

ATTACHMENT A – SCOPE OF SERVICES

The following are the ongoing programs that Taggart & Taggart anticipates working on in the upcoming fiscal year:

Surface Water Utilization Plan

In order to most efficiently utilize all sources of water available to its municipal supply, Fernley is in the process of incorporating its surface water into the municipal system. Taggart & Taggart will provide legal support to the following ongoing projects in FY 2019-20:

Expansion of City of Fernley Surface Water Program

Pursuant to a 2012 Resolution, and in accordance with NRS 268.063, Fernley may lease surface water for use within the City for less than market value. This is an ongoing program that involves ensuring the leasing program's statutory and regulatory compliance, as well as drafting surface water leases, when required.

Agricultural Lease Options with Non-Fernley Lessees

Although not part of the NRS 268.063 program, agricultural users outside of the Fernley city limits may wish to lease city-owned surface water for irrigation. This is an ongoing program that involves maintaining statutory and regulatory compliance and drafting surface water leases, when required.

Canal Diversion

For several years Fernley has been developing the ability to divert its sizable inventory of municipal surface water supplies from the Truckee Canal. In FY 2018-19 Taggart & Taggart assisted Fernley with the development and submittal of an SF-299 authorization request to the United States Bureau of Reclamation (the "Bureau"). During FY 2019-20, Taggart & Taggart assisted Fernley with responding to additional records requests and meeting with Bureau staff to assist with their review. These tasks are ongoing and are expected to continue into FY 2020-21. Taggart & Taggart will assist with coordination with Bureau personnel, legal research related to the NEPA process, briefing management staff and the City's water team on issues related to the Bureau's review, and formulating strategy to address any issues that arise. Tasks may also include defending or challenging the Bureau's final determination.

Mid/long-term Agreements

Another possible way to put surface water supplies to beneficial use involves entering mid/long-term agreements with Pyramid Lake Paiute Tribe (PLPT), Tahoe Reno Industrial Center (TRIC), Truckee Meadows Water Authority (TMWA), or others. This is an ongoing program that involves identifying potential opportunities, negotiating these agreements and ensuring that they are within statutory and regulatory requirements.

Dedication Matters

This is an ongoing effort that involves legal review of proposed dedications and assignments of surface water rights. Taggart & Taggart reviews all proposed dedications and assignments to identify any legal issues with related to title to the water rights or issues with the permits themselves. In FY 2019-20, Taggart & Taggart drafted changes to Fernley's water dedication ordinance that were adopted by the City Council. In FY 2020-21, Taggart & Taggart will assist Fernley with implementation of the new ordinance.

Surface Water Applications

From time to time, the City must file applications to change the place of use and manner of use of dedicated surface water rights. In the event any applications are filed in fiscal year 2020-21, this item involves preparation and review of applications and support through the administrative review process.

In all cases, a catalogue of existing commitments on City surface water rights is required to understand the timing and obligations of the City's surface water bank.

Truckee Canal Advocacy Program

Based on developments over the past several years, the City made the decision enter into discussions with the Bureau regarding the historic development of the community as a direct and intended result of the creation of the Truckee Canal, as well as the community's ongoing reliance on the facility. The Truckee Canal is a vital piece of the community's water infrastructure and is the ultimate source of most of Fernley's existing and future water supplies. Water infiltrated into the groundwater aquifer from the canal is the single largest source of aquifer recharge. In order to accomplish the goal of a establishing a long-term reliable community water supply, the community's reliance on the canal should be further explored, explained, and accepted by the parties on the river system through media, workshops, meetings, and other outreach. Accomplishing this goal will require:

Negotiations with the Bureau of Reclamation and other parties

The Bureau built the Truckee Canal and is responsible for its ongoing operations. In order to maintain municipal water supplies, this is an ongoing program that involves communication and negotiations with the Bureau, the Pyramid Lake Paiute Tribe ("PLPT), and the State Engineer as well as possible meetings with Congressional staff and State representatives.

Litigation Regarding Canal Operations

The previous item is intended to reduce or eliminate the possibility of litigation. However, should negotiations fail, this item would involve pursuit of litigation intended to protect Fernley's water supply including potential litigation resulting from the Bureau's Truckee

Canal Extraordinary Maintenance project that is currently undergoing environmental review (see below).

Water Workshop

In the past, Taggart & Taggart has assisted Fernley with hosting a community water workshop, designed to inform both City Council members and other regional leaders about Lower Truckee River water facilities and issues. With recent turnover on the City Council and the pending environmental reviews of Fernley's SF-299 application and the Bureau's Truckee Canal XM EIS, Taggart & Taggart believes that there is a renewed need for these workshops. This item involves preparation for and participation in the community workshop, developing consistent messaging, ensuring legal compliance, and organization of the invitees.

Stakeholder Organization

Fernley has taken the lead on organizing the various interested parties to participate in the Truckee Canal decision-making process. This ongoing item involves continued assistance with such activities including messaging, organization, and research to support city staff.

Bureau's Truckee Canal XM EIS

In FY2018-19, the Bureau has issued an administrative draft of the Environmental Impact Statement for the Truckee Canal XM project. A final draft was scheduled to be issued during FY 2019-20. However, to date, the issuance of the final draft has been delayed. The project alternatives proposed in the administrative draft all have the potential to negatively impact groundwater recharge from canal operations. Taggart & Taggart is currently assisting city staff with organizing the submission of public comments and negotiating with the Bureau to have mitigation measures included as part of the plan. In FY 2020-21 Taggart & Taggart will these efforts. This may include filing litigation on behalf of Fernley to challenge the sufficiency of the final EIS.

Strategic Negotiations Plan

Negotiations and partnering on the Truckee River system and the Newlands Reclamation Project should be continued in order to strategically position the City to obtain its mission of developing a long-term reliable community water supply, and to concurrently limit the City's long-term litigation costs. Strategic negotiations and partnering may lead to resolution or mitigation of disputes involving deed restrictions, water exchanges, and the Water Rights Acquisition Program among others. In addition, strategic negotiations may result in future funding or cost sharing for development of required capital improvements such as the aforementioned takeout structure and pipeline needed to convey surface water from the canal to Fernley's municipal water system.

TCID Administrative Matters and Negotiations

City surface water rights are delivered through the Newlands Project, which is operated by TCID. During negotiations with TCID regarding the sale of Donner Lake, Taggart & Taggart assisted Fernley with the development of a memorandum of understanding between TCID and Fernley that obligates TCID to support Fernley's efforts to use the canal to deliver surface water to the municipal water system on a year-round basis. This ongoing item involves engaging in continuing negotiations with TCID and dealing with other TCID administrative matters which may arise from time to time.

TROA Administration Cost Sharing

Fernley is a party to the Truckee River Operating Agreement ("TROA"). TROA includes a cost-sharing formula to fund administrative expenses. The formula allocates costs between Nevada, California, and the federal government but leaves it up to each of the states to determine how to allocate their share of the costs. In FY 2018-19, the Nevada parties reached a tentative agreement on how to allocate Nevada's share of the Costs. Taggart & Taggart represented the City in these discussions. During 2019-20 Taggart & Taggart assisted Fernley with finalizing the agreement and getting it approved by the City Council. The agreement has a term of five years and requires ongoing negotiations to develop a final long-term funding formula. In FY 2020-21, Taggart & Taggart will assist Fernley with legal compliance, review of how the funding formula is working, and developing a strategy for negotiating the final allocations.

TROA Scheduling and Coordination

As a party to TROA, Fernley is a participant in TROA scheduling and coordination matters. Taggart & Taggart will continue to assist the City, and the City's outside technical consultants, with these activities including attending scheduling meetings, coordination with the Federal Watermaster, coordination with other scheduling parties, and coordination with TCID for delivery of both direct river diversions and diversions of water to or from upstream storage facilities. In addition, TROA provides for an alternative dispute resolution ("ADR") process. Taggart & Taggart will represent the City in any ADR hearings or negotiations.

Water Right Dedications

This task is ongoing and involves two main parts, the water rights incentivization program, and the administrative requirements of the dedication process itself.

Administrative Matters Involving Proposed Dedications

This part of this task involves the legal review of dedication packages for water rights that are offered for dedication to the City of Fernley. When potential dedicators want to dedicate water rights to the City of Fernley, they are required to provide certain information to the City of Fernley and the City then reviews that information and the water rights to see if the

water rights are in good standing and the dedicator holds a clean title. The legal review involves a review of the water rights, drafting the water right deed and dedication agreement, and searching title records for conflicting claims. The review is completed by providing a recommendation to the City of Fernley of whether to accept the dedication.

Administrative Matters Involving the Maintenance of Fernley's Water Rights Bank

Oftentimes, when water rights are dedicated to the City the dedicator "banks" the water associated with the rights to use for later will-serve requests. The interest in the banked water is assignable to third-parties. The city uses a water banking database to track the ownership, assignment, and use of the banked rights. This task provides for the review of proposed assignment agreements and the resolution of any disputes that may arise as a result of the assignment of banked water rights. Fernley also has entered into long-term development agreements with various large developers that include provisions related to the banking and use of previously dedicated water rights. This task also includes periodic review of those agreements and negotiations with developers when such agreements come up for renewal or extension.

Administrative Matters Pertaining to Existing Groundwater Rights

From time to time, administrative matters arise which relate to existing City groundwater rights. Proofs of beneficial use, proofs of completion of works, and extensions for filing those documents must be filed with the State Engineer. Additionally, applications to change the points of diversion of rights may be required to optimize resources. This item involves filing the required documents with the Nevada Division of Water Resources and supporting them through the administrative process and any subsequent litigation.

Municipal Code Review and Revision

From time to time, Fernley Municipal Code, particularly that part related to water issues, must be updated to accurately reflect new or changed City policies, or to comply with Nevada statutes. This task involves assistance in drafting City Resolutions and Ordinances, along with the documents that must be presented with them for the review of City Council, as well as attending meetings with the Council to clarify the updated code sections.

Upstream Storage Contract

In FY 2016-17 the City finalized a contract with the Bureau that allows the City to store water in upstream reservoirs in accordance with the provisions of TROA. Taggart & Taggart will provide ongoing assistance to the City with contract implementation and compliance issues.

Long-Term Water Resource Planning

Fernley has a diverse mix of surface and groundwater resources and has acquired upstream storage capabilities. In addition, there are several potential groundwater importation projects that could provide additional future resources. Fernley is currently developing a comprehensive long-term

water resources plan. This plan will assist the City in making strategic decisions related to capital expenditures and the conjunctive management of the City's water resources. The plan is expected to be approved by the City Council during FY 2019-20. During 2020-21 Taggart & Taggart will assist the City with implementation of the water resources plan.

State Legislative and Regulatory Proposals

Taggart & Taggart regularly assists the City, and the City's registered lobbyists, with reviewing proposed regulations and legislation that would impact municipal water operations. The Nevada Division of Water Resources, in response to direction from the 2019 Nevada Legislature, is currently drafting new regulations related to the administrative hearing process and requests for extensions of time to file proofs of completion and proofs of beneficial use. Taggart & Taggart has, and will continue, to represent the City during the administrative review and adoption of these regulations. During FY 2020-21, Taggart & Taggart will also assist the City with preparing for and reviewing legislation proposed during the 2021 legislative session.