

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR	)	
TRANSFER NO. 81800 IN THE NAME OF	)	<b>CONDITIONAL WITHDRAWAL</b>
CASA DEL NORTE L.P.	)	<b>OF PROTEST</b>
_____	)	
	)	

**WHEREAS**, the Applicant filed Amended Application for Transfer No. 81800 on July 2, 2018 with the Idaho Department of Water Resources ("IDWR") seeking to: (1) consolidate the Place of Use ("POU") under 61-00301B, 61-02111, and 61-11885; (2) move 161 acres of 61-00301B to 61-00301A; and (3) add the Point of Diversion ("POD") from 61-00301A to 61-00301B and vise versa.

**WHEREAS**, the BLM filed a protest on August 17, 2018 to the Application for Transfer No. 81800, because the Applicant does not have legal access to transport water across, or to disturb, Federal land as described in the transfer;

**WHEREAS**, the Applicant filed another Amended Application for Transfer No. 81800 on December 3, 2018 introducing thirteen additional water rights to the transfer (i.e. 61-00332 et. al.) and a Place of Use ("POU") on BLM (T04S, R09E, S09, NESE);

**WHEREAS**, Applicant proposes to use an existing ditch authorized under right-of-way (IDI-021056) to Charter Mountain Home Ranch, Inc. Applicant has not applied for a right-of-way ("ROW") of its own from BLM, nor sought an assignment of the existing ROW into its name;

**WHEREAS**, the Eastern Ditch transports 61-00301A across Federal land (T04S, R09E, S17 and S20) from 2 Plus Well (T04S, R09E, S09, SESE) to the southern portion of the POU for 61-00301A in Sec. 29, the transfer seeks to transport 61-00301B through this ditch as well.

There is no authorization from BLM to transport 61-00301B through the Eastern Ditch;

**WHEREAS**, the northern portion of the Western Ditch transports 61-02111 and 61-11885 from Cold Springs Creek across Federal land (S34, T03S, R09E and S03, S04 and S05, T04S, R09E) down to the POU for these two water rights (which is also the POU for 61-00301B), the southern portion of the Western Ditch (T04S, R09E, S17 and S20) between the POU for 61-00301B and the southern portion of the POU for 61-00301A (T04S, R09E, S29) has never been occupied by a vested and accrued water right. There is no authorization from BLM to transport water through the southern portion of the Western Ditch under 61-00301B nor 61-00301A;

**WHEREAS**, the Amended Application for Transfer No. 81800 on December 3, 2018 seeks to transport additional water rights through sections of ditches not described in SRBA Partial Decrees for which the Applicant would need to seek a ROW.

**THEREFORE**, the Protestant conditionally withdraws its protest as follows:

1. ~~The following place of use describing BLM land is removed from the transfer:~~

~~T04S, R09E, S09, NESW~~

2. The following conditions shall be placed on any approved transfer:

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

(b) "Prior to diversion and use of water on <sup>for across</sup> 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."

3. The Protestant hereby withdraws its protest of Application for Transfer No. 81800 upon acceptance, approval and adoption of this Conditional Withdrawal by IDWR in its entirety.

Respectfully submitted,

**PROTESTANT:**

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

  
Fredric W. Price

Water Rights Specialist

Date

02-25-2020

## CERTIFICATE OF SERVICE

I certify that on 02-25, 2020, I served a true and correct copy of foregoing **Conditional Withdrawal of Protest; Application for Transfer No. 81800** upon the following individuals by placing the document in the United States Mail in Boise, Idaho, postage paid, and addressed as follows:

Original to:

James Cefalo, Hearing Officer  
Idaho Department of Water Resources  
Eastern Regional Office  
900 North Skyline Drive, Suite A  
Idaho Falls, ID 83402-1718

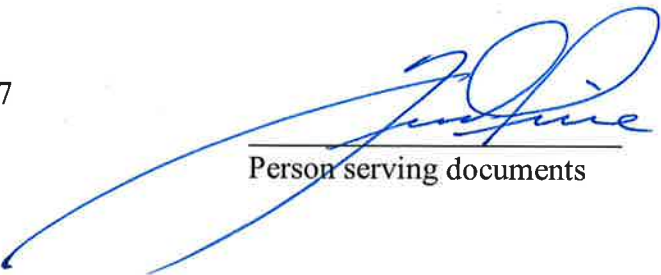
Copies to:

Nick Miller, P.E., Manager  
Idaho Department of Water Resources  
Western Regional Office  
2735 Airport Way  
Boise, Idaho 83705-5082

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REPRESENTING;  
Kelly Riggs  
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Person serving documents