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**SETTLEMENT AGREEMENT FOR DETERMINING
NATURAL FLOWS PURSUANT TO FOSTER DECREE**

This Agreement, made and entered into this 14th day of February, 2006, by and between Minidoka Irrigation District ("MID"), Burley Irrigation District ("BID"), Twin Falls Canal Company ("TFCC"), North Side Canal Company ("NSCC"), and American Falls Reservoir District #2 ("AFRD#2").

WITNESSETH

WHEREAS, MID operates and maintains the North Side Division of the Minidoka Project constructed by the United States of America, Department of Interior, Bureau of Reclamation ("BOR"); and

WHEREAS, BID owns, operates and maintains what is known as the South Side Pumping Division of the Minidoka Project originally constructed by the BOR; and

WHEREAS, as a part of the Minidoka Project, MID and BID received or are entitled to receive all irrigation water stored in Lake Walcott by the Minidoka Dam constructed, operated and maintained by the BOR, pursuant to spaceholder contracts with the BOR, and are the beneficiaries of this storage facility and hold a beneficial interest in the water stored in Lake Walcott for use on lands within the respective irrigation districts; and

WHEREAS, TFCC and NSCC own, operate and maintain Carey Act projects which are entitled to receive and receive storage water from BOR facilities and natural flows from the Snake River at Milner Dam located downstream from Lake Walcott, which natural flow water rights held by said canal companies predate the storage rights held for the storage of water in Lake Walcott; and

WHEREAS, the Foster Decree dated June 20, 1913, entered in the case entitled

Twin Falls Canal Company v. Charles N. Foster, et al., provides, in part:

... the State Engineer of the State of Idaho, or his duly authorized deputy, shall determine what part of the water flowing in Snake River at the Minidoka and Milner Dams, is storage waters, and what part is natural flow, ... the amount of the natural flow to be determined as such natural flow would be, if unaffected by the diversions or acts of the parties hereto or any or either of them or by release of stored water, the natural flow to which the Twin Falls Projects are entitled to be measured to them at the Milner Dam.

and

WHEREAS, the above provision in the Foster Decree has been the subject of various interpretations by the parties, the Watermaster of Water District 01, and the Director of the Idaho Department of Water Resources (formerly the State Engineer of the State of Idaho), including the interpretation that so long as the return flow from the divisions of the Minidoka Project operated and maintained by MID and BID to the Snake River exceed losses to the Snake River as the result of storage of water behind Minidoka Dam in Lake Walcott that are not otherwise accounted for, that MID and BID, when using storage water, will be entitled to a credit to said storage uses resulting from these return flows, which shall be provided from the storage of TFCC and NSCC; and

WHEREAS, return flows below Minidoka Dam generally benefit and improve the natural flow available to TFCC and NSCC and losses, if any, from Lake Walcott could be detrimental to natural flow rights of AFRD#2; and

WHEREAS, there has arisen from time to time disagreements as to the method by which net return flow credits shall be computed to meet the intent of the Foster Decree, and it is the desire of the parties that issues that have previously arisen be resolved for future administration of the storage and natural flow rights of the parties hereto by this agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements herein contained and the benefits hereinafter provided, the parties do hereby covenant and agree as follows:

1. To avoid litigation involving the interpretation of the Foster Decree and the methodology to be used to determine net return flow credits; and in lieu of and as a replacement for an annual accounting of losses from the natural flow of the Snake River as the result of the storage of water in Lake Walcott by the Minidoka Dam and the credits to the Snake River arising from return flows occurring as the result of the operation of the Minidoka Dam and the North Side Division and South Side Pumping Division of the Minidoka Project, TFCC and NSCC will provide 14,500 acre-feet of storage water annually to MID, BID and AFRD#2 in the following manner, to-wit:

A. TFCC will provide 6,750 acre-feet of storage water annually.

B. NSCC will provide 7,750 acre-feet of storage water annually.

There shall be credited annually to MID 8,370 acre-feet of storage water, to BID 5,130 acre-feet of storage water, and to AFRD#2, 1,000 acre-feet of storage water.

The storage water credited to MID, BID and AFRD#2 may, as they determine, be diverted for use on lands within their respective service area or may be rented to third parties, which water shall be diverted and delivered through the diversion works and distribution system of the respective entity leasing said water to the third party.

2. The storage water provided under this agreement and diverted and rented as herein provided will not impact the natural flow or storage rights of any other water users in Water District 01, the transfers and uses of stored water as herein provided being an integral part of the operations of the parties to this agreement

3. The parties hereto shall urge that Water District 01 and its Watermaster adopt a previously approved accounting program which will account for evaporation from Palisades, Island Park, Ririe, American Falls and Lake Walcott storage reservoirs which provide storage water within Water District 01 by which evaporation losses from Lake Walcott shall be considered a part of the total evaporation losses from all all of the above-named reservoirs and such evaporation losses shall be proportionately allocated among all reservoirs and subtracted from the allocated storage of the spaceholders entitled to receive allocated storage water from said storage facilities on a proportional basis pursuant to spaceholder contracts with the owner of said facilities.

4. The evaporation and water supply accounting provisions contemplated by the *Foster Decree* and set forth herein, are required for the administration of the water rights of the respective parties and shall be incorporated into and become a part of any final decree entered by the court in the Snake River Basin Adjudication proceedings now before the SRBA District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Twin Falls

5. The provisions contained in this agreement represent the entire understanding and agreement between the parties hereto pertaining to their respective water rights and the inter-relationship of those rights with water rights of other parties to this agreement, and there are no oral agreements between the parties pertaining to their respective water rights and the administration of those respective rights that will in any way interfere with the terms and provisions of this agreement.

6. The parties hereto stipulate that they, and each of them, have had an opportunity to be represented by legal counsel of their choice in the preparation of this

agreement, that they have read this agreement and understand the contents thereof, and each of them fully understand the terms, provisions, and the legal consequences of this agreement.

7. This agreement may not be modified, amended or otherwise altered except upon the unanimous agreement of the parties to this agreement in writing, and approval by the Director of the Department of Water Resources

8. Each party to this agreement shall cooperate fully in executing, acknowledging, and delivering any instruments required to accomplish the intent of this agreement and shall join with all parties of the agreement in taking such action as may be required to fully effectuate the terms of this agreement.

9. The consideration of this agreement is the mutual covenants and agreements herein contained, and should any of the covenants be deemed to be invalid or are not effectuated, any party to the agreement may give notice in writing of the same and shall be entitled to seek modification of any provision deemed invalid and/or seek specific performance of this agreement if not resolved within sixty (60) days after said notice.

10. This agreement shall be binding upon the parties hereto and their respective successors and assigns, and shall become effective upon the execution of the agreement, approval by the Director of the Idaho Department of Water Resources.

IN WITNESS WHEREOF, the parties hereto have executed this agreement which shall be deemed effective on the day and year first above written.

MINIDOKA IRRIGATION DISTRICT

[SEAL]
ATTEST:

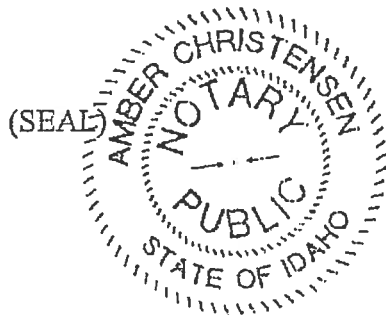
Michael Knight
Secretary

By: Frank Hunt
President VICE CHAIRMAN

STATE OF IDAHO)
) ss.
County of Minidoka

On this 21st day of February, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared Michael Knight and Frank Hunt, President and Secretary, respectively, of Minidoka Irrigation District, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same on behalf of said entity.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

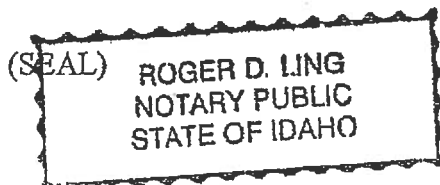


Amber Christensen
Notary Public for Idaho
Residing at: Hayden, Idaho
My Commission expires: 7-23-2010

STATE OF IDAHO)
) ss.
County of Cassia

On this 14th day of February, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared Dean Edgar and Linda M. Leach, President and Secretary, respectively, of Burley Irrigation District, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same on behalf of said entity.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.



Roger D. Ling
Notary Public for Idaho
Residing at: Reupert, Idaho
My Commission expires: 10/30/06

STATE OF IDAHO)
) ss.
County of Twin Falls)

On this March 1 day of ~~February~~, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared Dan Sheenmaker and Charles Coines, Jr., President and Secretary, respectively, of Twin Falls Canal Company, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same on behalf of said entity.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

(SEAL)



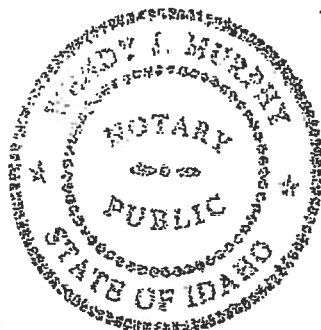
Kay Puschel
Notary Public for Idaho
Residing at: Twin Falls
My Commission expires: 4-28-2012

STATE OF IDAHO)
) ss.
County of Bonneville)

On this March 7th day of ~~February~~, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared Marshall and Dehl, President and Secretary, respectively, of North Side Canal Company, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same on behalf of said entity.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

(SEAL)



Wendy J. Murphy
Notary Public for Idaho
Residing at: Idaho Falls
My Commission expires: 6/23/06

STATE OF IDAHO)

County of Lincoln) ss.

On this 2 day of ^{MARCH} ~~February~~, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared Bob Esterbrook and James M. Ritchie, President and Secretary, respectively, of American-Falls Reservoir District #2, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same on behalf of said entity.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written



Jane M. Sabala
Notary Public for Idaho
Residing at: Wendell
My Commission expires: 3-7-09