

75-14608
14609
14610
14611

**SETTLEMENT AGREEMENT BETWEEN THE STATE OF IDAHO,
DEPARTMENT OF LANDS, AND MICHAEL TYACKE**

THIS AGREEMENT is entered into between the State of Idaho, Department of Lands, and Michael Joseph Tyacke.

IN CONSIDERATION OF THE PROMISES STATED IN THIS AGREEMENT, THE PARTIES AGREE AS FOLLOWS:

I. DEFINITIONS

A. The term "IDL" means the State of Idaho, Department of Lands, 300 N 6th Street, P.O. Box 83720, Boise, Idaho 83720-0050, by and through its authorized representatives.

B. The term "Lessee" means Michael Joseph Tyacke, PO Box 2156, Idaho Falls, Idaho 83403.

C. The term "Lease No. C800004" means State of Idaho State Land Lease, Lease No. C800004 executed on January 7, 2010 with a term from January 1, 2010 to December 31, 2019, or, in the event the lease is renewed with the same Lessee, the term ending date of the successor lease.

D. The term "expiration" or "expire(s)(d)" means that the right of the Lessee to occupy and use the leased premises has ended: (1) because the term expiration date of its existing lease has passed; or (2) because the term expiration date of any renewal has passed, if its existing lease was renewed.

E. The term "termination" or "terminate(s)(d)" means that the right of the Lessee to occupy and use the leased premises has ended because the Lessor has exercised its rights to forfeit or cancel the existing lease.

II. RECITALS AND PURPOSE OF AGREEMENT

- A. IDL acquired the following lands from the United States as follows:

Acquisition Document	Date	Legal Description	Acres
Clear List No. 1	June 29, 1893	T21N R22E S32 NWSE	40

- B. IDL leases T21N R22E S32 NWSE to Lessee in accordance with Lease No. C800004.

- C. Lessee has claimed T21N R22E S32 NWSE as including a portion of the place of use for water right nos. 75-04393 and 75-07395.

- D. The purpose of this agreement is to describe what happens upon expiration or termination of Lease No. C800004.

III. SPLIT OF WATER RIGHTS

- A. Water right nos. 75-04393 and 75-04395 each shall be split into two separate water rights. The first two water rights shall include all private lands. The second two water rights shall include all State lands.

- B. The following table describes the original water rights and the new water rights after the splits:

Original Water Right No.	Private Lands Water Right No.	State Lands Water Right No.
75-04393	75-14608	75-14609
75-04395	75-14610	75-14611

- C. Water right nos. 75-14608, 75-14609, 75-14610, and 75-14611 are attached herewith as Attachments I, II, III, and IV to this Agreement.

IV. EXPIRATION, TERMINATION, OR OTHERWISE ENDING OF LEASE NO. C800004

- A. In the event of the expiration, termination, or otherwise ending of Lease No. C800004, Lessee shall have ninety (90) days from the date of expiration, termination, or otherwise ending of Lease No. C800004 to file with IDWR or any successor agency an

application to transfer water right nos. 75-14609 and 75-14611 to lands not owned by the State of Idaho.

B. If within the prescribed ninety (90) day time limit Lessee fails or refuses to file with IDWR or any successor agency an application to transfer water right nos. 75-14609 and 75-14611 to lands not owned by the State of Idaho, any ownership interest held by Lessee in water right nos. 75-14609 and 75-14611 shall automatically cease and IDL shall become the sole owner of water right nos. 75-14609 and 75-14611. In such event, Lessee waives any right to object to the transfer of water right nos. 75-14609 and 75-14611 to the name of IDL exclusively.

C. If within the prescribed ninety (90) day time limit Lessee files an application to transfer water right nos. 75-14609 and 75-14611 to lands not owned by the State of Idaho, Lessee shall then have three (3) years from the date of filing to accomplish said transfer. If Lessee fails or refuses to accomplish said transfer within the prescribed three (3) year time limit, any ownership interest held by Lessee in water right nos. 75-14609 and 75-14611 shall automatically cease and IDL shall become the sole owner of water right nos. 75-14609 and 75-14611. In such event, Lessee waives any right to object to the transfer of water right nos. 75-14609 and 75-14611 to the name of IDL exclusively. The parties agree to make reasonable accommodations to extend the three (3) year time limit where the accomplishment of the transfer is delayed due to government delays beyond the Lessee's control.

D. In the event of the expiration, termination, or otherwise ending of Lease No. C800004, Lessee shall have no right or privilege to access the lands described above in Paragraph II.A for use of water right nos. 75-14609 and 75-14611.

V. TERM

A. This Agreement shall take effect when executed by both parties hereto.

B. This Agreement shall continue in effect until a period of five years from the date of the expiration, termination, or otherwise ending of Lease No. C800004.

C. These term limits are in no way to be interpreted as extinguishing, limiting, or otherwise affecting the provisions and agreements of this Agreement.

VI. ALTERATION

Any change in this Agreement shall be in writing signed by an authorized representative of both parties.

VII. GOVERNING LAW

Both parties agree that this Agreement shall be governed by, and construed in accordance with, the laws of the State of Idaho.

VIII. ASSIGNMENT OF RIGHTS AND DELEGATION OF DUTIES

No party shall assign a right under this Agreement or delegate a duty under this Agreement without the prior written consent of the other.

IX. ENTIRE AGREEMENT

This Agreement sets forth all the covenants, promises, provisions, agreements, conditions, and understandings between the parties and there are no covenants, provisions, promises, agreements, conditions, or understandings, either oral or written between them other than are herein set forth.

X. EFFECT OF SECTION HEADINGS

The section headings appearing in this contract are not to be construed as interpretations of the text but are inserted for convenience and reference only.

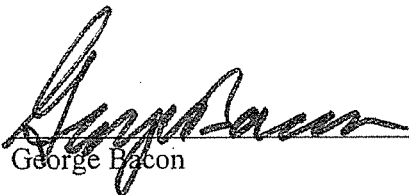
XI. DUPLICATE ORIGINALS

This Agreement is executed in duplicate. Each of the two (2) Agreements with an original signature of each party shall be an original.

IN WITNESS WHEREOF the parties executed this contract on the date following their respective signatures.

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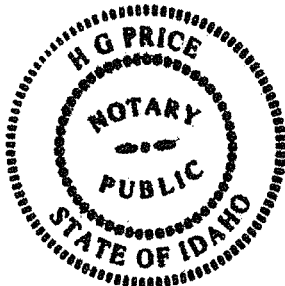
IDAHO DEPARTMENT OF LANDS


George Bacon

STATE OF IDAHO)
 :s
COUNTY OF ADA)

On this 14th day of APRIL in the year 2010, before me a Notary Public in and for said State, personally appeared George Bacon, known to me to be the Director, that executed the within instrument, and acknowledged to me that the State of Idaho Department of Lands executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last above written.



HG Price
Notary Public for Idaho
Residing at Middleton
My commission expires: 03/18/16

LESSEE

Sign:

Michael Tyacke

Date: 3/22/10

Print:

Michael J Tyacke

Position:

Owner

STATE OF

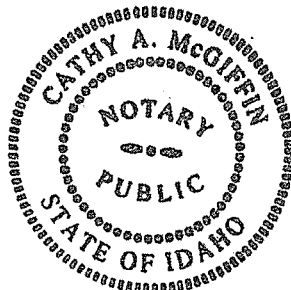
Idaho

COUNTY OF

Bonneville

On this 22 day of March in the year 2010, before me a Notary Public in and for said State, personally appeared Michael J Tyacke known to me to be the Person, that executed the within instrument and acknowledged to me that Michael Joseph Tyacke executed the same.

IN WITNESS THEREOF, I have hereunto set my hand and seal on the day and year last above written.



Cathy A. McGuffin

Notary Public for Idaho

Residing at Idaho Falls

My commission expires: August 31, 2010

ATTACHMENT I

6/10/2009

IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 75-14608

NAME AND ADDRESS: MICHAEL JOSEPH TYACKE
PO BOX 2156
IDAHO FALLS ID 83403

SOURCE: HYDE CREEK

TRIBUTARY: SALMON RIVER

QUANTITY: 2.000 CFS
3.000 AFY

The rights listed below are limited to a total combined diversion rate of 2.000 cfs and to a total combined annual diversion volume of 3 af. Combined Right nos.: 75-14608 and 75-14609.

The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

PRIORITY DATE: 04/01/1878

POINT OF DIVERSION:

T20N R22E S5 SWNE Within LEMHI County

T21N R22E S32 SESW Within LEMHI County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION FROM STORAGE	4/01 10/31	3.00 AFY
IRRIGATION	4/01 11/01	2.000 CFS
STOCKWATER	01/01 12/31	0.400 CFS
IRRIGATION STORAGE	01/01 12/31	3.00 AFY

PLACE OF USE: IRRIGATION in LEMHI County

T21N R22E S32	NWNE	33.00	T21N R22E S32	SWNE	22.00
T21N R22E S32	NENW	25.00	T21N R22E S32	SENE	41.00
T21N R22E S32	NESW	30.00	T21N R22E S32	SESW	3.80

IRRIGATION STORAGE in LEMHI County

T20N R22E S05 SWNE 4.40

STOCKWATER in LEMHI County

T21N R22E S32 NESW

IRRIGATION FROM STORAGE same as IRRIGATION

154.8 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 145 acres in a single irrigation season. Combined Right Nos. 75-14608 and 75-14609.

The rights listed below are limited to the irrigation of a combined total of 159.2 acres in a single irrigation season. Combined Right Nos.: 75-14608, 75-14609, 75-14610 and 75-14611.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial use

Use of this right is combined with water from Pope Ditch Co.

This right is a split from former right 75-4393.

ATTACHMENT II

6/10/2009

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 75-14609

NAME AND ADDRESS: MICHAEL JOSEPH TYACKE
PO BOX 2156
IDAHO FALLS ID 83403

STATE OF IDAHO
DEPARTMENT OF LANDS
300 N. 6TH ST.
P.O. BOX 83720
BOISE, ID 83720-0050

SOURCE: HYDE CREEK

TRIBUTARY: SALMON RIVER

QUANTITY: 0.090 CFS

The rights listed below are limited to a total combined rate of 2.000 CFS.
Combined Right nos.: 75-14608 and 75-14609.

PRIORITY DATE: 04/01/1878

POINT OF DIVERSION:

T20N R22E S5 SWNE Within LEMHI County

T21N R22E S32 SESW Within LEMHI County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION FROM STORAGE	4/01 10/31	3.00 AFY
IRRIGATION	4/01 11/01	0.090 CFS
IRRIGATION STORAGE	01/01 12/31	3.00 AFY

PLACE OF USE: IRRIGATION in LEMHI County

T21N R22E S32 NWSE 4.40

IRRIGATION STORAGE in LEMHI County

T20N R22E S05 SWNE 4.40

IRRIGATION FROM STORAGE same as IRRIGATION

4.4 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 145 acres in a single irrigation season. Combined Right Nos. 75-14608 and 75-14609.

The rights listed below are limited to the irrigation of a combined total of 159.2 acres in a single irrigation season. Combined Right Nos.: 75-14608, 75-14609, 75-14610 and 75-14611.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The ownership of water right no. 75-14609 is governed by a settlement agreement executed by the Idaho Department of Lands and Michael Joseph Tyacke dated _____.

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial use

Use of this right is combined with water from Pope Ditch Co.

This right is a split from former right 75-4393.

ATTACHMENT III

6/10/2009

IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 75-14610

NAME AND ADDRESS: MICHAEL JOSEPH TYACKE
PO BOX 2156
IDAHO FALLS ID 83403

SOURCE: HYDE CREEK

TRIBUTARY: SALMON RIVER

QUANTITY: 2.000 CFS
3.000 AFY

The rights listed below are limited to a total combined diversion rate of 2.000 cfs and to a total combined annual diversion volume of 3 af. Combined Right nos.: 75-14610 and 75-14611.

The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

PRIORITY DATE: 04/01/1878

POINT OF DIVERSION:

T20N R22E S5 SWNE Within LEMHI County
T21N R22E S32 SESW Within LEMHI County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	4/01 11/01	2.000 CFS
STOCKWATER	01/01 12/31	0.400 CFS

PLACE OF USE:

<u>IRRIGATION in LEMHI County</u>					
T21N R22E S32	NWNE	33.00	T21N R22E S32	SWNE	22.00
T21N R22E S32	NENW	25.00	T21N R22E S32	SENW	41.00
T21N R22E S32	NESW	30.00	T21N R22E S32	SESW	3.80
<u>STOCKWATER in LEMHI County</u>					
T21N R22E S32	NESW				

154.8 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 159.2 acres in a single irrigation season. Combined Right Nos.: 75-14608, 75-14609, 75-14610 and 75-14611.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial use

Use of this right is combined with water from Pope Ditch Co.

This right is a split from former right 75-4395.

ATTACHMENT IV

6/10/2009

IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 75-14611

NAME AND ADDRESS: MICHAEL JOSEPH TYACKE
PO BOX 2156
IDAHO FALLS ID 83403

STATE OF IDAHO
DEPARTMENT OF LANDS
300 N. 6TH ST.
P.O. BOX 83720
BOISE, ID 83720-0050

SOURCE: HYDE CREEK

TRIBUTARY: SALMON RIVER

QUANTITY: 0.090 CFS

The rights listed below are limited to a total combined rate of 2.000 CFS.
Combined Right nos.: 75-14610 and 75-14611.

PRIORITY DATE: 04/01/1878

POINT OF DIVERSION:

T20N R22E S5 SWNE Within LEMHI County

T21N R22E S32 SESW Within LEMHI County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	4/01 11/01	0.090 CFS

PLACE OF USE: IRRIGATION in LEMHI County

T21N R22E S32 NWSE 4.40
4.4 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 159.2 acres in a single irrigation season. Combined Right Nos.: 75-14608, 75-14609, 75-14610 and 75-14611.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The ownership of water right no. 75-14611 is governed by a settlement agreement executed by the Idaho Department of Lands and Michael Joseph Tyacke dated _____.

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial use

Use of this right is combined with water from Pope Ditch Co.

This right is a split from former right 75-4395.

Van Bussum, Monica

From: Cooley-Denney, Suzy
Sent: Tuesday, April 20, 2010 8:09 AM
To: Van Bussum, Monica
Subject: FW: 75-04393 & 75-04395 - Request for preparation of SF-5s and transmittal of settlement agreement
Attachments: 20100415062203349.pdf

Monica ~

Attached is IDL's settlement agreement for your files.

~ Suzy

-----Original Message-----

From: Stanish, David [<mailto:david.stanish@ag.idaho.gov>]
Sent: Thursday, April 15, 2010 11:44 AM
To: Baxter, Garrick; Cooley-Denney, Suzy
Subject: 75-04393 & 75-04395 - Request for preparation of SF-5s and transmittal of settlement agreement

This communication and its attachments are confidential and/or privileged. If you have received this communication in error, please immediately read the "NOTICE" appended below.

Suzanne:

I believe you were the agent working on these Tyacke matters...I have attached a copy of the settlement agreement executed by Mr. Tyacke and the Department of Lands. If you could please prepare SF-5s consistent with the attachments thereto, I will send them along to Mr. Tyacke for his signature. I believe that all that needs to be done is: (1) to fill in the execution date of the settlement agreement (April 14, 2010); and (2) to prepare descriptions "disallowing" the parent rights, nos. 75-04393 and 75-04395.

Sincerely,

David I. Stanish
Deputy Attorney General

Natural Resources Division
Office of Attorney General
700 West State Street
Joe R. Williams Building, Second Floor
P.O. Box 83720
Boise, Idaho 83720-0010

Phone: (208) 334-4549
Facsimile: (208) 854-8072
Email: david.stanish@ag.idaho.gov

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