

JUN 15 2020

DEPARTMENT OF
WATER RESOURCESBEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
 PERMIT NO. 67-15333 IN THE NAME OF) **SETTLEMENT AGREEMENT**
 DOUBLE C & J LAND COMPANY)
 _____)

The United States of America ("Protestant") and Double C & J Land Company ("Applicant") agree and stipulate to resolve the United States Department of Interior, Bureau of Land Management ("BLM") protest of Application for Permit No. 67-15333 ("Application").

STIPULATION

WHEREAS, the Applicant filed Application for Permit No. 67-15333 on October 23, 2019 with the Idaho Department of Water Resources ("IDWR") seeking appropriate water right to divert water from Jenkins Creek for filling Monroe Reservoir. The Application describes 345 acre-feet for Irrigation Storage, Irrigation from Storage (across a 453 ac place of use), Stockwater Storage, and Stockwater from Storage (for 250 head of cattle).

WHEREAS, the BLM filed a protest on November 22, 2019 of Application for Permit No. 67-15333 because this Application seeks a water right to store Jenkins Creek water into an existing authorized reservoir partially located on federal land (i.e. T12N, R05W, Sec. 6, SENW and NWSE).

WHEREAS, even though the Applicant is the successor to an existing right-of-way ("ROW") grant for Monroe Reservoir (i.e. IDB-0-009162) issued pursuant to the Act of February 15, 1901 (31 Stat. 790, 43 U.S.C. § 959), that authority was repealed by passage of the Federal Land Policy and Management Act ("FLPMA") (90 Stat. 2743, 43 U.S.C. § 1701 et seq.);

therefore, the existing grant cannot be modified to accommodate the introduction of Application for Permit No. 67-15333 and a new ROW pursuant to FLPMA must be obtained.

WHEREAS, the Applicant filed an Application for Right-of-Way with BLM in May 2020 with BLM's Four Rivers Field Office seeking a ROW grant authorizing the storage of water described in 67-15333 in Monroe Reservoir on federal land.

WHEREAS, the Protestant and the Applicant wish to resolve their dispute regarding Application for Permit No. 67-15333.

THEREFORE, the Protestant and the Applicant stipulate and agree as follows:

1. The Protestant and the Applicant agree that, by filing an Application for ROW with BLM, the Applicant has demonstrated to IDWR, for purposes of permitting the Application, that the Applicant is seeking permission from BLM to use federal lands as described in Application for Permit 67-15333. The BLM agrees that the Application may proceed to permitting while the Application for ROW is pending, provided that no water under the Application may be stored on or be conveyed across federal lands until authorized in writing by the BLM Authorized Officer.

Applicant recognizes and understands that there is no guarantee or promise implied or inferred by this agreement that the BLM will authorize a ROW; nor prevent BLM from establishing terms and conditions in accordance with applicable law and policy should it issue a ROW.

2. Should BLM issue a ROW grant to the Applicant, the Applicant agrees and stipulates to conform the elements of 67-15333 to the ROW grant issued by BLM to the extent allowed under Idaho law.

3. The Applicant agrees and stipulates that no water license shall be issued if BLM ultimately denies the ROW application and such denial is sustained through the completion of applicable administrative and judicial review proceedings or other legal action.

4. The parties agree and stipulate that the following conditions shall be placed on any approved permit for 67-15333:

(a) "This right does not grant any right-of-way or easement across the land of another."; and

(b) "Prior to diversion and use of water on or across federal land under this approval, the right holder shall obtain authorization necessary to access the point of diversion, or place of use, or to convey water across federal lands."

5. The Protestant hereby withdraws its protest of Application for Water Permit 67-15333 upon acceptance, approval and adoption of this Agreement by IDWR in its entirety.

Respectfully submitted,

APPLICANT:

Double C & J Land Company



Candice McHugh
Christopher M. Bromley
MCHUGH BROMLEY, PLLC
Of Attorneys for Applicant

6/15/2020

Date

PROTESTANT:

U.S.D.I., Bureau of Land Management


Fredric W. Price
Water Rights Specialist

Date

06/15/2020

CERTIFICATE OF SERVICE

I certify that on June 15, 2020, I served a true and correct copy of foregoing **Settlement Agreement; Application for Permit No. 67-15333** upon the following individuals by placing the document in the United States Mail in Boise, Idaho, postage paid, and addressed as follows:

Original to:

Shelley Keen, Water Allocation Bureau Chief
Idaho Department of Water Resources
State Office
Idaho Water Center
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Copies to:

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REPRESENTING:

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REPRESENTING:

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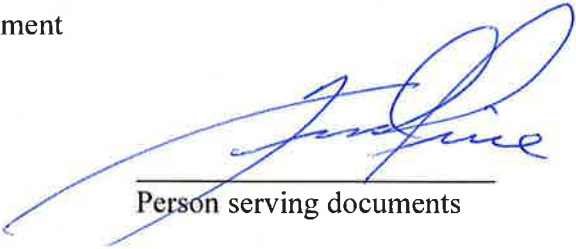
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REPRESENTING:

Eckhardt Family LLLP

Brent Ralston, Field Manager
Al Tarter, Natural Resource Specialist
U.S.D.I., Bureau of Land Management
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Person serving documents