

Midway City Council
19 January 2021
Regular Meeting

Mountain Spa /
Water Change Application

Memo



Date: January 19, 2021
To: Midway City Council
From: Michael Henke
Re: Chuck Heath/Mountain Spa change application petition

Chuck Heath, developer of the Mountain Spa property, is petitioning the City to allow a transfer water rights that would change the point of diversion, place of use, and nature of use of 100 Class B shares and 30 Class D shares in the New Washington Irrigation Company to Midway City and Midway Irrigation Company sources located in and near Midway. The Mountain Spa Rural Preservation Subdivision requires 70.3 acre-feet to be dedicated to the City before the plat is recorded. The water rights in the change application (see attached) would be used to meet that requirement. The culinary requirement for the five lots in the subdivision is 3.1 acre-feet. This required amount would be placed in the City's Alpenhof well. The remainder would be diverted from Midway Irrigation Company sources. There is flexibility written into the application that does allow more connections to be added with the development of the resort area of the Mountain Spa which would be diverted from the Alpenhof well. With the application being 100 acre-feet of Class B shares, there is flexibility with the indoor and outdoor water usage with the maximum being 100 acre feet being diverted.

The Midway Advisory Board reviewed the proposal and made the following motion recommending approval to the City Council:

Motion: Midway Irrigation Member Grant Kohler made the motion to approve the application, with the condition that the Irrigation Company and the City sit down with Steve Clyde and Van King to go over the 1. change application and 2. foreign water policy, that all parties are comfortable with how the water will go into the system and how it will be administered so there are no questions, and that any fees that are involved they understand those fees on the front end and understand what they are getting into. The goal is to have that meeting and discussion by January 13, 2021, so that the Mountain Spa can go before the City Council on January 19th, 2021. City Councilman Steve Dougherty 2nd the motion.

If the proposal is approved by the City Council, Chuck Heath will apply for a change application to transfer the water rights to the City.

Please contact me if you have any questions about the proposal or the motion.

435-654-3223 ext. 105

mhenke@midwaycityut.org

APPLICATION FOR PERMANENT CHANGE OF WATER

STATE OF UTAH

Rec. by _____

Fee Amt. \$200.00

Receipt # _____

For the purpose of obtaining permission to make a permanent change of water in the State of Utah, application is hereby made to the State Engineer, based upon the following showing of facts, submitted in accordance with the requirements of Section 73-3-3 Utah Code Annotated, as amended.

CHANGE APPLICATION NUMBER:

WATER RIGHT NUMBER: 55-13093

(c92488NJANKO)

This Change Application proposes to change the POINT(S) OF DIVERSION, PLACE OF USE, and NATURE OF USE.

1. OWNERSHIP INFORMATION.

- A. NAME: Charles Vaughn Heath
ADDRESS: 2348 W. Red Pine Rd.
Park City, UT 84098
INTEREST: 0%
REMARKS: Interested Party
- NAME: Midway City Corporation
ADDRESS: 73 North 100 West
Midway, UT 84049
INTEREST: 0%
REMARKS: Interested Party
- NAME: Midway Irrigation Company
ADDRESS: C/O Steve Farrell
325 West 500 South
Midway UT 84049-1268
INTEREST: 0%
REMARKS: Interested Party
- NAME: Silver Rim Water Holdings LLC
ADDRESS: 1050 N. Deer Crest Lane
Alpine, UT 84004
INTEREST: 0%
REMARKS: Shareholder
- NAME: Washington Irrigation Company
ADDRESS: C/O Andrea McNeil
3000 South 1000 East
Kamas UT 84036
REMARKS: 100%

B. PRIORITY OF CHANGE:

FILING DATE:

C. EVIDENCED BY: 55-13093 (SHAR)

* DESCRIPTION OF CURRENT WATER RIGHT: *

Permanent Change

2. SOURCE INFORMATION.

A. QUANTITY OF WATER: 100.0 acre-feet

B. SOURCE: Provo River, Big Elk & Deer Creek Res. Boulder Crk COUNTY: Summit

C. POINT(S) OF DIVERSION.

POINT OF DIVERSION -- SURFACE:

(1) N 910 feet E 675 feet from SW corner, Section 07, T 3S, R 7E, SLBM

POINTS OF REDIVERSION:

(1) N 1,940 feet W 240 feet from SW corner, Section 12, T 3S, R 6E, SLBM

(2) N 1,800 feet W 80 feet from SW corner, Section 12, T 3S, R 6E, SLBM

3. WATER USE INFORMATION.

IRRIGATION: from Apr 1 to Oct 31. Acres: 33.3333 Supplemental Acres: 33.3333.

4. EXPLANATORY.

PLACE OF USE: The PLACE OF USE is within the service area of the Washington Irrigation Company

* THE FOLLOWING CHANGES ARE PROPOSED: *

5. SOURCE INFORMATION.

A. QUANTITY OF WATER: 100.0 acre-feet

B. SOURCE: Underground Water Wells (2) & Provo River Diversion COUNTY: Wasatch

C. POINT(S) OF DIVERSION. Changed as Follows:

POINT OF DIVERSION -- SURFACE:

(1) N 1,000 feet E 150 feet from SW corner, Section 18, T 3S, R 5E, SLBM

DIVERT WORKS: Midway (Upper) Dam

SOURCE: Provo River

POINTS OF DIVERSION -- UNDERGROUND:

(1) S 1,710 feet E 471 feet from N¼ corner, Section 33, T 3S, R 4E, SLBM

WELL DIAMETER: 10 inches

WELL DEPTH: 1,010 feet

COMMENT: Alpenhoff Weber Well

(2) S 1,640 feet E 380 feet from N¼ corner, Section 33, T 3S, R 4E, SLBM

WELL DIAMETER: 6 inches

WELL DEPTH: 265 feet

COMMENT: Alpenhoff Well

D. COMMON DESCRIPTION: Midway City Service Area

6. WATER USE INFORMATION. Changed as Follows:

MUNICIPAL: from Jan 1 to Dec 31. Midway City.

7. PLACE OF USE. Changed as Follows:

The Service Area of Midway City

8. EXPLANATORY.

Please refer to attachment.

9. SIGNATURE OF APPLICANT(S).

The undersigned hereby acknowledges that even though he/she/they may have been assisted in the preparation of the above-numbered application through the courtesy of the employees of the Division of Water Rights, all responsibility for the accuracy of the information contained herein including maps and other documents attached, at the time of filing, rests with the applicant(s).

Charles Vaughn Heath

Midway City Corporation

Midway Irrigation Company

Silver Rim Water Holdings LLC

Washington Irrigation Company

7. PLACE OF USE. Changed as Follows:

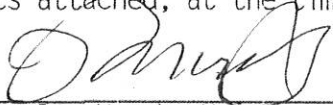
The Service Area of Midway City

8. EXPLANATORY.

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Silver Rim Water Holdings LLC

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Charles Vaughn Heath

Midway City Corporation

Midway Irrigation Company

Silver Rim Water Holdings LLC

David Lee

Washington Irrigation Company

Explanatory for Permanent Change Application on Water Right 55-13093

Applicants Midway City Corporation, Midway Irrigation Company, Silver Rim Water Holdings LLC, Washington Irrigation Company, and Charles Vaughn Heath jointly file this application to change the point of diversion, place of use and nature of use of 100 Class B shares and 30 Class D shares in the Washington Irrigation Company (WIC), represented by Certificate numbers 424, 425, 426, and 427. True and correct copies of the certificates are attached hereto. WIC was involuntarily dissolved and is reincorporating as the New Washington Irrigation Company (NWIC). Although the shares upon which this change application is based were issued by WIC, once new share certificates are issued by the NWIC they will become part of the record for this change application.

The heretofore points of diversion are located on the Provo River near Woodland, Summit County, Utah and the proposed hereafter points of diversion and place of use are also located in the Provo River Drainage, thereby maintaining the continuity of return flows. This Change Application contemplates Municipal use within the service area of Midway City and an existing diversion from the Provo River and two existing Midway City groundwater wells are identified as the hereafter points of diversion. **Diversion of irrigation water from the Provo River will be made at the Midway Upper Dam and historic return flows will be maintained by returning water back to the Provo River below the place of use.**

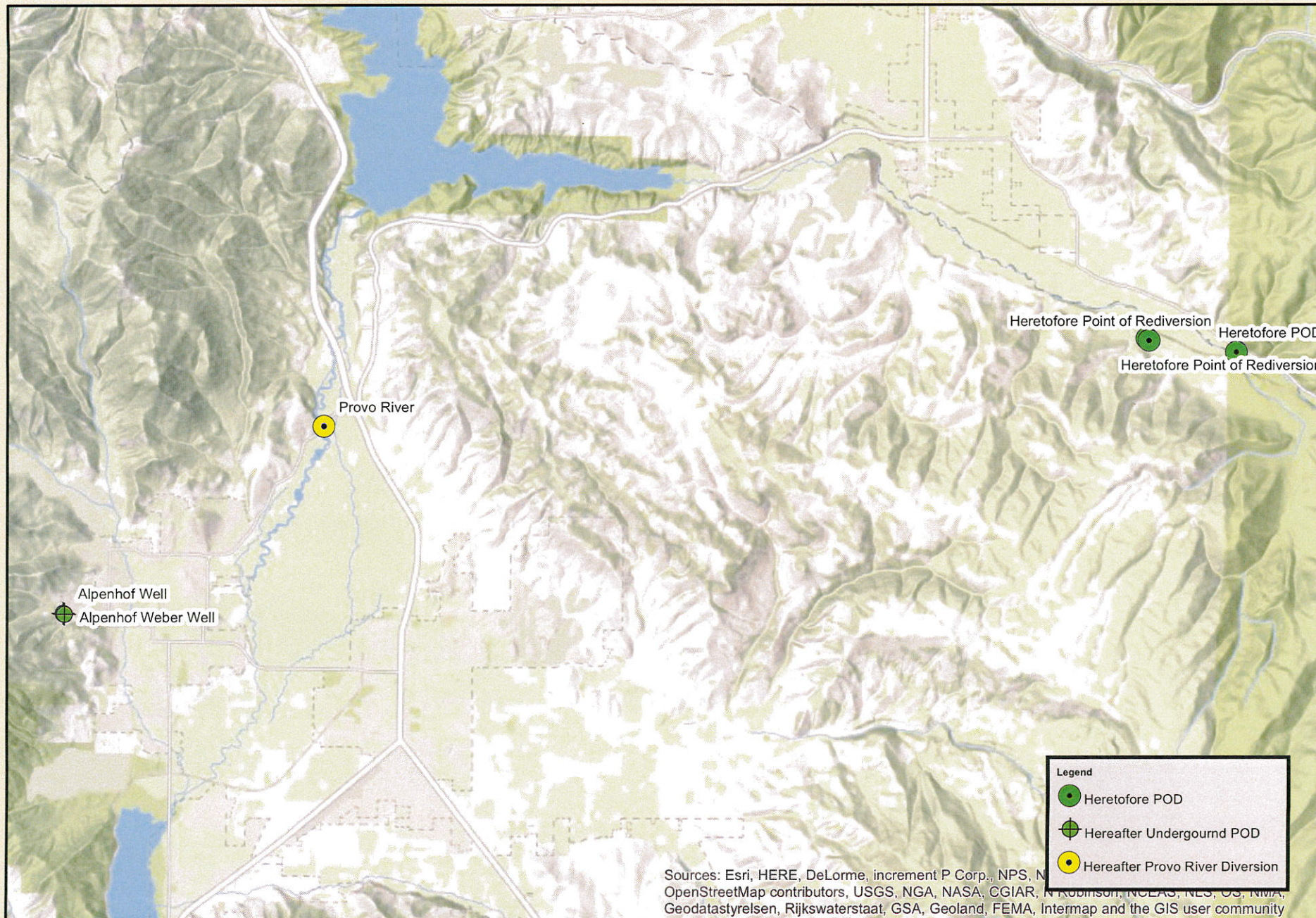
The depletion quantity of the prior use of the shares is estimated from the report titled *"Consumptive Use of Irrigation Crops in Utah, Research Report 145, Kamas Station, Utah Agricultural Experiment Station, Utah State University, Logan, Utah, October 1994"* (Hill, 1994).

<u>Prior Use</u>	<u>Diversion</u>	<u>Rate of Depletion</u>	<u>Depletion</u>
Irrigation: 33.3333 acres	100 ac-ft	53.58%	53.58 ac-ft

To avoid water right enlargement Midway City and Midway Irrigation Company will track water use and will not exceed both the historic 100 ac-ft diversion limit and 53.58 ac-ft depletion limit of the shares.

The Shareholder has entered into an agreement with the Washington Irrigation Company to ensure that the shares remain in good standing and water either remains in the Provo River or is released back into the Provo River at the end of the company's distribution system to prevent water right enlargement. Furthermore, the applicants will make 30 Class D shares (3:1 ratio of B:D) available to maintain canal carry water and evaporative losses in the canal.

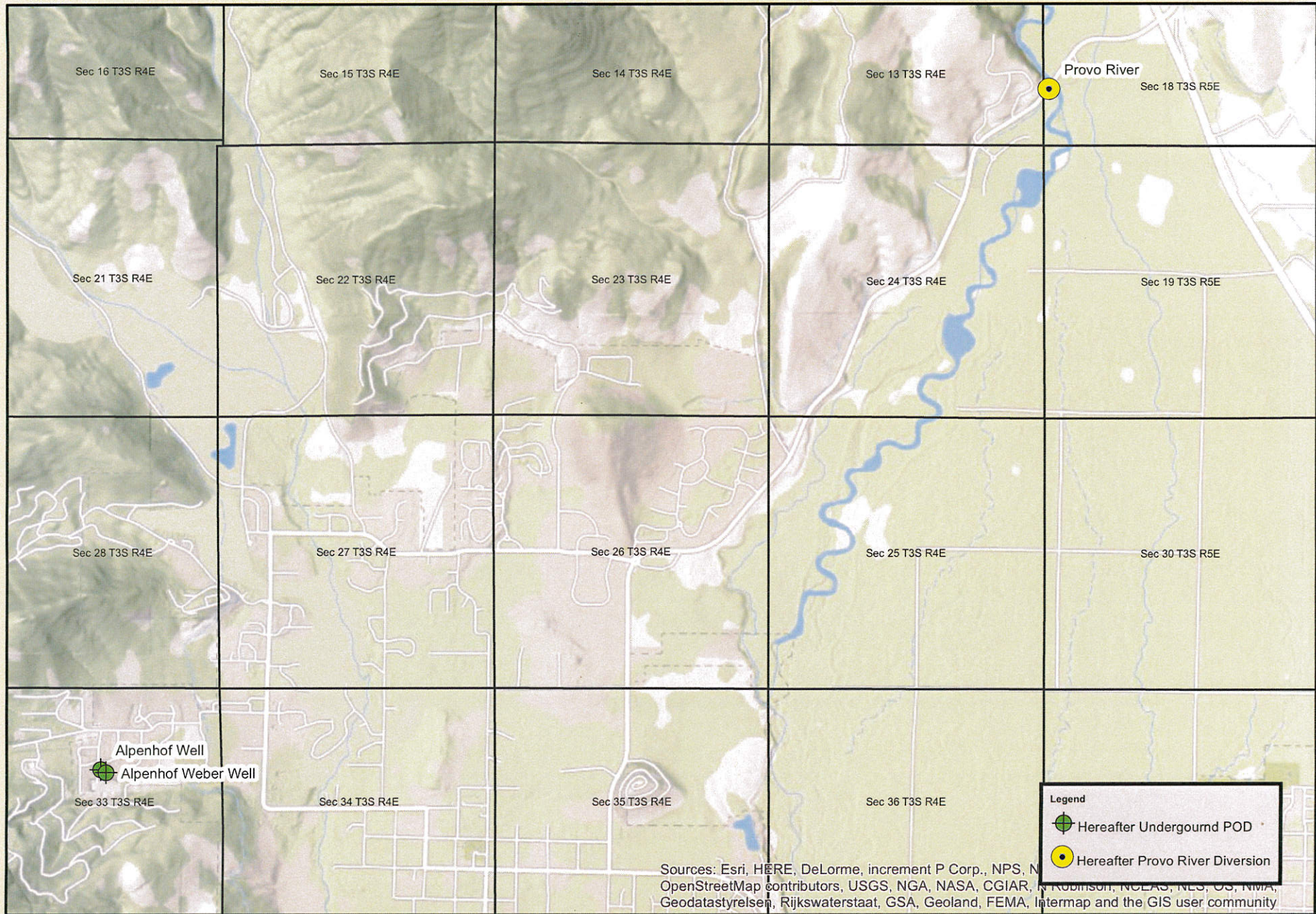
Washington Irrigation Company shares are supported by Provo River Decree fifth-class and seventeenth class water rights and include storage rights that allow extended seasonal irrigation. Because storage water can be released to mitigate potential impacts to downstream water users, a change to year-round Municipal water use can be made.



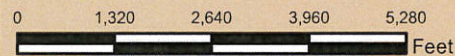
LOUGHLIN
WATER ASSOCIATES & P.C.
Prepared by Van F. King, P.G.

0 2,500 5,000 7,500 10,000
Feet

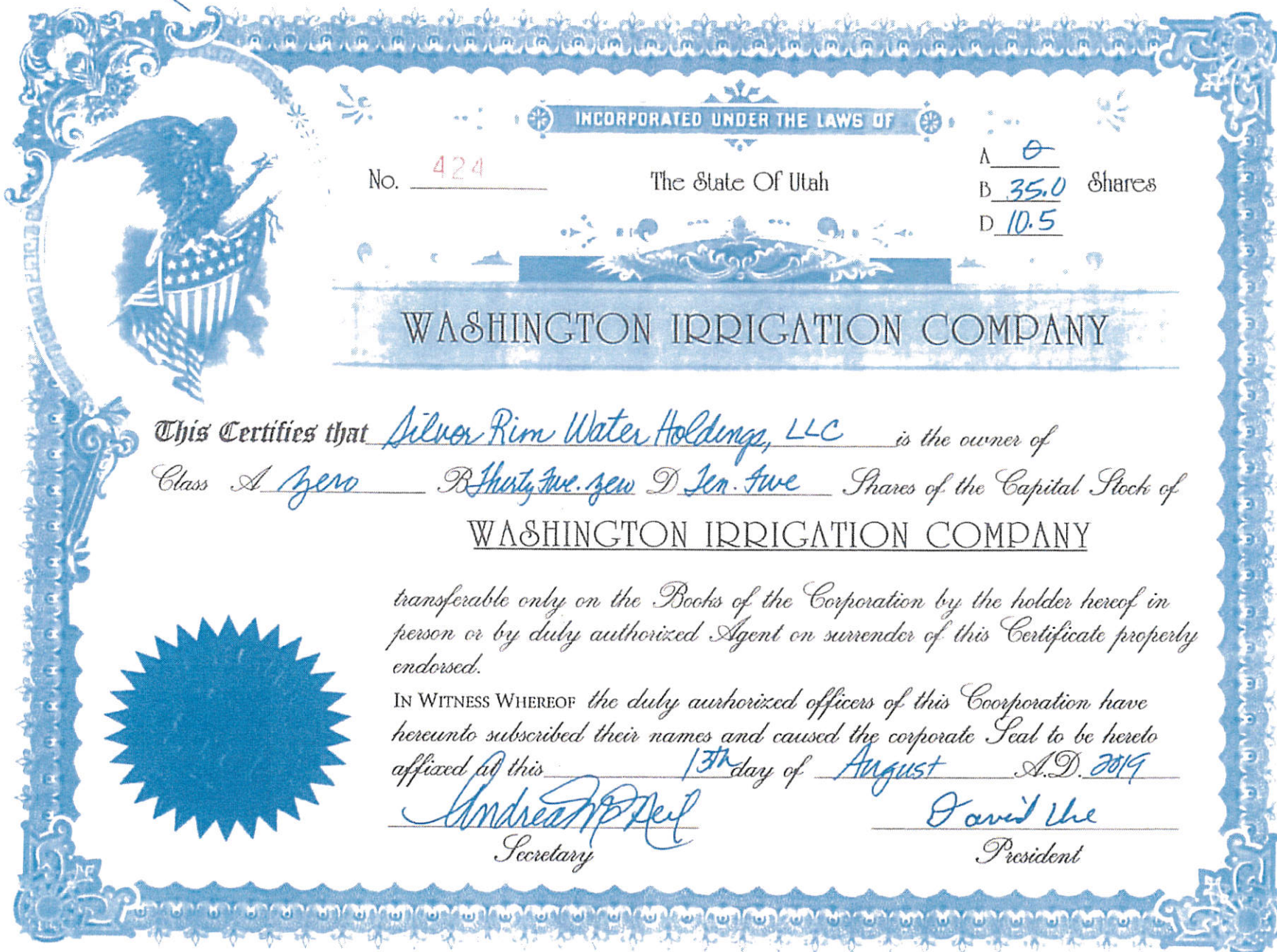
Change Application 55-12656 ()
Applicants: Midway Irrig. Co., Silver Rim Water Holdings,
New Washington Irrig. Co, Charles Vaughn Heath, and
Midway City, Utah



Prepared by Van F. King, P.G.



Change Application 55-12656 ()
 Applicants: Midway Irrig. Co., Silver Rim Water Holdings,
 New Washington Irrig. Co, Charles Vaughn Heath, and
 Midway City, Utah



INCORPORATED UNDER THE LAWS OF

No. 424

The State Of Utah

A 0
B 35.0 Shares
D 10.5

WASHINGTON IRRIGATION COMPANY

This Certifies that Silver Rim Water Holdings, LLC is the owner of
Class A Zero Thirty five Ten five Shares of the Capital Stock of

WASHINGTON IRRIGATION COMPANY

transferable only on the Books of the Corporation by the holder hereof in person or by duly authorized Agent on surrender of this Certificate properly endorsed.

IN WITNESS WHEREOF the duly authorized officers of this Corporation have hereunto subscribed their names and caused the corporate Seal to be hereto affixed at this 13th day of August A.D. 2019

Andrea P. Neil
Secretary

David L. He
President



INCORPORATED UNDER THE LAWS OF

No. 425

The State Of Utah

A A
B 25.0 Shares
D 7.5

WASHINGTON IRRIGATION COMPANY

This Certifies that Silver Rim Water Holdings LLC is the owner of
Class A Gen B Twenty five Seven. five Shares of the Capital Stock of
WASHINGTON IRRIGATION COMPANY

transferable only on the Books of the Corporation by the holder hereof in person or by duly authorized Agent on surrender of this Certificate properly endorsed.

IN WITNESS WHEREOF the duly authorized officers of this Corporation have herunto subscribed their names and caused the corporate Seal to be hereto affixed at this 13 day of August A.D. 2019

Andrea [Signature]
Secretary

David [Signature]
President



INCORPORATED UNDER THE LAWS OF

No. 426

The State Of Utah

A 6
B 30.0 Shares
D 9.0

WASHINGTON IRRIGATION COMPANY

This Certifies that Silver Rim Water Holdings, LLC is the owner of
Class A zero B thirty-zero D nine-zero Shares of the Capital Stock of
WASHINGTON IRRIGATION COMPANY

transferable only on the Books of the Corporation by the holder hereof in person or by duly authorized Agent on surrender of this Certificate properly endorsed.

IN WITNESS WHEREOF the duly authorized officers of this Corporation have hereunto subscribed their names and caused the corporate Seal to be hereto affixed at this 13th day of August A.D. 2019

Andrew M. [illegible]
Secretary

David [illegible]
President

SCANNED LP

INCORPORATED UNDER THE LAWS OF

No. 427

The State Of Utah

A 0
B 10.0 Shares
D 3.0

WASHINGTON IRRIGATION COMPANY

This Certifies that Silver Rim Water Holdings LLC is the owner of
Class A zero B Ten zero D Three zero Shares of the Capital Stock of
WASHINGTON IRRIGATION COMPANY

transferable only on the Books of the Corporation by the holder hereof in person or by duly authorized Agent on surrender of this Certificate properly endorsed.

IN WITNESS WHEREOF the duly authorized officers of this Corporation have hereto subscribed their names and caused the corporate Seal to be hereto affixed at this 13th day of August A.D. 2019

Andrea Patel
Secretary

David Lee
President

SCANNED LP

MIDWAY CITY

Planning Office

75 North 100 West
Midway, Utah 84049

Phone: 435-654-3223 x105
Fax: 435-654-2830
mhenke@midwaycityut.org

Midway Water Advisory Application

Applicant or Authorized Representative:

Name: Chuck Heath Phone: 435-659-8875 Fax: _____

Mailing Address: 1887 Gold Dust Lane #301 City: Park City State: UT Zip: 84060

E-mail Address: cv.heath.pc@gmail.com

Project Name: Mountain Spa Rural Preservation Subdivision

Location: 800 North 200 East

Total Acreage: 36.13 Number of Units: 5 Historically Irrigated Area: _____

Existing Water Connections: 1 (Assumed that the home was connected to city water)

Comments:

Please see the attached spreadsheet.

Please submit with application Site Plans, Plat Maps, Drawings or any information that pertains to water calculations.

Please read and sign before application submittal

I declare under penalty of perjury that I am the owner or authorized agent of the property subject to this request and the foregoing statements, answers and attached documents are true and correct. As the applicant for this proposal, I understand that my application is not deemed complete until the Planning Office has reviewed the application. I further understand I will be notified when my application has been deemed complete. At that time, I expect that my application will be processed within a reasonable time.

Signature of Owner or Agent: _____ Date: _____

FOR OFFICE USE ONLY

STAFF:

Date Received: _____
Received By: _____
Fee Paid: _____

Application Number: _____
Zone: _____
Tax ID Number: _____

PLANNER:

Complete / Incomplete
Date: _____ Reviewed by: _____

Mountain Spa Rural Preservation Subdivision Water Right Estimate

September 17, 2020

The Hot Pot Conservation Area will not be irrigated and not water rights have been calculated for this area.

The farm parcel along Burgi Lane has not been historically irrigated. This area will continue to be used for grazing with irrigation.

The farm parcel along River Road is proposed to be irrigated (14.10 acres).

Water Right Estimate for Mountain Spa Concept Plan

Use	Water Right per Unit (acre-feet)	Unit	Unit Quantity	Required Water Rights (acre-feet)
Preservation Lots				
Homes	0.80	per home	5	4.00

Total Estimated Water Rights for Inside Use 4

Lot 1 Irrigated Area	3.00	acre	1.87	5.61
Lot 2 Irrigated Area	3.00	acre	0.82	2.46
Lot 3 Irrigated Area	3.00	acre	1.52	4.56
Lot 4 Irrigated Area for Home	3.00	acre	1.60	4.80
Lot 4 Farm Parcel	3.00	acre	0.00	0.00
Lot 5 Irrigated Area for Home	3.00	acre	2.19	6.57
Lot 5 Farm Parcel	3.00	acre	14.10	42.30

Total Estimated Water Rights for Irrigation 66.30

Total Estimated Water Rights Needed for Development 70.30

Lot size less sensitive lands and 8,000 sf for home and driveway per city code.

Lot size less 8,000 sf for home and driveway per city code.

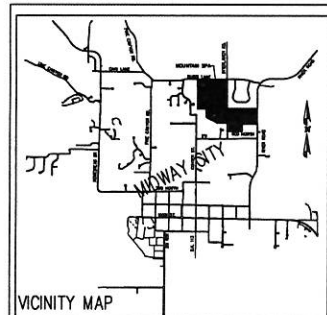
Lot size less sensitive lands and 8,000 sf for home and driveway per city code.

Parcel for home less 8,000 sf for home and driveway per city code.

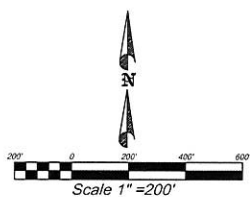
This area has not be historically irrigated. To be used for grazing.

Parcel for home less sensitive lands and 8,000 sf for home and driveway per city code.

Historically irrigated area.



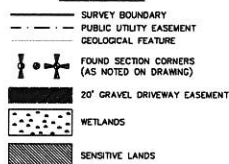
LOCATED IN THE SOUTHWEST QUARTER OF SECTION 26, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN.



CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD	BEARING
C1	75.32'	150.00'	90°33'53"	71.25'	S45°25'56"E
C2	259.13'	150.00'	89°58'44"	228.09'	S49°18'49"W
C3	159.86'	1000.00'	09°36'33"	159.89'	N85°48'35"W
C4	83.08'	150.00'	25°33'07"	81.59'	S71°56'05"W
C5	142.58'	220.00'	32°40'32"	140.63'	N52°18'45"W

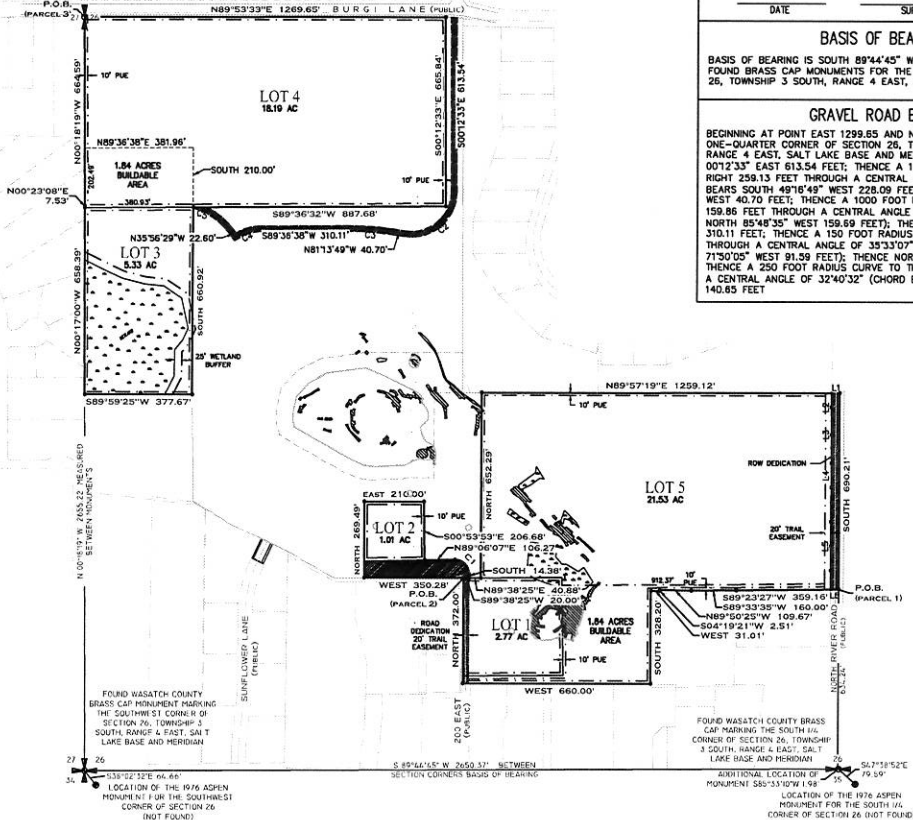
LINE TABLE		
LINE	LENGTH	BEARING
L1	28.83'	S89°37'19"W
L2	97.38'	S00°14'56"E
L3	83.61'	S00°02'13"E
L4	191.68'	S00°02'47"W
L5	305.61'	S00°00'56"W
L6	28.69'	N89°23'27"E

SYMBOL LEGEND



MOUNTAIN SPA - RURAL PRESERVATION SUBDIVISION

FOUND WASATCH COUNTY BRASS CAP MARKING THE WEST 1/4 CORNER OF SECTION 26, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN (P.O.B.)



20' SHARED DRIVEWAY EASEMENT BETWEEN LOT OWNERS
LOTS 3 & 4 ARE RESPONSIBLE FOR THE MAINTENANCE AND OPERATION OF THE SHARED 20' GRAVEL DRIVEWAY FROM BURG LANE. LOT 2 IS RESPONSIBLE FOR THE 20' GRAVEL DRIVEWAY FROM 200 EAST. SAID RESPONSIBILITY WILL END WHEN THE RESORT COMPLETES THE PAVED ASPHALT ROADWAY. LOTS 2, 3, 4 SHALL HAVE THE RIGHT TO ACCESS THEIR LOTS FROM THE PRIVATE PAVED ROADS IN THE RESORT.

RURAL SUBDIVISION NOTES:

- THIS SUBDIVISION IS A RURAL PRESERVATION SUBDIVISION UNDER SECTION 18.18 OF THE MIDWAY CITY CODE.
- ALL LOTS WITHIN THE SUBDIVISION ARE RESTRICTED FROM FURTHER DEVELOPMENT PER SECTION 18.18.5 OF THE MIDWAY CITY CODE.

SURVEYOR
TROY TAYLOR - PLS
ELEMENT LAND SURVEYING
2286 SOUTH 270 EAST
HEBER CITY, UTAH 84032
PHONE (801) 657-8748

DATE OF SURVEY: JULY 2020

SURVEYOR'S CERTIFICATE

IN ACCORDANCE WITH SECTION 10-9a-603 OF THE UTAH CODE, I, TROY TAYLOR, DO HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR HOLDING LICENSE NUMBER 6854112 IN ACCORDANCE WITH TITLE 58, CHAPTER 22, OF THE PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS LICENSING ACT.

I FURTHER CERTIFY THAT I HAVE COMPLETED A SURVEY OF THE PROPERTY DESCRIBED ON THE PLAN IN ACCORDANCE WITH SECTION 17-23-17 OF THE UTAH CODE, AND HAVE VERIFIED ALL MEASUREMENTS, AND HAVE PLACED MONUMENTS AS REPRESENTED ON THE PLAN.

DATE _____ SURVEYOR _____ (SEE SEAL BELOW)

BASIS OF BEARING

BASIS OF BEARING IS SOUTH 89°44'45" WEST 2850.37 FEET BETWEEN THE FOUND BRASS CAP MONUMENTS FOR THE SOUTHWEST CORNER OF SECTION 26, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN.

GRAVEL ROAD EASEMENT

BEGINNING AT POINT EAST 1299.65 AND NORTH 2.17 FEET FROM THE WEST ONE-QUARTER CORNER OF SECTION 26, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN RUNNING THENCE SOUTH 0°12'33" EAST 613.54 FEET; THENCE A 150 FOOT RADIUS CURVE TO THE RIGHT 259.13 FEET THROUGH A CENTRAL ANGLE OF 98°58'44" (CHORD BEARS SOUTH 49°18'49" WEST 228.09 FEET); THENCE NORTH 81°34'49" WEST 40.70 FEET; THENCE A 1000 FOOT RADIUS CURVE TO THE LEFT 159.86 FEET THROUGH A CENTRAL ANGLE OF 09°36'33" (CHORD BEARS SOUTH 85°48'35" WEST 159.89 FEET); THENCE SOUTH 89°36'38" WEST 310.11 FEET; THENCE A 150 FOOT RADIUS CURVE TO THE LEFT 93.08 FEET THROUGH A CENTRAL ANGLE OF 25°33'07" (CHORD BEARS SOUTH 71°56'05" WEST 81.59 FEET); THENCE NORTH 35°56'29" WEST 22.80 FEET; THENCE A 250 FOOT RADIUS CURVE TO THE LEFT 142.58 FEET THROUGH A CENTRAL ANGLE OF 32°40'32" (CHORD BEARS NORTH 52°18'45" WEST 140.65 FEET

BOUNDARY DESCRIPTION

PARCEL 1
BEGINNING NORTH 634.24 FEET FROM THE SOUTH ONE-QUARTER CORNER OF SECTION 26, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN RUNNING THENCE SOUTH 89°23'27" WEST 359.16 FEET; THENCE SOUTH 89°33'35" WEST 160.00 FEET; THENCE NORTH 89°50'25" WEST 109.67 FEET; THENCE SOUTH 0°12'33" WEST 2.51 FEET; THENCE WEST 31.01 FEET; THENCE SOUTH 328.20 FEET; THENCE WEST 660.00 FEET; THENCE NORTH 372.00 FEET; THENCE NORTH 89°38'25" EAST 60.88 FEET; THENCE NORTH 852.29 FEET; THENCE NORTH 89°37'19" EAST 1259.12 FEET; THENCE SOUTH 680.21 FEET TO THE POINT OF BEGINNING.
CONTAINS 24.84 ACRES

PARCEL 2
BEGINNING EAST 1328.37 FEET AND NORTH 682.40 FEET FROM THE SOUTHWEST CORNER OF SECTION 26, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN RUNNING WEST 350.28 FEET NORTH 289.49 FEET; THENCE EAST 210.00 FEET; THENCE SOUTH 0°03'53" EAST 206.68 FEET; THENCE NORTH 89°06'07" EAST 106.27 FEET; THENCE A 50.00 FOOT RADIUS CURVE TO THE RIGHT 79.33 FEET THROUGH A CENTRAL ANGLE OF 90°53'53" (CHORD BEARS SOUTH 45°26'56" EAST 71.26 FEET); THENCE SOUTH 14.38 FEET; THENCE SOUTH 89°38'25" WEST 60.88 FEET TO THE POINT OF BEGINNING.
CONTAINS 1.50 ACRES

PARCEL 3
BEGINNING AT THE WEST ONE-QUARTER CORNER OF SECTION 26, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN RUNNING THENCE NORTH 89°33'35" EAST 1271.57 FEET; THENCE A 389.00 FOOT RADIUS CURVE TO THE RIGHT 58.31 FEET THROUGH A CENTRAL ANGLE OF 08°35'20" (CHORD BEARS NORTH 85°48'47" WEST 58.26 FEET); THENCE SOUTH 0°12'33" EAST 654.06 FEET; THENCE SOUTH 0°03'13" EAST 7.12 FEET; THENCE SOUTH 89°36'32" WEST 947.67 FEET; THENCE SOUTH 860.92 FEET; THENCE SOUTH 89°39'25" WEST 377.67 FEET; THENCE NORTH 0°17'00" WEST 658.39 FEET; THENCE NORTH 0°23'08" EAST 7.33 FEET; THENCE NORTH 0°16'19" WEST 664.59 FEET TO THE POINT OF BEGINNING.
CONTAINS 25.11 ACRES

OWNER'S DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT, THE UNDERSIGNED OWNER(S) OF THE PROPERTY DESCRIBED HEREON, HAVE CAUSED THE SAME TO BE SUBDIVIDED INTO LOTS, SHARED DRIVEWAY EASEMENTS, AND UTILITY EASEMENTS AND HEREBY DEDICATE THOSE AREAS LABELED AS SHARED DRIVEWAY EASEMENTS AND UTILITY EASEMENTS FOR THE CONSTRUCTION AND MAINTENANCE OF PUBLIC UTILITIES AND EMERGENCY VEHICLE ACCESS.

DATED THIS _____ DAY OF _____, A.D. 20____

BY: CHUCK HEATH

ACKNOWLEDGMENT

STATE OF UTAH } S.S.
COUNTY OF WASATCH }

ON THE _____ DAY OF _____, A.D. 20____, PERSONALLY APPEARED BEFORE ME, _____, WHO DULY ACKNOWLEDGED TO ME THAT HE/SHE DID EXECUTE THE SAME IN THE CAPACITY INDICATED.

MY COMMISSION EXPIRES _____ NOTARY PUBLIC

ACCEPTANCE BY MIDWAY CITY

THE CITY COUNCIL OF MIDWAY CITY, WASATCH COUNTY, STATE OF UTAH, HEREBY APPROVES THIS SUBDIVISION AND ACCEPTS THE DEDICATION OF LOTS, EASEMENTS, STREETS AND PUBLIC RIGHTS-OF-WAY HEREON SHOWN.

THIS _____ DAY OF _____, A.D. 20____

APPROVED _____ ATTEST _____
MAYOR CLERK-RECORDER
(SEE SEAL BELOW)

APPROVED _____ APPROVED _____
CITY ENGINEER CITY ATTORNEY
(SEE SEAL BELOW)

PLANNING COMMISSION APPROVAL

APPROVED THIS _____ DAY OF _____, A.D. 20____, BY THE
MIDWAY CITY PLANNING COMMISSION

PLANNING DIRECTOR CHAIRMAN, PLANNING COMMISSION

MOUNTAIN SPA RURAL PRESERVATION SUBDIVISION

MIDWAY CITY, WASATCH COUNTY, STATE OF UTAH
LOCATED IN THE SOUTHWEST QUARTER OF SECTION 26, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN.

SCALE: 1" = 200 FEET

COUNTY SURVEYOR

APPROVED AS TO FORM ON THIS _____ DAY OF _____, 20____

ROS # _____

COUNTY SURVEYOR

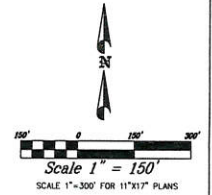
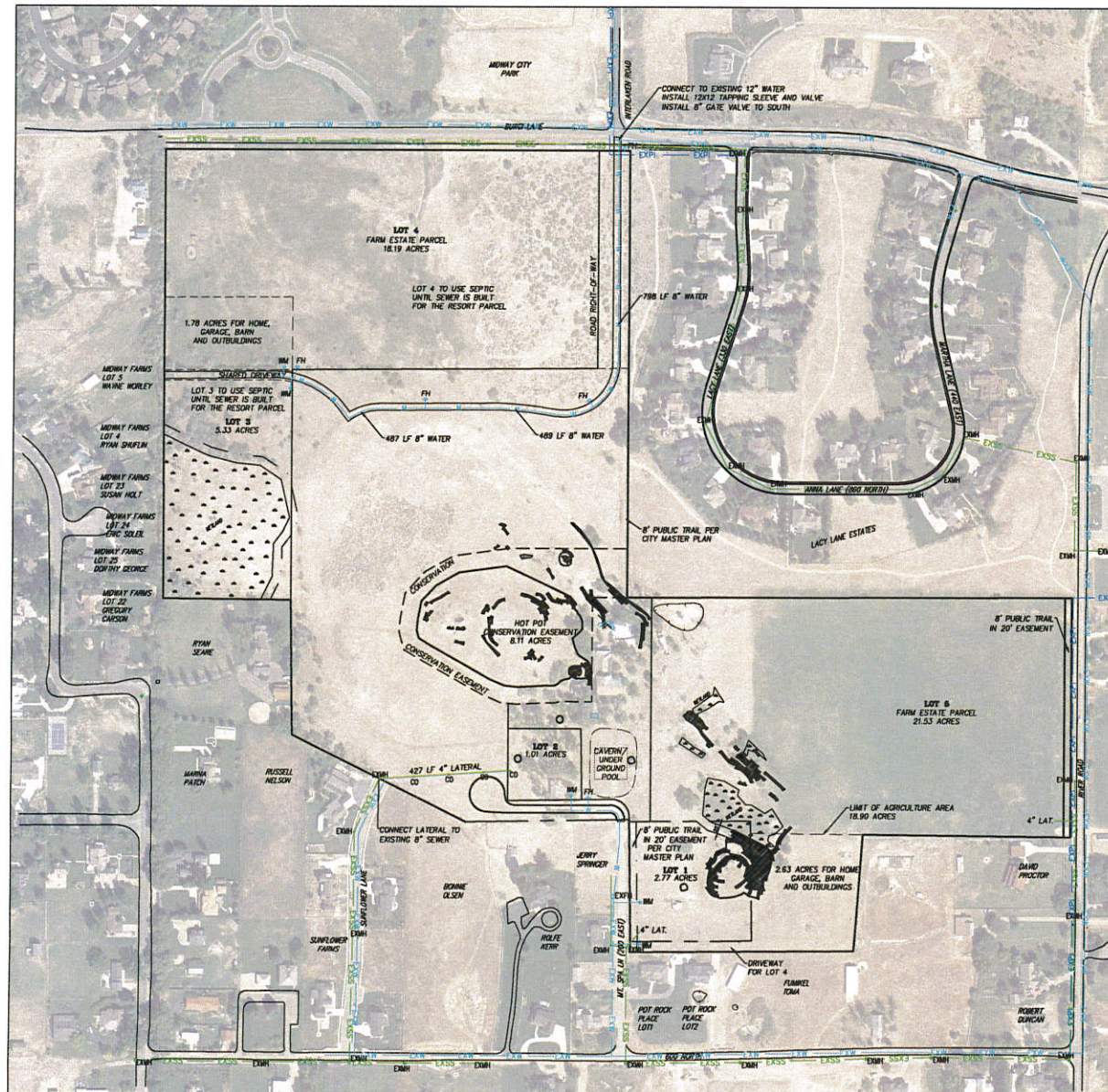
MIDWAY RECORDING

DATE: _____

MIDWAY IRRIGATION COMPANY

DATE: _____

MIDWAY SANITATION DISTRICT



LEGEND

- WETLANDS (3.75 ACRES)
- SLOPES > 25% (0.33 ACRES OUTSIDE OF HOT POT/CRATER)
- HOT POT/CRATER SENSITIVE LANDS (3.52 ACRES)
- RESORT ZONE BOUNDARY
- EXISTING PRESSURIZED IRRIGATION
- EXISTING WATER
- EXISTING SEWER
- PROPOSED WATER
- PROPOSED SEWER

SEWER NOTES:

- ALL SEWER LATERALS ARE 4"
- ALL SEWER IMPROVEMENTS SHALL MEET MIDWAY CITY STANDARDS & SPECIFICATIONS

WATER NOTES:

- ALL WATER IMPROVEMENTS SHALL MEET MIDWAY CITY STANDARDS & SPECIFICATIONS

BLUE STAKE NOTE:

- LOCATION OF EXISTING UTILITIES SHOWN ON PLAN ARE APPROXIMATE AND MAY BE INCOMPLETE. CONTRACTOR IS RESPONSIBLE FOR BLUE STAKING OF UTILITIES

PRESSURIZED IRRIGATION NOTES:

- ALL PRESSURIZED IRRIGATION IMPROVEMENTS SHALL MEET MIDWAY IRRIGATION COMPANY STANDARDS & SPECIFICATIONS

THIS DOCUMENT IS RELEASED FOR REVIEW ONLY. IT IS NOT INTENDED FOR CONSTRUCTION UNLESS SIGNED AND SEALED.
 PAUL D. BEND, P.E.
 SERIAL NO. 300000
 DATE: 9 SEP 2020

CHUCK HEATH
 MOUNTAIN SPA
 UTILITY PLAN



DESIGN BY: PDB DATE: 9 SEP 2020 SHEET 3
 DRAWN BY: PDB REV:

MIDWAY IRRIGATION COMPANY FOREIGN WATER BUY-IN AGREEMENT

This Foreign Water Buy-In Agreement is entered into this _____ day of _____, 2020, by and between Charles Vaughn Heath, his successors and assigns (“Heath”), and Midway Irrigation Company, Inc., (“MIC” or “Midway Irrigation”) a Utah non-profit corporation.

RECITALS

WHEREAS, Midway Irrigation Company is the owner and operator of an irrigation system in Midway City, Wasatch County, Utah, consisting of ditches, pipelines, water sources and related facilities (the “Irrigation System”); and

WHEREAS, Midway Irrigation Company has historically only delivered water rights held by the Company through its irrigation system, and has required those desiring to deliver “Foreign Water” (i.e. water that has not historically been delivered through the MIC system) to pay a buy-in to MIC to compensate the Company for the percentage of capacity the Foreign Water will use in the system, and to also deed the water rights to MIC in exchange for Class F (Foreign Water) shares; and

WHEREAS, Heath desires to buy-in to the MIC irrigation system by deeding up to 100 acre feet of water represented by 100 Class B shares and 30 Class D shares in the New Washington Irrigation Company, represented by certificate numbers 424, 425, 426, and 427 (a copy of which is attached as Exhibit A), in exchange for up to 33.33 shares of Class F stock in the Company, and paying a “Buy-In” fee; and

WHEREAS, the Parties desire to set forth the terms and conditions of the Buy-In.

THEREFORE, for good and valuable consideration, the sufficiency of which is acknowledged, the Parties agree as follows:

AGREEMENT

1. This Agreement is entered into in accordance with Article 26 of the Midway Irrigation Company By-laws, last revised on January 5, 2019. A copy of Article 26 of the Bylaws is attached as Exhibit A.

2. In accordance with Article 26 of the Corporate By-laws, Heath agrees to “Buy-In” to the Midway Irrigation Company subject to the following terms:

- A. At the time of the execution of this Agreement (“Closing”) Heath shall provide MIC the following:
 - i. Executed Change Application: Heath shall provide MIC with an executed Change Application for the State Engineer for up to 100 acre feet of water represented by 100 Class B shares and 30 Class D shares

in the New Washington Irrigation Company, represented by certificate numbers 424, 425, 426, and 427 in the form attached as Exhibit C.

- B. Within five days of receiving approval from the State Engineer of the Change Application referenced in Exhibit C, Heath shall provide MIC with the following:
- i. Washington Irrigation Company Stock Transfer: Heath shall provide 100 Class B shares and 30 Class D shares in the New Washington Irrigation Company issued in the name of Midway Irrigation Company; and
 - ii. Buy-In Payment: Heath shall pay to Midway Irrigation Company in immediately available funds the “Buy-In Amount” which shall be calculated as follows:
 - a. The parties stipulate to a Company valuation of \$30,000,000.00. The Company currently has 3499 shares at three acre feet per share. This is a total of 10,497 acre feet in the system.
 - b. For purposes of example, if Heath brings in 66 acre feet of Foreign Water, it would represent .0063% of the total capacity of the system (66 divided by 10,497 = .0063%). The value of this capacity in the system is \$189,000.00 (\$30,000,000 times .0063% = \$189,000).
 - c. The Buy-In Amount will be adjusted based on the above formula and number of acre feet that the State Engineer approves in the Change Application and that Heath actually brings into the Company.
 - iii. Upon receipt of the approved Change Application, the stock certificates issued in the name of Midway Irrigation Company and the Buy-In Payment, MIC shall issue Heath up to 33.33 shares of Class F stock in Midway Irrigation Company.
 - iv. Upon receipt of the Class F shares, Heath shall become a shareholder of MIC and shall have those rights and obligations as set forth in the Company By-laws, and more specifically Articles 25 and 26 of the By-laws. The water represented by the Class F shares shall only be used for irrigation purposes.

- v. Heath acknowledges that he has read the Company By-laws, understands that Class F shares are subject to on-going annual assessments to maintain the irrigation system, and do not have voting rights in the Company.
- vi. The parties acknowledge that the Foreign Water Rights shall be received into the System at the River Ditch turn-out and shall be delivered to the property commonly known as the Mountain Spa subdivision for secondary water purposes. Meters shall be installed on every residential unit, as well as on any secondary irrigation so that MIC can verify the amount of water delivered to the subdivision.
- vii. Payment of on-going assessment to Washington Irrigation Company: Heath acknowledges that Water Right 55-12250 is based on shares in the New Washington Irrigation Company, and that these shares have an on-going annual assessment to New Washington Irrigation Company. In order to cover the payment of these on-going assessments, Heath shall include on the deed of each recorded lot in the Mountain Spa subdivision, the following plat note: “70 acre feet¹ of water delivered to the Mountain Spa subdivision is based on water received from Washington Irrigation Company in Kamas, which is considered Foreign Water to the Midway Irrigation Company system and is represented by Class F (foreign water) shares. This water has an on-going assessment from Washington Irrigation Company that shall be paid by the Homeowners annually. The Developer has turned these Class F shares into Midway City as part of the development process, who now owns them. Midway City will forward the assessment from Washington Irrigation Company to the Homeowners within the Mountain Spa subdivision upon receipt, and the Homeowners shall submit payment of the assessment to Midway City within 30 days of receipt. Those buying into the Mountain Spa subdivision acknowledge that irrigation water represented by Class F will be more expensive than water based on Midway Irrigation Company primary shares and agree to pay for the same through assessments levied by Midway City.” This same language shall be included in the CC&R’s recorded against the Mountain Spa subdivision.
- viii. State Engineer Approval: Heath has read and understands the requirements of paragraph 6 in Article 26 of the Bylaws, that requires State Engineer Approval authorizing the change of

¹ This will be edited to represent the amount of acre feet actually brought into the Company.

diversion, changing the type of use (if necessary), and/or changing the quantity of use necessary for the proposed development.

- C. Necessary Infrastructure to Deliver the Foreign Water: Heath acknowledges that MIC does not have sufficient pressure in its system to deliver the Foreign Water to the Mountain Spa Subdivision, and that Heath will be required to install a pump on its property to assure there is sufficient pressure to deliver the water being delivered. At the time of closing Heath shall provide MIC with engineered drawings of the pump/pump house it will install to provide sufficient pressure to the Mountain Spa system. Heath shall be solely responsible for all costs associated to install the pump/pump house. MIC shall have the right, within 90 days of receipt of the plans, to propose to increase the size of the pump/pump house to benefit the entire system. Any upgrades beyond those proposed by Heath for the needs of his own project shall be paid by MIC. If the project becomes a joint effort, the parties agree to work together in good faith to get the pump/pump house installed.

3. Baum Water: The parties acknowledge that Heath is also the owner of the following Water Rights: 55-9664, 55-11237, and 55-11997 (Baum Water). Heath agrees that he shall submit, at the same time as the Change Application referenced in this Agreement, a Change Application on the Baum Water, seeking to have its point of diversion changed to the River Ditch so that it can be used in MIC's system. The parties agree that whatever portion of the Baum Water the State Engineer approves to be moved into the MIC system will replace the same portion represented by shares in the New Washington Irrigation Company. The Parties agree that the Baum Water is more advantageous to MIC because it does not include the annual assessment from the New Washington Irrigation Company and as such, the Parties agree to maximize the amount of water (up to 100 acre feet) from the Baum Water approved by the State Engineer. Acceptance of either the Baum Water or the shares from the New Washington Irrigation Company does not alter the amounts that will need to be paid as a Company buy-in as set forth in paragraph B(ii) above.

4. Extra 30 acre feet. The Parties acknowledge that it is Heath's intent to develop the Mountain Spa in two separate phases, and that phase one only requires 70 acre feet of water. The Parties agree to allow Heath to include 30 additional acre feet of water in the Change Application which shall be used for the sole purpose of meeting the water needs of the Mountain Spa. The Parties agree that any portion of the proposed 100 acre feet included in the Change Application that is approved by the State Engineer shall be restricted in perpetuity for use solely on or within the parcel known as the Mountain Spa. Heath agrees that any portion of the 100 acre feet that cannot be used on the Mountain Spa will be forever restricted from use on any other property within MIC's service area, and that MIC is only willing to allow Foreign Water to be introduced into its system with the agreement and restriction that the water brought in is used on a particular project, which in this case is the Mountain Spa.

5. Representations and Warranties of Heath: Heath represents and warrants the following:

- A. Heath is the sole owner of 100 acre feet of water represented by 100 Class B shares and 30 Class D shares in the New Washington Irrigation Company, represented by certificate numbers 424, 425, 426, and 427, and that these shares are unencumbered and have been put to beneficial use in their entirety. If, at any point, the State Engineer determines, through adjudication or otherwise, that the water right has not been put to beneficial use, whatever portion is forfeited shall have a corresponding loss of Class F shares in the Company.
- B. Heath acknowledges that Water Right 55-12250 is based on shares in the Washington Irrigation Company, and that these shares have an on-going annual assessment to Washington Irrigation Company. Heath represents that all assessments have been paid on the 100 Class B shares and 30 Class D shares of the New Washington Irrigation Company.
- C. Heath is the sole owner of Water Rights 55-9664, 55-11237, and 55-11997 (Baum Water), and warrants the Baum Water is unencumbered and have been put to beneficial use in their entirety. If, at any point, the State Engineer determines, through adjudication or otherwise, that any portion of the Baum Water has not been put to beneficial use, whatever portion is forfeited shall have a corresponding loss of Class F shares in the Company.

6. Retention of Rights Under Utah Code Ann. § 73-1-7. This agreement is entered into in accordance with the provisions of Utah Code Ann. § 73-1-7, the terms of which are adopted in their entirety herein by reference. By entering into this agreement, none of the rights granted by § 73-1-7 to MIC shall be deemed to be waived or restricted in any way.

7. Acknowledgement of Irrigation System Ownership: Heath acknowledges that Midway Irrigation Company owns and operates the Irrigation System, and that he has no right, absent this Agreement, to transport or convey Foreign Water Rights through the Irrigation System.

8. Term and Termination: This Buy-In Agreement, once consummated, shall have no termination date, and shall inure to the benefit of both parties successors and assigns in perpetuity.

9. This Agreement contains all of the terms between the Parties. No oral representations or promises exist that are not set forth in this Agreement.

10. Heath specifically agrees and acknowledges that the Irrigation System is a normal irrigation system, subject to all manner of maintenance and operational issues common with irrigation systems in Utah. The Irrigation System shall be operated by MIC in a manner consistent with the operation of other similar systems owned by the Company. The Company does not guarantee that there will be water in the Irrigation System for any particular period of any particular year. Further, the Company shall not incur any liability as a result of their normal operation of the Irrigation System.

EXECUTED as of the date first hereinabove written.

CHARLES VAUGHN HEATH

STATE OF UTAH)
 :ss
COUNTY OF WASATCH)

SUBSCRIBED AND SWORN TO (or affirmed) before me this _____ day of _____, 2020, by Charles Vaughn Heath.

NOTARY PUBLIC

MIDWAY IRRIGATION COMPANY

Steve Farrell, President
Midway Irrigation Company

STATE OF UTAH)
 :ss
COUNTY OF WASATCH)

SUBSCRIBED AND SWORN TO (or affirmed) before me this _____ day of _____, 2020, by Steve Farrell, President of Midway Irrigation Company.

NOTARY PUBLIC