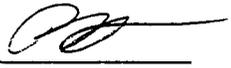


AGENDA ITEM SUMMARY

DATE: 11/14/11 DEPARTMENT: PW - Streets DEPT. HEAD SIGNATURE: 

SUBJECT: Approval of agreements for snow removal assistance § Resolution 2011-43

AUTHORITY: ID Code _____ IAR _____ City Ordinance/Code _____
(IF APPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

Attached are four (4) agreements for Sluder Construction to assist with snow removal efforts this winter. Sluder Construction has been the contractor for the last two years and are recommended by the Public Works Director and Street Superintendent to continue in this capacity.

There is a fifth agreement for bulldozer operation on the snow storage in Lions Park that is not being presented at this time for approval. In past years both Sluder Construction and the City have been able to rent a dozer on an hourly basis with no minimum payment required. With an increase in mining activity suppliers are no longer willing to continue this practice and are asking for a guaranteed monthly payment. We are continuing to try and negotiate this payment or find an alternative supplier but this is a specialized dozer and not readily available.

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS: Caselle # _____
Budget Line Item # _____ YTD Line Item Balance \$ _____
Estimated Hours Spent to Date: _____ Estimated Completion Date: _____
Staff Contact: Tom Hellen Phone # 788-9830 Ext 14
Comments: _____

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)
____ City Attorney ____ Clerk / Finance Director ____ Engineer ____ Building
____ Library ____ Planning ____ Fire Dept. _____
____ Safety Committee ____ P & Z Commission ____ Police _____
____ Streets ____ Public Works, Parks ____ Mayor _____

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Motion to approve Resolution 2011-43, approving extension of four (4) contracts with Sluder Construction for the 2011/2012 snow season at the same hourly cost as the 2010 and 2011 season

ADMINISTRATIVE COMMENTS/APPROVAL:

City Administrator _____ Dept. Head Attend Meeting (circle one) Yes No

ACTION OF THE CITY COUNCIL:
Date _____

**CITY OF HAILEY
RESOLUTION NO. 2011-43**

**RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF HAILEY
AUTHORIZING THE EXECUTION OF A CONTRACT FOR SERVICES WITH
SLUDER CONSTRUCTION FOR 2011/2012 SNOW SEASON.**

WHEREAS, the City of Hailey desires to enter into an agreement with SLUDER CONSTRUCTION for services for 2011/2012 snow season at the same hourly cost as the 2010/2011 season.

WHEREAS, the City of Hailey and SLUDER CONSTRUCTION have agreed to the terms and conditions of the Contract for Services, a copy of which is attached hereto.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HAILEY, IDAHO, that the City of Hailey approves the Contract for Services between the City of Hailey and SLUDER CONSTRUCTION and that the Mayor is authorized to execute the attached Agreement,

Passed this 14th day of November, 2011.

City of Hailey

Richard L. Davis, Mayor

ATTEST:

Mary Cone, City Clerk

CONTRACT FOR SERVICES

THIS CONTRACT FOR SERVICES ("Agreement") is made this 11 day of NOV, 2011, by and between the City Hailey, Idaho, a body corporate and politic and a political subdivision of the State of Idaho ("City"), and Sluder Construction, Inc. ("Contractor").

RECITALS

A The City is authorized pursuant to Idaho law to enter into contracts for services including services for snowplowing.

B Subject to the terms and conditions of this Agreement, the Contractor is willing to provide snowplowing services and snowplowing equipment for the City during the winter of 2011/12.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual agreements hereinafter contained and subject to the terms and conditions hereinafter stated, it is hereby understood and agreed by the parties hereto as follows:

1. TERM. This Agreement shall be effective upon execution of the Agreement and will continue in full force and effect through the 30th day of September, 2012. The term of this Agreement may be extended by the parties by agreement in writing.

2. SERVICES. Contractor agrees to employ and furnish all necessary personnel with Class A CDL to operate both City and Contractor vehicles and to furnish and maintain four (4) ten yard end dump trucks together with necessary supplies and equipment, and such other items as are reasonably necessary to provide snow plowing services within the corporate limits of the City. The City will generally direct the Contractor to perform snowplowing services under certain conditions and at certain times and locations, to be determined by the City in its sole

discretion.

3. CONSIDERATION. In consideration for the services performed by the Contractor according to the terms of this Agreement, the City shall pay Contractor \$84.50 per hour for each end dump truck. Contractor shall provide monthly invoices to the City for any charges incurred during a month on or before the 5th day of January, 2012, and continuing on the 5th day of every month thereafter during the period of providing snowplowing services under this Agreement. The parties understand that \$84.50 per hour for an end dump truck includes the costs of the operator of the end dump truck. The City shall pay all invoices by the last day of the month when the invoice was received.

4. INDEPENDENT CONTRACTOR. The parties acknowledge and agree that the Contractor is an independent contractor of the City, and that the personnel of the Contractor performing the services under this Agreement are employees of the Contractor only, and that the Contractor is solely responsible for the payment of wages and benefits and the coverage of insurance, including worker's compensation. It is furthermore agreed that the City shall not be liable for compensation or indemnity to any of the employees of Contractor for injuries or sickness arising out of the performance of services under this Agreement, and Contractor hereby agrees to indemnify and hold harmless City from any such liability or claim.

5. INSURANCE REQUIREMENTS. The Contractor shall maintain in full force and effect, at its sole cost and expense, during the term of this Agreement, commercial general liability insurance for the purpose of protecting the City against liability for loss or damage, for bodily injury, property damage, personal injury, death, civil rights violations, and errors and omissions, relating to the operations of the Contractor under this Agreement. Such policy shall provide insurance against property damage in an amount not less than \$500,000.00 and bodily

injury with limits of not less \$500,000.00 per person and \$1,000,000.00 total for each occurrence; provided, however, the minimum limits of insurance as set forth herein shall be automatically increased at any time the liability limits of the City are increased pursuant to the Idaho Tort Claims Act (*Idaho Code Sections 6-901 et seq.*). Such insurance shall be noncancellable except upon thirty (30) days prior written notice to the City. All of the insurance policies shall contain provisions that the insurers shall have no right of recovery or subrogation against the City, or the City's insurer with regard to the aforementioned losses or damages. The Contractor's certificates of insurance shall name the City and its officials, employees and agents as additional named insured and shall be endorsed to specify that such policies cover the liability assumed by the Contractor under this Agreement. The Contractor shall also secure and maintain at least the statutory amounts of worker's compensation, disability benefits, and unemployment insurance in accordance with the laws of the State of Idaho. Such insurance shall provide at least thirty (30) days written notice to Hailey before such policy is suspended, canceled, amended or terminated. The Contractor shall provide evidence of acceptable insurance at limits listed above to City Clerk, City of Hailey, 115 Main Street So., Suite H, Hailey, Idaho 83333.

6. INDEMNIFICATION. The Contractor covenants and agrees to indemnify, defend and hold the City harmless from and against any and all claims, demands, causes of action, suits, losses, liabilities, damages, costs and expenses, including attorney fees, that may accrue, directly or indirectly, by reason of any act or omission on the part of the Contractor, its agents, employees, assigns or anyone subcontracting with Contractor, related to damages that arise out of the Contractor's services under this Agreement, to bodily injury, property damage, personal injury and death that arise out of the Contractor's services under this Agreement, and to the provision of any service or duty under this Agreement. Contractor shall have the duty to

appear and defend any such demand, claim, suit or action on behalf of the City, without cost or expense to the City.

7. TERMINATION. Any party to this Agreement may terminate its obligations under this Agreement upon providing the other parties with thirty (30) days written notice. In the event the Agreement is terminated for cause, the City shall pay Contractor for its services incurred before the date of the service of the written notice of termination, and only the pro rata amount of the minimum payment for the loaders which would be payable at the end of the month in which the notice is delivered. In the event the Agreement is terminated without cause, the City shall pay Contractor for its services incurred before the date of the service of the written notice of termination, and the entire amount of the minimum payment for the loaders which would be due under this Agreement.

8. MISCELLANEOUS PROVISIONS.

8.1 Notices. Any notice under this Agreement shall be in writing and shall be effective when actually delivered in person or three days after being deposited in the U.S. mail, registered or certified, postage prepaid and addressed to the party at the address stated in this Agreement or such other address as either party may designate by written notice to the other.

8.2 Waiver. The waiver by either party of the breach of any provision of this Agreement by the other party shall not operate or be construed as a waiver of any subsequent breach.

8.3 Assignment. Except as otherwise provided within this Agreement, neither party hereto may transfer or assign this Agreement without prior written consent of the other party.

8.4 Law Governing. This Agreement shall be governed by and construed in accordance with the laws of the State of Idaho.

8.5 Attorney's Fees. In the event of any dispute with regard to the interpretation or enforcement of this Agreement, the prevailing party shall be entitled to recover

his/her reasonable costs and attorneys' fees incurred therein, whether or not a lawsuit is actually filed, and on any appeals, and in any bankruptcy proceeding.

8.6 Entire Agreement. This Agreement contains the entire understanding between and among the parties and supersedes any prior understandings and agreements among them respecting the subject matter of this Agreement.

8.7 Counterparts. This Agreement may be executed in several counterparts and all so executed shall constitute one Agreement, binding on all the parties hereto even though all the parties are not signatories to the original or the same counterpart.

8.8 Facsimile. Facsimile transmission of any signed original document and retransmission of any signed facsimile transmission shall be same as delivery of the original.

8.9 Remedies. The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude nor waive its rights to use any or all other remedies. Any rights provided to the parties under this Agreement are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

8.10 Severability. Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.

8.11 Authority. Each signatory agrees that he or she has full authority and consent to sign this Agreement.

8.12 Amendment. This Agreement may be revised, amended, or canceled in whole or in part, only by means of a written instrument executed by both parties hereto.

8.13 Interpretation. This Agreement shall be liberally construed in accordance with the general purposes of this Agreement and interpreted and enforced under the laws of the State of Idaho. No presumption shall exist in favor of or against any party to this Agreement as the result of drafting and preparing this Agreement. The headings in this Agreement are inserted for convenience and identification only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of the Agreement or any provisions of the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Contract for Services on the day and year first above written.

CITY OF HAILEY

By Richard L. Davis, Mayor

ATTEST:

Mary Cone, City Clerk

By Jani Stuber

RECEIVED

NOV 07 2011

snow blower

CONTRACT FOR SERVICES

THIS CONTRACT FOR SERVICES ("Agreement") is made this 7th day of NOV, 2011, by and between the City Hailey, Idaho, a body corporate and politic and a political subdivision of the State of Idaho ("City"), and Sluder Construction, Inc. ("Contractor").

RECITALS

A The City is authorized pursuant to Idaho law to enter into contracts for services including services for snowplowing.

B Subject to the terms and conditions of this Agreement, the Contractor is willing to provide snowplowing services and snowplowing equipment for the City during the winter of 2011/12.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual agreements hereinafter contained and subject to the terms and conditions hereinafter stated, it is hereby understood and agreed by the parties hereto as follows:

1. TERM. This Agreement shall be effective upon execution of the Agreement and will continue in full force and effect through the 30th day of September, 2012. The term of this Agreement may be extended by the parties by agreement in writing.

2. SERVICES. Contractor agrees to employ and furnish all necessary personnel with Class A CDL to operate a City owned snow blower to provide snow plowing services within the corporate limits of the City. The City will generally direct the Contractor to perform snowplowing services under certain conditions and at certain times and locations, to be determined by the City in its sole discretion.

3. CONSIDERATION. In consideration for the services performed by the

Contractor according to the terms of this Agreement, the City shall pay Contractor \$50.00 per hour for the Class A CDL operator. Contractor shall provide monthly invoices to the City for any charges incurred during a month on or before the 5th day of January, 2012, and continuing on the 5th day of every month thereafter during the period of providing snowplowing services under this Agreement. The City shall pay all invoices by the last day of the month when the invoice was received.

4. INDEPENDENT CONTRACTOR. The parties acknowledge and agree that the Contractor is an independent contractor of the City, and that the personnel of the Contractor performing the services under this Agreement are employees of the Contractor only, and that the Contractor is solely responsible for the payment of wages and benefits and the coverage of insurance, including worker's compensation. It is furthermore agreed that the City shall not be liable for compensation or indemnity to any of the employees of Contractor for injuries or sickness arising out of the performance of services under this Agreement, and Contractor hereby agrees to indemnify and hold harmless City from any such liability or claim.

5. INSURANCE REQUIREMENTS. The Contractor shall maintain in full force and effect, at its sole cost and expense, during the term of this Agreement, commercial general liability insurance for the purpose of protecting the City against liability for loss or damage, for bodily injury, property damage, personal injury, death, civil rights violations, and errors and omissions, relating to the operations of the Contractor under this Agreement. Such policy shall provide insurance against property damage in an amount not less than \$500,000.00 and bodily injury with limits of not less \$500,000.00 per person and \$1,000,000.00 total for each occurrence; provided, however, the minimum limits of insurance as set forth herein shall be automatically increased at any time the liability limits of the City are increased pursuant to the

Idaho Tort Claims Act (*Idaho Code Sections 6-901 et seq.*). Such insurance shall be noncancellable except upon thirty (30) days prior written notice to the City. All of the insurance policies shall contain provisions that the insurers shall have no right of recovery or subrogation against the City, or the City's insurer with regard to the aforementioned losses or damages. The Contractor's certificates of insurance shall name the City and its officials, employees and agents as additional named insured and shall be endorsed to specify that such policies cover the liability assumed by the Contractor under this Agreement. The Contractor shall also secure and maintain at least the statutory amounts of worker's compensation, disability benefits, and unemployment insurance in accordance with the laws of the State of Idaho. Such insurance shall provide at least thirty (30) days written notice to Hailey before such policy is suspended, canceled, amended or terminated. The Contractor shall provide evidence of acceptable insurance at limits listed above to City Clerk, City of Hailey, 115 Main Street So., Suite H, Hailey, Idaho 83333.

6. INDEMNIFICATION. The Contractor covenants and agrees to indemnify, defend and hold the City harmless from and against any and all claims, demands, causes of action, suits, losses, liabilities, damages, costs and expenses, including attorney fees, that may accrue, directly or indirectly, by reason of any act or omission on the part of the Contractor, its agents, employees, assigns or anyone subcontracting with Contractor, related to damages that arise out of the Contractor's services under this Agreement, to bodily injury, property damage, personal injury and death that arise out of the Contractor's services under this Agreement, and to the provision of any service or duty under this Agreement. Contractor shall have the duty to appear and defend any such demand, claim, suit or action on behalf of the City, without cost or expense to the City.

7. TERMINATION. Any party to this Agreement may terminate its obligations

under this Agreement upon providing the other parties with thirty (30) days written notice. In the event the Agreement is terminated for cause, the City shall pay Contractor for its services incurred before the date of the service of the written notice of termination, and only the pro rata amount of the minimum payment for the loaders which would be payable at the end of the month in which the notice is delivered. In the event the Agreement is terminated without cause, the City shall pay Contractor for its services incurred before the date of the service of the written notice of termination, and the entire amount of the minimum payment for the loaders which would be due under this Agreement.

8. MISCELLANEOUS PROVISIONS.

8.1 Notices. Any notice under this Agreement shall be in writing and shall be effective when actually delivered in person or three days after being deposited in the U.S. mail, registered or certified, postage prepaid and addressed to the party at the address stated in this Agreement or such other address as either party may designate by written notice to the other.

8.2 Waiver. The waiver by either party of the breach of any provision of this Agreement by the other party shall not operate or be construed as a waiver of any subsequent breach.

8.3 Assignment. Except as otherwise provided within this Agreement, neither party hereto may transfer or assign this Agreement without prior written consent of the other party.

8.4 Law Governing. This Agreement shall be governed by and construed in accordance with the laws of the State of Idaho.

8.5 Attorney's Fees. In the event of any dispute with regard to the interpretation or enforcement of this Agreement, the prevailing party shall be entitled to recover

his/her reasonable costs and attorneys' fees incurred therein, whether or not a lawsuit is actually filed, and on any appeals, and in any bankruptcy proceeding.

8.6 Entire Agreement. This Agreement contains the entire understanding between and among the parties and supersedes any prior understandings and agreements among them respecting the subject matter of this Agreement.

8.7 Counterparts. This Agreement may be executed in several counterparts and all so executed shall constitute one Agreement, binding on all the parties hereto even though all the parties are not signatories to the original or the same counterpart.

8.8 Facsimile. Facsimile transmission of any signed original document and retransmission of any signed facsimile transmission shall be same as delivery of the original.

8.9 Remedies. The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude nor waive its rights to use any or all other remedies. Any rights provided to the parties under this Agreement are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

8.10 Severability. Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.

8.11 Authority. Each signatory agrees that he or she has full authority and consent to sign this Agreement.

8.12 Amendment. This Agreement may be revised, amended, or canceled in whole or in part, only by means of a written instrument executed by both parties hereto.

8.13 Interpretation. This Agreement shall be liberally construed in accordance

with the general purposes of this Agreement and interpreted and enforced under the laws of the State of Idaho. No presumption shall exist in favor of or against any party to this Agreement as the result of drafting and preparing this Agreement. The headings in this Agreement are inserted for convenience and identification only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of the Agreement or any provisions of the Agreement.

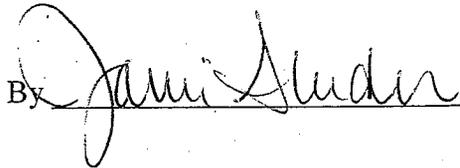
IN WITNESS WHEREOF, the parties hereto have executed this Contract for Services on the day and year first above written.

CITY OF HAILEY

By _____
Richard L. Davis, Mayor

ATTEST:

Mary Cone, City Clerk

By  _____

RECEIVED
NOV 07 2011

CDL A

CONTRACT FOR SERVICES

THIS CONTRACT FOR SERVICES ("Agreement") is made this 7th day of NOV, 2011, by and between the City Hailey, Idaho, a body corporate and politic and a political subdivision of the State of Idaho ("City"), and Sluder Construction, Inc. ("Contractor").

RECITALS

A The City is authorized pursuant to Idaho law to enter into contracts for services including services for snowplowing.

B Subject to the terms and conditions of this Agreement, the Contractor is willing to provide snowplowing services and snowplowing equipment for the City during the winter of 2011/12.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual agreements hereinafter contained and subject to the terms and conditions hereinafter stated, it is hereby understood and agreed by the parties hereto as follows:

1. TERM. This Agreement shall be effective upon execution of the Agreement and will continue in full force and effect through the 30th day of September, 2012. The term of this Agreement may be extended by the parties by agreement in writing.

2. SERVICES. Contractor agrees to employ and furnish all necessary personnel with Class A CDL to operate City and vehicles to provide snow plowing services within the corporate limits of the City. The City will generally direct the Contractor to perform snowplowing services under certain conditions and at certain times and locations, to be determined by the City in its sole discretion.

3. CONSIDERATION. In consideration for the services performed by the

Contractor according to the terms of this Agreement, the City shall pay Contractor \$40.00 per hour straight-time, \$50.00 per hour for overtime for each Class A CDL operator. Contractor shall provide monthly invoices to the City for any charges incurred during a month and for the minimum charge for the loaders on or before the 5th day of January, 2012, and continuing on the 5th day of every month thereafter during the period of providing snowplowing services under this Agreement. The City shall pay all invoices by the last day of the month when the invoice was received.

4. INDEPENDENT CONTRACTOR. The parties acknowledge and agree that the Contractor is an independent contractor of the City, and that the personnel of the Contractor performing the services under this Agreement are employees of the Contractor only, and that the Contractor is solely responsible for the payment of wages and benefits and the coverage of insurance, including worker's compensation. It is furthermore agreed that the City shall not be liable for compensation or indemnity to any of the employees of Contractor for injuries or sickness arising out of the performance of services under this Agreement, and Contractor hereby agrees to indemnify and hold harmless City from any such liability or claim.

5. INSURANCE REQUIREMENTS. The Contractor shall maintain in full force and effect, at its sole cost and expense, during the term of this Agreement, commercial general liability insurance for the purpose of protecting the City against liability for loss or damage, for bodily injury, property damage, personal injury, death, civil rights violations, and errors and omissions, relating to the operations of the Contractor under this Agreement. Such policy shall provide insurance against property damage in an amount not less than \$500,000.00 and bodily injury with limits of not less \$500,000.00 per person and \$1,000,000.00 total for each occurrence; provided, however, the minimum limits of insurance as set forth herein shall be

automatically increased at any time the liability limits of the City are increased pursuant to the Idaho Tort Claims Act (*Idaho Code Sections 6-901 et seq.*). Such insurance shall be noncancellable except upon thirty (30) days prior written notice to the City. All of the insurance policies shall contain provisions that the insurers shall have no right of recovery or subrogation against the City, or the City's insurer with regard to the aforementioned losses or damages. The Contractor's certificates of insurance shall name the City and its officials, employees and agents as additional named insured and shall be endorsed to specify that such policies cover the liability assumed by the Contractor under this Agreement. The Contractor shall also secure and maintain at least the statutory amounts of worker's compensation, disability benefits, and unemployment insurance in accordance with the laws of the State of Idaho. Such insurance shall provide at least thirty (30) days written notice to Hailey before such policy is suspended, canceled, amended or terminated. The Contractor shall provide evidence of acceptable insurance at limits listed above to City Clerk, City of Hailey, 115 Main Street So., Suite H, Hailey, Idaho 83333.

6. INDEMNIFICATION. The Contractor covenants and agrees to indemnify, defend and hold the City harmless from and against any and all claims, demands, causes of action, suits, losses, liabilities, damages, costs and expenses, including attorney fees, that may accrue, directly or indirectly, by reason of any act or omission on the part of the Contractor, its agents, employees, assigns or anyone subcontracting with Contractor, related to damages that arise out of the Contractor's services under this Agreement, to bodily injury, property damage, personal injury and death that arise out of the Contractor's services under this Agreement, and to the provision of any service or duty under this Agreement. Contractor shall have the duty to appear and defend any such demand, claim, suit or action on behalf of the City, without cost or expense to the City.

7. TERMINATION. Any party to this Agreement may terminate its obligations under this Agreement upon providing the other parties with thirty (30) days written notice. In the event the Agreement is terminated for cause, the City shall pay Contractor for its services incurred before the date of the service of the written notice of termination, and only the pro rata amount of the minimum payment for the loaders which would be payable at the end of the month in which the notice is delivered. In the event the Agreement is terminated without cause, the City shall pay Contractor for its services incurred before the date of the service of the written notice of termination, and the entire amount of the minimum payment for the loaders which would be due under this Agreement.

8. MISCELLANEOUS PROVISIONS.

8.1 Notices. Any notice under this Agreement shall be in writing and shall be effective when actually delivered in person or three days after being deposited in the U.S. mail, registered or certified, postage prepaid and addressed to the party at the address stated in this Agreement or such other address as either party may designate by written notice to the other.

8.2 Waiver. The waiver by either party of the breach of any provision of this Agreement by the other party shall not operate or be construed as a waiver of any subsequent breach.

8.3 Assignment. Except as otherwise provided within this Agreement, neither party hereto may transfer or assign this Agreement without prior written consent of the other party.

8.4 Law Governing. This Agreement shall be governed by and construed in accordance with the laws of the State of Idaho.

8.5 Attorney's Fees. In the event of any dispute with regard to the interpretation or enforcement of this Agreement, the prevailing party shall be entitled to recover his/her reasonable costs and attorneys' fees incurred therein, whether or not a lawsuit is actually filed, and on any appeals, and in any bankruptcy proceeding.

8.6 Entire Agreement. This Agreement contains the entire understanding between and among the parties and supersedes any prior understandings and agreements among them respecting the subject matter of this Agreement.

8.7 Counterparts. This Agreement may be executed in several counterparts and all so executed shall constitute one Agreement, binding on all the parties hereto even though all the parties are not signatories to the original or the same counterpart.

8.8 Facsimile. Facsimile transmission of any signed original document and retransmission of any signed facsimile transmission shall be same as delivery of the original.

8.9 Remedies. The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude nor waive its rights to use any or all other remedies. Any rights provided to the parties under this Agreement are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

8.10 Severability. Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.

8.11 Authority. Each signatory agrees that he or she has full authority and consent to sign this Agreement.

8.12 Amendment. This Agreement may be revised, amended, or canceled in whole or in part, only by means of a written instrument executed by both parties hereto.

8.13 Interpretation. This Agreement shall be liberally construed in accordance with the general purposes of this Agreement and interpreted and enforced under the laws of the State of Idaho. No presumption shall exist in favor of or against any party to this Agreement as the result of drafting and preparing this Agreement. The headings in this Agreement are inserted for convenience and identification only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of the Agreement or any provisions of the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Contract for Services on the day and year first above written.

CITY OF HAILEY

By Richard L. Davis, Mayor

ATTEST:

Mary Cone, City Clerk

By Jamie Studer

RECEIVED
NOV 07 2011

CONTRACT FOR SERVICES

THIS CONTRACT FOR SERVICES ("Agreement") is made this 7 day of November 2011, by and between the City Hailey, Idaho, a body corporate and politic and a political subdivision of the State of Idaho ("City"), and Sluder Construction, Inc. ("Contractor").

RECITALS

A The City is authorized pursuant to Idaho law to enter into contracts for services including services for snowplowing.

B Subject to the terms and conditions of this Agreement, the Contractor is willing to provide snowplowing services and snowplowing equipment for the City during the winter of 2011/12.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual agreements hereinafter contained and subject to the terms and conditions hereinafter stated, it is hereby understood and agreed by the parties hereto as follows:

1. TERM. This Agreement shall be effective upon execution of the Agreement and will continue in full force and effect through the 30th day of September, 2012. The term of this Agreement may be extended by the parties by agreement in writing.

2. SERVICES. Contractor agrees to employ and furnish all necessary personnel with Class A CDL to furnish and maintain two (2) loaders together with necessary supplies and equipment, and such other items as are reasonably necessary to provide snow plowing services within the corporate limits of the City. The parties agree that the City shall provide all necessary fuel for the operation of the end dump trucks and loaders for work necessary under this Agreement. The City will generally direct the Contractor to perform snowplowing services

under certain conditions and at certain times and locations, to be determined by the City in its sole discretion.

3. CONSIDERATION. In consideration for the services performed by the Contractor according to the terms of this Agreement, the City shall pay Contractor \$79.00 per hour for each loader for the two loaders. Contractor shall provide monthly invoices to the City for any charges incurred during a month on or before the 5th day of January, 2012, and continuing on the 5th day of every month thereafter during the period of providing snowplowing services under this Agreement. The parties understand that \$79.00 per hour for each loader includes the costs of the operator of the loader. The City shall pay all invoices by the last day of the month when the invoice was received.

4. INDEPENDENT CONTRACTOR. The parties acknowledge and agree that the Contractor is an independent contractor of the City, and that the personnel of the Contractor performing the services under this Agreement are employees of the Contractor only, and that the Contractor is solely responsible for the payment of wages and benefits and the coverage of insurance, including worker's compensation. It is furthermore agreed that the City shall not be liable for compensation or indemnity to any of the employees of Contractor for injuries or sickness arising out of the performance of services under this Agreement, and Contractor hereby agrees to indemnify and hold harmless City from any such liability or claim.

5. INSURANCE REQUIREMENTS. The Contractor shall maintain in full force and effect, at its sole cost and expense, during the term of this Agreement, commercial general liability insurance for the purpose of protecting the City against liability for loss or damage, for bodily injury, property damage, personal injury, death, civil rights violations, and errors and omissions, relating to the operations of the Contractor under this Agreement. Such policy shall

provide insurance against property damage in an amount not less than \$500,000.00 and bodily injury with limits of not less \$500,000.00 per person and \$1,000,000.00 total for each occurrence; provided, however, the minimum limits of insurance as set forth herein shall be automatically increased at any time the liability limits of the City are increased pursuant to the Idaho Tort Claims Act (*Idaho Code Sections 6-901 et seq.*). Such insurance shall be noncancellable except upon thirty (30) days prior written notice to the City. All of the insurance policies shall contain provisions that the insurers shall have no right of recovery or subrogation against the City, or the City's insurer with regard to the aforementioned losses or damages. The Contractor's certificates of insurance shall name the City and its officials, employees and agents as additional named insured and shall be endorsed to specify that such policies cover the liability assumed by the Contractor under this Agreement. The Contractor shall also secure and maintain at least the statutory amounts of worker's compensation, disability benefits, and unemployment insurance in accordance with the laws of the State of Idaho. Such insurance shall provide at least thirty (30) days written notice to Hailey before such policy is suspended, canceled, amended or terminated. The Contractor shall provide evidence of acceptable insurance at limits listed above to City Clerk, City of Hailey, 115 Main Street So., Suite H, Hailey, Idaho 83333.

6. INDEMNIFICATION. The Contractor covenants and agrees to indemnify, defend and hold the City harmless from and against any and all claims, demands, causes of action, suits, losses, liabilities, damages, costs and expenses, including attorney fees, that may accrue, directly or indirectly, by reason of any act or omission on the part of the Contractor, its agents, employees, assigns or anyone subcontracting with Contractor, related to damages that arise out of the Contractor's services under this Agreement, to bodily injury, property damage, personal injury and death that arise out of the Contractor's services under this Agreement, and to

the provision of any service or duty under this Agreement. Contractor shall have the duty to appear and defend any such demand, claim, suit or action on behalf of the City, without cost or expense to the City.

7. TERMINATION. Any party to this Agreement may terminate its obligations under this Agreement upon providing the other parties with thirty (30) days written notice. In the event the Agreement is terminated for cause, the City shall pay Contractor for its services incurred before the date of the service of the written notice of termination, and only the pro rata amount of the minimum payment for the loaders which would be payable at the end of the month in which the notice is delivered. In the event the Agreement is terminated without cause, the City shall pay Contractor for its services incurred before the date of the service of the written notice of termination, and the entire amount of the minimum payment for the loaders which would be due under this Agreement.

8. MISCELLANEOUS PROVISIONS.

8.1 Notices. Any notice under this Agreement shall be in writing and shall be effective when actually delivered in person or three days after being deposited in the U.S. mail, registered or certified, postage prepaid and addressed to the party at the address stated in this Agreement or such other address as either party may designate by written notice to the other.

8.2 Waiver. The waiver by either party of the breach of any provision of this Agreement by the other party shall not operate or be construed as a waiver of any subsequent breach.

8.3 Assignment. Except as otherwise provided within this Agreement, neither party hereto may transfer or assign this Agreement without prior written consent of the other party.

8.4 Law Governing. This Agreement shall be governed by and construed in accordance with the laws of the State of Idaho.

8.5 Attorney's Fees. In the event of any dispute with regard to the interpretation or enforcement of this Agreement, the prevailing party shall be entitled to recover his/her reasonable costs and attorneys' fees incurred therein, whether or not a lawsuit is actually filed, and on any appeals, and in any bankruptcy proceeding.

8.6 Entire Agreement. This Agreement contains the entire understanding between and among the parties and supersedes any prior understandings and agreements among them respecting the subject matter of this Agreement.

8.7 Counterparts. This Agreement may be executed in several counterparts and all so executed shall constitute one Agreement, binding on all the parties hereto even though all the parties are not signatories to the original or the same counterpart.

8.8 Facsimile. Facsimile transmission of any signed original document and retransmission of any signed facsimile transmission shall be same as delivery of the original.

8.9 Remedies. The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude nor waive its rights to use any or all other remedies. Any rights provided to the parties under this Agreement are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

8.10 Severability. Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.

8.11 Authority. Each signatory agrees that he or she has full authority and consent to sign this Agreement.

8.12 Amendment. This Agreement may be revised, amended, or canceled in whole or in part, only by means of a written instrument executed by both parties hereto.

8.13 Interpretation. This Agreement shall be liberally construed in accordance with the general purposes of this Agreement and interpreted and enforced under the laws of the State of Idaho. No presumption shall exist in favor of or against any party to this Agreement as the result of drafting and preparing this Agreement. The headings in this Agreement are inserted for convenience and identification only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of the Agreement or any provisions of the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Contract for Services on the day and year first above written.

CITY OF HAILEY

By _____
Richard L. Davis, Mayor

ATTEST:

Mary Cone, City Clerk

By Jani Stude

RECEIVED
NOV 07 2011

AGENDA ITEM SUMMARY

DATE: 11/14/11 DEPARTMENT: Engr DEPT. HEAD SIGNATURE: 

SUBJECT: Appraisal of Quigley Canyon Water Rights Value Resolution 2011-44

AUTHORITY: ID Code _____ IAR _____ City Ordinance/Code _____
(IF APPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

As a part of the Quigley Canyon annexation application the applicant has proposed as all or part of their annexation fee the value of the property's water rights. The attached proposal from West Water Research LLC outlines the scope and cost of this valuation. An email from Roxanne Brown of SPF Water Engineering is also attached for your review with comments on the final scope of the project. These comments can likely be addressed easily in developing a final agreement.

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS: Caselle # _____

Budget Line Item # _____ YTD Line Item Balance \$ _____
Estimated Hours Spent to Date: _____ Estimated Completion Date: _____
Staff Contact: Tom Hellen Phone # 788-9830 Ext 14

Comments:
This valuation work will be paid for by the applicant.

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)

<input checked="" type="checkbox"/> City Attorney	<input type="checkbox"/> Clerk / Finance Director	<input type="checkbox"/> Engineer	<input type="checkbox"/> Building
<input type="checkbox"/> Library	<input checked="" type="checkbox"/> Planning	<input type="checkbox"/> Fire Dept.	_____
<input type="checkbox"/> Safety Committee	<input type="checkbox"/> P & Z Commission	<input type="checkbox"/> Police	_____
<input type="checkbox"/> Streets	<input type="checkbox"/> Public Works, Parks	<input type="checkbox"/> Mayor	_____

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Motion to approve Resolution 2011-44, accepting the proposal from West Water Research LLC to appraise the value of the Quigley Canyon water rights and authorizing the City to enter into a contract approved by the city attorney to perform the appraisal work for the amount of \$17,550.

ADMINISTRATIVE COMMENTS/APPROVAL:

City Administrator _____ Dept. Head Attend Meeting (circle one) Yes No

ACTION OF THE CITY COUNCIL:

Date _____

City Clerk _____

FOLLOW-UP:

*Ord./Res./Agmt./Order Originals: Record
Copies (all info.): _____
Instrument # _____

*Additional/Exceptional Originals to: _____
Copies (AIS only)

**CITY OF HAILEY
RESOLUTION NO. 2011-44**

**RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF HAILEY TO ACCEPT A
PROPOSAL FROM _____ TO APPRAISE THE VALUE OF THE QUIGLEY
CANYON WATER RIGHTS**

WHEREAS, the City of Hailey desires to accept a proposal from _____ to appraise the value of the Quigley Canyon Water Rights and authorizing the City to enter into a contract to perform the appraisal work for the amount of \$_____.

WHEREAS, the City of Hailey and _____ have agreed to the terms and conditions of the Contract for Services, a copy of which is attached hereto.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HAILEY, IDAHO, that the City of Hailey approves the Contract for Services between the City of Hailey and _____ and that the Mayor is authorized to execute the attached Agreement.

Passed this 14th day of November, 2011

City of Hailey

Richard L. Davis, Mayor

ATTEST:

Mary Cone, City Clerk

Tom Hellen

From: Roxanne Brown <RBrown@spfwater.com>
Sent: Wednesday, November 02, 2011 4:04 PM
To: Tom Hellen
Cc: Ned Williamson; Heather Dawson; Beth Robrahn
Subject: RE: Quigley Canyon Water Rights Appraisal

All,

We have the following observations and comments:

Page 1 (as to uniform standards): It is our understanding that the State has adopted USPAP as the document that guides appraisal of real property in Idaho. Water rights are real property. This error may make no difference in consideration of the proposal, given that WestWater states it has developed internal standards that are consistent with USPAP. I'd like the City to see a copy of WestWater's standards.

Overall, the proposal appears to be written as if this is a "normal" sale. That is to say, as if the City is buying the water rights outright from Quigley for a purpose (a specific mitigation or transfer). That's not the case. The City is being asked to add these water rights to its portfolio in lieu of certain fees. This may be straightened out in the scoping process mentioned in Page 1, paragraph 4.

Section on "Water Right Assessment": An analysis of three of the factors listed in this section (transferability, reliability, availability) are essential to understanding the value of the water rights for future transfer or mitigation. A rigorous analysis of these factors should be emphasized during the scoping process. We cannot over emphasize this.

Section on "Asset Valuation": The crux of the matter...Only the first two methods are likely to apply.

1. Review of comparable sales is likely the best approach, if the data is available.
2. Land-Price differential is a very common approach in Idaho.

Who is the client here? It is unclear whether WestWater is working for the buyer or the seller. I think that should be clarified.

Please let me know if you have specific questions.

Roxanne

From: Tom Hellen [mailto:tom.hellen@haileycityhall.org]
Sent: Wednesday, November 02, 2011 11:43 AM
To: Roxanne Brown
Cc: Ned Williamson; Heather Dawson; Beth Robrahn
Subject: FW: Quigley Canyon Water Rights Appraisal

Roxanne,

Any comments on the attachments?

Tom Hellen
Public Works Director/City Engineer
(208) 788-9830 X14

Please be aware that all email correspondence is public record.

From: Clay Landry [mailto:landry@waterexchange.com]
Sent: Tuesday, November 01, 2011 5:51 PM
To: Tom Hellen
Cc: Ned Williamson; dhennesy@hennesyco.com; erobertson@rsidaholaw.com; Beth Robrahn; Heather Dawson; Skye Root
Subject: RE: Quigley Canyon Water Rights Appraisal

Tom,

Please find the attached proposal per your request for an appraisal of the Quigley Creek water rights. Please feel free to call me with any questions regarding the proposal or identified valuation methods that will be considered. I have also attached a statement of qualifications that provides additional detail on our experiences and previous water right valuation projects we have completed.

Clay J Landry | Managing Director | WestWater Research, LLC
Empire Building
805 W. Idaho Street, Suite 310
Boise, ID 83702
p. 208.433.0255 | c. 208.559.4978 | f. 208.433.5596 | landry@waterexchange.com

Water Right Appraisals | Transaction Services | Water Investments

From: Tom Hellen [mailto:tom.hellen@haileycityhall.org]
Sent: Wednesday, October 26, 2011 9:30 AM
To: Clay Landry
Cc: Ned Williamson; dhennesy@hennesyco.com; erobertson@rsidaholaw.com; Beth Robrahn; Heather Dawson
Subject: Quigley Canyon Water Rights Appraisal

Mr. Landry,

The attachments outline the basic thoughts on uses of water in Quigley Canyon and associated issues. We are looking for an appraisal of the value of these rights given their location, early priority within the Wood River Valley, separate stream status, effect on water right value caused by groundwater/surface water overlap and historical use and flows. Before we proceed with the appraisal we will require a document outlining your methodology on determining the value of these rights. One issue that has come up during public comments on this project and needs to be addressed is actual water (available stream flow) vs quantity of paper water rights.

Your response and projected fee and time frame should be sent to all listed on this email for review. Information regarding past water use can be answered by either Dave Hennessy (dhennesy@hennesyco.com) or Evan Robertson (erobertson@rsidaholaw.com).

Water Right Appraisal Services

Proposal

Prepared Jointly for:

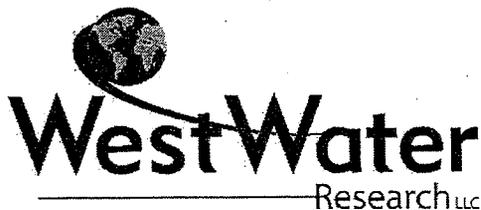
**Tom Hellen
Public Works Director, City of Hailey**

And

**Dave Hennessy
Hennessy Company**

By:

**WestWater Research LLC
805 W. Idaho St., Suite 310
Boise, ID 83702**



November 1, 2011

CONFIDENTIAL AND PRIVILEGED COMMUNICATION

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Project Proposal

Purpose and Background

The City of Hailey is evaluating the annexation and development of Quigley Creek Ranch. The proposed development area encompasses 912 acres in Quigley Canyon northeast of the City of Hailey. This proposal is in response to a request for water right appraisal and valuation services relevant to Quigley Creek Ranch.

WestWater's staff has conducted numerous in-depth economic analyses requiring valuation of water resources and has become recognized experts in water resource economics and water appraisals. Currently no uniform standards exist for water right valuation and appraisal reports. However, the United States Bureau of Reclamation (USBR) has developed guidelines for water appraisals. The agency's standards were developed from Uniform Appraisal Standards for Federal Land Acquisitions. Consequently, some of the practices and procedures appropriate for real estate appraisals are not well suited for water right appraisals. The Standards provide a reasonable starting point for developing a comprehensive set of standards and practices for water right appraisals.

WestWater Research has developed internal standards for its water right valuation and appraisal reports. These standards are consistent with Uniform Standard of Professional Appraisal Practices (USPAP) and comply with the water right appraisals standards established by the USBR. The standards also account for legal and physical characteristics unique to water rights and water markets. While no uniform standards exists, WestWater Research water right appraisals have been approved under federal review by the Department of Interior, National Park Service, US Bureau of Reclamation, and the Internal Revenue Service as well as several state agencies and private banks.

WestWater Research also recognizes the need to scope the valuation analysis to meet the client's intended purpose and needs. In general, we recommend a complete, self-contained appraisal report that utilizes a minimum of two valuation approaches and is prepared to the degree practicable in conformance with professional appraisal guidelines for land and real estate transactions that may involve litigation, public funding, or represents significant market value.

The purpose of this proposal is to outline a scope of work, estimated budget and timeline to develop a fully self-contained appraisal. This proposal also describes the approach and methods that will be used to determine the fair market value of the water rights.



Proposed Scope of Work

WestWater Research will develop an estimate of value for the water rights. The following describes some of the key tasks required to complete the valuation.

- **Kick-off Meeting and Site Inspection:** WestWater will meet with the City of Hailey and Hennessy Company to further discuss project goals, objectives and valuation approach. WestWater will provide a draft final scope and timeline prior to the kick-off meeting. This meeting will be scheduled to coincide with a site visit, if feasible.
- **Description of the Assets:** Existing documentation in the water right files will be utilized to prepare a brief legal and physical description of the water rights. WestWater recognizes other consultants on the project have compiled much of this information. Maps describing the water rights will be developed showing the current location, diversion points and place of use. GIS layers of the water rights will be obtained from the client or other sources that may be available.
- **Water Right Assessment:** Additional factors specific to water and the subject water rights will be considered when assessing market value. Water right attributes such as the transferability and reliability of source, conveyance or use restrictions, as well as the nature of the proposed transaction, can significantly influence price. WestWater will consider the following elements as pertaining to the subject water rights in order to establish an estimate of market value:
 - ♦ **Water Right Transferability:** Water markets are limited by the ability to transport water from one area to another. It is necessary to examine the transferability of a water right to determine its market area and potential new uses. WestWater will evaluate transferability constraints for the water rights to determine how any regulatory, contractual or physical constraints on use could impact price and valuation.
 - ♦ **Water Reliability:** The seniority and reliability of the water rights and underlying water source has particular importance in the region because it determines the likelihood that water will be available for use under drought conditions. WestWater Research will verify and document the availability of water associated with the rights to determine if any adjustments for reliability are warranted.
 - ♦ **Water Availability:** Water prices tend to be lower in areas where alternative water supplies are available to meet existing demands. In contrast, water prices are higher in regions that have little water available to support new uses. The availability of alternative supplies in the region will be considered in order to balance information regarding water right marketability.
 - ♦ **Transaction Size:** Evidence from areas with developed water markets indicate that transactions involving large quantities of water sell for less on a per unit basis than small water sales because transaction costs are spread over a larger volume of water.
- **Regional Water Supply and Demand Conditions:** A review of regional water supply and demand conditions will be conducted to assess the marketability of the subject water rights. The water supply and demand assessment is necessary for developing and identifying the highest and best use for the subject water rights and to determine the likely market absorption period. The assessment typically includes a review of surface and groundwater supplies,



existing water rights and regional water demand projections. Pending water right applications will also be considered to gage potential demand.

- ***Asset Valuation:*** Generally, WestWater utilizes two or more independent valuation approaches when estimating the market value of water rights and water assets. This is particularly important in regions with a limited number of comparable sales or for transactions with unique terms or water rights. The selection of appropriate valuation techniques is determined by the characteristics and nature of the subject water rights and the general terms of the proposed transaction. WestWater Research will determine appropriate valuation methods after the initial scoping meeting and site inspection. The water valuation approaches commonly used include:
 - ♦ ***Sales Comparison Approach:*** This method involves comparing the subject water rights with similar water rights that have been sold or leased. Sufficient sales data is required to make accurate comparisons. In addition, contingent sales and sales that do not represent “arms-length” transactions should be excluded from the comparison. WestWater maintains a database of water right sales and leases in Idaho with transaction terms. This is the preferred valuation approach when sufficient transactional information is available; however, it is anticipated that there will be limited comparable sales relevant to the subject water rights. Therefore, a second valuation method will likely be utilized to support the sales comparison approach.
 - ♦ ***Land Price Differential Approach:*** This method compares sale prices of agricultural land with water rights to land without water rights. The differential between the two prices represents the value that can be attributed to the water rights. The method requires information on recent land sales and is typically used by real estate appraisers conducting water rights appraisals. WestWater has found this approach to be particularly reliable in areas with limited water right trading and a large agricultural land base. We have tested this approach in areas with active trading and found that it produces similar values to those estimated by the comparable sales approach. However, the approach is data and time intensive.
 - ♦ ***Income Capitalization/ Discounted Cash Flow Approach:*** This approach is used when there is a revenue stream associated with a water asset. The net present value of the annual revenue generated from the water is calculated to estimate the current market value of the underlying asset. This method, primarily used for estimating the current use value of water, involves determining water’s contribution to the net revenue. WestWater has successfully applied this approach in valuing and estimating the net present value of long term water lease agreements. The selected discount rate when capitalizing the future revenue streams will have a significant impact on the overall value of the asset. Therefore, WestWater generally conducts sensitivity analysis to develop a value range when utilizing this approach.
 - ♦ ***Replacement Cost Approach:*** This approach involves estimating the least-cost alternative to develop a water supply similar to the one offered by the water rights under consideration. Alternatively, the analysis can involve determining the costs of capital improvements necessary to maintain production at the level prior to transfer of the water.



- **Final Opinion of Value:** A final opinion of value for the water rights will be determined based upon the results of the selected valuation techniques. Estimates of value from the selected valuation techniques will be reconciled into one overall value or a range of values. Additional factors that may influence value will be considered and incorporated by adjusting the estimated value range. WestWater Research recommends a range of values, rather than one specific dollar figure. This provides a greater degree of flexibility for negotiating the final purchase and sale price. Furthermore, it does not overstate the level of accuracy in estimating market value. In general, most water markets are relatively new and thinly traded, and as a result, suffer from large price dispersion. Given the development of most water markets, WestWater Research believes that the level of accuracy is limited to a range rather than a point estimate. Further, estimates of value will be reported according to price per acre-foot as well as total value. It should be recognized however that the transferable volume of water associated with a particular water right is uncertain prior to regulatory approval and may be higher or lower than estimated in the valuation analysis.

Project Work Schedule

Pending approval, WestWater will immediately begin work on the appraisal and provide a draft report within 5-6 weeks of commencement of the project. The entire project is expected to take 6-8 weeks to complete. WestWater Research recognizes time is of the essence and will agree to expedite the project as necessary. A kickoff meeting and site visit of the water rights and the surrounding area will be conducted as soon as possible.

Proposed Project Timeline for Full Appraisal

Tasks	Week 1	Week 2	Week 3	Week 4	Week 5	Week 6	Week 7
Task 1 – Kickoff Meeting	█						
Task 2 – Site Inspection	█	█					
Task 3 – Water Right Review & Assessment		█	█				
Task 4 – Regional Water Supply & Demand		█	█	█			
Task 5 – Water Rights Valuation		█	█	█	█		
Task 6 – Draft Report					█	█	
Task 7 – Final Report							█

Deliverables

The deliverables associated with this analysis include:

- An electronic draft of the valuation report submitted to the City and Hennessy Company for review within 5-6 weeks of a formal notice to conduct the valuation.
- Two copies of a final valuation report submitted within 1-2 weeks following receipt of comments on the draft report.
- Two copies of an appendix to the valuation report providing specific detail on data and methods used in the analysis, maps and photos of the subject water rights, and any other supporting documentation.



Estimated Project Budget

The estimated budget for completion of the valuation report is \$17,550. All professional services during the project will be billed monthly on a time and expense basis with a not-to-exceed amount of \$17,550. The following table provides a summary of the estimated budget by task:

Project Budget Summary	
Site Inspection and Kickoff Meeting	\$1,200
Meeting Prep	
Meeting and Follow Documentation	
Description of Assets	\$1,850
Water Right Assessment	
Water Supply & Demand Conditions	\$2,500
Asset Valuation	\$9,450
Preparation of Draft and Final Reports	\$1,550
Subtotal of Labor	\$16,550
Project Expenses	<u>\$1,000</u>
Total Project Cost	\$17,550



Appendix A – Rate Schedule

2011 Professional Service Rates and Fees Schedule

Personnel	Hourly Rate
Managing Director	\$250
Principals	\$190
Sr. Associates and Transaction Managers	\$135 - \$150
Associates	\$85 - \$105
Data Management and GIS Technician	\$80
Administrative and Support Staff	\$60

- Expert witness rates are billed at \$275 per hour with a minimum of 8 hours per day of engagement.

2011 Project Related Expenses

Expense	Description
Airfare	Actual expense based on economy class ticket for most direct route and economical carrier based on availability with seven (7) day minimum advance purchase.
Hotels	Actual rates based on standard single room.
Rental Car	Actual rates based on standard midsize car.
Mileage	Fifty-eight cents (\$0.58) per mile.
Data	Actual cost plus a 15% administrative fee.
Reproduction	Actual costs.
Other Expenses	Other standard and customary expenses such as word processing, computer time, business-related telephone, taxis, delivery charges or incidentals will be fully reimbursed at cost.
Subcontractor Fee	Administrative management fee of 15% on subcontractor work managed by WestWater.



Appendix B – Selected Project Experience

Shoshone-Bannock Tribes Water Marketing

Client: Shoshone-Bannock Tribes

The Shoshone-Bannock Tribes hold significant water rights that were established through a 1990 settlement agreement with the State of Idaho and the United States. A component of the settlement agreement provides for water marketing opportunities. WestWater was retained to develop and implement a marketing plan for the Tribes. As a first phase, WestWater conducted an initial inventory of available supply and assessed the transferability and marketability of the water rights. WestWater evaluated the region's water supply and demand, prepared valuation and pricing analyses using the sales comparison and land price differential approaches, and identified prospective buyers. To date, WestWater has negotiated and completed a 45,000 acre-foot lease agreement for hydropower generation on behalf of the Tribes.

Project Status: Ongoing

Water Rights Valuation and Marketing Opportunities Evaluation

Client: Union Pacific Railroad

WestWater was retained to assist the Union Pacific Railroad in their program to decommission unused, water related infrastructure. WestWater's goal was to identify and preserve any value associated with water rights related to the unused infrastructure. As a first step, WestWater identified and inventoried water rights associated with the unused infrastructure (775 water rights were initially evaluated). WestWater then provided Union Pacific with macro-level market metrics and a preliminary estimate of value based upon recent market transactions. WestWater then screened the water rights based on their size, location, and value in order to identify water rights that could be preserved or monetized. WestWater outlined a strategy to preserve the value of the water rights, and eventually monetize the assets. WestWater also developed a GIS database to maintain geospatial elements of each water right and house the water right files.

Project Status: Ongoing

Valuation of Vanderham Dairy Water Rights

Client: Bevis, Johnson, & Thiry

WestWater was retained to provide an estimate of value for water rights held by Vanderham Dairy in Idaho's Snake River Basin. The preliminary valuation was based upon recent valuation studies completed in the Snake River Basin and WestWater's State sales database, containing both reported and verified water right transactions in Idaho.

Project Status: Completed 2008

Utility Company Water Rights Divestiture – Eagle Water Company

Client: Eagle Water Company

WestWater was retained to provide summary information and market intelligence to assist with the valuation of water right assets held by Eagle Water Company (EWC), a regulated, privately owned municipal water service provider. WestWater examined EWC's permits and licenses, analyzed constraints on the marketability of EWC's water right assets and provided information on selected water right transactions involving rights and uses similar to EWC's, as well as a more general review of the Idaho water right market. Based on this information, WestWater was able to provide an estimated value range for the EWC water right assets.

Project Status: Completed 2008



Eastern Snake Plain Aquifer Management: Economic Analysis

Client: Idaho Department of Water Resources

WestWater provided the Idaho Department of Water Resources (IDWR) with an economic analysis of various water management options identified by the Eastern Snake Plain Aquifer Management Plan Committee. The objective of the economic analysis was to develop information to assist in the selection of a set of water management alternatives designed to improve groundwater levels within the Eastern Snake Plain Aquifer. Overall, IDWR is considering the various tools available to achieve a 600,000 to 900,000 acre-feet per year change in the Eastern Snake Plain water budget. The water management tools being considered included aquifer recharge, new surface water storage, conversion of groundwater users to surface water sources, and leases and purchases of water rights.

The economic analysis focused on estimation of the direct costs associated with implementation of a variety of groundwater demand reduction alternatives, including water right leasing and purchasing to reduce withdrawals of groundwater from the aquifer. Examination of the economic tradeoffs of the various water management options provided important information for the State of Idaho that could be refined over time as additional information on the physical effects of the water management options are realized. The economic analysis addressed the likely costs of water in various uses and locations in the Eastern Snake Plain to inform the Committee of the funds necessary to implement the program on various scales. The analysis developed a flexible economic model that could be adjusted to consider changes in the water management options throughout the planning process, identify likely budget requirements, and focus demand reduction efforts on regions with the most cost-effective outcomes.

Project Status: Completed 2008

Assessment of the Upper Snake River Basin Water Supplies

Client: City of Twin Falls, Idaho

WestWater provided the City of Twin Falls with a preliminary feasibility assessment of water right and storage contract acquisition opportunities in the Upper Snake River Basin. The City was examining the feasibility of various options to increase the quantity, quality and reliability of the city's municipal water supplies. Water quality and quantity concerns associated with the city's current water supplies required the City to plan for new, reliable and sustainable water supplies. Based upon preliminary estimates, the City needed to acquire as much as an additional 15,000 acre-feet per year over the next 30 years. Two of the potential alternatives would require acquisition of Snake River system water rights or storage contracts, either through long-term lease or permanent acquisition. Water rights for Snake River natural flow and rights to stored water from the Snake River system may be suitable for the city's needs. WestWater provided the city with a report on the water supply options.

Project Status: Completed 2007

Statement of Qualifications

WestWater Research (WWR) is the premier advisory firm in the water rights industry. WestWater specializes in water market analysis, water right valuation and water resource economics. With offices in four states, the WestWater team is composed of Economists, MBAs and geographic information systems (GIS) analysts with over fifty years combined experience in the water rights industry. The team is highly specialized with extensive experience in water marketing, regulatory policy, water valuation techniques, financial investments, commodity trading, resource economics and planning, and GIS technology. Since its inception in 2001, WestWater has advised clients in every Western State including Alaska and Texas on various water right projects.

WestWater has extensive experience in water right market analysis and appraisals, and has developed and utilized market information, simulation models and econometric techniques to estimate the market value of water for federal and state agencies, nonprofits, and private industry. WestWater's valuations span a wide variety of water uses including irrigation, municipal, industrial, power generation and fish propagation. WestWater is nationally recognized for its expertise in water right appraisals and is routinely called upon to provide valuation services for large, complex water right transactions. To assist in water right appraisals, WestWater maintains the largest, high quality database of water right transactions in the Western US.

WestWater's water resource economic and financial services focus on the development of information and economic analysis in support of water supply development and reallocation projects. WestWater has developed a variety of economic models to assess the financial feasibility of water supply projects including new surface storage, groundwater recharge, and water banking. The analyses have been used to assist in project design, budgeting, and implementation. WestWater provides a full range of computer aided economic modeling and GIS capabilities to enhance economic and planning analysis.

Services

Water Asset Valuation	Transaction Advisory	Marketing	Investment Services	Economic Planning
<ul style="list-style-type: none"> • Appraisals • Market & Pricing Analysis • Financial Analysis • Expert Witness 	<ul style="list-style-type: none"> • Acquisition Strategy • Regulatory & Financial Risk Management • Pricing & Contract Terms Development 	<ul style="list-style-type: none"> • Water Asset Management • Market Demand Assessment • Discrete Brokerage Services • Pricing & Contract Terms Development 	<ul style="list-style-type: none"> • Due Diligence & Project Feasibility Analysis • Project Financial Modeling • Asset Monetization & Exit Strategy Development 	<ul style="list-style-type: none"> • Agricultural / Irrigation Economics • EIS / EA Economic Support • Water Supply Planning

Main Office	West Coast	Southwest	East Coast
805 W. Idaho Street 3 rd Floor, Suite 310 Boise, ID 83702 (208) 433-0255	1104 Main Street Top Floor, Suite 610 Vancouver, WA 98660 (360) 695-5233	2375 E. Camelback Road 5 th Floor, Suite 5122 Phoenix, AZ 85016 (602) 387-5033	712 Grove Place Orchid Island Vero Beach, FL 32963 (802) 462-3483

The WestWater Team:



Clay Landry
Managing Director
landry@waterexchange.com

Clay Landry is the managing director and a principal of WestWater. Mr. Landry has negotiated and advised on major water transactions throughout the United States. In 2007 he managed an auction of municipal effluent water rights which closed at \$67 million in proceeds for a small city in Arizona. This deal was nominated as Water Deal of the Year by GWI. Under Landry's management, WestWater has advised on more than \$600 million in water transactions. In addition, Landry works regularly with private equity and hedge funds in structuring deals and sourcing funds for water development and acquisition projects. Prior to founding WestWater Research, Landry was an associate at the Political Economy Research Center (PERC), a

public policy research institute that specializes in market approaches to natural resource management.

Landry is recognized as a leading authority on water pricing and is routinely called upon as an expert witness by clients such as the IRS, U.S. Department of Interior, Indian tribes, municipal governments and private companies. He has also worked internationally on water-marketing issues in Australia, Brazil, and the United Kingdom. Landry serves as an associate editor for Water Resource Impact, a monthly publication of the American Water Resources Association, and was previously the finance and regulation editor for Global Water Intelligence, an international water industry news magazine published in London, U.K. With a strong commitment to market-based stewardship, Landry helped establish the Montana Water Trust, a private non-profit that buys and leases water rights for stream flow protection. Landry holds a master's degree in agriculture and resource economics from Oregon State University and a bachelor's degree in economics from the University of Wyoming.



Harry Seely, M.S.,
Water Resource Economist and Principal
seely@waterexchange.com

Mr. Seely has fifteen years of experience in agricultural and water resource economic analysis. Over the last decade, Mr. Seely has applied mathematical programming and econometric analysis techniques to estimate the value of water. In addition, he has developed a variety of economic models as part of interdisciplinary teams to assess the regional economic costs and benefits of water quality, development and reallocation projects throughout the West.

In recent analyses, Mr. Seely has developed and utilized market information, simulation models, and econometric techniques to estimate the market value of water for federal and state agencies, nonprofits, and private industry in support of water project development and reallocation activities. Currently, Mr. Seely is developing and utilizing market information, simulation models, and econometric techniques to estimate the economic value of water for federal surface water storage feasibility studies in California. He has conducted market and financial analyses of proposed private water development projects in the southwest as well as numerous water right appraisals in support of water acquisitions for urban and instream flow purposes. In earlier analyses, he developed an economic optimization model to assess the potential benefits to agricultural production in the Yakima Basin from proposed new surface storage facilities and the economic effects associated with restrictions on irrigation drain water discharge from 100,000 irrigated acres in California's Central Valley. He holds a M.S. in natural resource and agricultural economics from Oregon State University and a B.S. in economics from Pacific Lutheran University.





George Dorsey, Principal

dorsey@waterexchange.com

George Dorsey, a principal with WestWater, has more than 25 years of experience in the energy and commodity industries. Mr. Dorsey is the Chief Executive Officer of Edgewood Holdings, LLC. Mr. Dorsey has served in varied senior management roles at Coffeyville Resources, Aquila Energy, Duke Energy, Euro Brokers Incorporated, Associated Metals and Minerals Corporation, Pechiney Ugine Kuhlmann, and Merrill Lynch.

Prior to joining WestWater Research, Dorsey was a senior vice president with Duke Energy as well as a group vice president of Aquila where he directed several international trading programs for energy related products. Mr. Dorsey's industrial experience covers natural gas, oil, petrochemicals, air emission allowances, agricultural chemicals, metals, coal, petroleum coke, and other bulk raw materials. Mr. Dorsey currently serves on the board of directors of WestWater, the board of directors of Traxys, and as an operating advisor to the board of Pegasus Capital partners.



Matt Payne, Associate

payne@waterexchange.com

Matt Payne is an Associate with WestWater Research, and leads our Southwest office in Phoenix. Payne's broad experience includes valuation analyses of water rights and infrastructure for municipalities, investors and law firms. He also frequently performs due diligence support of water asset transactions, and has sourced water investment opportunities. Matt's knowledge of water markets is highlighted in water investment publication *American Water Intelligence*, in which he contributes a monthly column as a water rights analyst.

Matt holds a degree in economics from Colorado College, where he focused on environmental and natural resource economics, and conducted research in the water resources field. Mr. Payne specializes in estimating the value of water assets using econometric analysis techniques. His current projects include publishing two water valuation studies in peer-reviewed journals, and developing the first-ever price index for water rights in the American West. As a service to the industry, Matt frequently presents on water markets at water resources conferences and seminars.



Skye Root, Research Associate

root@waterexchange.com

As a Research Associate at WestWater, Mr. Root assists in the preparation of water right valuation studies and water asset appraisals across the western US. Skye also manages and compiles comparable sales information for specific states by researching and confirming transaction details with administrative agencies and obtaining necessary supporting documentation. Mr. Root has worked with various law firms, municipalities, developers and environmental groups on water supply planning and legal support. Recently, Skye conducted beneficial use analyses in support of potential real estate and water transfers in Washington and Utah. Mr. Root also serves as business correspondent for the water resources publication AWRA Impact.

Prior to WestWater, Mr. Root has played a key role in an international aquatic invasive species project as an Oregon Sea Grant Fellow, and was Research Assistant on a water-energy nexus project for an Oregon consortium. Mr. Root has gained further public perspective while working for the Oregon Department of Water Resources as a policy analyst, and gained private industry perspective as a venture capital analyst for the University Venture Fund. Skye holds a Masters of Public Policy from Oregon State University, with an emphasis in rural and agricultural water policy. He also received a Master's of Business Administration from Oregon State University, graduating with honors and earning a graduate certificate in water conflict and management. Skye holds a BA in Economics from Brigham Young University.



Brian J. Graham, Research Associate

graham@waterexchange.com



As a Research Associate at WestWater Research, Mr. Graham assists in the preparation of water right valuation studies and water asset appraisals across the western United States. Mr. Graham also manages and compiles comparable sales transaction information by researching transaction details with administrative agencies, confirming transaction details with involved parties, and obtaining necessary supporting documentation.

Prior to his work with WestWater Research, Mr. Graham spent 12 years working as an environmental consultant for both nationally recognized consulting companies and smaller, more specialized engineering firms. He is a Registered/Licensed Geologist in the States of Idaho, Oregon, and Washington, and has project experience throughout California, Idaho, Nevada, Oregon, and Washington. Past responsibilities included conducting environmental due diligence for commercial property acquisitions, providing property assessments for land development, and designing and implementing soil and groundwater remediation efforts to comply with State and/or Federal regulations. Mr. Graham graduated with a B.A. in Geology from the University of Colorado Boulder and is currently pursuing a Master of Business Administration degree at the University of Washington in Seattle.

Cory Bolen, GIS Analyst/ Data Manage

bolen@waterexchange.com

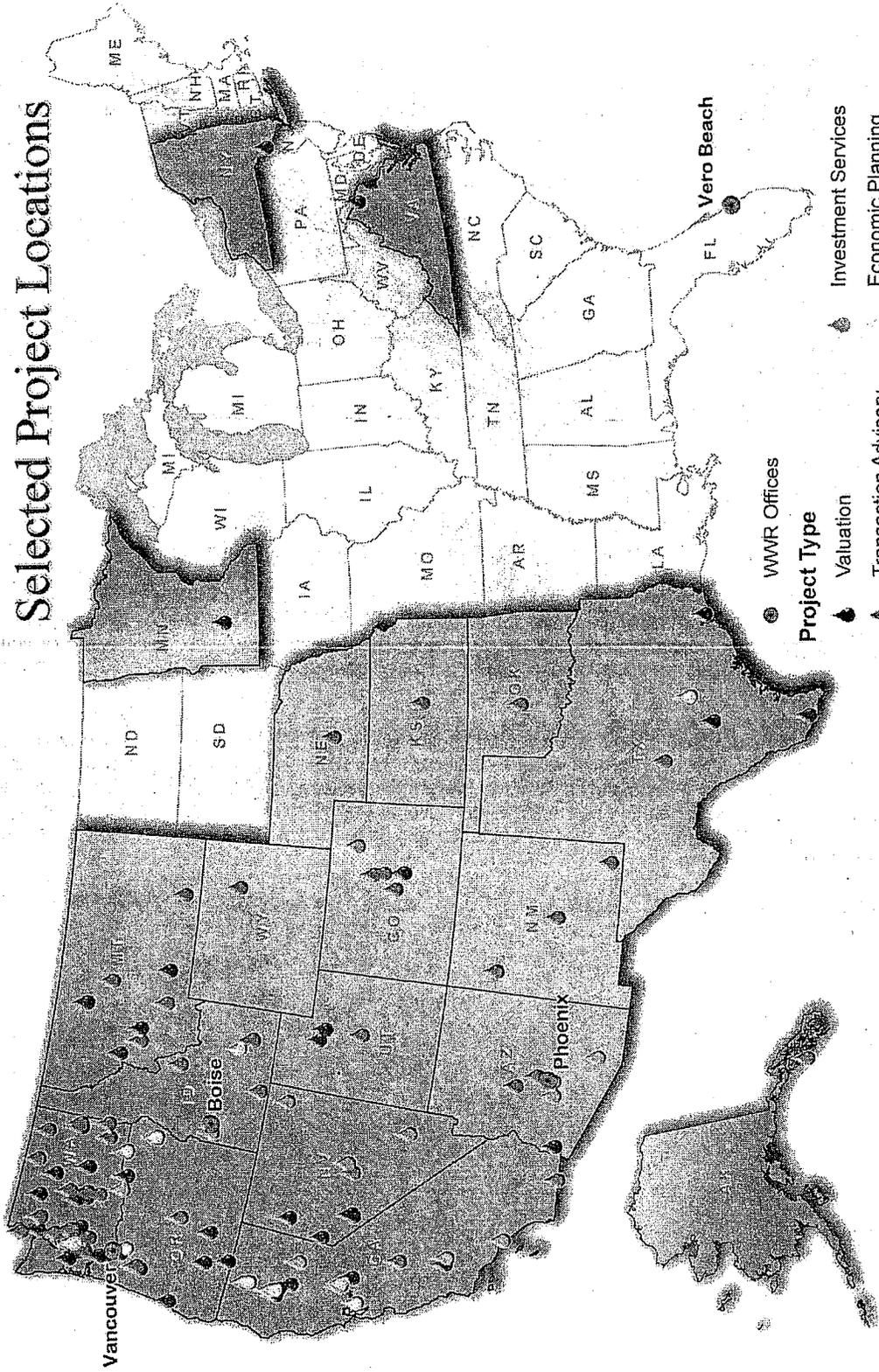


Mr. Bolen has over seven years of experience working with geographic information systems (GIS). Mr. Bolen has applied his GIS skills to the monitoring and inventorying of natural resources, environmental capital permitting and compliance, environmental risk assessment, and industrial environmental remediation. At WestWater, Mr. Bolen manages the GIS program, which requires the management of large spatial datasets, production of various cartographic products, and conducting spatial analyses to aid associates in the research process.

Prior to working at WestWater, Mr. Bolen served as a GIS Analyst for an environmental consulting firm for three years in Colorado. Mr. Bolen began his career in the geospatial industry working for the Bureau of Reclamation's Remote Sensing and Geographic Information Group where he inventoried, mapped and described vegetation communities for National Park Service units across the western United States. Mr. Bolen holds a M.S. in Forest Sciences from Colorado State University, as well as a B.S. in Forest Resources from the University of Idaho.



Selected Project Locations



Representative Project Case Studies:

Water Asset Valuation

Water Asset Portfolio Valuation Analysis

Client: Summit Water Asset Management

WestWater provides an annual valuation analysis for water assets held by Summit Water Asset Management. The portfolio includes a range of complex water rights, ditch company shares and groundwater storage facilities throughout the western United States. WestWater provides an annual valuation of the portfolio by valuing the individual assets. The valuation analysis is used by the fund for year-end account for reporting limited partners.

Project Status: Ongoing

Appraisal Review of Water Rights Held by Colorado Springs Utility

Client: Colorado Springs Home Builders Association

WestWater Research (WestWater) was retained by the Home Builders Association of Colorado Springs to review and provide an opinion on the report prepared by Kevin McCarty of McCarty Land & Water Valuation, Inc. that valued water rights held by the City of Colorado Springs. WestWater's specific task was to review the valuation methodologies McCarty Land & Water Valuation Inc. used in the report and to determine if the methodologies are accepted approaches and were properly employed in valuing the City of Colorado Springs' (City) water rights portfolio.

Project Status: Completed 2010

Transaction Advisory

Due Diligence Support and Valuation of a Groundwater Storage Facility

Client: Goldman Sachs Global Infrastructure Partners

WestWater assisted Goldman in evaluating the investment opportunity by examining the financial, regulatory, market demand and operational performance of the assets held by groundwater storage facility located in the Central Valley of California. The project involved a complex financial analysis of the groundwater ban operations including market demand groundwater banking services, relative market prices for water, the cost of alternative water supplies and competing banking services, the project capacity, availability to state water delivery infrastructure, regulatory and legal risk, and project infrastructure and development costs, among other factors. WestWater developed a financial model that was utilized by the project team to evaluate project risks, financing terms and other operational factors.

Project Status: Completed 2010

Property Development Water Acquisitions

Client: Private Commercial Development Company – Pullman, WA

WestWater developed and implemented an acquisition strategy to acquire 250 acre-feet of water rights for a commercial property development project located near the City of Pullman, WA. The water is used for commercial and domestic needs associated with the development project. WestWater was responsible for identifying prospective water rights, contacting and negotiating transaction terms with water right owners, conducting due diligence and assisting with regulatory approvals to transfer the water right. A portion of the water identified and targeted for the development was already under contract with the Town of Colton, WA. WestWater brokered a deal with the Town of Colton that exchanged 22 acre-feet under contract with Colton for 100 acre-feet from another water right holder. The Town of Colton granted WestWater the 22 acre-feet for use at the development site and WestWater identified and acquired 100 acre-feet as replacement water for the Town of Colton. WestWater also worked with hydro-geologists to create a mitigation plan for the Town of Colton for water use from Union Flat Creek that was acceptable to the Washington Department of Fish and Wildlife and the Washington Department of Health.

Project Status: Completed 2008



Marketing

Town of Prescott Valley Water Credit Auction

Client: Town of Prescott Valley, Arizona

WestWater was hired by the Town of Prescott Valley to promote and implement an auction of 2,274 AF of effluent water credits to help finance the Big Chino Water Importation Project, a \$169 million long-term water supply project. The Town used a creative auction format, structured by WestWater Research, to provide an equitable sales process open to the public; a method to derive a market value from the asset; and the ability to reallocate resources to the highest-valued use. Project tasks involved development of due diligence materials in support of the auction, advertising the auction to local, regional, and national interests, and development of a price floor agreement. The auction attracted considerable interest among national investment buyers because of the unique financial structure of the price floor agreement. The winning bid was \$24,650 per AF, with a total purchase price of \$67 million. The transaction received a 2008 Global Water Award runner up "Water Deal of the Year."

Project Status: Completed 2007

Greenland Ranch Water Rights' Analysis and Marketing

Client: Deepwater Holdings, LLC

In early 2008, WestWater was engaged to market and sell one of the largest blocks of non-tributary groundwater on Colorado's Front Range, 1.456 million-acre feet from the Denver Basin. WestWater created a comprehensive water development plan that detailed out infrastructure requirements, test well procedures, financial returns, and contracting terms with end users. The infrastructure development plan included a \$49 million groundwater well field, plus over 35 miles of pipeline estimated to cost over \$50 million. WestWater also developed potential end users, provided an in-depth market analysis of the region's water markets, and created an asset valuation and pricing analysis. The analysis included an assessment of the marketability, a review of the water supply portfolio of local and municipal water providers, an analysis of the regional water supply and demand forecasts, alternative cost analysis, market absorption rates and price, transaction terms and other details on recent water right transactions within the region. To market the asset to investment buyers, WestWater created and assembled all relevant due diligence documents. WestWater has called upon an extensive array of equity contacts to invest in the project and has managed all discussions and negotiations with potential buyers. Negotiations are still underway with multiple equity investors.

Project Status: Completed

Investment Services

Water Right Acquisition Prospecting

Client: Confidential

WestWater was retained by a private equity fund to identify, develop and source water right investment opportunities throughout the western United States. WestWater has identified more than \$100 million in water investment opportunities including distressed loans collateralized by water rights, undervalued water utilities with large water right holdings, and agricultural water rights.

Project Status: Ongoing

Central Nevada Water Development Due Diligence Analysis

Client: Confidential

WestWater provided a private equity client with due diligence analysis and support related to a proposed water development project located in central Nevada. WestWater conducted the analysis in two phases, initiated with a preliminary review of the operations and documents to identify any immediate fatal flaws that prevent the project from being commercially and financially viable. A more in-depth Phase II due diligence analysis of the property, water rights, market demand and risk, financial performance, management team, legal, regulatory and political risks was to be conducted if no fatal flaws were identified in Phase I. WestWater independently gathered, researched, and analyzed risk factors, market value and other information in Phase I that ultimately determined that the property's water rights development was not viable.

Project Status: Completed 2008



Economic Planning

Eastern Snake Plain Aquifer Management Plan: Economic Analysis

Client: Idaho Department of Water Resources

WestWater provided the Idaho Department of Water Resources (IDWR) with an economic analysis of various water management options identified by the Eastern Snake Plain Aquifer Management Plan Committee. The objective of the economic analysis was to develop information to assist in the selection of a set of water management alternatives designed to improve groundwater levels within the Eastern Snake Plain Aquifer. Overall, IDWR is considering the various tools available to achieve a 600,000 to 900,000 acre-feet per year change in the Eastern Snake Plain water budget. The water management tools being considered included aquifer recharge, new surface water storage, conversion of groundwater users to surface water sources, and leases and purchases of water rights. The economic analysis focused on estimation of the direct costs associated with implementation of a variety of groundwater demand reduction alternatives, including water right leasing and purchasing to reduce withdrawals of groundwater from the aquifer. Examination of the economic tradeoffs of the various water management options provided important information for the State of Idaho that could be refined over time as additional information on the physical effects of the water management options are realized. The economic analysis addressed the likely costs of water in various uses and locations in the Eastern Snake Plain to inform the Committee of the funds necessary to implement the program on various scales. The analysis developed a flexible economic model that could be adjusted to consider changes in the water management options throughout the planning process, identify likely budget requirements, and focus demand reduction efforts on regions with the most cost-effective outcomes.

Project Status: Completed 2008

Expert Witness Experience

WestWater has broad experience providing litigation support involving the valuation of economic losses, impacts on market value, and costs associated with water reallocation and damages to water resources. Legal firms throughout the United States select WestWater to provide expert witness because of our strong reputation, technical expertise and ability to communicate concepts of value on the witness stand. Some recent expert witness projects are provided below:

Year	Case	Client
Ongoing	Third Judicial Court of Summit County, State of Utah Case 920400767. Interstate Income Properties v. Alpine City.	Kirton & McConkie on behalf of Alpine City
Ongoing	275 th Judicial District, Hidalgo County, TX Case C-5798-99-E: Vasquez et al. v. Republic Waste Industries, Inc.	Curran Tomko Tarski LLP on behalf of Republic Waste Industries, Inc.
Ongoing	Third Judicial Court of Summit County, State of Utah Case 010500359: Summit Water Distribution Company, v. Summit County and Mountain Regional Water Company.	Williams & Hunt on behalf of Mountain Regional Water Company
2011	Superior Court of the State of California Case No. T06/2239C: Truckee-Carson Irrigation District v. Sierra Pacific Power Company and Truckee Meadows Water Authority.	Hanson Bridgett on behalf of Truckee-Carson Irrigation District
2009	Condemnation proceedings involving water rights formerly owned by Miller Brewing Company	Graham & Dunn on behalf of Cities of Olympia, Lacey, and Tumwater
2006	BSR Water Company et al. v. The City of San Antonio, As Owner of San Antonio Water System (defendants); District Court, 225th Judicial District, Bexar County, Texas	Akin Gump Strauss Hauer & Feld, LLP. on behalf of San Antonio Water System
2005	Federal Agricultural Mortgage Corporation v. It's a Jungle Out There, a California Corporation, dba Vintage Capital; Robert Lee Hower and Ami Cheri Hower, United States District Court for the Northern District of California, NO. C 0303721	Wild Carey & Fife, P.C.
2005	Boise Cascade Corporation Water Right Donation – Pacific Northwest Region, Internal Review Service Audit	Internal Revenue Service
2005	Excelsior Mining Company request for perfection of mining claim. United States District Court for the Northern District of California	Burns Wall Smith & Mueller, P.C.
2002	Georgetown Lake Homeowners v. Granite County et al., United States District Court for the District of Montana	Josephson and Dringman



Other Selected Project Experience:

Analysis of the Water Market in California's Central Valley and American River Basin

Client: Confidential

A confidential client holds entitlements water supply located north of the Sacramento-San Joaquin Delta. WestWater was retained to evaluate the potential of a water entitlement exchange and develop a preliminary analysis of marketability and value. Through extensive data collection and analysis, WestWater provided an analysis of the proposed American River exchange opportunity. In addition, WestWater assembled water market information for California's Central Valley and advised on viable marketing strategies for excess water entitlements. Marketing opportunities were examined on a regional and seasonal basis using a variety of contractual forms in order to inform the client of the potential risks and returns associated with implementation of different water marketing strategies.

Project Status: Ongoing

Columbia Basin Agricultural Water Value Calculator

Client: National Fish and Wildlife Foundation

WestWater developed an agricultural water valuation model for key counties in the Columbia Basin. The purpose of the model is to provide estimates of value for water acquisition planning associated with instream flow restoration. A user-friendly interface was constructed to allow non-technical users to make changes to key model assumptions. The model will be used by eleven different nonprofit and governmental organizations operating in the Columbia Basin.

Project Status: Ongoing

Columbia Basin Water Economic Consulting Service

Client: National Fish and Wildlife Foundation

WestWater was retained by Bonneville Power Administration and the National Fish and Wildlife Foundation to provide economic and water valuation services to the Columbia Basin Water Transaction Program (CBWTP). Water right valuations and economic analysis are becoming increasingly important to the success of the CBWTP as participants in the program expand their geographic scope, as well as the size and number of transactions. The services that WestWater provides to the program are divided into two categories. The first category includes economic and water valuation policy advisement that provides specific deliverables during the contract period. The second category of services involves water right valuation services that would be provided to the CBWTP as needed on a time and materials basis. To date, WestWater has provided valuation analyses associated

with proposed temporary and long-term split-season leasing agreements, conservation water projects and permanent water right acquisitions.

Project Status: Ongoing

Columbia Basin Water Transactions Program: 2010 Annual Report

Client: National Fish & Wildlife Foundation

WestWater has been retained by the National Fish & Wildlife Foundation (NFWF) to provide a yearly economic analysis and status report for its Columbia Basin Water Transactions Program (CBWTP). WestWater collected comprehensive water right acquisition data to assess the CBWTP's fisheries mitigation efforts and determine regional pricing and transaction trends.

Project Status: Ongoing

Establishment of a Water Pricing Framework in the Upper Klamath Basin

Client: Klamath Basin Rangeland Trust

WestWater was retained by the Klamath Basin Rangeland Trust (KBRT) to develop a water pricing framework to assist with development of a water acquisition program to benefit streamflows in the Wood, Sprague, and Williamson Basins and Upper Klamath Lake. The analysis will be used, in part, to support the Water Use Retirement Program identified in the Klamath Basin Restoration Agreement (KBRA). To complete the project, WestWater is preparing a regional water right valuation analysis in order to provide KBRT with the supporting information and analysis needed to price long-term and permanent transactions for the various classes of water rights that may be pursued under the program. The analysis will include development of an agricultural production model to identify the program's effects on farm and ranch profitability. In addition, WestWater is developing a comparative analysis of other environmental water acquisition programs to establish the pricing framework. Completion of a water pricing analysis will provide KBRT with the information needed to establish an equitable water pricing framework that will promote long-term success of the program and satisfy targets established by the KBRA.

Project Status: Ongoing

Expert Witness, Valuation for Groundwater Contamination Claim

Client: Akin Gump Strauss Hauer & Feld, LLP

Expert witness case in Hidalgo County -- WestWater was retained to serve as an expert witness and provide expert opinion on the valuation methodologies employed by the Defendant's expert in valuing the Plaintiff's water



rights and alleged losses of value to their water rights. WestWater reviewed the report of the Defendant's expert according to accepted water right appraisal standards, and then provided an expert report outlining the extent to which the Defendant's report varied from commonly accepted approaches.

Project Status: Ongoing

Los Vaqueros Reservoir Expansion Investigation

Client: MWH under contract with U.S. Bureau of Reclamation

WestWater is responsible for describing and estimating the economic benefits associated with expansion of the Los Vaqueros Reservoir. WestWater is developing a statistical model of the California water transfer market to value environmental water supplies provided by the investigation alternatives. WestWater is estimating the value of emergency water supplies associated with potential Delta outages through application of urban water demand functions derived from the economic literature. WestWater is also applying a market-based model and an existing model (LCPSIM) to estimate the economic value associated with changes in urban water supply reliability. In addition, WestWater is providing an estimate of the economic value of improvements in water quality to urban users in the San Francisco Bay Area. As part of this project, WestWater has presented information to the Common Assumptions Economic Workgroup and coordinated with Reclamation economists to develop and apply economic approaches consistent with the Principles and Guidelines.

Project Status: Ongoing

Shasta Lake Water Resources Investigation

Client: MWH

WestWater is responsible for identifying appropriate valuation approaches and developing benefit estimates for all benefit categories associated with the project. WestWater is modifying an existing agricultural production model (CVPM) to estimate the value of improved agricultural water supply reliability. In addition, WestWater is applying a market-based model and an existing simulation model (LCPSIM) developed by DWR to estimate the economic value associated with changes in urban water supply reliability. WestWater is also assisting with the development of recreation benefits and ecosystem benefits associated with the investigation alternatives.

Project Status: Ongoing

Water Value Analysis in the Walker River Basin

Client: National Fish and Wildlife Foundation, Pacific Northwest Region

WestWater is preparing an economic and financial analysis of various water leasing and acquisition opportunities in the Walker River Basin, Nevada, for the National Fish and Wildlife Foundation (NFWF). NFWF is directing an effort to reduce agricultural water use in the Basin in support of increased flows to Walker Lake, which has experienced increases in total dissolved solids (TDS) and is threatening the survival of Lahontan

Cutthroat Trout. WestWater has been tasked with assessing the opportunities for lake restoration by promoting alternative (less water intensive) crop production, split-season water leasing, conservation, and permanent water right acquisitions. In addition, WestWater is providing an analysis of pending water right option agreements to assist NFWF in determining whether to execute or revise the existing agreements.

Project Status: Ongoing

Instream Flow Leasing Options on Cottonwood Creek

Client: Kirk Engineering on behalf of Watershed Restoration Coalition of the Upper Clark Fork

The Watershed Restoration Coalition of the Upper Clark Fork is interested in increasing flows in Cottonwood Creek to enhance fish habitat. As part of the stream restoration efforts, the Coalition evaluated hydrological data regarding stream flows, surface to groundwater exchange of Cottonwood Creek, and ditch efficiency data for irrigation ditches diverted from Cottonwood Creek. WestWater was retained by Kirk Engineering to provide an assessment of opportunities for leasing water rights for instream flow. WestWater reviewed and ranked the water rights on Cottonwood Creek, and then evaluated the water rights based on transferability and benefits to the river both in quantity and stretch of the river. WestWater also provided an overview of various forms of instream lease contract types that could be utilized to contract with the existing water users of late season flows in Cottonwood Creek in western Montana. WestWater provided comments to the water rights analysis and instream flow leasing options.

Project Status: Completed 2010

Market Valuation of High Rock Holdings' Market Rights

Client: Platinum Management (NY) LLC

High Rock Holdings is pursuing a water development project that would deliver water to the greater Reno/Sparks area. The project involves changing the agricultural water rights to municipal use and exporting them out of the existing basin to the urban areas 100 miles south of the property. WestWater was retained to assess the transferability and determine a value range for the water rights. WestWater performed an assessment of the marketability of the water rights and also identified fatal flaws and regulatory issues that may inhibit a transfer of water rights and affect both the quantity and timing of a sale. WestWater's review addresses critical issues that could affect the value, future use, marketability and development of the water rights. As part of the valuation analysis, WestWater performed a comparable sales review of ground and surface water sales in the greater Reno/Sparks region. WestWater identified likely buyers in the urban areas and their expected market absorption schedules. Additionally, a distressed sale value of the water rights was identified.

Project Status: Completed 2010



Roberts Creek Water Right Valuation

Client: The Freshwater Trust

The Freshwater Trust (TFT) is pursuing agreements with water right owners in the Upper John Day River Basin to not exercise water rights during periods of critical needs for anadromous, non-anadromous and state sensitive fish species. TFT had been negotiating a permanent water rights agreement with the Jacobs Family to restore flows in Roberts Creek, a tributary to the John Day River. TFT retained WestWater's services to provide a valuation analysis to assist with the completion of the transaction. WestWater employed the Crop Budget approach to estimate the agricultural value of water in its current use by determining irrigation water's contribution to net revenue from agricultural production. WestWater also conducted a thorough statewide review of completed water right transactions and developed a range of value for the proposed transaction.

Project Status: Completed 2010

Valuation Analysis of the McMonigle Water Rights

Client: Foster Pepper

The City of Yelm, Washington, authorized the acquisition of two groundwater certificates and a surface water right from Yelm Creek, appurtenant to the McMonigle property, through a condemnation proceeding. WestWater was retained as an expert to develop an analysis of the historic beneficial use of water and complete an appraisal to estimate fair market value of the subject water rights.

Project Status: Completed 2010

Water Right Market Case Studies

Client: Food and Agriculture Organization of the United Nations, subcontractor to Ecosystem Economics, LLC.

WestWater examined water right market data from California's Central Valley, Colorado's South Platte basin and Nevada's Truckee River basin. Water right trading activity and price trends were analyzed in each of these areas in order to identify market trends and price determinants. The three case study markets were selected in order to highlight the influence of urban development and water conveyance infrastructure on market prices and trading activity.

Project Status: Completed 2010

Appraisal of Hassayampa Recharge Facility

Client: Hassayampa Ventures, LLC

In October 2009, Hassayampa Ventures, LLC purchased the Hassayampa River Recharge Facility within the Phoenix Active Management Area in Arizona. WestWater was retained to appraise the facility for end of year reporting purposes. A Replacement Cost analysis was performed based on the cost of permitting and constructing a new recharge facility of similar capacity. An Income analysis was also developed based on discounted net present value of the future income of the facility. WestWater developed projections of the

facility's future income based on Long Term Storage Credit (LTSC), comparable sales prices and projected market absorption. Using these two valuation approaches, WestWater established the fair market value of the Recharge Facility, including the Facility property, two Underground Storage Facility Permits, and one pending Underground Storage Facility Permit.

Project Status: Completed 2009

Appraisal of Various Colorado Ditch Company Shares

Client: Strategic Water Group

WestWater was retained to assist the Strategic Water Group in due diligence of a collection of ditch company shares in the South Platte Basin. WestWater's primary role was to assess the marketability and value of the shares and develop a preliminary economic feasibility analysis of a proposed pipeline project. WestWater assembled information on ditch company share transactions in the region to determine liquidation value of the assets. In addition, WestWater developed a financial analysis of the proposed pipeline project, including an assessment of the costs of alternative water supply projects in the region.

Project Status: Completed 2009

Valuation of Water Rights for the City of Tumwater, WA

Client: City of Tumwater, WA

WestWater is providing the City of Tumwater with a water right appraisal. Through condemnation, the City of Tumwater is acquiring an irrigation water right to allow a withdrawal of approximately 300 acre-feet. To support negotiation and settlement with the property owner, the city is requesting WestWater to complete an appraisal of the water right through application of a comparable sales analysis. WestWater is working closely with the city's attorneys and engineering staff to identify any regulatory concerns associated with the water right.

Project Status: Completed 2009

Domestic Water Allocation Appraisal

Client: The Methow Conservancy

The Methow Conservancy (Conservancy) was in possession of a domestic water allocation, providing up to 1,000 gallons per day to be used within a domestic water system. The Conservancy was seeking to sell the allocation at an auction and retained WestWater's services to establish a floor price for the asset. In the absence of comparable sales data, WestWater's determination of value was based on an analysis of the costs required to increase water withdrawals from the system by an equivalent amount (1,000 gpd) through the purchase and transfer of an existing water right.

Project Status: Completed 2009



Market Assessment of Quincy Basin Water Right Application

Client: Hanson Industries

Hanson Industries owns a water right application for a permit to use artificially stored groundwater in the Quincy Ground Water Subarea (Quincy Basin) in Grant County, WA. WestWater performed an analysis of the marketability and value of the water right application to assist Hanson Industries in making decisions regarding developing and marketing opportunities for the water right and associated property.

Project Status: Completed 2009

Valuation of the Short Hill Farm Groundwater Rights

Client: Aberdeen, LLC

WestWater was retained to provide an appraisal of the fair market value of the ground water assets associated with Aberdeen, LLC's Short Hill Farm property. In 2009 the Town of Purcellville, Virginia and Aberdeen, LLC reached a purchase and sale agreement for the Short Hill property. The bargain sale transaction required an appraisal of the fair market value for income and gift tax purposes to submit to the Virginia Department on Taxation under the Land Preservation Credit program. The costs to develop an alternative water source of similar quantity and quality to the subject property were identified. These costs were utilized as part of a Replacement Cost analysis to determine the fair market value.

Project Status: Completed 2009

Valuation Analysis of the Fleischman Industrial Water Rights

Client: City of Sumner

The City of Sumner initiated condemnation proceedings of the Fleischmann's Industrial property, including groundwater rights with 1913 and 1926 priority dates, to acquire the property and water rights in support of the Central Well Project. WestWater performed an analysis of comparable sales in the South Puget Sound Region, including Pierce, Thurston, and King Counties, to develop an estimated fair market value of the subject water rights. Sumner requested the appraisal in support of the condemnation proceedings.

Project Status: Completed 2009

Valuation of Spring Water Sources for Retail Bottling Operations

Client: Private Spring Owner

A private spring owner in Northern California holds a pre-1914 water right for approximately 4 cubic feet per second from a combination of the Beaughan Spring, Little Beaughan Spring, and three unnamed springs. The springs produce high quality water which is covered by retail water bottlers. The private spring owner currently leases water for municipal purposes and also leases water to a retail spring water bottler. The private spring owner retained WestWater to assist in re-negotiating the terms of the retail bottler's lease contract, or permanently selling the spring water right. WestWater

developed a detailed analysis of recent market transactions involving spring water rights acquired or leased for water bottling purposes. WestWater also analyzed the important considerations in determining spring water values, including source quality and suitability for bottling purposes. WestWater determined the expected price range for a re-negotiated lease or sale of the spring water rights.

Project Status: Completed 2009

Valuation of Suncadia and Snowden Water Rights

Client: Washington State Department of Transportation

The Washington State Department of Transportation (WSDOT) required water rights in the Upper Yakima Basin in order to withdraw water from Keechelus Lake to support a six year road construction project on Interstate 90 in Kittitas County. WSDOT was exploring two opportunities to acquire water rights to support the project and requested two separate valuation analyses from WestWater in order to support decision-making and negotiations. WestWater developed two self-contained appraisal reports evaluating the value and potential risk associated with the two water right acquisition opportunities. WSDOT used the reports to successfully negotiate an agreement that will satisfy the water requirements of the I-90 project.

Project Status: Completed 2009

Valuation of Water Supplied from Donner Lake (TCID)

Client: Hanson Bridgett

The Truckee-Carson Irrigation District (TCID) filed a complaint against Sierra Pacific Power Company and Truckee Meadows Water Authority (TMWA) over the use of water stored in Donner Lake, California. TMWA's change in water management of water stored in Donner Lake diminished the amount of Donner Lake water available to TCID in violation of the 1943 Donner Lake Operating Agreement. WestWater was retained by Hanson Bridgett as an expert witness on behalf of TCID in order to provide an analysis of the value of Donner Lake water. The analysis also considered the value that the stored water contributed towards TCID's obligation to add water to Pyramid Lake.

Project Status: Completed 2009

Manastash Creek Subbasin Surface Water Rights Valuation

Client: Washington Rivers Conservancy, WA

WestWater provided the Washington Rivers Conservancy with a valuation of water rights. Several agencies and organizations were considering acquisition of agricultural water rights as one of a number of alternatives to improve conditions for salmonids in Manastash Creek. To facilitate this effort, the group requested the completion of a water right valuation analysis. WestWater established a value for the various classes of water rights to Manastash Creek in order to guide future purchase decisions.

Project Status: Completed 2008

Market Value Analysis for State Water Project Table A Entitlements

Client: Ducks Unlimited, CA

WestWater provided Ducks Unlimited with relevant water market information to support negotiations for the purchase of 3,000 to 5,000 acre-feet of State Water Project Table A entitlements from the Berrenda Mesa Water District. WestWater provided a range of market prices for the Table A entitlements and included a description of the transfer process and associated costs. Ducks Unlimited intends to transfer the water entitlement to the Kern National Wildlife Refuge.

Project Status: Completed 2008

Pierce County Water Rights Review and Valuation

Client: Pierce County Public Works and Utilities, WA

WestWater provided Pierce County Public Works and Utilities an appraisal of two groundwater rights that were acquired from the former Lone Star Gravel mining site in 1992. The purchase included land as well as several water rights and wells. Pierce County is considering opportunities to enter into a long-term lease of the water right to regional municipal water purveyors in order to support perfection of the right prior to 2013. WestWater provided Pierce County an assessment of market conditions and potential water buyers in the region, and established a relevant range of value based upon comparable water right sales. In addition to water right sales information, a survey of wholesale water contracts was completed to address the cost of the most likely alternative water sources in the region.

Project Status: Completed 2008

Valuation of Port Leasing Rates and Negotiation Advisory Services

Client: Invenergy LLC

WestWater was hired by Invenergy LLC, the owner of the Satsop Combustion Turbine Project located in Grays Harbor, Washington, to evaluate regional water leasing rates and develop a negotiation strategy. Invenergy was evaluating a lease for 9.5 cfs of water supply for the Satsop power plant. The first phase involves the development of market information on water costs to commercial and industrial users in the region. WestWater spoke with potential water suppliers and analyzed the region's water availability and supply options. The regional market analysis was used in a comparison to the proposed contract provided by the current water supplier. Based on this information, WestWater developed a negotiation strategy which allowed Invenergy to obtain a lower lease rate for water supply.

Project Status: Completed 2008

Water Neutral Framework

Client: Keiser and Associates

WestWater teamed with Keiser & Associates and Environmental Banc and Exchange to develop a framework for voluntary water offsets. The analysis drew upon each company's respective expertise in water right, wetland, and water quality markets to identify the market structures that can be used for development of a water offsets program. The analysis drew important distinctions between regulated and voluntary markets and their ability to achieve environmental goals or outcomes. The market analysis provided information to allow the client to begin establishing a framework to support a water offsets program.

Project Status: Completed 2008

Appraisal of Former Olympia Brewery Water Rights

Client: Graham & Dunn

WestWater provided the cities of Lacey, Olympia, and Tumwater with an estimate of market value of water rights associated with the former Olympia Brewery facility. The cities initiated co-condemnation proceedings of the water rights in 2006 and requested the appraisal in support of those proceedings. Currently, the cities are examining the feasibility of acquiring the water rights as part of a bankruptcy settlement of assets held by All American Water Bottling Company. The estimated value for the water rights is intended to be used to support a purchase offer by the cities to acquire the water rights for municipal use.

Project Status: Completed 2007

Birch Creek Water Valuation Analysis

Client: Blackfeet Tribe

The Blackfeet Tribes are negotiating appropriate payments to mitigate for non-tribal use of water originating from Birch Creek as part of a settlement agreement with the State of Montana and the United States regarding federally reserved water right claims on the Blackfeet Indian Reservation. WestWater was retained to provide a preliminary estimate of value for 20,000 acre-feet of water originating in Birch Creek so as to assist in establishing appropriate financial compensation for non-tribal water use. WestWater used a Land Price Differential analysis involving 141 recent agricultural land sales in Pondera and Teton counties to develop the preliminary market value estimate.

Project Status: Completed 2007

Development of a Water Transactions Program in the Scott River Basin

Client: Siskiyou County RCD

Stakeholders in the Scott River Water Basin are in the process of developing a program to improve instream flows in the Scott River Valley for the benefit of threatened anadromous fish species. Currently, the program seeks to increase instream flows by compensating agricultural producers willing to forgo



irrigation for part of the summer. To help establish fair compensation for willing participants, WestWater Research developed an analysis describing instream flow water acquisitions in other Pacific Northwest locations to inform stakeholders about the range of water values and transaction terms. In addition, the analysis established an estimated range of water values for three representative agricultural water uses in the Scott River Valley using several economic valuation approaches including development of an economic agricultural production model. The valuation framework is currently being used to support negotiations with agricultural water uses and inform funding allocation among available projects and funding requests.

Project Status: Completed 2007

Valuation of Water Rights Held by International Paper Co.

Client: International Paper, Gardiner, OR

The purpose of the project was to provide International Paper Company with an estimated fair market value of water rights associated with a decommissioned facility. The analysis included a regional demand assessment to identify marketability of the rights and two independent valuation analyses to establish a value estimate.

Project Status: Completed 2007

Valuation of Agricultural Water Use in the Lostine River Basin

Client: Oregon Water Trust, OR

WestWater conducted a water valuation analysis for water diverted from the Lostine River for production of grain and forage crops. WestWater worked with local irrigators to develop an economic model to assess the contribution of late-season water diversions to farm profits. The model incorporated information on typical farm management practices, crop market information, and crop yield response to water and farm size, among other factors. The final product was a user-friendly model that allowed the Oregon Water Trust and irrigators to evaluate the economic costs and benefits of various water management alternatives designed to meet the instream flow needs of endangered fish species.

Project Status: Completed in 2007

Valuation of Late-Season Agricultural Water Use in the Shasta River Basin

Client: The Nature Conservancy

The Nature Conservancy is working with local irrigators in the Shasta River Basin to identify water management alternatives to improve instream flows in the Shasta River to benefit fish and to ensure continued viability of farming and ranching in the region. As one component of the effort, local agricultural leaders and The Nature Conservancy asked WestWater Research to identify the relevant range of values for water used for irrigation in the basin for the purpose of assisting with identification of appropriate program structures and compensation for participating agricultural producers. To complete the analysis, WestWater worked with local irrigators and

University of California experts to develop a crop production budget-based model that allows for user input to reflect different crop types, farm sizes, hydrologic conditions and water right priorities. The analysis focused on the development of a late-season water leasing program to increase flows and reduce water temperatures for migrating salmon. The model is currently being used to balance the impacts of reductions in irrigation on the local farm economy with the water requirements of fish in the Shasta River.

Project Status: Completed 2006

Hudson Bay Improvement Company Water Valuation

Client: Columbia Basin Water Transactions Program

WestWater conducted an economic evaluation of a water conservation project completed by the Hudson Bay Improvement Company in order to establish the market value of water added to the Walla Walla River by the project. A portion of the conserved water is being proposed for acquisition by the Columbia Basin Water Transactions Program in order to augment instream flows to assist with fish passage.

Project Status: Completed 2006

Valuation of Water Rights Held By the Clark Fork and Blackfoot LLC

Client: Clark Fork and Blackfoot LLC, MT

WestWater conducted a valuation of several hydroelectric water rights to divert water from Clark Fork and Blackfoot Rivers, Montana. The analysis considered the market implications of both the non-consumptive and consumptive portions of the rights. In addition, the analysis considered a comparable sales and cost replacement approach to determine the market value of the water rights.

Project Status: Completed 2005

Water Monetization Strategy for Distressed Asset of Steel Company

Client: Private Equity Investor

WestWater developed a monetization strategy for Geneva Steel's water assets. Geneva Steel held 66 water rights in the State of Utah totaling over 80,000 AF of water. The water rights were part of an asset liquidation strategy. WestWater identified and packaged opportunities for both on- and off-site uses for the water rights using both permanent sale and leasing contractual arrangements. A private equity firm purchased the company's debt and required Geneva to liquidate the water assets according to WestWater's monetization strategy. Some of the water rights were sold to the Central Utah Water Conservancy District in May 2005 for \$88.5 million, with some additional water rights sold for \$14 million to Summit Vineyard, LLC, which has used them to support a power plant.

Project Status: Completed 2005



Water Banking in the United States: Review and Comparison to Determine Options for Salmon Recovery Program in Washington

Client: Washington Department of Ecology, Olympia, WA

WestWater's report "Analysis of Water Banking in the Western States" provides an analysis of water banking legislation, policies and programs in 12 Western States. A primary purpose of the review is to identify banking programs and structures that promote and enhance water supply reliability, provide drought planning and satisfy environmental needs. The analysis examines each state individually, beginning with the legislative history of the development of the banking programs. In addition, the review provides a detailed description of banking rules and level of activity. The review of water banking programs includes the characteristics that influence program participation and an assessment of program pricing structures and transaction contracts. The analysis generated a set of questions that should be addressed, and guidelines to consider, when establishing a water bank. The states WestWater reviewed are Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Texas, Utah, Washington and Wyoming.

Project Status: Completed 2004





Main
805 W. Idaho St., Suite 310
Boise, ID 83702
(208) 433-0255

West Coast
1104 Main St., Suite 510
Vancouver, WA 98660
(360) 695-5233

Southwest
2375 E. Camelback, Suite 5122
Phoenix, AZ 85016
(602) 387-5033

East Coast
712 Grove Place, Orchid Island
Vero Beach, FL 32963
(802) 462-3483

November 10, 2011

Tom Hellen
Public Works Director, City Engineer
City of Hailey
115 Main Street South, Ste. H
City of Hailey, ID 83333

RE: Engagement Letter for Professional Services – Quigley Canyon Water Rights Appraisal

Dear Mr. Hellen:

I am pleased to submit for your consideration this proposed engagement agreement ("Agreement"), pursuant to which the City of Hailey, Idaho ("City of Hailey") will engage WestWater Research, LLC ("WestWater") to perform a valuation of the water right associated with Quigley Creek Ranch annexation and development proposal and Quigley Canyon Water Right. This letter confirms and outlines our engagement agreement to provide City of Hailey with WestWater's services.

The terms of the engagement agreement include:

1. **Scope of Services:** WestWater will complete a fully self-contained valuation report of the Quigley Water Right. It is anticipated that the appraisal will utilize two valuation methods. A detailed scope of services to be provided is set forth in Appendix B hereto. All other services beyond the initial scope of work will be provided on an as-needed, as-directed basis from the City of Hailey.
2. **Project Budget and Hourly Rates:** All services and expenses will be billed based on the attached rate schedule provided in Appendix A. The costs for delivery of the appraisal report shall not exceed \$17,500. All other consulting services will be provided on an as-needed, as-directed basis based on the attached hourly rate schedule.
3. **Project Related Expenses:** In addition to professional fees stated in item 3 above, City of Hailey shall pay all project-related expenses. Any expenses over One Thousand Dollars (\$1000) must be pre-approved in writing by City of Hailey. City of Hailey shall pay any such pre-approved and any other expenses listed on invoices within state invoice terms. Presentation of receipts and other appropriate supporting documents can be provided on request.
4. **Monthly Payments:** WestWater Research will submit a monthly invoice of time and expenses to the City of Hailey. Any invoice must list each employee's or agent's hours, and itemize expenses. Upon request, a detailed summary of duties and activities can be provided. Payment shall be considered timely if made by City of Hailey within thirty (30) days after receipt of the invoice. Payments not made within forty-five (45) days of the billing date shall bear interest at the rate of 1% per month.
5. **Third Party Fees:** The compensation set forth in the above paragraphs does not include any expenses associated with legal, engineering or technical analysis that may be required by a third party to complete valuation analysis requested by City of Hailey. WestWater will consult with City of Hailey prior to engaging a third party subcontractor for services and obtain written agreement by City of Hailey. All expenses for third parties subcontractor engaged by WestWater will be billed with a fifteen (15) percent administrative fee.

6. **Term of Services:** The term of this Agreement will be for 12 months beginning on the date of acceptance by City of Hailey. The draft report will be provided within the timeline provided in the scope of work described in Appendix B. The term of services may be extended if mutually agreeable by both parties. Notwithstanding the foregoing, City of Hailey may terminate this Agreement with or without cause upon thirty (30) days' written notice to WestWater. Upon such termination, City of Hailey shall pay WestWater for all services, project related expenses and approved third party fees incurred by WestWater prior to the termination.

7. **Confidentiality:** WestWater will treat all information received from City of Hailey as proprietary and confidential and will not disclose such information to any person or entity unless specifically consented to by City of Hailey or as required by law. All confidential or proprietary information obtained during the term of this Agreement shall be used solely in furtherance of the goals of this contract and for no other purpose. Upon completion or earlier termination of this Agreement, any information received by WestWater in written or electronic form pursuant to this Agreement will be returned to the person that provided it.

1 **No Conflict of Interest:** WestWater warrants that, to the best of WestWater's knowledge, the performance of its obligations hereunder will not conflict with any duty or obligation it owes to any other person or entity and that, during the term of this Agreement, WestWater will not accept work, enter into a contract, or accept an obligation that is inconsistent or incompatible with WestWater's obligations to City of Hailey hereunder.

8. **Miscellaneous:**

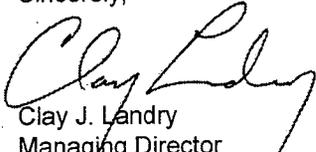
- a. This Agreement shall binding upon and inure to the benefit of the parties hereto and their respective successors, and assigns, provided, however, that this Agreement may not be assigned by either party without prior written consent of the other party.
- b. All notices or other communication required or permitted hereunder shall be in writing and (a) delivered personally or (b) mailed by registered or certified mail or sent by nationally recognized express courier. Email notification in writing or by facsimile signature will be considered acceptable if both parties agree to this condition.
- c. Nothing herein expressed or implied is intended or shall be construed to confer upon or give to any person or entity other than the parties hereto and their successors or permitted assigns any rights or remedies under or by reason of this Agreement.
- d. The relationship created by this Agreement shall be that of independent contractor, and WestWater shall have no authority to bind or act as agent of City of Hailey or its employees for any purpose.
- e. WestWater will not use Williamson in any commercial advertisement or similar material used to promote or sell products unless it obtains in advance the written consent of City of Hailey.
- f. This Agreement, including the Appendices hereto, contains the entire understanding of the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings and arrangements. There are no restrictions, representations, warranties, covenants, obligations or undertakings of the parties hereto except those expressly set forth herein.
- g. If any provision of this Agreement shall be held by any court to be unenforceable for any reason, such unenforceability shall have no effect upon or impair the enforceability of any other provision. If the unenforceability of such provision is because of the breadth of its scope, its duration, or the geographical area covered thereby, then the parties hereto shall jointly request the court to reduce the breadth, duration, or area of such provision so that, in its reduced form, it shall be enforceable.



- h. This Agreement shall be governed by and construed and enforced in accordance with the laws of Idaho without reference to the conflict of laws or principles thereof.

Your satisfaction is important to WestWater. Our objective is to meet and exceed your expectations for professional services, quality, and responsiveness. If we fall short of your expectations, please contact me immediately.

Sincerely,



Clay J. Landry
Managing Director

Acceptance of Engagement Agreement for Professional Services

The foregoing terms and conditions are hereby accepted.

Dated this _____ day of _____, 2011

Company: _____

Signature: _____

Printed Name: _____

Title: _____

Appendix A

2011 Professional Service Rates and Fees Schedule

Personnel	Hourly Rate
Managing Director	\$250
Principals	\$190
Sr. Associates and Transaction Managers	\$135 - \$150
Associates	\$85 - \$105
Data Management and GIS Technician	\$80
Administrative and Support Staff	\$60

- Expert witness rates are billed at \$275 per hour with a minimum of 8 hours per day of engagement.

2011 Project Related Expenses

Expense	Description
Airfare	Actual expense based on economy class ticket for most direct route and economical carrier based on availability with seven (7) day minimum advance purchase.
Hotels	Actual rates based on standard single room.
Rental Car	Actual rates based on standard midsize car.
Mileage	Fifty-five cents (\$0.55) per mile.
Data	Actual cost plus a 15% administrative fee.
Reproduction	Actual costs.
Other Expenses	Other standard and customary expenses such as word processing, computer time, business-related telephone, taxis, delivery charges or incidentals will be fully reimbursed at cost.
Subcontractor Fee	Administrative management fee of 15% on subcontractor work managed by WestWater.



Appendix B

Scope of Work

WestWater Research will develop an estimate of value for the water rights. The following describes some of the key tasks required to complete the valuation.

- **Kick-off Meeting and Site Inspection:** WestWater will meet with the City of Hailey and Hennessy Company to further discuss project goals, objectives and valuation approach. WestWater will provide a draft final scope and timeline prior to the kick-off meeting. This meeting will be scheduled to coincide with a site visit, if feasible.
- **Description of the Assets:** Existing documentation in the water right files will be utilized to prepare a brief legal and physical description of the water rights. WestWater recognizes other consultants on the project have compiled much of this information. Maps describing the water rights will be developed showing the current location, diversion points and place of use. GIS layers of the water rights will be obtained from the client or other sources that may be available.
- **Water Right Assessment:** Additional factors specific to water and the subject water rights will be considered when assessing market value. Water right attributes such as the transferability and reliability of source, conveyance or use restrictions, as well as the nature of the proposed transaction, can significantly influence price. WestWater will consider the following elements as pertaining to the subject water rights in order to establish an estimate of market value:
 - ♦ **Water Right Transferability:** Water markets are limited by the ability to transport water from one area to another. It is necessary to examine the transferability of a water right to determine its market area and potential new uses. WestWater will evaluate transferability constraints for the water rights to determine how any regulatory, contractual or physical constraints on use could impact price and valuation.
 - ♦ **Water Reliability:** The seniority and reliability of the water rights and underlying water source has particular importance in the region because it determines the likelihood that water will be available for use under drought conditions. WestWater Research will verify and document the availability of water associated with the rights to determine if any adjustments for reliability are warranted.
 - ♦ **Water Availability:** Water prices tend to be lower in areas where alternative water supplies are available to meet existing demands. In contrast, water prices are higher in regions that have little water available to support new uses. The availability of alternative supplies in the region will be considered in order to balance information regarding water right marketability.
 - ♦ **Transaction Size:** Evidence from areas with developed water markets indicate that transactions involving large quantities of water sell for less on a per unit basis than small water sales because transaction costs are spread over a larger volume of water.
- **Regional Water Supply and Demand Conditions:** A review of regional water supply and demand conditions will be conducted to assess the marketability of the subject water rights. The water supply and demand assessment is necessary for developing and identifying the highest and best use for the subject water rights and to determine the likely market absorption period. The assessment typically includes a review of surface and groundwater supplies, existing water rights and regional water demand projections. Pending water right applications will also be considered to gage potential demand.



- **Asset Valuation:** Generally, WestWater utilizes two or more independent valuation approaches when estimating the market value of water rights and water assets. This is particularly important in regions with a limited number of comparable sales or for transactions with unique terms or water rights. The selection of appropriate valuation techniques is determined by the characteristics and nature of the subject water rights and the general terms of the proposed transaction. WestWater Research will determine appropriate valuation methods after the initial scoping meeting and site inspection. The water valuation approaches commonly used include:
 - ♦ **Sales Comparison Approach:** This method involves comparing the subject water rights with similar water rights that have been sold or leased. Sufficient sales data is required to make accurate comparisons. In addition, contingent sales and sales that do not represent "arms-length" transactions should be excluded from the comparison. WestWater maintains a database of water right sales and leases in Idaho with transaction terms. This is the preferred valuation approach when sufficient transactional information is available; however, it is anticipated that there will be limited comparable sales relevant to the subject water rights. Therefore, a second valuation method will likely be utilized to support the sales comparison approach.
 - ♦ **Land Price Differential Approach:** This method compares sale prices of agricultural land with water rights to land without water rights. The differential between the two prices represents the value that can be attributed to the water rights. The method requires information on recent land sales and is typically used by real estate appraisers conducting water rights appraisals. WestWater has found this approach to be particularly reliable in areas with limited water right trading and a large agricultural land base. We have tested this approach in areas with active trading and found that it produces similar values to those estimated by the comparable sales approach. However, the approach is data and time intensive.
 - ♦ **Income Capitalization/ Discounted Cash Flow Approach:** This approach is used when there is a revenue stream associated with a water asset. The net present value of the annual revenue generated from the water is calculated to estimate the current market value of the underlying asset. This method, primarily used for estimating the current use value of water, involves determining water's contribution to the net revenue. WestWater has successfully applied this approach in valuing and estimating the net present value of long term water lease agreements. The selected discount rate when capitalizing the future revenue streams will have a significant impact on the overall value of the asset. Therefore, WestWater generally conducts sensitivity analysis to develop a value range when utilizing this approach.
 - ♦ **Replacement Cost Approach:** This approach involves estimating the least-cost alternative to develop a water supply similar to the one offered by the water rights under consideration. Alternatively, the analysis can involve determining the costs of capital improvements necessary to maintain production at the level prior to transfer of the water.
- **Final Opinion of Value:** A final opinion of value for the water rights will be determined based upon the results of the selected valuation techniques. Estimates of value from the selected valuation techniques will be reconciled into one overall value or a range of values. Additional factors that may influence value will be considered and incorporated by adjusting the estimated value range. WestWater Research recommends a range of values, rather than one specific dollar figure. This provides a greater degree of flexibility for negotiating the final purchase and sale price. Furthermore, it does not overstate the level of accuracy in estimating market value. In general, most water markets are relatively new and thinly traded, and as a result, suffer from large price dispersion. Given the development of most water markets, WestWater Research believes that the level of accuracy is limited to a range rather than a



point estimate. Further, estimates of value will be reported according to price per acre-foot as well as total value. It should be recognized however that the transferable volume of water associated with a particular water right is uncertain prior to regulatory approval and may be higher or lower than estimated in the valuation analysis.

Project Work Schedule:

Pending approval, WestWater will immediately begin work on the appraisal and provide a draft report within 5-6 weeks of commencement of the project. The entire project is expected to take 6-8 weeks to complete. WestWater Research recognizes time is of the essences and will agree to expedite the project as necessary. A kickoff meeting and site visit of the water rights and the surrounding area will be conducted as soon as possible.

Proposed Project Timeline for Full Appraisal

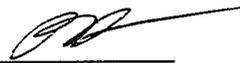
Tasks	Week 1	Week 2	Week 3	Week 4	Week 5	Week 6	Week 7
Task 1 – Kickoff Meeting	█						
Task 2 – Site Inspection	█	█					
Task 3 – Water Right Review & Assessment		█	█				
Task 4 – Regional Water Supply & Demand		█	█	█			
Task 5 – Water Rights Valuation		█	█	█	█		
Task 6 – Draft Report					█	█	
Task 7 – Final Report							█

Deliverables:

The deliverables associated with this analysis include:

- An electronic draft of the valuation report submitted to the City and Hennessy Company for review within 5-6 weeks of a formal notice to conduct the valuation.
- Two copies of a final valuation report submitted within 1-2 weeks following receipt of comments on the draft report.
- Two copies of an appendix to the valuation report providing specific detail on data and methods used in the analysis, maps and photos of the subject water rights, and any other supporting documentation.

AGENDA ITEM SUMMARY

DATE: 11/14/11 DEPARTMENT: PW/Police DEPT. HEAD SIGNATURE: 

SUBJECT: Use of the Wastewater Treatment Plant property for storage of towed cars by Advanced Towing through October 31, 2012 *Resolution 2011-45*

AUTHORITY: ID Code _____ IAR _____ City Ordinance/Code _____
(IF APPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

Use of the Wastewater Treatment Plant property for storage of towed vehicles began in 2009 as a time saving measure during snow removal. At that time the location of Advanced Towing's storage lot changed from in Hailey to Glendale Rd. This meant a longer trip time and a reduction in how many vehicles could be removed during snowplowing times. This process has worked extremely well in aiding our snowplowing work resulting in better performance including less time spent reploving streets.

Roger Parker, Wastewater Superintendent, has no complaints about this activity and it causes no additional work on his part. Police Chief Gunter agrees that this arrangement is a time saver for his department. An attempt was made to quantify whether this arrangement is financially beneficial to the City of Hailey but addressing time savings during a snow event is difficult at best. Using a charge per vehicle was also considered. This would require extra duties of city personnel to track and report the number of vehicles on a monthly basis, invoicing and possible follow-up.

A copy of the agreement recommended to be renewed is attached.

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS: Caselle # _____
Budget Line Item # _____ YTD Line Item Balance \$ _____
Estimated Hours Spent to Date: _____ Estimated Completion Date: _____
Staff Contact: Tom Hellen Phone # 788-9830 Ext 14
Comments:

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)

____ City Attorney ____ Clerk / Finance Director ____ Engineer ____ Building
____ Library ____ Planning ____ Fire Dept. ____
____ Safety Committee ____ P & Z Commission ____ Police ____
____ Streets ____ Public Works, Parks ____ Mayor ____

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Motion to approve Resolution 2011-46, authorizing an extension through October 31, 2012 of towing and impound contract with Advanced Towing to allow vehicles which are towed by direction of city officials to be stored at the Woodside Wastewater Treatment plant in exchange for a fee from the towing company of \$100/month.

ADMINISTRATIVE COMMENTS/APPROVAL:

City Administrator _____ Dept. Head Attend Meeting (circle one) Yes No

ACTION OF THE CITY COUNCIL:

Date _____

City Clerk _____

FOLLOW-UP:

*Ord./Res./Agmt./Order Originals: Record
Copies (all info.): _____
Instrument # _____

*Additional/Exceptional Originals to: _____
Copies (AIS only)

Draft 12-30-03

**CITY OF HAILEY
RESOLUTION NO. 2011-45**

**RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF HAILEY TO
AUTHORIZE A LEASE AGREEMENT FOR TOWED VEHICLE STORAGE FROM
ADVANCED TOWING AND RECOVERY ENTERPRISES, INC.**

WHEREAS, the City of Hailey desires to accept a lease agreement from Advanced Towing and Recovery Enterprises, Inc. for towing and storage of vehicles at the Wastewater Treatment Plant property through October 31, 2012 and authorizing the City to enter into a contract for the amount of \$1,200.00.

WHEREAS, the City of Hailey and Advanced Towing and Recovery Enterprises, Inc. have agreed to the terms and conditions of the Contract for Services, a copy of which is attached hereto.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HAILEY, IDAHO, that the City of Hailey approves the Contract for Services between the City of Hailey and Advanced Towing and Recovery Enterprises, Inc. and that the Mayor is authorized to execute the attached Agreement.

Passed this 14th day of November, 2011

City of Hailey

Richard L. Davis, Mayor

ATTEST:

Mary Cone, City Clerk

TOWED VEHICLE STORAGE LEASE AGREEMENT

THIS TOWED VEHICLE STORAGE LEASE AGREEMENT ("Agreement") is made and entered into this _____ day of November, 2011 by and between CAMPEAU ENTERPRISES, INC., an Idaho corporation, dba ADVANCED TOWING AND RECOVERY ("Lessee") and CITY OF HAILEY, a municipal corporation ("Lessor").

The parties hereto covenant and agree as follows:

1. LEASED PREMISES. Lessor hereby leases to Lessee and Lessee hereby leases from Lessor, the following described premises: Sewer Plant in South Woodside, Hailey, Idaho ("Leased Premises").
2. USE OF PREMISES. The Leased Premises may be used and occupied by Lessee only for storage of towed vehicles and for no other purpose or purposes without Lessor's prior written consent. Lessee shall store towed vehicles in areas designated by Lessor on the Leased Premises and shall be allowed access to any stored towed vehicles. Only Lessee and Lessee's employees and agents shall be allowed to access the Leased Premises for the sole purpose of storing and removing the stored towed vehicles. Lessee's access to the Leased Premises is limited to the area of storage of the towed vehicles and to the most direct access route to the stored towed vehicles.
3. LEASE TERM. The term of this Lease shall commence on November 1, 2010, and expire at midnight on October 31, 2012 ("Lease Term").
4. RENTAL. On or before the first day of every month after the Effective Date, Lessee shall pay to Lessor as minimum rent for the Leased Premises during the Basic Term, without offset or deduction, the sum of Two-hundred Dollars (\$200.00) per month, regardless whether Lessee uses the Leased Premises. Lessor shall not be responsible for collection of charges from owners of towed vehicles. A towed vehicle may only be stored for a maximum of thirty (30) days, at which time Lessee is responsible to remove the towed vehicle from the Leased Premises.
5. INSURANCE. During the Lease Term, Lessee shall, at its own expense, maintain in full force, comprehensive liability insurance, including public liability and property damage of the Lessee, written by a responsible insurance company licensed to do business in Idaho, insuring against liability for claims of damage because of injury to persons and property and for death of any person or persons occurring in or about the Leased Premises. Such policy shall provide insurance against property damage in an amount not less than \$1,000,000.00 and bodily injury with limits of not less \$1,000,000.00 per person and \$2,000,000.00 total for each occurrence; provided, however, the minimum limits of insurance as set forth herein shall be automatically increased at any time the liability limits of Hailey are increased pursuant to the Idaho Tort Claims Act (*Idaho Code* §§ 6-901 *et seq.*). Such insurance shall be noncancellable except upon thirty (30) days prior written notice to Lessor. Lessee shall also secure and maintain at least the statutory amounts of automobile liability insurance for all vehicles accessing the Leased Premises

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and worker's compensation in accordance with the laws of the State of Idaho. Upon request by Lessor, the Lessee shall provide Lessor evidence of acceptable insurance.

6. LESSOR'S ACCESS TO LEASED PREMISES. Lessor and its designees shall have the right to enter the Leased Premises at all reasonable hours, and in emergencies at all times, (a) to inspect the Leased Premises, (b) to make repairs, additions or alterations to the Leased Premises, and (c) for any lawful purpose.

7. EXCULPATORY CLAUSES.

7.1. Exemption of Lessor from Liability. Lessor shall not be liable to Lessee or to any other person whomsoever for any injury or damage to person or property related to towed vehicle storage occurring within or about the Leased Premises unless caused by or resulting from the negligence of the Lessor or any of the Lessor's agents, servants or employees in the operation or maintenance of the Leased Premises. Lessor shall not be liable in damages or otherwise for failure to furnish, or any interruption of service of any water, gas, electricity, telephone, or other utility caused by fire, accident, riot, strike, labor disputes, acts of God, the making of any repairs or improvements, or causes beyond the control of Lessor.

7.2. Indemnification. Lessee agrees to indemnify, defend and save Lessor harmless from and against any and all claims arising out of any act or omission or negligence of Lessee related to towed vehicle storage, its contractors, licensees, agents, servants, or employees or arising from any accident, injury, or damage whatsoever caused by any person or property occurring in or about the Leased Premises or any part thereof, from and against all costs, expenses, and liabilities incurred in connection with any such claim or proceeding brought thereon. Lessee shall have the duty to appear and defend any such demand, claim, suit or action on behalf of Lessor, without cost or expense to Lessor.

8. NOTICES. All notices, statements, demands, requests, consents, approvals, authorizations, offers, agreements, appointments, or designations under this Lease by either party or the other shall be in writing and shall be sufficiently given and served upon the other party, if sent by certified mail, return receipt requested, postage prepaid, and addressed

to the Lessor at:

Advanced Towing and Recovery
P O Box 1094
Ketchum, ID 83340

or to the Lessee at:

City of Hailey
115 Main Street South, Suite H
Hailey, Idaho 83333

or to such other address as Lessor or Lessee may from time to time designate by notice to the other, which shall then become a new address of the party who shall give such notice.

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9. HOLDING OVER AND SURRENDER.

9.1. Effect of Holding Over. If Lessee should remain in possession of the Leased Premises after the expiration of the Lease Term with the consent of Lessor and without executing a new Lease, then such holding over shall be construed as tenancy at will, subject to all conditions, provisions, and obligations of this Lease insofar as the same are applicable to a tenancy at will.

9.2. Obligations of Lessee on Surrender. On the last day or sooner termination of the Lease Term, Lessee shall quit and surrender the Leased Premises, in good condition and repair (reasonable wear and tear, and damage by act of God excepted), together with all alterations, additions, and improvements that may have been made in, to, or on the Leased Premises.

10. MISCELLANEOUS PROVISIONS.

10.1. Integrated Agreement. This Agreement contains all of the agreements and conditions made between the parties to this Lease and may not be modified orally or in any other manner than by an agreement in writing signed by all parties to this Agreement or their respective successors in interest.

10.2. Time of Essence. Time is of the essence of each term and provision of this Agreement.

10.3. Successors and Assigns. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors, and assigns of Lessor and Lessee.

10.4. Governing Law. This Agreement, the rights, privileges, interests, and immunities of the parties, the obligations, duties, and performances of the parties, the enforcement of this Agreement and the several covenants, conditions, and agreements hereof and any and all disputes that may arise between the parties shall be governed exclusively by the provisions of this Agreement and by the laws of the State of Idaho.

10.5. Attorney's Fees. In the event of any dispute with regard to the interpretation or enforcement of this Agreement, the prevailing party shall be entitled to recover its reasonable costs and attorneys' fees incurred therein, whether or not a lawsuit is actually filed, and on any appeals, and in any bankruptcy proceeding.

10.6. Authority. Each signatory agrees that he or she has full authority and consent to sign this Agreement.

10.7. Severability. The invalidity or illegality of any provision shall not affect the remainder of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed the foregoing Towed Vehicle Storage Lease Agreement the day and year first above written.

LESSEE:

CAMPEAU ENTERPRISES, INC., dba
ADVANCED TOWING AND RECOVERY

Clayton Campeau, its president

LESSOR:

CITY OF HAILEY

By _____
Richard L. Davis
Mayor

ATTEST:

By _____
Mary Cone, City Clerk

