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*Attorneys for Protestant
Settlers Irrigation District*

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WATER RESOURCES
WESTERN REGION

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION FOR
TRANSFER NO. 82915 IN THE NAME OF
THE BAINBRIDGE OWNERS
ASSOCIATION

**STIPULATION TO RESOLVE
PROTEST AND WITHDRAWAL OF
PROTEST**

COMES NOW, Applicant Bainbridge Owners Association and Protestant Settlers
Irrigation District, and hereby submit this *Stipulation to Resolve Protest and Withdrawal of
Protest* in the above-captioned matter.

Applicant and Protestant hereby stipulate and agree as follows:

1. Applicant and Protestant agree that Transfer No. 82915 may be granted contingent upon the following conditions (or substantially the same conditions as approved by IDWR) be included in the approval for Transfer No. 82915:

a. The place of use for the rights listed in Transfer No. 82915 is to include those lands described in **Exhibit 1** to this *Stipulation* and shall specifically include those lands currently owned by the Church of Jesus Christ of Latter Day Saints and Michael L. Johnson, as well as approximately 5 acres identified in the Modified Page 3 of Transfer No. 82915 attached as **Exhibit 2** (4 acres in the SENE and 1 acre in the NENW). Applicant's pressure irrigation pump

station for the development known as Bainbridge Subdivision shall include delivery of water via those rights identified in Transfer No. 82915 to all of the lands identified in **Exhibit 1** attached hereto.

b. The primary irrigation water for the place of use authorized under those rights identified in Transfer No. 82915 to the lands identified in **Exhibit 1** is surface water delivered by Settlers Irrigation District (this includes Settlers' assessed lands and delivery of Water Right No. 63-161G). The right holder shall make full beneficial use of said primary surface water rights available to the right holder for irrigation of lands within the authorized place of use for this right. The right holder may divert water under any groundwater rights to irrigate land with appurtenant primary surface water rights when the primary surface water supply is not reasonably sufficient to irrigate the place of use or is not available due to drought, curtailment by priority, or the seasonal startup and shutoff or maintenance schedule for the irrigation delivery entity. The right holder shall not divert water for irrigation purposes under any groundwater rights if use of the primary surface water rights is intentionally discontinued or reduced (for example abandoned, forfeited, sold, disallowed by court decree, or leased to the Water Supply Bank) or is not deliverable due to non-payment of annual assessments, without an approved transfer pursuant to Idaho Code § 42-222 or other Department approval;

c. The rights identified in the Transfer when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use; and

d. The rights identified in Transfer No. 82915 are subject to a *Stipulation/Agreement* between the Applicant/right holder and Settlers Irrigation District dated November 7, 2019 to which the Department is not a party. Because the Department is not a party, the Department is

not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the protestant and the water right holder.

2. Applicant and Protestant further agree that the following conditions may not be a conditions included in Applicant's final Transfer No. 82915, although this *Stipulation* shall be included in the backfile/records for the water rights which are the subject of Transfer No. 82915 but the following conditions shall be binding upon the Applicant, Protestant and their successors and assigns:

a. Water right No. 63-161G is held in the name of the Applicant and is diverted from the Boise River and delivered by Settlers Irrigation District through the Settlers Irrigation District's canal system. Settlers Irrigation District will continue to divert and deliver said water to the Applicant in the same manner as it has historically delivered said water (except for the delivery point change referenced below) and Applicant shall continue to be assessed and treated as a landowner of Settlers Irrigation District. In other words, Applicant shall continue to have all rights, responsibilities and obligations as any other assessed landowner of Settlers Irrigation District regardless of the name in which Water Right No. 63-161G is held;

b. The lands identified in the place of use for Transfer No. 82915 have historically been delivered water from both the Harrell Lateral and the North Slough Lateral. Applicant, Settlers Irrigation District and North Slough Lateral Water Users Association ("North Slough") have agreed to a change in delivery point for those lands delivered from the North Slough to the Harrell Lateral and thus all water delivered by Settlers Irrigation District to the place of use for Transfer No. 82915 and to Applicant's pressurized irrigation pump station shall be from the Harrell Lateral;

c. Applicant has installed a pressurize irrigation pump station for delivery of surface water and ground water to the place of use for Transfer No. 82915 to the Bainbridge Subdivision and, as provided above, the place of use shall include lands currently owned by Church of Jesus Christ of Latter Day Saints and Michael L. Johnson and the additional 5 acres identified in **Exhibit 2**. Applicant shall make available a stub for delivery to those lands currently owned by Church of Jesus Christ of Latter Day Saints and Michael L. Johnson, and the assessed 5 acres identified in **Exhibit 2** and Applicant shall not disconnect or discontinue delivery to said lands without the written approval of Settlers Irrigation District;

d. Applicant's pressurized irrigation pump station shall also provide and delivery surface and ground water to the place of use for the City of Meridian's park. This shall include the delivery of the City's Water Right No. 63-34434 via the pressurized irrigation pump station. Applicant shall make available a stub for delivery to those lands currently owned by the City of Meridian and Applicant shall not disconnect or discontinue delivery to said lands without the written approval of Settlers Irrigation District;

e. Applicant has not installed a pond as part of the pressurized irrigation pump station and instead intends to rely upon waste water from Heros Pond as a backup source of surface water for delivery of surface water through the pressurized irrigation pump station. The design showing said use of waste water via the pressurized irrigation pump station is provided in **Exhibit 3** to this *Stipulation*. Applicant shall use its best efforts to utilize the waste water to the extent feasible and possible before diverting any groundwater from Applicant's wells. Settlers Irrigation District will assist and cooperate with Applicant to the extent feasible and possible to provide delivery and use of said waste water to Applicant's pressurized irrigation pump station. Provided, however, Settlers Irrigation District shall have no obligation to maintain the pipeline for

the waste water nor shall it have an obligation to require the continued wasting or delivery of waste water from the pond known as Heros Pond;

f. Applicant has filed an Application for Permit No. 63-34651 for additional supplemental ground water to be diverted and delivered to the pressurized irrigation pump station and Applicant intends to file a new Application for Permit for additional supplemental ground water to be diverted and delivered to the pressurized irrigation pump station to the 5 acres identified in **Exhibit 2**. Applicant agrees that the following conditions shall be included in the conditions for both Application for Permit No. 63-34651 and any new Application for Permit for the additional 5 acres and it shall not be necessary for Settlers Irrigation District to Protest said Applications based upon Applicant's agreement to include the following conditions:

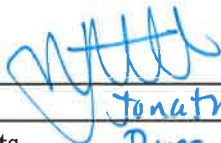
(i) The primary irrigation water for the place of use authorized under this right is surface water delivered by Settlers Irrigation District. The right holder shall make full beneficial use of said primary surface water rights available to the right holder for irrigation of lands within the authorized place of use for this right. The right holder may divert water under this right to irrigate land with appurtenant primary surface water rights when the primary 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 for the irrigation delivery entity. The right holder shall not divert water for irrigation purposes under this right if use of the primary surface water rights is intentionally discontinued or reduced (for example abandoned, forfeited, sold, disallowed by court decree, or leased to the Water Supply Bank) or is not deliverable due to non-payment of annual assessments, without an approved transfer pursuant to Idaho Code § 42-222 or other Department approval; and

(ii) This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.

3. Protestant hereby withdraws its Protest filed in the above-captioned matter based upon the conditions referenced above. The filing of this *Stipulation to Resolve Protest and Withdrawal of Protest* shall serve as Protestant's withdrawal of its Protest.

DATED this _____ day of _____, 2019.

BAINBRIDGE OWNERS ASSOCIATION

By 
Its Jonathan D. Wardle
President

DATED this 7th day of November, 2019.

SAWTOOTH LAW OFFICES, PLLC

By 
S. Bryce Farris
Attorneys for Protestant
Settlers Irrigation District

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of November, 2019, I caused a true and correct copy of the foregoing **STIPULATION TO RESOLVE PROTEST AND WITHDRAWAL OF PROTEST** to be served by the method indicated below, and addressed to the following:

Bainbridge Owners Association
2929 W. Navigator Drive, Suite 400
Meridian, ID 83642
T (208) 378-4000

☒ (X) U.S. Mail, Postage Prepaid
☐ () Hand Delivered
☐ () Overnight Mail
☐ () Facsimile
☐ () Email

Lori Graves
SPF Water Engineering, LLC
300 E. Mallard Drive, Suite 350
Boise, ID 83706
T (208) 383-4140
F (208) 383-4156
E lgraves@spfwater.com

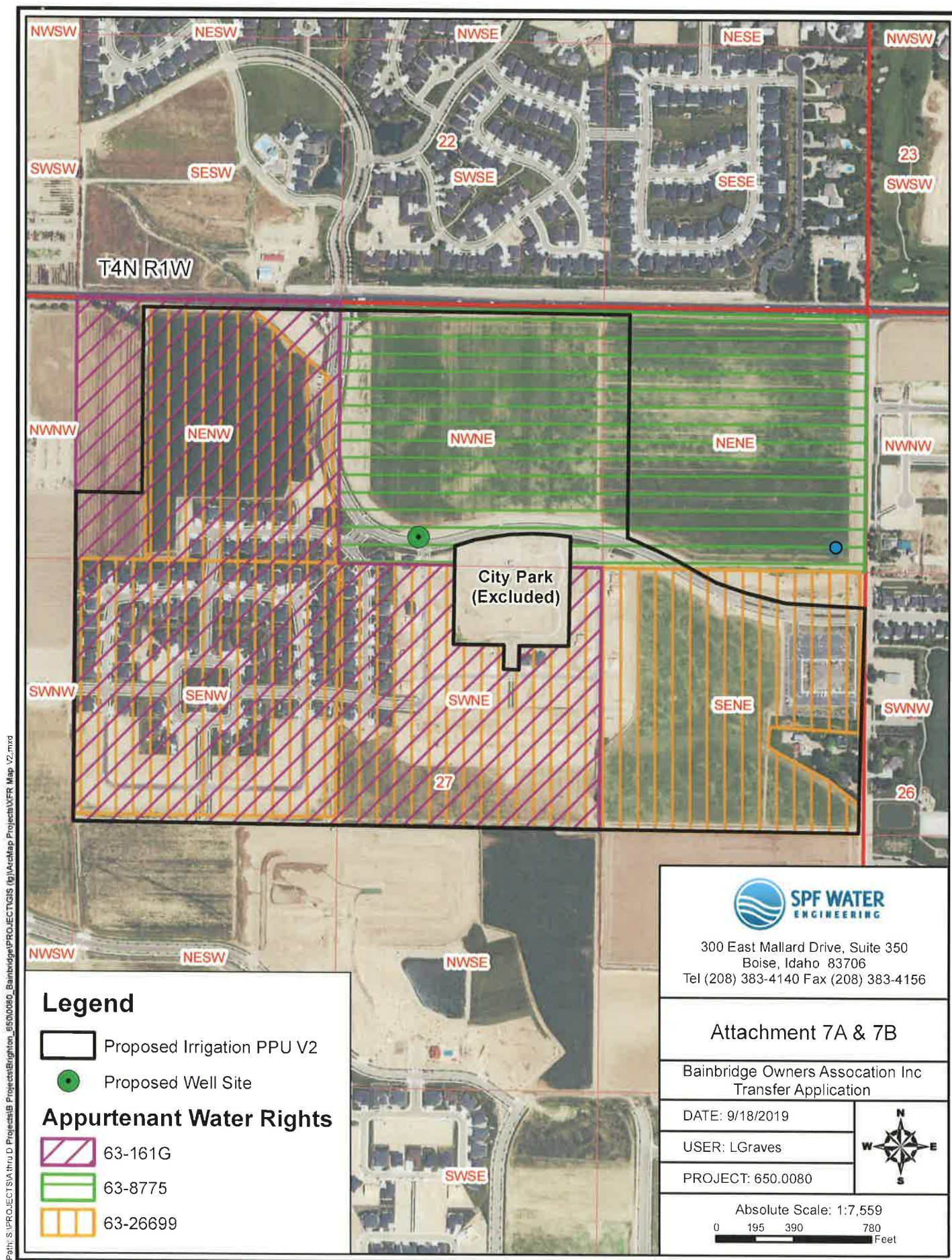
☒ (X) U.S. Mail, Postage Prepaid
☐ () Hand Delivered
☐ () Overnight Mail
☐ () Facsimile
☐ () Email

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☒ (X) Hand Delivered
☐ () Overnight Mail
☐ () Facsimile
☐ () Email



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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

B. DESCRIPTION OF RIGHTS AFTER THE REQUESTED CHANGES. IF THE RIGHTS ARE BEING SPLIT, DESCRIBE PORTIONS TO BE CHANGED AS THEY WOULD APPEAR AFTER THE REQUESTED CHANGES.

1.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
All or Part ☒ ☐	63-161G	0.57	irrigation	3/1 to 11/15	Boise River/Snake River
☐ ☒	63-8775	0.79/177.7	irrigation	3/15 to 11/15	Ground Water
☐ ☒	63-26699	1.98	irrigation	3/1 to 11/15	Waste Water
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 3.34 cfs and/or _____ acre-feet.

2. Total amount of water proposed to be transferred or changed 3.34 cubic feet per second and/or _____ acre-feet per year.

3. Point(s) of Diversion:

- ☐ No changes to point(s) of diversion are proposed - the following chart is therefore not completed. (Proceed to #4.)
☐ Attach Eastern Snake Plain Aquifer analysis if this transfer proposes to change a point of diversion affecting the ESPA.
 Label it **Attachment #5**. POD changes to water rights 63-161G and 63-26699 are not being proposed

New ?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
Yes			NW	NE	27	4N	1W	Ada	Ground Water	63-8775 (portion)

4. Place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

- ☐ No changes to place of use are proposed - the following chart is therefore not completed. (Proceed to #5.)

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	1W	27	4	37.1	34.4	*34	*30			40									179.5
Total Acres (for irrigation use)																			179.5

