

JAN 27 2020

WATER RESOURCES
WESTERN REGION

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
 PERMIT NO. 37-23059 IN THE NAME OF) **SETTLEMENT AGREEMENT**
 CITY OF GOODING)
 _____)
)

The United States of America ("Protestant") and City of Gooding ("Applicant") agree and stipulate to resolve the United States Department of Interior, Bureau of Land Management ("BLM") protest of Application for Permit No. 37-23059 ("Application").

STIPULATION

WHEREAS, the Applicant filed Amended Application for Permit No. 37-23059 on June 26, 2017 with the Idaho Department of Water Resources ("IDWR") seeking 300 cfs for year-round ground water recharge purposes from the Little Wood River;

WHEREAS, the BLM filed a protest on August 18, 2017 of Application for Permit No. 37-23059, because the existing BLM issued right-of-way ("ROW") IDI-037518 for groundwater recharge purposes recognizes the 7.21 cfs of recharge activities occurring on federal land under certain water rights (i.e. 37-00262A, 37-00271A, 37-00282, 37-00662, 37-00709A, and 37-00960A) but not the enlarged recharge activities proposed by 37-23059;

WHEREAS, Applicant filed an application to modify ROW IDI-037518 on March 13, 2018 to seek authorization to: increase its use of the facilities located on federal land from 7.21 cfs to accommodate an additional 300 cfs of water for groundwater recharge purposes; construct additional structures within the ROW (eg. drop structures, measuring devices, etc.); and to

transport an additional water use into the ROW (i.e. 37-23059);

WHEREAS, the Protestant and the Applicant wish to resolve their dispute regarding Application for Permit No. 37-23059.

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

1. The Applicant has filed an application with BLM to modify existing ROW IDI-037518: **(a)** to increase its use of the existing ROW by 300cfs; **(b)** to construct additional structures within the ROW (eg. drop structures, measuring devices, etc.); and **(c)** to transport an additional water use into the ROW (i.e. 37-23059). The parties agree that, by filing the application to modify ROW IDI-037518 with the BLM, the Applicant has demonstrated to IDWR that the Applicant is seeking permission from BLM to use federal land. The BLM agrees the Application may proceed while the application for ROW is pending, provided that no water under the Application may be used 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 by this Agreement that the BLM will authorize a ROW grant; nor does this Agreement prevent BLM from establishing terms and conditions in accordance with applicable law, regulation, and policy should it issue a modified ROW grant.

2. The Applicant agrees and stipulates any license issued shall not include any place of use on BLM land if BLM ultimately denies the ROW application and such denial is sustained through the completion of applicable administrative and judicial review proceedings.

3. Should BLM issue a modified ROW grant to the Applicant, the Applicant agrees and stipulates to conform the elements of 37-23059 to the ROW grant issued by the United States to the extent allowed under Idaho law.

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

(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 federal land under this approval, the right holder shall obtain authorization from United States agencies necessary to access the point of diversion or place of use or to convey water across federal land."

5. The Protestant hereby withdraws its protest of Application for Water Permit 37-23059 upon acceptance, approval and adoption of this Agreement by IDWR in its entirety.

Respectfully submitted,

APPLICANT:
City of Gooding

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

 Jan. 27, 2020
Robert L. Harris, ISB #7018 Date
Attorney for Applicant
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.


Fredric W. Price
Water Rights Specialist

01-27-2020
Date

CERTIFICATE OF SERVICE

I certify that on Jan. 27, 2020, I served a true and correct copy of foregoing **Settlement Agreement; Application for Permit No. 37-23059** upon the following individuals by placing the document in the United States Mail in Boise, Idaho, postage paid, and addressed as follows:

Original to:

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

Copies to:

Robert L. Harris, Esq., ISB #7018
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.
P.O. Box 50130
1000 Riverwalk Drive, Suite 200
Idaho Falls, Idaho 83405
REPRESENTING:
City of Gooding

Fredric W. Price, Water Rights Specialist
U.S., Department of the Interior
Bureau of Land Management
Idaho State Office
1387 S. Vinnell Way
Boise, Idaho 83709-1657

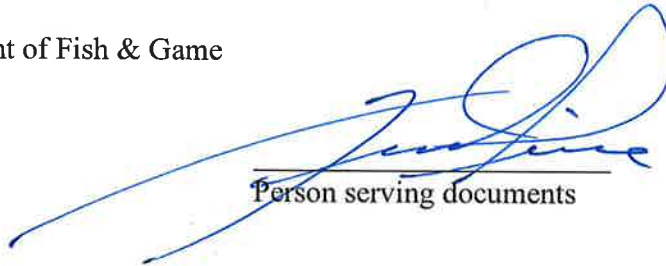
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REPRESENTING:
Big Wood Canal Company

Marie Callaway Kellner
P.O. Box 844
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REPRESENTING:
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John K. Simpson
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P.O. Box 2139
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Boise, Idaho 83701
REPRESENTING:
Idaho Power Company, and
Thomas O'Gara Family Trust

Albert P. Barker
BARKER ROSHOLT & SIMPSON L.L.P.
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Boise, Idaho 83701
REPRESENTING:
South Valley Ground Water District

Michael C. Orr, Deputy Attorney General
Office of the Attorney General
Natural Resources Division
P.O. Box 83720
Boise, Idaho 83720-0010
REPRESENTING:
Idaho Department of Fish & Game



Person serving documents