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*Attorneys for Bear River Water Users Association, Inc. and Cub River Irrigation Company*

**STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES**

IN THE MATTER OF APPLICATION FOR  
PERMIT NO. 13-8042

In the name of Weston Creek Irrigation  
Company

STIPULATION FOR  
WITHDRAWAL OF PROTEST

This Stipulation for Withdrawal of Protest ("Stipulation") is entered into between Weston Creek Irrigation Company ("Applicant"), Bear River Water Users Association, Inc. ("BRWUA"), and Cub River Irrigation Company ("Cub River Irrigation"). Applicant, BRWUA and Cub River Irrigation may be referred to herein collectively as the "parties" or individually as a "party."

**Background**


- A. Applicant filed Application for Permit No. 13-8042 (the "Application") with the Idaho Department of Water Resources (the "Department") on September 3, 2019. Applicant subsequently amended the Application on February 28, 2020.
- B. BRWUA and Cub River Irrigation each filed protests against the Application.
- C. The parties desire to fully resolve the protests of BRWUA and Cub River Irrigation in accordance with terms and conditions of this Stipulation.

## Agreement

1. **Issuance of Permit.** The parties agree that the Department may approve the Application by issuing a permit with an annual volume of 20.0 acre feet and a period of use for "diversion to storage" of 10/16 to 04/30 as set forth in the draft permit attached as *Exhibit A*.
2. **Settlement of Protests.** The Department's issuance of a permit in accordance with *Exhibit A* shall fully and finally resolve the protests filed by BRWUA and Cub River Irrigation.
3. **Representations and Warranties.** Each party represents and warrants to the other parties that: (a) they did or had ample opportunity to consult with legal counsel in connection with this Stipulation; (b) they have read and understand this Stipulation and execute it voluntarily and without duress or undue influence; and (c) this Stipulation represents the entire agreement between the parties and supersedes all prior understandings or agreements between them, whether written or oral, concerning the subject matter hereof.
4. **Reservation of Rights.** This Stipulation does in no way waive the rights of BRWUA and Cub River Irrigation to demand administration of any water right issued under the Application in accordance with the prior appropriation doctrine as established by Idaho law.
5. **Successors and Assigns.** This Stipulation shall be binding upon and inure to the benefit of each party and its successors and assigns.
6. **Waiver and Modification.** No provision of this Stipulation may be waived, modified, or amended except by written agreement executed by all parties.
7. **Enforcement and Interpretation.** This Stipulation is a valid and binding obligation of the parties and shall be enforceable according to its terms. Venue in any action involving this Stipulation shall rest in Franklin County, Idaho. This Stipulation shall be interpreted in accordance with the laws of the State of Idaho.
8. **Counterparts.** This Stipulation may be executed in counterparts, which when taken together shall constitute one and the same instrument. Signature pages may be detached from each counterpart and combined into one instrument.
9. **Electronic Signatures.** Electronic signatures and signatures transmitted by fax or email shall be valid and effective to bind the party so signing.
10. **Filing.** This Stipulation shall be filed with the Department but shall not be recorded in the real property records of any county.


WESTON CREEK IRRIGATION COMPANY

Date: 4-30-20

By:   
Greg Bingham, President


BEAR RIVER WATER USERS ASSOCIATION, INC.

Date: 4/30/2020

By:   
T.J. Budge  
Racine Olson, PLLP  
*Attorneys for Bear River Water Users Association, Inc.*

CUB RIVER IRRIGATION COMPANY

Date: 4/30/2020

By:   
T.J. Budge  
Racine Olson, PLLP  
*Attorneys for Cub River Irrigation Company*

**EXHIBIT A**

State of Idaho  
Department of Water Resources

## Permit to Appropriate Water (4/2/20 Draft)

No. 13-8042

**Priority:** September 03, 2019

**Maximum Diversion Rate:** 3.00 CFS  
**Maximum Diversion Volume:** 20.0 AF

This is to certify that

WESTON CREEK IRRIGATION CO  
PO BOX 1  
WESTON ID 83286-0001

has applied for a permit to appropriate water from:

**Source :** WESTON CREEK

**Tributary:** BEAR RIVER

and a permit is APPROVED for development of water as follows:

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Rate of Diversion</u>	<u>Annual Volume</u>
IRRIGATION STORAGE	01/01 to 12/31		20.0 AF
IRRIGATION FROM STORAGE	04/20 to 09/30		20.0 AF
DIVERSION TO STORAGE	10/16 to 04/30	3.00 CFS	

**Location of Point(s) of Diversion**

WESTON CREEK SW¼ SW¼, Sec. 13, Twp 16S, Rge 38E, B.M. FRANKLIN County

**Place of Use:** IRRIGATION STORAGE

Twp	Rng	Sec	NE				NW				SW				SE			
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
16S	38E	13												X				

**Conditions of Approval**

1. Proof of application of water to beneficial use shall be submitted on or before **May 01, 2025**.
2. Subject to all prior water rights.
3. This right does not authorize the diversion of natural flow from Weston Creek for irrigation storage between May 1 and October 15. The right holder may, however, use the storage pond authorized under this right to control and store water released from Weston Creek Reservoir and delivered through the Weston Creek channel during that time period.
4. This right does not authorize the irrigation of land not previously irrigated under water rights 13-948, 13-949 or 13-2293.
5. Irrigation from storage place of use is within the area served by Weston Creek Irrigation Company.
6. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 11.
7. Upon specific notification by the Department, the right holder shall install a lockable device of a type acceptable to the Department in a manner that will provide the watermaster suitable control of the diversion.
8. This right does not grant any right-of-way or easement across the land of another.

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State of Idaho  
Department of Water Resources

**Permit to Appropriate Water (4/2/20 Draft)**

No. 13-8042

This permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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JAMES CEFALO  
Eastern Regional Manager



# Application 13-8042 Ammended Map



## Legend

-  13-8042\_POD
-  13-8042\_Ammended\_POU
-  Township/Range
-  Sections
-  QQ

0 155 310 620 Feet

1 inch = 329 feet



### CERTIFICATE OF SERVICE

I certify that on this the 30<sup>th</sup> day of April, 2020 the foregoing document was served on the following persons in the manner indicated.

  
Signature of person mailing form

James Cefalo Idaho Department of Water Resources Eastern Regional Office 900 N. Skyline Drive, Suite A Idaho Falls, Idaho 83402 <a href="mailto:james.cefalo@idwr.idaho.gov">james.cefalo@idwr.idaho.gov</a>	<input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail
Greg Bingham, President Weston Creek Irrigation Company 3753 S. 3200 W. Weston, Idaho 83286 <a href="mailto:gonfarmn@gmail.com">gonfarmn@gmail.com</a>	<input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail