned water right is delivered through the Northwest Fox Creek Sprinkler Irrigation Co., Inc. ("Northwest"). The owners Tom and Debbie Hunter propose to lease the entire water right into the bank to be rented out by Northwest. The point of diversion will remain the same, which will deliver the water through the existing pipeline. The users of the irrigation company will disperse the water amongst themselves as needed.

Since this irrigation company does not own its own water rights, but the shareholders own the water rights, there is no defined place of use boundary, as is typical of a canal company with adjudicated water rights. Therefore, the service area is defined as the property of the shareholders. A list of the shareholders is enclosed for your review.

Please contact me if you have any questions or concerns regarding these applications.

Respectfully,

A handwritten signature in blue ink that reads "Kristin Moore".

Kristin Moore
Water Rights Analyst

Enclosures

11-06-13 03:24PM
November 6, 2013

Idaho State 01 Water Bank

Northwest Fox Creek Sprinkler Irrigation Co., Inc.
% Dawn Stone, Sec/Treas
4940 S. 500 West
Victor, ID 83455
208-787-2759

To whom it may concern:

I have been authorized as secretary for the NWFCSPI Co. Inc., by the NW board members to release the names and decree numbers for the patrons within our pipeline system. This information is to complete an application to the Idaho State 01 Water Bank, and is attached to this letter for reference.

This application is being made by Tom and Debbie Hunter, through their agent, Rocky Mountain Environmental Assoc., to place their 41 shares of 1890 water rights into the bank, with a prior lease of the banked water with the NW entity for use in the pipeline during irrigation seasons. These shares are located on property that also includes subdivisions, in which Mr. and Mrs. Hunter will release their shares to them for their use as they are entitled.

We as board members of the NWFCSPI pipeline users agree with the application as presented, and will expect the water be shared equally within the system, as the original pipeline agreement by laws stipulate.

NWFCSPI CO., INC
Board Members
Tony Koch, Pres.
Joanna Johnson, V. Pres
Cass Egbert, Member
Ted Balmforth, Member
Tyler, Hays, Member

Respectfully Submitted,

Tony Koch, President

Dawn Stone, Secretary, NWFCSPI CO., INC.

by Dawn Stone, Secretary

NORTHWEST FOX CREEK SPRINKLER IRRIGATION CO., INC.**SHAREHOLDER AND DECREE DATES** (only older dates listed,

All other dates would be 1916 on up.)

NAME**DECREE/ DATE**

Backwater LLC (J. Hegwer)

Balmforth, Ted

Conner, Mark

Egbert, Wayne

FCCCEPOA—SUB

Hunter/Kincaid Prop

Foster, Boyd

Fox Creek Village—SUB

Hunter/Kincaid Prop

Furney, Matt

Griffin, Stephen

Hashagen, Red Estate

Hays, Tyler

Hunter, Tom

Johnson, Joanna

Kincaid, Robert

Knobe, Christopher

Koch, Tony

McCarthy Trust

Morley, Tim

Nield, Van

O'Brien, Sean

Petersen, Doug

Preston, Eli

Richman, Gordon

Robbins, Virginia

Sayler, Karen Estate

Shidner, Nick

Stanton, Tom

Stoebner, David

Stone, Dawn

Stone, Melvin/Sam

Sweet Home Ranches HOA

Tescher, Jessica

Thompson, Don

Ward, Tory

Wilcox, Harley

PER 17156/1929

22-0350/1890

PER 17156/1929

See Hunter/Kincaid

See Hunter/Kincaid

22-0350/1890

22-0350/1890

22-1066/1890

22-0350/1890

PER 17156/1929

PER 17156/1929

22-1066/1890

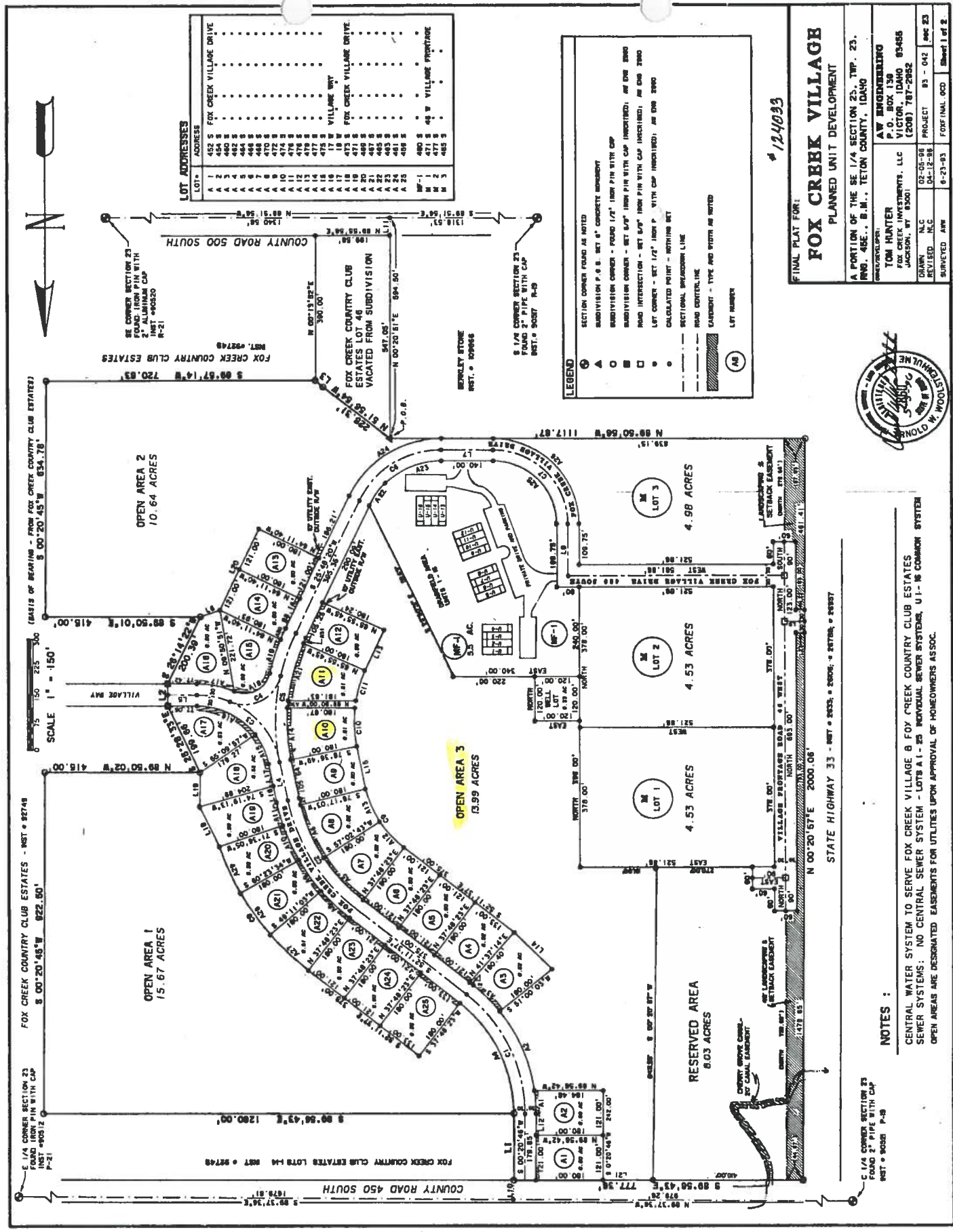
22-1066/1890

22-1065/1889

PER 17156/1929

22-1066/1890

PER 17156/1929



LOT ADDRESSES

LOT	ADDRESS
1	452 S FOX CREEK VILLAGE DRIVE
2	454 S FOX CREEK VILLAGE DRIVE
3	456 S FOX CREEK VILLAGE DRIVE
4	458 S FOX CREEK VILLAGE DRIVE
5	460 S FOX CREEK VILLAGE DRIVE
6	462 S FOX CREEK VILLAGE DRIVE
7	464 S FOX CREEK VILLAGE DRIVE
8	466 S FOX CREEK VILLAGE DRIVE
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10	470 S FOX CREEK VILLAGE DRIVE
11	472 S FOX CREEK VILLAGE DRIVE
12	474 S FOX CREEK VILLAGE DRIVE
13	476 S FOX CREEK VILLAGE DRIVE
14	478 S FOX CREEK VILLAGE DRIVE
15	480 S FOX CREEK VILLAGE DRIVE
16	482 S FOX CREEK VILLAGE DRIVE
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71	592 S FOX CREEK VILLAGE DRIVE
72	594 S FOX CREEK VILLAGE DRIVE
73	596 S FOX CREEK VILLAGE DRIVE
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77	604 S FOX CREEK VILLAGE DRIVE
78	606 S FOX CREEK VILLAGE DRIVE
79	608 S FOX CREEK VILLAGE DRIVE
80	610 S FOX CREEK VILLAGE DRIVE
81	612 S FOX CREEK VILLAGE DRIVE
82	614 S FOX CREEK VILLAGE DRIVE
83	616 S FOX CREEK VILLAGE DRIVE
84	618 S FOX CREEK VILLAGE DRIVE
85	620 S FOX CREEK VILLAGE DRIVE
86	622 S FOX CREEK VILLAGE DRIVE
87	624 S FOX CREEK VILLAGE DRIVE
88	626 S FOX CREEK VILLAGE DRIVE
89	628 S FOX CREEK VILLAGE DRIVE
90	630 S FOX CREEK VILLAGE DRIVE
91	632 S FOX CREEK VILLAGE DRIVE
92	634 S FOX CREEK VILLAGE DRIVE
93	636 S FOX CREEK VILLAGE DRIVE
94	638 S FOX CREEK VILLAGE DRIVE
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96	642 S FOX CREEK VILLAGE DRIVE
97	644 S FOX CREEK VILLAGE DRIVE
98	646 S FOX CREEK VILLAGE DRIVE
99	648 S FOX CREEK VILLAGE DRIVE
100	650 S FOX CREEK VILLAGE DRIVE

FOX CREEK VILLAGE
PLANNED UNIT DEVELOPMENT

FINAL PLAT FOR:
A PORTION OF THE SE 1/4 SECTION 23, TWP. 23, RND. 45E., S. 1/4, TETON COUNTY, IDAHO

ENGINEER:
TOM HUNTER
FOX CREEK VILLAGE, LLC
JACKSON, WY 83001

PROJECT:
FOX CREEK VILLAGE
PROJECT 93 - 042
REVISED 04-12-93

SHEET:
SHEET 1 OF 2



NOTES:

CENTRAL WATER SYSTEM TO SERVE FOX CREEK VILLAGE & FOX CREEK COUNTRY CLUB ESTATES
SEWER SYSTEMS: NO CENTRAL SEWER SYSTEM - LOTS A.1 - 25 INDIVIDUAL SEWER SYSTEMS, U.I. - NO COMMON SYSTEM
OPEN AREAS ARE DESIGNATED EASEMENTS FOR UTILITIES UPON APPROVAL OF HOMEOWNERS ASSOC.

C 1/4 CORNER SECTION 23
FOUND 2" PIPE WITH CAP
INST. # 90821 P-8

STATE HIGHWAY 33 - INST. # 90821, # 90822, # 90823

#124033