

Mansfield, Debra

From: Debby Long <debby@sawtoothlaw.com>
Sent: Thursday, September 21, 2023 2:43 PM
To: IDWR File
Cc: Bryce Farris; mfeldman@hollandhart.com; Miller, Nick
Subject: Stipulation to Resolve protest - Permit No. 65-24195 - Terrace Lakes Recreation Ranch Inc.
Attachments: TLWC_TLRR Stipulation to Dismiss Protest IDWR (final counterpart signatures and exhibit 092123).pdf

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Good afternoon ,

Please find attached the *Stipulation to Resolve Protest* in the Matter of Application for Permit No. 65-24195 in the Name of Terrace Lakes Recreation Ranch, Inc. for filing with the Department.

Please contact this office if you have any questions.

Thank you,
Debby Long

SAWTOOTH LAW OFFICES, PLLC

debby@sawtoothlaw.com

www.sawtoothlaw.com

1101 W. River Street, Suite 110

Boise, Idaho 83702

T (208) 629-7447

F (208) 629-7559



NOTICE: This e-mail, including attachments, constitutes a confidential attorney-client communication. It is not intended for transmission to, or receipt by, any unauthorized persons. If you have received this communication in error, do not read it. Please delete it from your system without copying it, and notify the sender by reply e-mail or by calling (208) 629-7447, so that our address record can be corrected. Thank you.

S. Bryce Farris [ISB # 5636]
SAWTOOTH LAW OFFICES, PLLC
1101 W. River Street, Suite 110
Boise, Idaho 83702
T (208) 629-7447
F (208) 629-7559
E bryce@sawtoothlaw.com

*Attorneys for Applicant
Terrace Lakes Recreation Ranch, Inc.*

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION FOR
PERMIT NO. 65-24195 IN THE NAME OF
TERRACE LAKES RECREATION RANCH,
INC.

**STIPULATION TO RESOLVE
PROTEST**

COME NOW, Terrace Lakes Recreation Ranch, Inc. ("Applicant") and Terrace Lakes Water Company ("Protestant"), and hereby submit this *Stipulation to Resolve Protest* in the above-captioned matter.

Applicant and Protestant hereby stipulate and agree as follows:

1. Applicant and Protestant agree that the permit for Water Right Nos. 65-24195 may be granted contingent upon the following conditions be included in Applicant's final Permit to Appropriate Water for Water Right No. 65-24195:

- A. Applicant must modify, and hereby modifies, Application for Permit No. 65-24195 to reflect that it is not "served" by Protestant. (*See Terrace Lakes Recreation Ranch, Inc. Water Right Application Technical Memorandum dated November 18, 2022*).
- B. Applicant must modify, and hereby modifies, the Application for Permit No. 65-24195's Place of Use information to correspond with the actual place of use for the commercial uses TLRR applied for. (*See Terrace Lakes Recreation Ranch, Inc. Water Right Application Item 9, Point of Use Summary (November 18, 2022)*). Applicant has provided a map to IDWR of the actual place of use.
- C. Applicant must modify, and hereby modifies, the Application for Permit No. 65-24195 to indicate that its use of the diversion and distribution system is pursuant

to the terms and conditions of the Water Delivery Agreement, which is attached hereto and shall be made an attachment to Applicant's modified Application for Permit No. 65-24195.

2. Protestant hereby withdraws its Protest filed in the above-captioned matters based upon the inclusion of the conditions, or substantially the same, stated in this Stipulation in Applicant's final Permit to Appropriate Water for Water Right No. 65-24195. The filing of this Stipulation to Resolve Protest shall serve as Protestant's withdrawal of its Protest.

DATED this 18 day of September, 2023.

TERRACE LAKES RECREATION RANCH, INC.

By 
IRENE JOHNSON (print name)
Its CORP/SECRETARY/TREASURER

DATED this _____ day of September, 2023.

TERRACE LAKES WATER COMPANY

By _____

(print name)
Its _____

CERTIFICATE OF SERVICE

to the terms and conditions of the Water Delivery Agreement, which is attached hereto and shall be made an attachment to Applicant's modified Application for Permit No. 65-24195.

2. Protestant hereby withdraws its Protest filed in the above-captioned matters based upon the inclusion of the conditions, or substantially the same, stated in this Stipulation in Applicant's final Permit to Appropriate Water for Water Right No. 65-24195. The filing of this Stipulation to Resolve Protest shall serve as Protestant's withdrawal of its Protest.

DATED this _____ day of September, 2023.

TERRACE LAKES RECREATION RANCH, INC.

By _____

Its _____ (print name)

DATED this 15 day of September, 2023.

TERRACE LAKES WATER COMPANY

By [Signature]

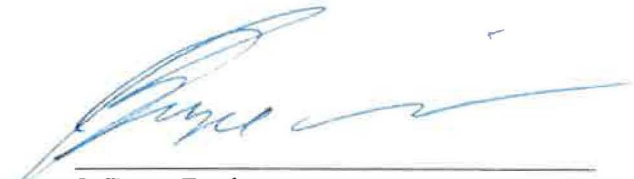
Its [Signature] (print name)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of September, 2023, I caused a true and correct copy of the foregoing **STIPULATION TO RESOLVE PROTEST** to be served by the method indicated below, and addressed to the following:

Murray Feldman
Holland & Hart LLP
P.O. Box 2527
Boise, ID 83701
E-mail: mfeldman@hollandhart.com

() U.S. Mail, Postage Prepaid
() Hand Delivered
() Overnight Mail
() Facsimile
(X) Email



S. Bryce Farris

EXHIBIT A

WATER DELIVERY AGREEMENT

This Water Delivery Agreement ("Agreement") is entered into between Terrace Lakes Water Company, an Idaho non-profit corporation ("TLWC"), and Terrace Lakes Recreation Ranch, Inc., an Idaho Corporation ("TLRR"). TLWC and TLRR are collectively referred to as the "Parties."

RECITALS.

A. TLWC is a non-profit domestic water distribution company providing residential domestic water utility service to Subscribers, as defined in TLWC's Bylaws. TLWC operates and maintains a diversion (wells) and distribution system allowing it to deliver domestic, irrigation, and fire protection water to residential homeowners (hereinafter collectively referred to as "the diversion and distribution system"). TLWC's existing service area and major facilities are depicted in **Exhibit A** and **Exhibit B** which are attached hereto.

B. TLRR has certain existing connections off of the water diversion and distribution system: the lodge, pool restrooms/showers, motel, cabins, golf course restroom and drinking fountain, and second golf course restroom and drinking fountain. The lodge and pool bathrooms/showers connections currently have meters on them to measure the amount of water used.

C. TLRR wishes to continue to utilize the diversion and distribution system to now divert and place to beneficial use a commercial-use water right TLRR is currently in the process of obtaining from the Idaho Department of Water Resources.

D. The Parties have worked in good faith to address current and potential areas of conflict and now wish to enter this Agreement to establish protocols and procedures applicable to TLRR's use of water from the diversion and distribution system; to resolve pending litigation and administrative proceedings; and to address certain other matters set out herein.

TERMS OF AGREEMENT:

The Parties agree as follows:

1. *Nature of this Agreement.* This Agreement is to provide for TLRR's use of water from the diversion and distribution system to allow TLRR to divert and receive water under its own commercial use water right for the uses and places of use in its Application for Permit No. 65-24195, as amended pursuant to this Agreement and to be approved by the Idaho Department of Water Resources.

2. *Controlling Agreement.* The terms of this Agreement control the relationship between the Parties with respect to the subject matter of this Agreement. TLWC's policies, procedures, Bylaws, and Subscriber water fees schedule do not apply to TLRR, except as may be otherwise provided in this Agreement.

3. *Delineation of Responsibility.* Under this Agreement, a diversion is defined as a structure used to divert water from its natural source (well). Under this Agreement, a water

distribution system includes mains or pipes, pumps, valves, fire hydrants, storage facilities, pumping facilities, other accessories and/or personal property. TLWC operates and maintains the diversion and distribution system, including wells, points of diversion, and water distribution system, up to TLWC's main line to TLRR's property. TLWC shall have no property right, ownership, or interest in water delivery system infrastructure or personal property extending from the connection with TLWC's main line to TLRR's property and TLRR's structures.

4. No Change in TLWC's Water Rights. Nothing in this Agreement is intended to create any interest of either Party in the water rights of the other Party. Accordingly, all of the water rights held by TLWC remain the sole and exclusive property of TLWC.

Rates, Payments, and Fees:

5. Diversion and Distribution System Usage Rate. TLRR shall pay TLWC a base rate of \$47.00 per month per connection point plus \$0.01 per gallon for water usage in excess of 7,500 gallons per connection.

6. Connections. The following connections are each individually subject to the base rate fee (\$47.00): (1) the motel, (2) cabin #1, (3) cabin #2, (4) pool restrooms/showers, (5) two golf course restroom and drinking fountain locations (together as single connection), and (6) the lodge (charged as two connections). The lodge, as two connections, shall be subject to two base rate fees per month, for a total base rate of \$94.00. Any additional TLRR connections to TLWC's water delivery and distribution system are subject to the same rate structure or rate structure applicable at the time of the additional connection.

a. Water usage in excess of 7,500 gallons. Each individual connection point will be allowed 7,500 gallons of water use before TLRR must pay the \$0.01 per gallon rate. The lodge, as two connection points, will pay the per gallon rate after usage exceeds 15,000 gallons. TLRR is not entitled to apply any portion of unused water to another connection or the next usage or billing cycle.

b. Golf Course Drinking Fountain and Restrooms. TLRR has two golf course restroom and drinking fountain locations. Both golf course restroom and drinking fountain locations together are considered a single connection. TLRR's golf course restrooms and golf course drinking fountains shall not be metered. For both golf course restroom and drinking fountain locations, TLRR shall pay a base rate of \$47.00 per month.

c. Lodge. The lodge will be subject to two monthly flat rate fees, making the base rate per month for the lodge \$94.00, plus any additional per gallon charges for water use above 15,000 gallons.

7. Rate Adjustments. TLWC may adjust rates based on rate adjustments for TLWC's Subscriber base, commercial reasons, or changes in the cost of operations, maintenance, market conditions, or similar changes impacting TLWC or the water diversion and distribution system that TLRR uses under this Agreement for its water diversion and delivery. Unless related solely to TLRR's commercial use, any rate adjustment shall be reasonably commensurate with rate adjustments for TLWC's Subscriber base.

a. Prior Notice. Prior to implementing any rate adjustments, TLWC shall provide TLRR with written notice specifying the proposed rate change and the effective date of such changes. The notice shall be provided at least 30 days in advance of the proposed effective date.

b. Implementation of Adjusted Rates. The adjusted rates shall be implemented on the day after the conclusion of the advanced notice period, unless otherwise agreed to by the Parties.

8. Payments – Payment Terms. TLRR agrees to make payment to TLWC in accordance with the following terms.

a. Monthly Statements. TLWC shall furnish to TLRR for each point of connection for which use of the diversion and water delivery system is provided, a monthly statement of the amount due for usage for the preceding month or up to the time that the meter has been read.

b. Payment Method. Payments shall be made by check, credit card, or any other mutually agreed-upon method.

c. Payment Frequency. Payment shall be made monthly, on or before the twentieth (20th) day of the month.

d. Late Payment and Fee. If TLRR neglects to pay the charges due by the twentieth (20th) day of the month in which the statement is received, payment shall be delinquent. A charge of ten dollars (\$10.00) shall be added to the bill ten (10) days after the bill becomes due.

e. Suspension for Non-Payment. TLWC shall notify TLRR of the past due amount on its monthly statement. If TLRR does not pay the past due amount in full within five (5) days of the notification, TLWC may suspend TLRR's use of the diversion and distribution system.

9. Connection Fees and Future Assessments. TLRR agrees to pay the following fees.

a. Connection Fees. In consideration of the benefits being provided to TLRR, TLRR shall pay connection fees in cash or by check in the amount of eight thousand dollars (\$8,000.00) within thirty (30) days of this Agreement's effective date.

b. New Connections. If TLRR adds new connections to the water diversion and distribution system, each connection will be subject to a \$1,600.00 connection fee. The new connection fee must be paid before TLRR may add a connection.

c. Assessments. TLRR additionally may be subject to assessments to cover capital costs and improvements related to the water diversion and distribution system and which are reasonably related to TLRR's use of the water diversion and distribution system. Assessments may be necessary to maintain or enhance the quality, reliability, and efficiency of

the water diversion and distribution system. Any assessments shall be commensurate with assessments for TLWC's Subscriber base of residential water use. In other words, capital costs and other improvements shall not be solely assessed to TLRR but shall also include all of TLWC's Subscribers, unless the costs and improvements are attributable to TLRR's use of the water diversion and distribution system.

i. Assessment Process. If TLWC deems an assessment necessary, it shall provide written notice to TLRR outlining the purpose, scope, estimated costs, and timeline of the proposed capital costs or improvements. Notices shall be issued in accordance with the terms of this Agreement.

ii. Calculation of Assessments. Assessments shall be calculated based on a fair and reasonable methodology, which may consider factors such as the TLRR's water usage and other relevant considerations. The calculation method shall be provided in the notice to TLRR.

iii. Payment of Assessments. TLRR shall make payments for the assessments within twenty (20) days from the date of receiving the notice. The payment shall be made in accordance with the payment terms outlined in this Agreement, unless otherwise specified in the notice. Failure to pay special assessments shall result in late fees or suspension for non-payment as provided by paragraph 8.

Meters, Installation, and Maintenance:

10. Meter Installation. TLWC's watermaster shall be responsible for choosing or approving all meters. TLWC's watermaster or Licensed Operator shall also be responsible for installing all meters. TLRR shall bear the cost of all new and replacement meters, including purchase of meters, and costs associated with installation, including but not limited to, materials and labor.

11. Locations of Current Meters. There are currently two meters installed on the TLRR property, located at the lodge and the pool restrooms/showers. These meters are to remain in their current location but are to be replaced by September 20, 2023.

12. Meters to be Installed. TLWC's watermaster and/or Licensed Operator will install one meter to serve the motel and two cabins. The motel and cabin meter must be installed on or before September 20, 2023. TLWC must notify TLRR of any new meter installation and coordinate with TLRR to conduct new installation.

13. Meter and Installation Qualifications. All meters must be tamper-proof, and in good-working order. Meters may only be installed by TLWC's Licensed Operators, licensed in accordance with Idaho Code Title 54, Chapter 24, Drinking Water and Wastewater Professionals Licensing Act and the Idaho Rules for Public Drinking Water Systems, IDAPA 58.01.08, as may be amended.

14. Right of TLWC to Inspect. TLWC's watermaster may conduct inspections or readings at any time between the hours of 8:00AM and 5:00PM, Monday through Friday. TLWC's watermaster will provide TLRR reasonable notice prior to entering TLRR's property to

the extent that it is possible to do so. TLWC's right to inspect is limited to TLWC's Licensed Operators and/or watermaster and does not include TLWC's Board Members, Officers or Subscribers.

15. Accepted/Rejected Meters. All meters are subject to inspection and approval by TLWC's watermaster or the watermaster's designee. If TLWC finds that TLRR's meters are unacceptable for any reason, TLWC will provide written notification of its dissatisfaction in accordance with the notice terms of this Agreement. TLWC is solely responsible for determining whether a meter is broken, faulty, or unacceptable.

16. Maintenance and Repair of Meters. TLWC will repair and maintain all meters at TLRR's expense. TLWC may invoice TLRR for these services as they arise or may include these costs on TLRR's monthly bill.

17. Access to Meters. Areas surrounding meters shall be maintained so that meters are safely and easily accessible.

TLRR'S MAINTENANCE AND REPAIR OBLIGATIONS.

18. Maintenance and Repairs. TLRR is solely responsible for all services, maintenance, repair and replacement of its own water lines, fixtures, and distribution systems from the diversion and distribution system's main water line to TLRR's structures or TLRR's place of use (hereinafter "TLRR's distribution system"). TLRR agrees that all maintenance, repairs, and replacements shall be performed with the highest degree of skill, care, and professionalism, using industry best practices in a manner consistent with generally accepted standards. TLRR holds TLWC harmless from any and all liability, express or implied, arising out of or in connection with personal injury or property damage resulting from TLRR's operation, maintenance, or repair of TLRR's distribution system. Any alterations to TLRR's distribution system must be compliant with Idaho Department of Environmental Quality's Best Management Practices. TLRR's use of the diversion and distribution system may be suspended if TLRR's defective fixtures, structures, or lines results in harm to the diversion and distribution system or negative impacts to TLWC's water rights.

19. Backflow Prevention. TLRR will operate and maintain, at its own expense, a backflow prevention system where there is a point of connection from TLRR's distribution system with the water diversion and distribution system.

20. No New Connections Without Approval. TLRR shall not add a new connection to the water diversion and distribution system without obtaining TLWC's prior written approval to do so. TLWC has sole authority to approve or reject new connections. A new connection is subject to the meter requirement, connection fee, assessment, water delivery usage rate, and all other terms then prevailing under this Agreement.

OTHER OBLIGATIONS.

21. Stipulation for Withdrawal of Protest. TLWC will withdraw its protest to TLRR's Application for Permit No. 65-24195 upon the filing of a joint Stipulation for

Withdrawal of Protest, within ten (10) days of this Agreement's effective date, which Stipulation provides that TLRR agrees to modify the following items in its Application for Permit:

a. TLRR must modify Application for Permit No. 65-24195 to reflect that it is not "served" by TLWC. (See Terrace Lakes Recreation Ranch, Inc. Water Right Application Technical Memorandum dated November 18, 2022).

b. TLRR must modify the Application for Permit No. 65-24195's Place of Use information to correspond with the actual place of use for the commercial uses TLRR applied for. (See Terrace Lakes Recreation Ranch, Inc. Water Right Application Item 9, Point of Use Summary (November 18, 2022)).

c. TLRR must modify the Application for Permit No. 65-24195 to indicate that its use of the diversion and distribution system is pursuant to the terms and conditions of this Agreement, and this executed Agreement shall be made an attachment to TLRR's modified Application for Permit No. 65-24195.

22. Dismissal of Lawsuit. Upon execution of this Agreement, TLRR and TLWC stipulate to the dismissal with prejudice of the lawsuit pending before the State of Idaho District Court for the Fourth Judicial District, Boise County, *Terrace Lakes Recreation Ranch, Inc. v. Dennis Largent, Mary Cordova, Chuck Steele, Julie Stillman, Rolly Woolsey, as members of the Board of Directors of the Terrace Lakes Water Company*, Case No. CV08-22-00217, with each party bearing their own attorney fees and costs. This stipulation will be submitted to the court within ten (10) days of this Agreement's effective date.

23. Obtaining Additional Water Rights. If the water right obtained under Application for Permit No. 65-24195 is insufficient to meet TLRR's commercial-use needs, TLRR agrees to obtain additional water rights sufficient to cover the deficit. During the interim period before TLRR obtains additional water rights, TLRR will implement water conservation measures to ensure that it does not use water beyond its permitted commercial-use amount under Permit No. 65-24195 as the same may be issued by IDWR.

24. Water Standards. TLWC shall continue to operate the diversion and water delivery system consistent with water quality standards applicable to its Subscriber base. TLWC will have no water quality standards obligations beyond those existing obligations. TLRR shall be responsible for any drinking water or other water quality standards related to its own water lines, distribution systems from the main line to TLRR's structures, fixtures or TLRR's place of use.

25. Dispute Resolution - Mediation. All disputes arising under, pertaining to, or touching upon this Agreement, if not resolved by negotiation between Parties, shall be subject to non-binding mediation before an independent mediator. The Parties shall endeavor to mutually agree on an independent third-party mediator within 15 days of the other Party's receipt of the demand for mediation. If the parties are unable to agree upon a mediator, any Party may file a declaratory judgment action with the Fourth Judicial District Court for the State of Idaho, Boise County, Idaho requesting that the Court designate and appoint a qualified mediator from the list of Civil Case Mediators maintained by the Idaho Supreme Court to mediate the dispute in

accordance with the Uniform Mediation Act, Idaho Code Section 9-801, et. seq. Any demand for mediation shall be made in writing and served upon the other Party pursuant to the Notice Provisions of this Agreement. The demand shall set forth with reasonable specificity the basis of the dispute and the relief sought. The mediation hearing will occur at a time and place convenient to the parties in Boise, Idaho within 30 days of selecting the mediator. The Parties shall bear their own costs and expenses associated with the mediation and shall share equally the costs and expenses of the mediator. No filing of a court motion to enforce any provision of this Agreement or resolve any dispute within the scope of this section may be commenced (other than an action for declaratory judgment as referenced above to request the court to designate and appoint a qualified mediator) or submitted by either Party without first submitting the dispute to this mandatory pre-litigation mediation pursuant to this section.

OTHER PROVISIONS.

26. Entire Agreement. This Agreement embodies the entire Agreement between the Parties with respect to TLRR's use of the diversion and distribution system pursuant to Permit No. 65-24195 as the same may be issued by IDWR. There are no oral promises, terms, conditions, or obligations other than those contained in this Agreement.

27. Severability. If any provisions of this Agreement shall be held to be unenforceable, the remaining provisions shall nevertheless be enforceable and carried into effect, unless elimination of the unenforceable provisions shall materially frustrate the intent of the Parties.

28. Emergency Failures. Emergency failures of pressure or supply due to main supply line breaks, power failures, flood, fire, and use of water to fight fire or other similar catastrophes shall excuse TLWC from providing water via the diversion and distribution system for such reasonable amount of time as may be necessary to restore function of the diversion and distribution system. TLWC shall not be held liable for such emergency failures.

29. Controlling Law. This Agreement shall be construed and interpreted in accordance with the laws and provisions of the State of Idaho. The venue for any claim, litigation, or cause of action between the Parties pertinent to this Agreement shall be in the Fourth District Court, Boise County, Idaho.

30. Indemnity-Fire. TLRR understands and agrees that TLWC does not warrant that TLWC's infrastructure and equipment is sufficient for meeting TLRR's fire protection needs.

31. Successors and Assigns. This Agreement shall be binding upon the Parties' respective successors and assigns. This Agreement is for the benefit of the Parties hereto, and no entity not a party to this Agreement shall acquire any rights or claims by reason of this Agreement.

32. Required Consent for Assignment. The Parties' respective rights and obligations under this Agreement shall not be assignable or delegable whether by sale, assignment, merger or otherwise without prior written consent of the other, except if another entity purchases all or substantially all of the assets of either party, in which case assignment shall be effective upon notice to the other party. Such consent shall not be unreasonably withheld.

33. Amendment. This Agreement may be amended only by written instrument, signed by both Parties. A rate adjustment (paragraph 7) or assessment (paragraph 9.c.) does not require an Amendment to the Agreement so long as they comply with the conditions provided in paragraphs 7 and 9.c.

34. Notices. Any notices required or permitted under this Agreement shall be in writing and shall be delivered by United States mail, first-class postage prepaid addressed to the Parties as follows:

If to TLWC:

Terrace Lakes Water Company
Board of Directors
P.O. Box 141
Garden Valley, ID 83622

If to TLRR:

Terrace Lakes Recreation Ranch, Inc.
101 Holiday Drive
Garden Valley, ID 83622-5031

35. Effective Date and Term. The effective date of this Agreement shall be the date of the last signature to be affixed to this document below. This Agreement shall be in immediate effect as of the effective date and shall continue thereafter in full force and effect.

36. Termination.

a. Termination for Breach. Either party may terminate this Agreement in the event of a material breach by the other party. A material breach is any failure to abide by the terms of this Agreement or the failure to pay fees or dues incurred under this Agreement. The non-breaching party shall provide written notice specifying the nature of the breach and a reasonable cure period. If the breaching party fails to remedy the breach within the cure period, the non-breaching party may terminate the Agreement.

b. Termination by Mutual Agreement. This Agreement may terminate by mutual agreement of the Parties, in writing. The termination shall specify the effective date of termination and any additional terms or conditions agreed upon by both Parties.

c. Consequences of Termination. Upon termination of this Agreement, the Parties shall fulfill any outstanding obligations and settle any outstanding payments or liabilities as per the terms of this agreement. The termination shall not affect any rights, remedies, or obligations that have accrued prior to the effective date of termination.

37. Attorney Fees. In the event either Party is required to enforce the terms or provisions of this Agreement, the prevailing party in any litigation arising therefrom shall be entitled to recover its reasonable attorney fees for the prosecution thereof.

38. Counterpart Signatures. This Agreement may be executed in two counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

39. Authority. TLWC and TLRR represent and warrant that each has the authority to enter into this Agreement and to take all actions provided herein.

IN WITNESS WHEREOF, the Parties have executed this Water Delivery Agreement and made it effective as of the date of the last signature below.

Terrace Lakes Recreation Ranch, Inc.

Terrace Lakes Water Company

By: 

By: _____

Its 

Its _____

Date: 9/18/2023

Date: _____

30411924_v6

37. Attorney Fees. In the event either Party is required to enforce the terms or provisions of this Agreement, the prevailing party in any litigation arising therefrom shall be entitled to recover its reasonable attorney fees for the prosecution thereof.

38. Counterpart Signatures. This Agreement may be executed in two counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

39. Authority. TLWC and TLRR represent and warrant that each has the authority to enter into this Agreement and to take all actions provided herein.

IN WITNESS WHEREOF, the Parties have executed this Water Delivery Agreement and made it effective as of the date of the last signature below:

Terrace Lakes Recreation Ranch, Inc.

Terrace Lakes Water Company

By: _____

By: P. L. Hays

Its _____

Its President

Date: _____

Date: 14 SEP 2023

30411924_v6

Exhibit A to Water Delivery Agreement

