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Department of Water Resources
Eastern Region

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION
FOR PERMIT NO. 25-14497
(in the name of J & L Holdings, LLC)

IN THE MATTER OF APPLICATION
FOR TRANSFER NO. 85750
(in the name of J & L Holdings, LLC)

IN THE MATTER OF APPLICATION
FOR PERMIT NO. 25-14512
(in the name of J & L Holdings, LLC)

**STIPULATION FOR
WITHDRAWAL OF PROTESTS**

THIS STIPULATION FOR WITHDRAWAL OF PROTESTS (this "Stipulation") is made and entered into to be effective as of the latest signature date set forth below, by and between the following parties:

1. **J & L Holdings, LLC** (hereinafter, "J & L"); and
2. **A&B Irrigation District, American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company** (hereinafter, collectively the "Coalition").

J & L and the Coalition may hereinafter collectively be referred to as the "Parties."

RECITALS:

- A. Application for Permit No. 25-14497 was filed on July 12, 2021, by J & L with the Idaho Department of Water Resources ("IDWR" or "Department") which seeks to appropriate 0.51 cfs for domestic purposes for a residential subdivision named Pepperwood Crossing Division No. 3 (the "Subdivision") for inside culinary use. The original application document indicated that outside irrigation will be provided with surface water from the Rudy Canal.
- B. 25-14497 was protested by the Coalition on various grounds.

- C. Because of concerns associated with the reliability of the Rudy Canal water at the subdivision location, J & L has decided to utilize ground water for outside irrigation within the Subdivision instead of Rudy Canal surface water.
- D. To authorize use of ground water at the Subdivision for outside irrigation, J & L elected to file two separate applications: (1) Application for Permit No. 25-14512 ("25-14512"); and (2) Application for Transfer No. 85750 ("T85750").
- E. 25-14512 seeks to appropriate 0.52 cfs of ground water for irrigation purposes within the Subdivision.
- F. To mitigate for the consumptive use of ground water under 25-14512, J & L filed Application for Transfer No. 85750 ("T85750") which seeks to change 26 acres of Water Right Nos. 35-7720 and 35-12467B.
- G. T85750 was protested on various grounds by the Coalition.
- H. 25-14512 was protested on various grounds by the Coalition.
- I. In lieu of participating in an administrative hearing for 25-14497, 25-14512, and T85750, as provided for under Idaho law, the Parties hereby agree as set forth below, pursuant to IDAPA 37.01.01.612, the result of which is withdrawal of the Coalition's protests and issuance of an approvals for 25-14497, 25-14512, and T85750.

AGREEMENTS:

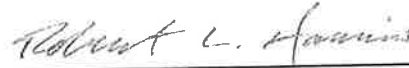
1. **Withdrawal of Protests.** Subject to the provisions of this Stipulation, the Coalition hereby withdraws its protests to 25-14497, 25-14512, and T85750.
2. **No Use of T85750 as an Offsetting Transfer.** T85750 shall not be used as an "offsetting transfer" by J & L or any other person or entity for any other transfer application, permit application, or other Department filing. "Offsetting transfer," as used in this provision, means use of the modeled impacts of one transfer to offset or mitigate the modeled impacts of one or more other transfer applications, which is generally done to make the transfer(s) eligible for approval under the Department's transfer application processing policies and procedures.
3. **Reservation of Rights.** The Parties agree and acknowledge that this Stipulation only resolves the protests to 25-14497, 25-14512, and T85750 and that the Coalition reserves all rights to protest on the same or similar bases other applications for permit, transfer, and other proceedings that may be initiated before the Department by J & L. The Parties shall not use this Stipulation in any other administrative or judicial proceedings for any purpose, other than an action to enforce its terms as provided in paragraph 7 below. Specifically, for purposes of the modeling analysis performed on these applications, the

Version 3.3 update to Version 3.1 of the Eastern Snake Plain Aquifer Ground-water Rights Transfer Spreadsheet Based on Enhanced Snake Plain Aquifer Model (which performs hydrologic estimation using ESPAM 2.1) (hereinafter "Transfer Tool 3.3") was utilized instead of the Version 3.4 update to Version 3.1 of the Eastern Snake Plain Aquifer Ground-water Rights Transfer Spreadsheet Based on Enhanced Snake Plain Aquifer Model (which performs hydrologic estimation using ESPAM 2.2) (hereinafter "Transfer Tool 3.4"). J & L shall not use this Stipulation as precedent or as a legal basis or reason to support use of Transfer Tool 3.3 instead of Transfer Tool 3.4 in any future water right application for permit, application for transfer, or other proceedings before the Department that may be initiated by J & L.

4. **Reliance Upon Statements/Integration and Merger.** The Parties hereto specifically acknowledge that they were represented by counsel in this matter and agree that other than as is set forth herein, they have executed this Stipulation without relying upon any statements or representations written or oral, as to any statement of law or fact made by any other party or attorney. The Parties to this Stipulation have read and understand the Stipulation and warrant and represent that this Stipulation is executed voluntarily and without duress or undue influence on the part of or on behalf of any party. This Stipulation represents the sole entire and integrated Stipulation by and between the Parties hereto and supersedes any and all prior understandings or agreements whether written or oral except as specifically provided herein.
5. **Successors and Assigns.** This Stipulation shall be binding upon and shall inure to the benefit of each Parties' officers, directors, shareholders, heirs, successors and assigns, and shall be specifically enforceable.
6. **Waiver and Modification.** No provision of this Stipulation may be waived, modified, or amended except by written agreement executed by all the Parties hereto.
7. **Enforcement and Interpretation.** This Stipulation is a valid and binding obligation of the Parties, and their successors or assigns. It shall be admissible and enforceable according to its terms, and venue in any subsequent action shall rest within the State of Idaho. This Stipulation is subject to interpretation in accordance with the laws of the State of Idaho.
8. **Counterparts.** This Stipulation may be executed in counterparts, each of which is deemed an original but all of which constitute one and the same instrument. The signature pages may be detached from each counterpart and combined into one instrument.
9. **Attorneys Fees.** Each party shall bear their own attorney fees, costs, and expenses associated with 25-14497, 25-14512, and T85750. In any suit, action or appeal therefrom, to enforce this Stipulation or any term or provision hereof, or to interpret this Stipulation, the prevailing Party shall be entitled to recover all its costs reasonably incurred therein (and on appeal), including reasonable attorneys' fees.

J & L HOLDINGS, LLC

Date: April 12, 2022



By: Robert L. Harris, of the firm Holden, Kidwell,
Hahn, & Crapo, P.L.L.C.
Attorneys for J & L Holdings, LLC

A&B IRRIGATION DISTRICT, BURLEY
IRRIGATION DISTRICT, MILNER IRRIGATION
DISTRICT, NORTH SIDE CANAL COMPANY,
AND TWIN FALLS CANAL COMPANY

Date: April 12, 2022



By: Travis Thompson, of the firm Barker, Rosholt
& Simpson, LLP
*Attorneys for A&B Irrigation District, Burley
Irrigation District, Twin Falls Canal Company,
North Side Canal Company, and Milner Irrigation
District*

AMERICAN FALLS RESERVOIR DISTRICT #2
AND MINIDOKA IRRIGATION DISTRICT

Date: April 12, 2022



for

By: W. Kent Fletcher, of the firm Fletcher Law
Office
*Attorneys for American Falls Reservoir District #2
and Minidoka Irrigation District*