

RECEIVED
AUG 16 2019
WATER RESOURCES
WESTERN REGION

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 02-10576 IN THE NAME OF) **SETTLEMENT AGREEMENT**
DESERT FARMS REAL ESTATE, LLC)
_____)

The United States of America ("Protestant") and Desert Farms Real Estate, LLC ("Applicant") agree and stipulate to resolve the United States Department of Interior, Bureau of Land Management ("BLM") protest of Application for Permit No. 02-10576 ("Application").

STIPULATION

WHEREAS, the Applicant filed Amended Application for Permit No. 02-10576 ("Application") on May 28, 2019 with the Idaho Department of Water Resources ("IDWR") seeking 2.48 cfs from the Snake River for stockwatering purposes (additional 3,200 milk cows and 1,800 replacements). The point of diversion ("POD") and place of use ("POU") are described on privately owned land; however the pipeline crosses federal land;

WHEREAS, the BLM filed a protest of Application for Permit No. 02-10576 because the Applicant is not authorized to transport new water through an existing irrigation pipeline that crosses federal land (i.e. T02N, R04W, S21, SESE, S22, SWNE, SENE, NESW, NWSW), or to use the facility for additional purposes (i.e. stockwater).

WHEREAS, BLM issued a right-of-way ("ROW") on 01/07/1988 for the existing irrigation pipeline (IDI-012665) and transportation of existing irrigation water rights (02-07155 (split into 02-10238 and 02-10239); and 02-07186 (split into 02-10240 and 02-10241)). BLM has not authorized the transportation of irrigation right 02-07461 (split into 02-10242 and 02-

10243) nor this stockwater Application (02-10576);

WHEREAS, the Protestant and the Applicant wish to resolve their dispute regarding Application for Permit No. 02-10576.

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

1. 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."

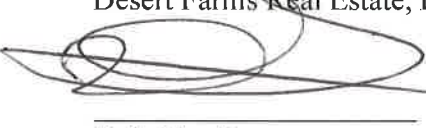
(b) "Prior to diversion and use of water under this approval, the right holder shall obtain authorization necessary to access the point of diversion, or place of use, or to convey water across federal land."

2. The Protestant hereby withdraws its protest upon acceptance, approval and adoption of this Agreement by IDWR in its entirety.

Respectfully submitted,

APPLICANT:

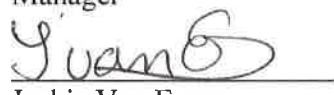
Desert Farms Real Estate, LLC



Dale Van Es
Manager

8/12/19

Date



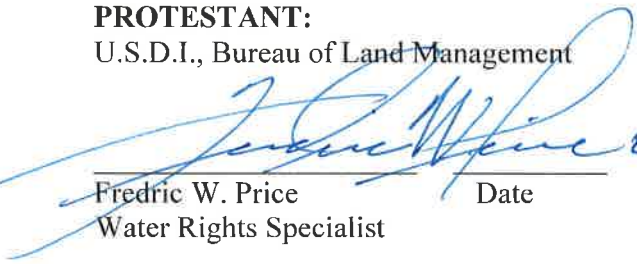
Jackie Van Es
Manager

8/12/19

Date

PROTESTANT:

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



Fredric W. Price
Water Rights Specialist

8/16/2019

Date

CERTIFICATE OF SERVICE

I certify that on Aug 16, 2019, I served a true and correct copy of foregoing **Settlement Agreement; Application for Permit No. 02-10576** upon the following individuals by placing the document in the United States Mail in Boise, Idaho, postage paid, and addressed as follows:

Original to:

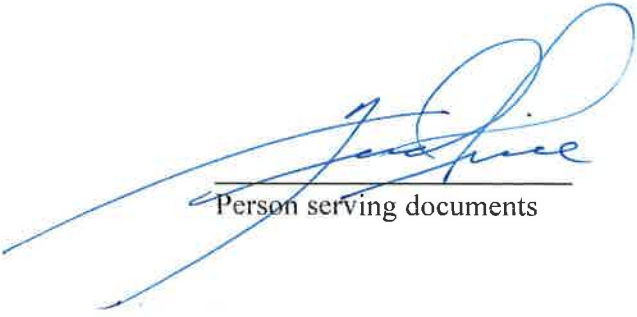
Nick Miller, P.E., Regional Manager
Idaho Department of Water Resources (IDWR)
Western Regional Office
2735 Airport Way
Boise, Idaho 83705-5082

Copies to:

Desert Farms Real Estate, LLC
8222 Desert Dr.
Marsing, Idaho 83639-8264
c/o Dale & Jackie Van Es

SPF Water Engineering, LLC
300 East Mallard Drive, Suite 350
Boise, Idaho 83706-6660
c/o Lori Graves

James Tarter, Natural Resource Specialist
Kyle Paffett, Hydrologist
U.S., Department of the Interior
Bureau of Land Management
Boise District Office
3948 South Development Avenue
Boise, Idaho 83705-5339



Person serving documents