

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of The Empire)
District Electric Company d/b/a Liberty and White)
River Valley Electric Cooperative for Approval of)
the Second Amendment to their Sixth Territorial) **File No. EO-2022-0132**
Agreement, as amended, Designating the)
Boundaries of Exclusive Service Areas of Each)
Applicant Within the Rainbow Shoals Subdivision)
in Taney County, Missouri)

ORDER DIRECTING NOTICE, SETTING INTERVENTION DEADLINE, AND DIRECTING STAFF RECOMMENDATION

Issue Date: November 16, 2021

Effective Date: November 16, 2021

On November 10, 2021, The Empire District Electric Company d/b/a Liberty (“Liberty”) and White River Valley Electric Cooperative (“White River”) (collectively, “Applicants”), filed a Joint Application for approval of an amendment to their written territorial agreement designating the boundaries of an exclusive service area. They ask the Commission to approve their Second Amendment to their Sixth Territorial Agreement (“Agreement”) pursuant to 20 CSR 4240-2.060, 20 CSR 4240-3.130 and Sections 394.312 and 416.041, RSMo. On November 12, the Applicants jointly filed a *Request for Waiver of Notice*, requesting waiver of notice required by 20 CSR 4240-4.017, pursuant to 20 CSR 4240-4.017(D).

The proposed Agreement concerns a service area within the Rainbow Shoals subdivision in Taney County, Missouri. Subject to the terms of the Agreement, the Applicants state that they have agreed to a boundary change affecting several parcels of land within the Rainbow Shoals subdivision, which is described in Article 3 of the Agreement. They state that the purpose of the Agreement is to establish separate

exclusive service territory for White River for more orderly future development of electric service to the public, considering existing White River facilities within the location of the parcels identified.

The law requires the Commission to rule on an application no later than 120 days from the application's filing date,¹ and provides the right to a hearing.² The right to a hearing on a territorial agreement signifies a contested case.³ A contested case is a formal hearing procedure, but it allows for waiver of procedural formalities⁴ and a decision without a hearing,⁵ including by stipulation and agreement.⁶ This notice does not require any party to file an answer.⁷ The Commission's rules of discovery are set forth at 20 CSR 4240-2.090.

The Commission will order notice to elected officials and to the news media, and will set a deadline for intervention and direct the filing of a staff recommendation.

THE COMMISSION ORDERS THAT:

1. The Commission's Data Center shall send a copy of this order and the *Joint Application* to the County Commission of Taney County, Missouri.
2. The Commission's Public Information Office shall make notice of this order available to the members of the General Assembly representing Taney County, Missouri, and to the newspapers serving that county.
3. Applications to intervene shall be filed no later than December 1, 2021.

¹ Section 394.312.4, RSMo 2016.

² Section 394.312.5, RSMo 2016.

³ Section 536.010(4), RSMo 2016.

⁴ Sections 536.060(3) and 536.063(3), RSMo 2016.

⁵ Sections 536.060, RSMo 2016.

⁶ Section 394.312.5, RSMo 2016; 20 CSR 4240-2.115.

⁷ Section 536.067(2)(d), RSMo 2016.

4. The Commission's Staff shall file a recommendation regarding the *Joint Application* no later than December 16, 2021.

5. This Order shall be effective when issued.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff". The signature is written in a cursive, flowing style.

Morris L. Woodruff
Secretary

Ross Keeling, Regulatory Law Judge,
by delegation of authority pursuant to
Section 386.240, RSMo 2016.

Dated at Jefferson City, Missouri,
on this 16th day of November, 2021.

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Application of The)
Empire District Electric Company and)
White River Valley Electric Cooperative)
for Approval of the Second Amendment)
to their Sixth Territorial Agreement, as)
amended, Designating the Boundaries)
of Exclusive Service Areas for Each)
Applicant within the Rainbow Shoals)
Subdivision in Taney County, Missouri)

File No. _____

JOINT APPLICATION

COME NOW The Empire District Electric Company d/b/a Liberty ("Empire") and White River Valley Electric Cooperative ("White River") (collectively, "Applicants"), by and through their respective counsel, and for their Joint Application to the Missouri Public Service Commission (the "Commission"), pursuant to 20 CSR 4240-2.060, 20 CSR 4240-3.130, and RSMo. §394.312 and §416.041, for an order approving Applicants' Second Amendment to their Sixth Territorial Agreement ("Agreement"), respectfully state as follows:

The Applicants

1. Empire is a Kansas corporation with its principal office and place of business at 602 Joplin Street, Joplin, Missouri, 64801. Empire is engaged in the business of providing electrical utility services in Missouri to customers in its service areas. Empire is an "electrical corporation" and a "public utility," as defined in RSMo. §386.020, and Empire is subject to the jurisdiction and supervision of the Commission as provided by law. Empire has a wholly owned subsidiary that is a "gas corporation."

2. Empire has no pending or final unsatisfied judgments or decisions against it from any state or federal agency or court that involve customer service or rates and that have occurred within the three years immediately preceding the filing of this Application. Empire has no overdue Commission annual reports or assessment fees. Empire's documents of incorporation have been previously filed with the Commission in Case No. EF-94-39 and said documents are incorporated herein by reference in accordance with 20 CSR 4240-2.060(1)(G). A Certificate of Authority from the Missouri Secretary of State to the effect that Empire, a foreign corporation, is duly authorized to do business in the State of Missouri was filed with the Commission in Case No. EM-2000-369 and is incorporated herein by reference.

3. White River is a rural electric cooperative organized and existing pursuant to the laws of the State of Missouri and has its principal office on East Highway 76, Branson, Missouri. It is a Chapter 394 rural electric cooperative corporation engaged in the distribution of electric energy and service to its members within certain Missouri counties, namely Christian, Douglas, Ozark, Stone, and Taney.

4. White River has no pending or final judgments or decisions against it from any state or federal agency or court which involve its customer service or rates within the three years immediately preceding the filing of this Application. A copy of a Certificate of Good Standing from the Office of the Missouri Secretary of State for White River was filed in Commission Case No. EO-2004-0246 and is incorporated herein by reference.

Correspondence and Communication

5. Correspondence, communications, orders, and decisions in regard to this

Application should be directed to:

Diana Carter, #50527
Liberty Utilities (Central Region)
Director of Legal Services
602 S Joplin Ave, Joplin, MO 64802
P: 417-626-5976
E: Diana.Carter@libertyutilities.com

Christiaan D. Horton, #46003
Carnahan Evans PC
2805 S. Ingram Mill Rd.
Springfield, MO 65804
P: 417-447-4400
F: 417-447-4401
E: chorton@cecb.com

The Territorial Agreement

6. **The Service Areas.** Subject to the terms and conditions of the Second Amendment to the Sixth Territorial Agreement between White River Valley Electric Cooperative and The Empire District Electric Company (the "Agreement"), the Applicants have specifically designated the boundaries of an exclusive electric service area within the Rainbow Shoals subdivision in Taney County in Southwest Missouri, which area is more particularly described in Article 3 of the Agreement. This subdivision is platted with identified lots and legal descriptions as depicted the Appendix attached to the original Sixth Territorial Agreement dated October 14, 2008 and filed and approved by the Commission by Order issued June 10, 2009 (EO-2009-0284). Applicants have attached a copy of the Second Amendment to the Sixth Territorial Agreement to this Application as **Appendix A**, which is incorporated by reference into this Application and

made a part hereof for all purposes. As required by 20 CSR 4240-3.130(1)(A), a metes and bounds description of the exclusive service area has been filed with the Sixth Territorial Agreement and maps depicting the service areas identified in the Second Amendment to the Sixth Territorial Agreement are a part of the Agreement and are incorporated by reference into this Application and made part hereof for all purposes. Within the service area identified in the Agreement, White River will serve Rainbow Shoals subdivision Lots 1A, 2A, and Lots 5 and 6 of Block A; along with Lots 1-12 of Block C as identified by Rainbow Shoals Plat No. 1 (Exhibits A1-A2 to Agreement). The Agreement establishes separate exclusive service territory for White River in this portion of the Rainbow Shoals subdivision for more orderly future development of electric service to the public, considering existing White River facilities within location of the Lots identified above. Each Applicant will continue to have service responsibilities beyond the boundaries of the Agreement unaffected by the terms of the Second Amendment to the Sixth Territorial Agreement.

7. **No Changes of Suppliers.** The Agreement does not require transfer of any facilities or customers between the Applicants, so no list of structures and persons whose utility service would be changed by the Agreement, as required by 20 CSR 4240-3.130(1)(E), is included.

8. **Authority.** Empire has not included with this Application an "illustrative tariff" reflecting proposed changes to its certification, as required by 20 CSR 4240-3.130(1)(C), since there will be no changes in the present boundaries of its certificated area as a result of this proceeding.

9. **Other Electric Suppliers.** To Applicants' knowledge and belief there are no other electric suppliers serving in the areas covered by this Agreement.

10. **Public Interest.** The Agreement is not detrimental to the public interest and the proposed change in electric service area designation is in the public interest, because the Agreement establishes exclusive service obligations for new structures as between the Applicants in the described area. This will prevent future duplication of electric service facilities and will allow the Applicants to avail themselves of prior investment and planning for serving the public.

Application Fee

11. The Commission's filing fee required by 20 CSR 4240-3.130(3) is submitted with the filing of this Application. Pursuant to agreement, the Commission's filing fee is being split between the Applicants.

WHEREFORE, Applicants respectfully request that the Commission issue its report and order: (a) finding that the designation of electric service area is not detrimental to the public interest and approving the Applicants' Second Amendment to the Sixth Territorial Agreement; and (b) authorizing Applicants to perform in accordance with the terms and conditions of the Agreement.

ATTORNEY FOR THE EMPIRE
DISTRICT ELECTRIC COMPANY
D/B/A LIBERTY:

/s/ Diana C. Carter
Diana C. Carter, MBE #50527
The Empire District Electric Company
Director of Legal Services – Central Region
428 E. Capitol Ave., Suite 303
Jefferson City, Missouri 65101
Joplin Office Phone: (417) 626-5976
Cell Phone: (573) 289-1961
E:Diana.Carter@libertyutilities.com

ATTORNEY FOR WHITE RIVER
VALLEY ELECTRIC COOPERATIVE


Christian D. Horton, MBE #46003
Carnahan Evans PC
2805 S. Ingram Mill Road
Springfield, Missouri 65804
T: 417-447-4400
F: 417-447-4401
E: Chorton@cecb.com

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was served upon:

Missouri Public Service Comm'n
Staff Counsel Department
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
staffcounsel@psc.mo.gov

Office of the Public Counsel
200 Madison Street, Suite 650
PO Box 2230
Jefferson City, MO 65102
opcserice@opc.mo.gov


By email and/or enclosing same in envelopes addressed to the attorneys of record of said parties at their business addresses as disclosed in the case filings of record, with first class postage fully prepaid, and by depositing same in a U.S. Post Office mail box in Springfield, Missouri on the 10th day of November, 2021

/s/ Christiaan D. Horton
Christiaan D. Horton, MBE #46003
Carnahan Evans PC
2805 S. Ingram Mill Rd.
Springfield, MO 65804
E-mail: chorton@cecb.com

VERIFICATION

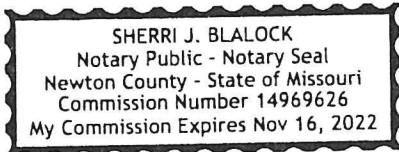
STATE OF MISSOURI)
) ss
COUNTY OF _____)

Being first duly sworn, Tim Wilson states as follows: that s/he is the Vice President of The Empire District Electric Company and that he has read the foregoing application and the facts and allegations contained therein are true and correct to the best of his knowledge, information and belief.

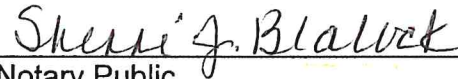


Tim Wilson, Vice-President
The Empire District Electric Company

Subscribed and sworn to before me this 10 day of November, 2021.



[stamp above]




Notary Public

Sherri J. Blalock
Name Printed

VERIFICATION

STATE OF MISSOURI)
) ss
COUNTY OF TANEY)

Being first duly sworn, Jenny Whorton states that she is the President of White River Valley Electric Cooperative and that she has read the foregoing application and the facts and allegations contained therein are true and correct to the best of her knowledge, information and belief and that the law firm of Carnahan Evans PC is authorized by White River Valley Electric Cooperative to make this filing and represent White River in this matter.



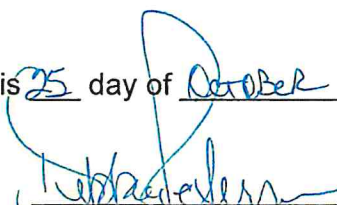
Jenny Whorton, President
White River Valley Elec. Cooperative

Subscribed and sworn to before me this 25 day of October, 2021.



DEBBIE PETERSON
My Commission Expires
November 26, 2022
Taney County
Commission #14487034

[stamp above]



Notary Public



Name Printed

Second Amendment to the Sixth Territorial Agreement

This Second Amendment to the Sixth Territorial Agreement between White River Valley Electric Cooperative ("White River") and The Empire District Electric Company ("Empire") is entered into this 25th day of OCT., 2021. White River and Empire are collectively referred to as the "Parties" herein.

WHEREAS, White River and Empire filed a Joint Application with the Missouri Public Service Commission ("PSC") seeking approval of their Sixth Territorial Agreement on the 3rd day of February, 2009; and

WHEREAS, shortly thereafter, the Parties filed their First Amendment to the Sixth Territorial Agreement to clarify the Exclusive Service Area of White River by eliminating a specific lot in Lake Taneycomo Acres, subdivision that was previously referenced therein;

WHEREAS, the Parties now seek to amend the Exclusive Service Area of White River as originally and subsequently amended in the Sixth Territorial Agreement in an exchange of territory so existing facilities can better serve the lots under development in this portion of the Rainbow Shoals subdivision;

WHEREAS, the Parties are the only electric service suppliers in this contemplated territory, and the re-definition of White River's exclusive service area under the Sixth Territorial Agreement will minimize duplication of facilities, allow customers to know with certainty who their provider will be and allow the applicants to appropriately invest in and plan for serving the public in this territory;

NOW THEREFORE, the Parties hereto agree to amend the Sixth Territorial Agreement as set forth below:

AGREEMENT

Article 3 of the Sixth Territorial Agreement shall be amended to read as follows:

The Exclusive Service Area of White River shall be those portions of Taney County, Missouri outside Empire's territory under this Agreement and as identified in Exhibits A1 and A2 of this Agreement. White River may serve within municipalities that are located in White River's exclusive service area, pursuant to this Agreement. Exhibits A1 and A2 referred to in this Article shall be incorporated herein by reference and made a part of this Agreement as if fully set out verbatim.

The Exhibit Index of the Sixth Territorial Agreement (page 13 of 13) shall be amended to read as follows:

EXHIBITS A1-A2

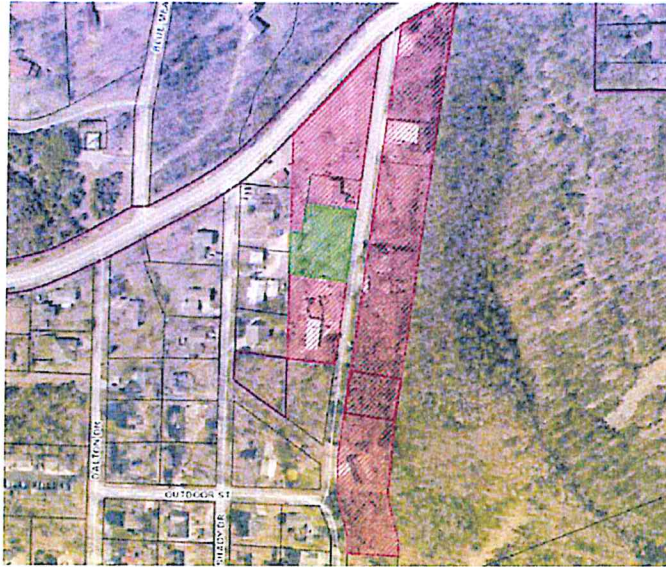
EXCLUSIVE SERVICE AREA OF WHITE RIVER

A1 – Lots 1A, 2A, and Lots 5 and 6 of Block A; Lots 1 – 12 of Block C Rainbow Shoals – No 1

A2 – The "Sanctuary" – South Hollister

APPENDIX A
TO
SECOND AMENDMENT
TO SIXTH TERRITORIAL
AGREEMENT

AERIAL MAP OF EXHIBIT A1 TERRITORY



Purple = White River Green = Empire

All other provisions of the Sixth Territorial Agreement shall remain in full force and effect as set forth in the Sixth Territorial Agreement on file with the PSC in Commission Case No. EO-2009-0284.

IN WITNESS WHEREOF, the Parties have executed this Second Amendment to the Sixth Territorial Agreement as evidenced by the signature of their duly authorized representatives as of the date set forth on the first page hereof.

WHITE RIVER VALLEY ELECTRIC COOPERATIVE

By: *Senny Whorton*

Senny Whorton
Name printed

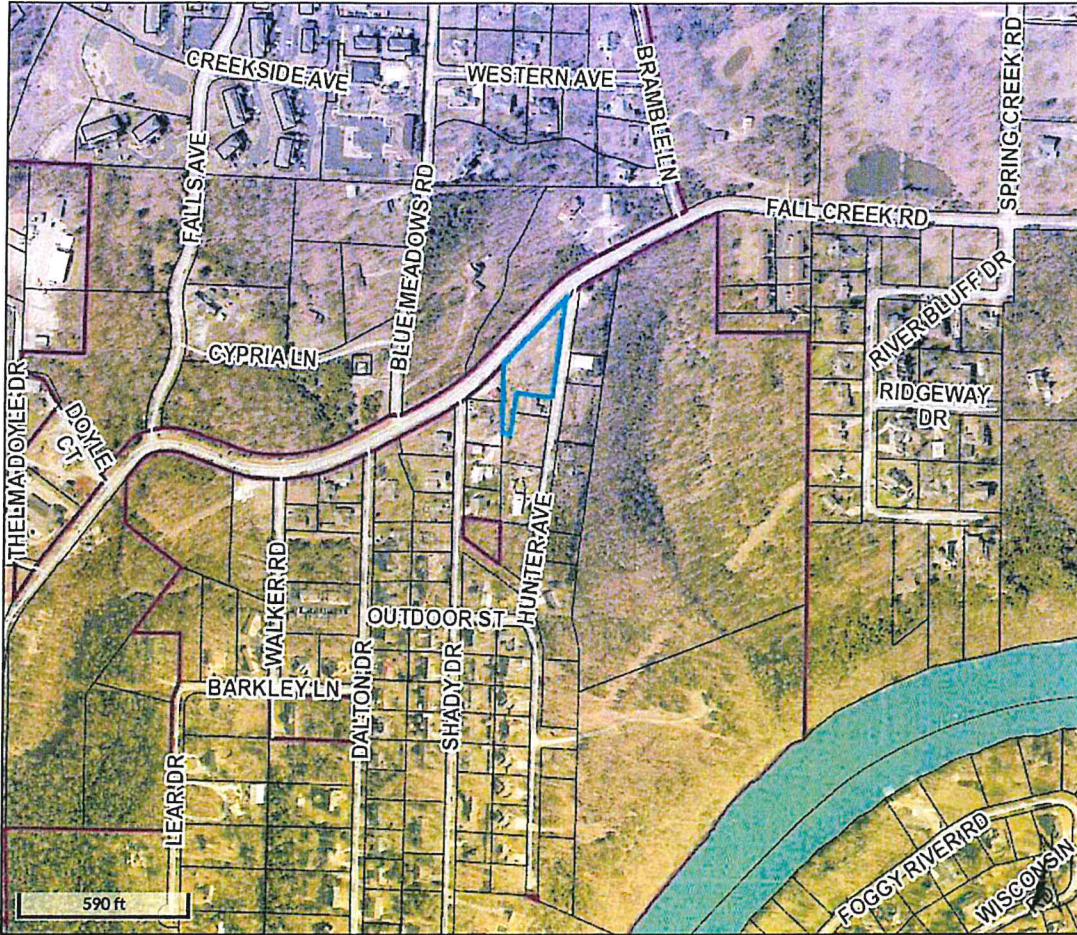
Its: *President*

THE EMPIRE DISTRICT ELECTRIC COMPANY

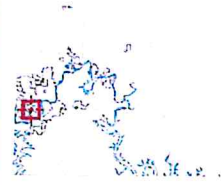
By: *[Signature]*

Tim Wilson
Name Printed

Its: *VP*



Overview



Legend

- Parcels
- Roads
- Lakes
- Corporate Limits

Parcel ID	18-10-12-003-003-001.000	Alternate ID	n/a	Owner Address	PECK JERRY & ALMA
Sec/Twp/Rng	12-22-22	Class	n/a		PO BOX 4072
Property Address	202 HUNTER AVE	Acreage	n/a		POPLAR BLUFF, MO 63902
District	4CXB				
Brief Tax Description	RAINBOW SHOALS - NO 1 RAINBOW SHOALS - NO 1 LT 1A BLKA AMD PLAT LTS 1 T				
	(Note: Not to be used on legal documents)				

Date created: 8/4/2021
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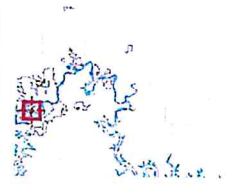
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 GEOSPATIAL

Lots 1A-2A
 5, 6
 Block "A"





Overview



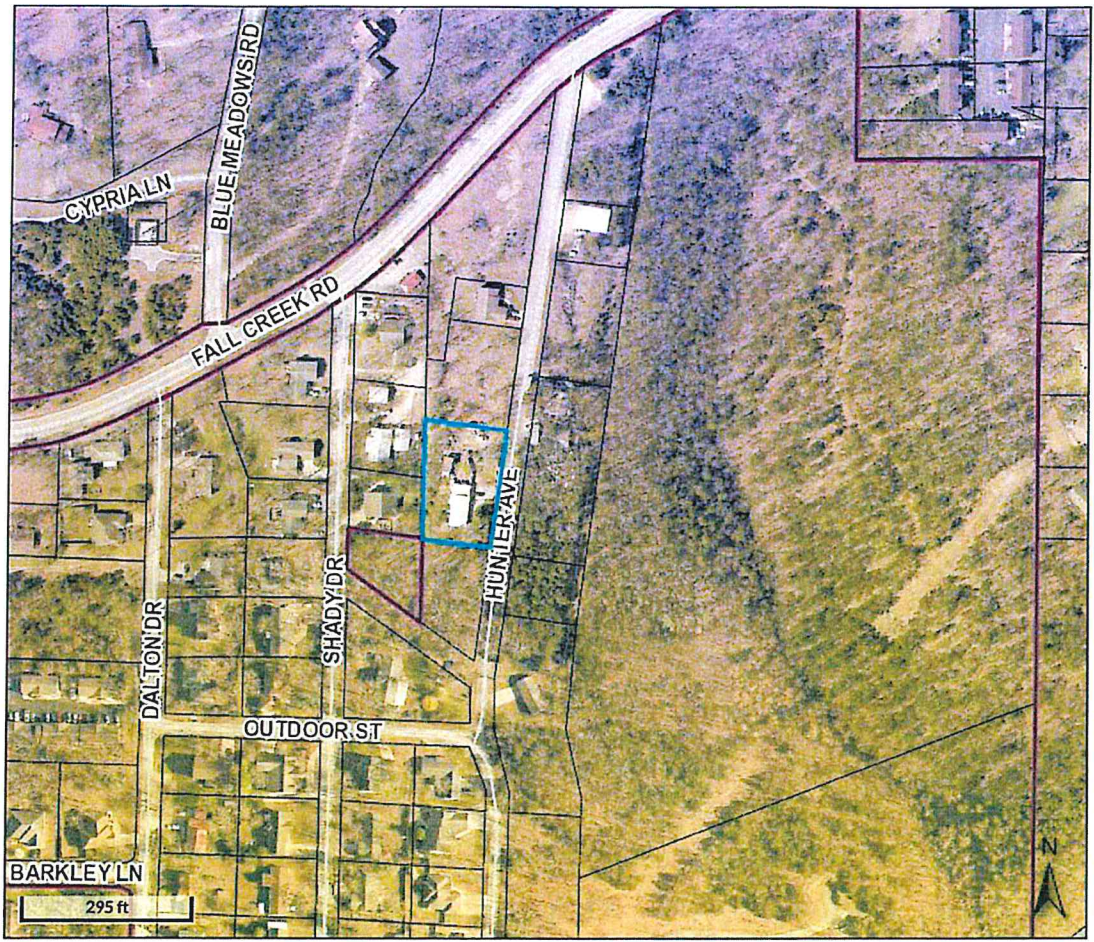
Legend

-  Parcels
-  Roads
-  Lakes
-  Corporate Limits

Parcel ID	18-10-12-003-003-001.001	Alternate ID	n/a	Owner Address	RODERMAN MARVIN W & DEBORAH J
Sec/Twp/Rng	12-22-22	Class	n/a		202 HUNTER AVE
Property Address		Acreage	n/a		BRANSON, MO 65616-
District	4CXB				
Brief Tax Description	RAINBOW SHOALS - NO 1 RAINBOW SHOALS - NO 1LT2A BLKA AMD PLAT LTS 1T (Note: Not to be used on legal documents)				

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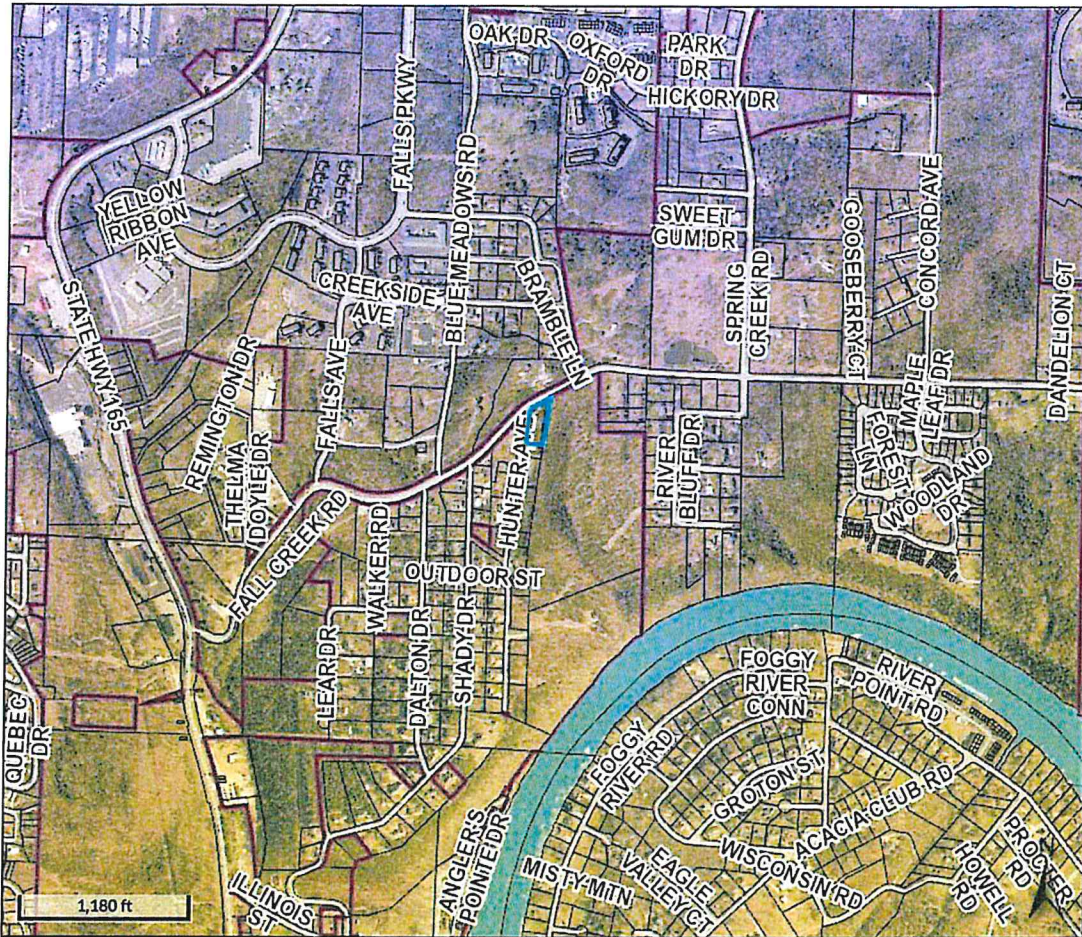
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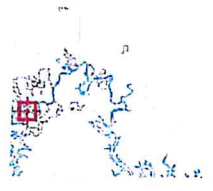
- Legend
- Parcels
 - Roads
 - Lakes
 - Corporate Limits

Parcel ID	18-10-12-003-003-002.000	Alternate ID	n/a	Owner Address	KEIPER DEBORAH L & JOSEPH S
Sec/Twp/Rng	12-22-22	Class	n/a		246 HUNTER AVE
Property Address	246 HUNTER AVE	Acreage	n/a		BRANSON, MO 65616-8656
District	4CXB				
Brief Tax Description	RAINBOW SHOALS - NO 1 RAINBOW SHOALS - NO 1 LTS 5 & 6 BLK A CITY OF BRAN				
	(Note: Not to be used on legal documents)				

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Overview



Legend

- Parcels
- Roads
- Lakes
- Corporate Limits

Parcel ID	18-10-12-003-001-028.000	Alternate ID	n/a	Owner Address	HORN FAMILY TRUST & JAMES W & MARTHA BLUE 1/2 INT
Sec/Twp/Rng	12-22-22	Class	n/a		877 LAMBETH RD
Property Address	HUNTER AVE	Acreege	n/a		BILLINGS, MO 65610
District	4CXB				
Brief Tax Description	RAINBOW SHOALS - NO 1 RAINBOW SHOALS - NO 1 LTS 1, 2 & 3 BLK C CITY OF B				
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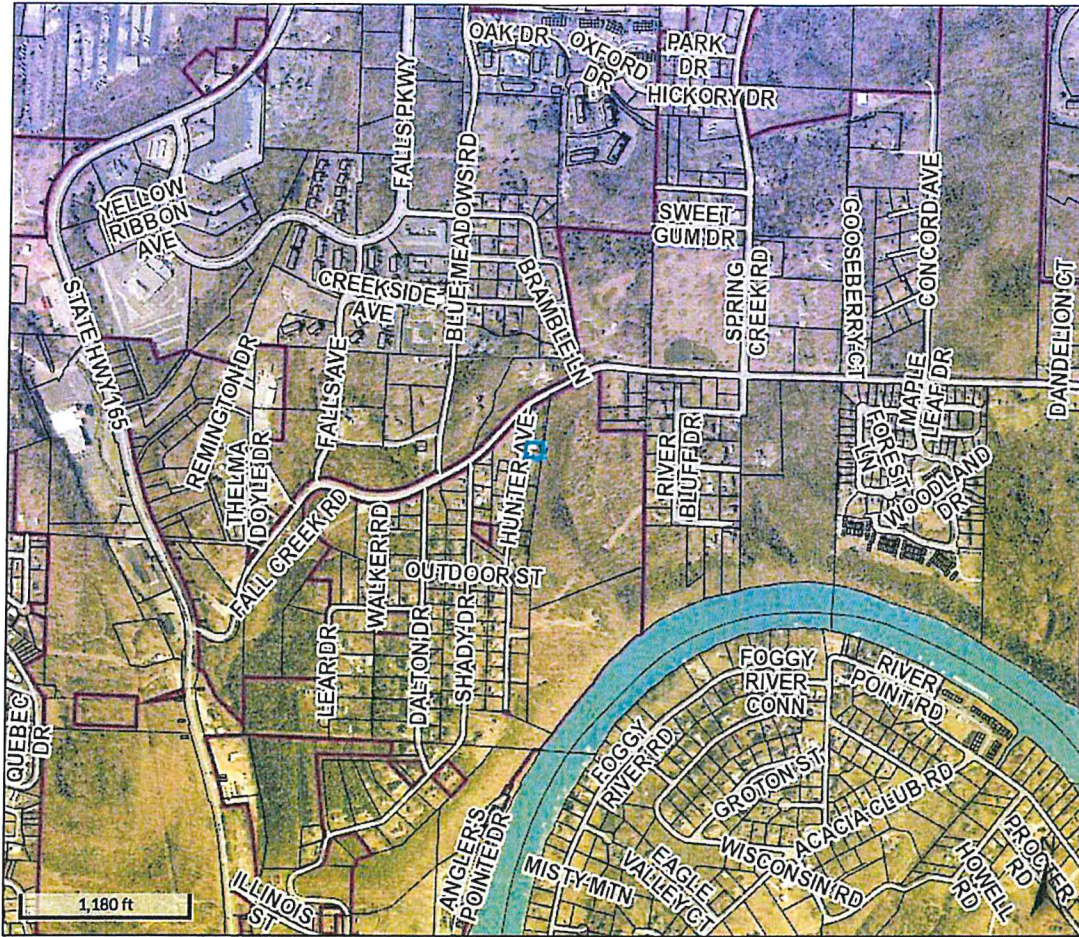
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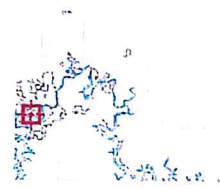
LOTS 1-12
 BLOCK "C"

EXHIBIT

A-2



Overview



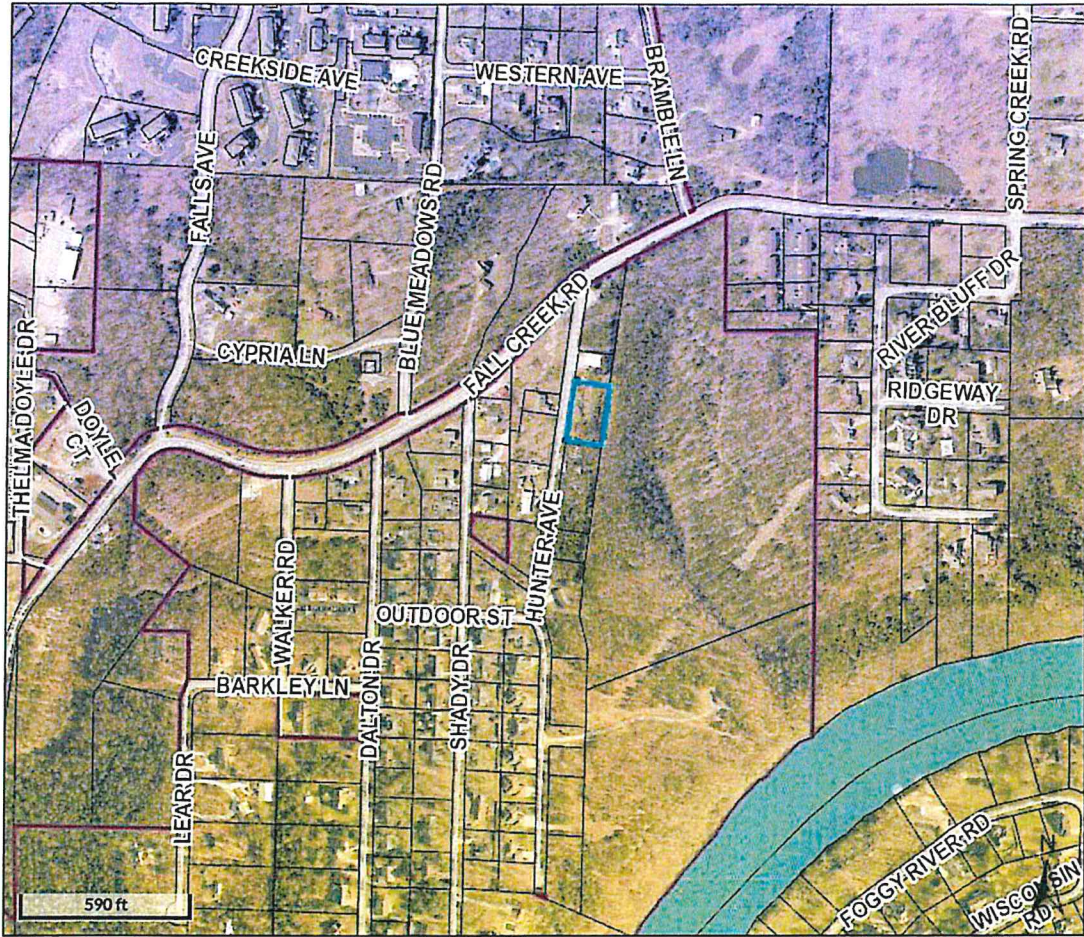
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- Parcels
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- Lakes
- Corporate Limits

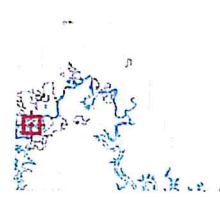
Parcel ID	18-10-12-003-001-028.001	Alternate ID	n/a	Owner Address	ROETHEMEYER DAVID
Sec/Twp/Rng	12-22-22	Class	n/a		13721 BIRD LN
Property Address	193 HUNTER AVE	Acreage	n/a		OMAHA, AR 72662-9500
District	4CXB				
Brief Tax Description	RAINBOW SHOALS - NO 1 RAINBOW SHOALS - NO 1 LT 4 BLK C CITY OF BRANSON (Note: Not to be used on legal documents)				

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Overview



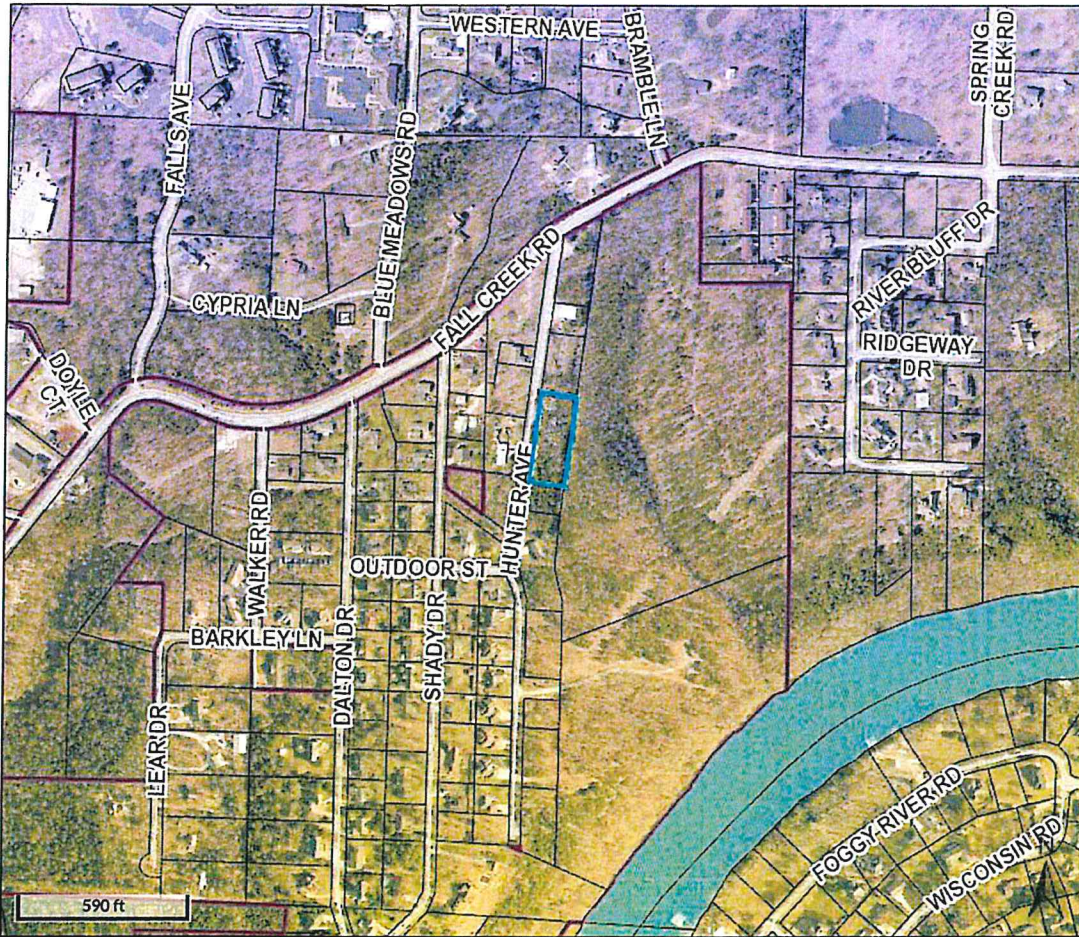
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-  Parcels
-  Roads
-  Lakes
-  Corporate Limits

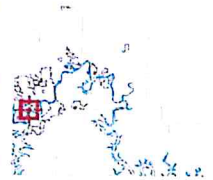
Parcel ID	18-10-12-003-001-029.000	Alternate ID	n/a	Owner Address	KEY RICHARD & MARY
Sec/Twp/Rng	12-22-22	Class	n/a		150 COUNTRY BLUFF
Property Address	HUNTER AVE	Acreeage	n/a		BRANSON, MO 65616
District	4CXB				
Brief Tax Description	RAINBOW SHOALS - NO 1 RAINBOW SHOALS - NO 1 LTS 5 & 6 BLKC CITY OF BRAN				
	(Note: Not to be used on legal documents)				

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Overview

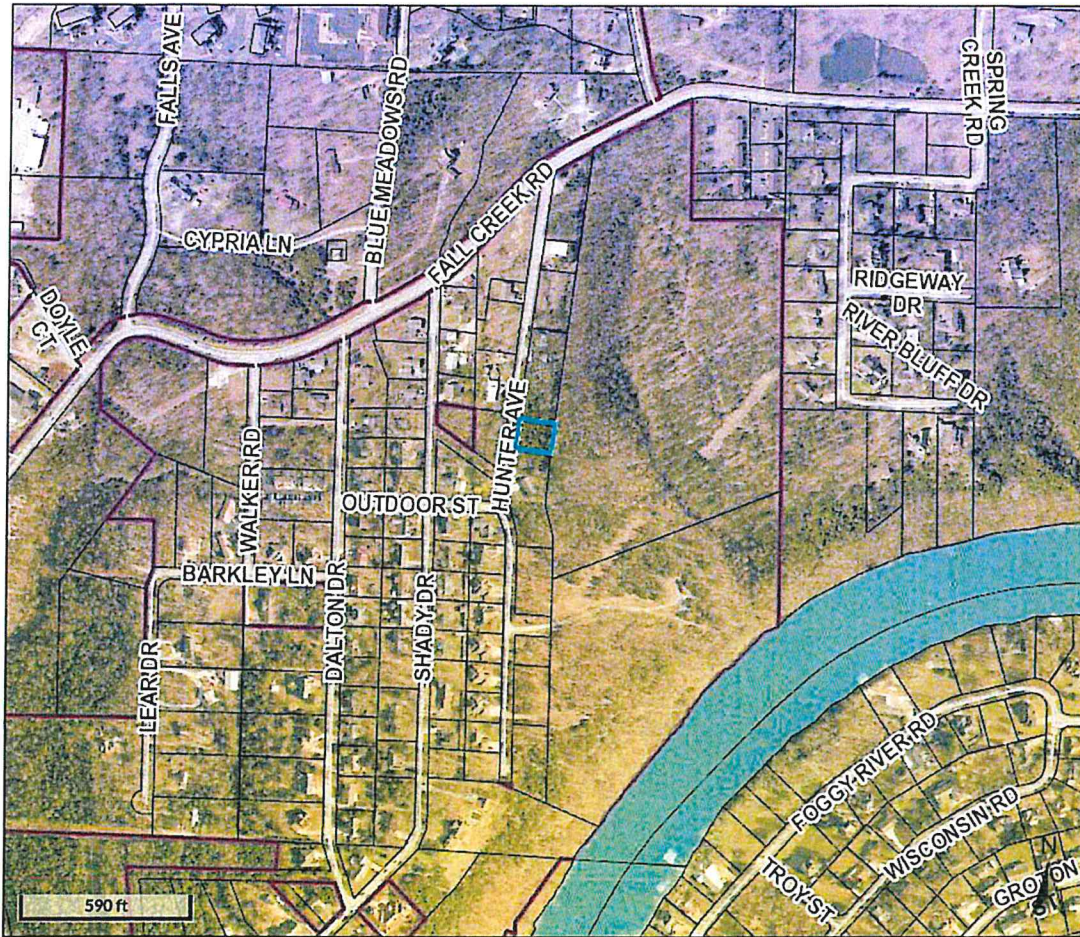


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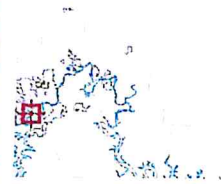
-  Parcels
-  Roads
-  Lakes
-  Corporate Limits

Parcel ID	18-10-12-003-001-030.000	Alternate ID	n/a	Owner Address	WHITE LINDA
Sec/Twp/Rng	12-22-22	Class	n/a		227 HUNTER AVE
Property Address	227 HUNTER AVE	Acreage	n/a		BRANSON, MO 65616-8656
District	4CXB				
Brief Tax Description	RAINBOW SHOALS - NO 1 RAINBOW SHOALS - NO 1 LTS 7, 8 & 9 BLK C CITY OF B				
	(Note: Not to be used on legal documents)				

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Overview



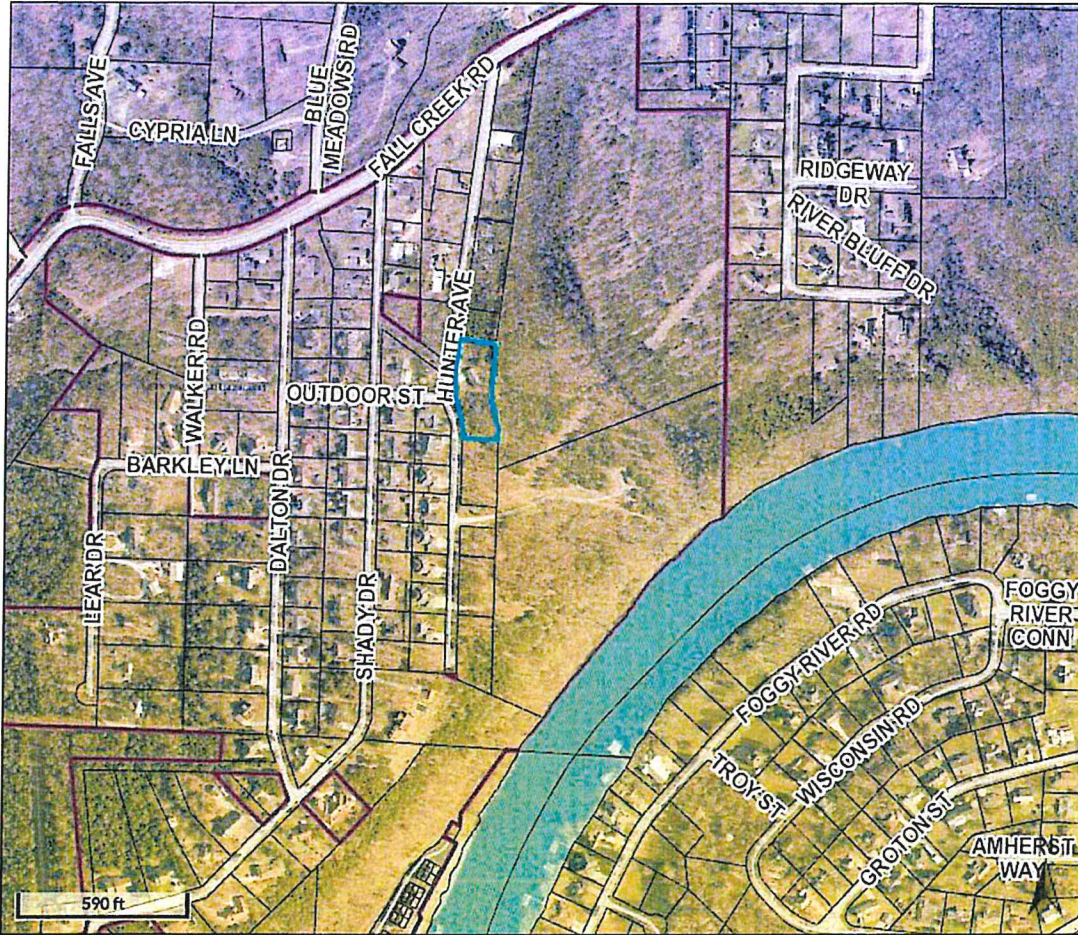
Legend

- Parcels
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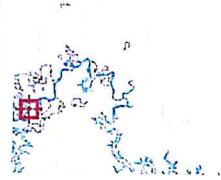
Parcel ID	18-10-12-003-001-032.000	Alternate ID	n/a	Owner Address	SMBZ LLC
Sec/Twp/Rng	12-22-22	Class	n/a		PO BOX 1700
Property Address	HUNTER AVE	Acreage	n/a		HOLLISTER, MO 65673
District	4CXB				
Brief Tax Description	RAINBOW SHOALS - NO 1 RAINBOW SHOALS - NO 1 LT 10 BLKC (Note: Not to be used on legal documents)				

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Overview



Legend

- Parcels
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- Corporate Limits

Parcel ID	18-10-12-003-001-033.000	Alternate ID	n/a	Owner Address	WAGNER FAMILY TRUST
Sec/Twp/Rng	12-22-22	Class	n/a		171 KENDALL LANE
Property Address	311 HUNTER AVE	Acreage	n/a		BRANSON, MO 65616
District	4CXB				
Brief Tax Description	RAINBOW SHOALS - NO 1 RAINBOW SHOALS - NO 1 LTS 11 & 12 BLK C CITY OF BR				
	(Note: Not to be used on legal documents)				

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STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 16th day of November, 2021.





Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

November 16, 2021

File/Case No. EO-2022-0132

**Missouri Public Service
Commission**

Staff Counsel Department
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
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**White River Valley Electric
Cooperative, Inc.**

Christiaan D Horton
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chorton@cecb.com

Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Morris L. Woodruff
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.