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WATER RESOURCES
WESTERN REGION

**WATER RIGHT APPLICATION FOR PERMIT PROTEST
SETTLEMENT AGREEMENT**

This Water Right Application for Permit Protest Settlement Agreement ("Agreement") is made this 8th day of January, 2020, by and between **PIONEER IRRIGATION DISTRICT**, whose address is P.O. Box 426, Caldwell, Idaho 83606 ("Pioneer" or "District"), and **KNIFE RIVER CORPORATION—MOUNTAIN WEST**, whose address is 5450 Gowen Road, Boise, Idaho 83709 ("Knife River").

WITNESSETH:

A. WHEREAS, Knife River filed water right Application for Permit No. 63-34769 ("Application") with the Idaho Department of Water Resources ("IDWR") on August 19, 2019;

B. WHEREAS, the Application seeks to appropriate 1.12 cfs of groundwater for commercial and irrigation purposes and uses on property owned by Knife River within Pioneer's boundary;

C. WHEREAS, Pioneer filed a Notice of Protest ("Protest") on September 23, 2019, against the Application raising concerns over the Application's potential impacts on Pioneer facilities located in the vicinity of Knife River's proposed well site;

D. WHEREAS, the parties reached a settlement on or about December 18, 2019, whereby Pioneer conditionally withdrew its Protest to the Application pending IDWR's approval of the parties' proposed water right conditions/remarks;

E. WHEREAS, IDWR approved two of three of the parties' stipulated water right conditions/remarks for inclusion on the face of any water right permit and subsequent water right license issued to Knife River, but would not include the third proposed condition because the agency felt that the third proposed condition imposes private party obligations beyond the Department's administrative purview; and

F. WHEREAS, because the third proposed water right condition is integral to the parties' settlement and the withdrawal of Pioneer's Protest, the parties desire to separately agree between themselves to the imposition of the condition on Knife River's exercise of any water right permit and subsequent license issued under the Application;

G. NOW, THEREFORE, in consideration of the foregoing Recitals, which are contractual and the promises and the mutual benefits, representations, covenants, undertakings, and agreements hereinafter contained and for good and valuable consideration received by the parties, which consideration and the sufficiency thereof is hereby acknowledged by the parties hereto, Pioneer and Knife River represent, covenant, undertake, and agree as follows:

AGREEMENTS:

1. Water Right Conditions. In addition to the following water right conditions (or substantially similar versions of the same approved by the parties hereto) IDWR shall include on any water right permit and subsequent license issued under the Application, *to wit*:

a. The right holder shall make full beneficial use of all surface water available to the right holder for irrigation of lands within the authorized place of use for this right. The right holder may divert ground water under this right to irrigate land with appurtenant surface water rights only when the surface water supply is not reasonably sufficient to irrigate the place of use for this water right or is not available due to drought, curtailment by priority, or the seasonal startup and shutoff or maintenance schedule of an irrigation delivery entity. The right holder shall not divert ground water for irrigation purposes under this right if use of the surface water supply is not deliverable due to non-payment of annual assessments without an approved transfer pursuant to Idaho Code Section 42-222 or other Department approval; and

b. To mitigate for potential injury, the right holder shall drill and case its well to a minimum depth of 200 feet below ground surface.

The parties further agree that Knife River use of any water right permit and subsequent license issued under the Application is subject to the following additional condition:

c. If Pioneer Irrigation District has reason to believe that operation of the right holder's well is interfering with, or diminishing the flow of water through or from a District facility or well, Pioneer shall provide written notice of the alleged interference to the right holder specifying the reasons supporting the interference allegation. Upon delivery of this notice, the right holder and Pioneer shall meet within seven (7) business days in a good faith attempt to determine the existence, cause, and potential resolution of the alleged interference. If the right holder and Pioneer are unable to reach an agreement resolving the issue, Pioneer may pursue all legal remedies available to it and the right holder shall not use the Department's issuance of this right as a defense against any Pioneer claims.

2. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the subject matter of this Agreement. Amendments to this Agreement shall be made only by written instrument executed by each of the parties hereto.

3. Binding Effect. This Agreement shall bind the parties hereto and their respective heirs, successors, and assigns concerning the exercise and use of any water right permit or subsequent license issued by IDWR under the Application.

4. Severability. If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent reasonably possible.

5. No Waiver. The failure of a party to insist on the strict performance of any provision of this Agreement or to exercise any right or remedy upon a breach hereof shall not

constitute a waiver of any provision of this Agreement or limit such party's right to enforce any provision or exercise any right.

6. Governing Law. This Agreement shall be construed under and governed by the laws of the State of Idaho.

7. Costs and Fees. In the event any party hereto shall bring any action to enforce a breach of this Agreement, the prevailing party shall be entitled to recover reasonable costs and attorney fees from the non-prevailing party, including any costs and attorney fees on appeal.

8. Maintenance in IDWR's File. This Agreement shall be submitted to IDWR and kept in the agency's file for any water right permit and subsequent license issued under water right Application for Permit No. 63-34769 and any subsequent, future progeny thereof.

9. Authorization. The parties represent and warrant that the person signing this Agreement on behalf of each party has been duly authorized to do so, and is fully vested with the authority to bind that party in all respects.

IN WITNESS WHEREOF, the parties have hereunto caused their names to be subscribed to this Agreement of the date first set forth above.

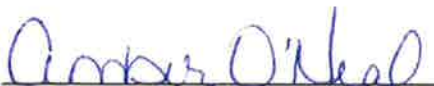
KNIFE RIVER CORPORATION—MOUNTAIN WEST

By 
Its Robert + Rishi

PIONEER IRRIGATION DISTRICT

By 
Alan Newbill, President
of its Board of Directors

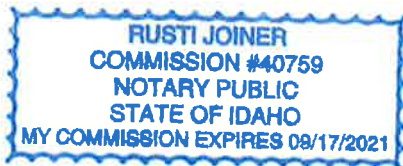
Attest:


Amber O'Neal, Secretary/Treasurer

STATE OF Idaho)
) ss.
County of ADA)

On this 6 day of January, 2020, before me, the undersigned Notary Public in and for said state, personally appeared Sean Marsh known or identified to me to be the Contract & Risk Manager of KNIFE RIVER CORPORATION—MOUNTAIN WEST, the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

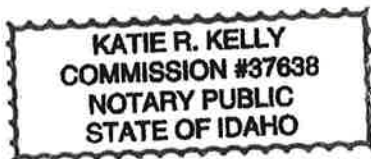


Rusti Joiner
NOTARY PUBLIC FOR Idaho
Residing at Nampa, Idaho
My Commission Expires 9/17/2021

STATE OF IDAHO)
) ss.
County of Canyon)

On this 8 day of January, 2020, before me, the undersigned Notary Public in and for said state, personally appeared ALAN NEWBILL, known or identified to me to be the President of the Board of Directors of PIONEER IRRIGATION DISTRICT, the person who executed the instrument on behalf of the PIONEER IRRIGATION DISTRICT, and acknowledged to me that PIONEER IRRIGATION DISTRICT executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

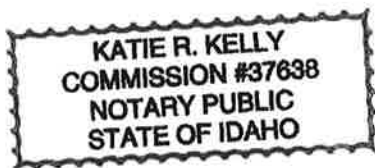


Katie Kelly
NOTARY PUBLIC FOR IDAHO
Residing at Oasis, ID
My Commission Expires 2/20/2020

STATE OF IDAHO)
) ss.
County of Canyon)

On this 8 day of January, 2020, before me, the undersigned Notary Public in and for said state, personally appeared AMBER O'NEAL, known or identified to me to be the Secretary/Treasurer of PIONEER IRRIGATION DISTRICT, the person who executed the instrument on behalf of the PIONEER IRRIGATION DISTRICT, and acknowledged to me that PIONEER IRRIGATION DISTRICT executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.




NOTARY PUBLIC FOR IDAHO
Residing at Oasis, ID
My Commission Expires 2/20/2020