

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 2021-22:

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 and other users outside of the Fernley city limits may wish to lease city-owned surface water for irrigation, industrial, or municipal purposes. 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. During FY 2020-21 the Bureau issued a Finding of No Significant Impact for the project and Fernley received approval of its SF-299 authorization request. Construction of the project is expected to begin in FY 2021-22. Taggart & Taggart will assist with any legal issues related to the project and will take the lead in working with the Nevada Division of Water Resources on reallocating existing will-serve commitments to surface water permits.

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), NV Energy, 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 2021-22 Taggart & Taggart will take the lead on discussions with NDWR regarding the appropriate dedication rate for will-serves issued in reliance on surface water permits.

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 2021-22, 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 was intended to reduce or eliminate the possibility of litigation and is ongoing. However, during FY 2020-21, the Bureau issued a final Environmental Impact Statement ("EIS") and Record of Decision ("ROD") to move forward with a project that

will install an impermeable liner in Truckee Canal thereby cutting off most recharge to the groundwater aquifer. In response, Taggart & Taggart prepared and filed litigation in the federal district court seeking to invalidate the EIS and ROD and declare Fernley's right to continued recharge from the canal. The Bureau has until May 28, 2021 to respond to Fernley's Complaint. This litigation will proceed throughout FY 2021-22 with Taggart & Taggart acting as lead counsel for the City.

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. However, during FY 2020-21 the COVID-19 restrictions on public meetings made scheduling a workshop impossible. Now that the COVID restrictions have been lifted Taggart & Taggart will be holding a community workshop on July 29, 2021. Other workshops may also be schedule as needed.

Stakeholder Organization

Fernley has taken the lead on organizing the various interested parties to participate in the Truckee Canal decision-making process. Other stakeholders have now intervened on the City's behalf in the lawsuit over the Bureau's EIS. Taggart & Taggart will continue working with these stakeholders, and other parties, to coordinate legal strategy and public support for Fernley's litigation position.

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 including developing a schedule and process for deliveries of surface water to the municipal treatment facility.

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 2021-22, 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.

Litigation Over Banked Water

From time to time, disputes emerge regarding the ownership of the equitable interest in water rights banked with the City. This often occurs when an unfinished development is foreclosed on. If the parties cannot reach agreement, the only way to resolve the dispute is to litigate a quiet title action. Because the City holds legal title to the water rights, it is a necessary party to any such litigation. Currently, there is one such lawsuit pending (Stor-All v. Arnaud). The City Attorney is taking the lead in that case and Taggart & Taggart will be acting in an advisory role.

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. During FY 2020-21 the City utilized the contract to establish credit water in Lake Tahoe. Taggart & Taggart will provide ongoing assistance to the City with contract implementation and compliance issues and with

strategic decision making regarding the quantity of water that needs to be retained in storage to support surface water will-serve commitments.

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. In FY 2019-20 Fernley approved 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. During 2021-22 Taggart & Taggart will assist the City with continued implementation and updating 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. There will be no regular legislative session during the 2021-22 fiscal year.