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JAN 10 2018

DEPARTMENT OF  
WATER RESOURCES

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JAN 16 2018

Department of Water Resources  
Eastern Region

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR ) **SETTLEMENT AGREEMENT**  
TRANSFER NO. 81477 IN THE NAME OF )  
RANDY AND MICHELLE PURSER )  
\_\_\_\_\_ )

The United States of America ("Protestant") and Randy and Michelle Purser ("Applicants") agree and stipulate to resolve the United States Department of Interior, Bureau of Land Management ("BLM") protest of Application for Transfer No. 81477 involving Water Rights 34-00235D, 34-00424D, 34-00790D, and 34-00791D.

**STIPULATION**

**WHEREAS**, the Applicants filed an Application for Point of Diversion Transfer No. 81477 on February 22, 2017 with IDWR to add a new Point of Diversion ("POD") to each of the above described water rights in order to facilitate the irrigation of 6.2 acres within the current Place of Use ("POU"). The Applicants' water rights are currently delivered through the B & J Ditch and the new POD would provide for the delivery of some water through the Three in One Ditch. The transfer relates to six PODs in total, of which four PODs are existing under the above rights and are listed as follows: NWSENW (spring redirection), NWSENW (surface water), S32, T06N, R26E; and SENWSE (spring), NWSWSE (spring injection), S33, T06N, R26E. The four existing PODs are located in the B & J Ditch. The transfer seeks to add two new PODs listed in the same 10 acre tract as follows: SENWSE, S14, T06N, R25E (spring) and SENWSE (surface water), S14, T06N, R25E. This new location is the head of a different ditch known as the Three in One Ditch.

**WHEREAS**, the BLM has filed a protest of Application for Transfer No. 81499 because the new PODs entirely describe federal public land managed by BLM (SEnwSE, S14, T06N, R25E). The new PODs are part of a different conveyance system (Three in One Ditch) than originally decreed (B & J Ditch). Three in One Ditch crosses federal lands in two other locations (NENE, S26, T06N, R25E and Lot 9 (NWNE), S06, T05N, R26E). The Applicants are not authorized to establish a POD on federal public land for irrigation purposes, nor to transport water in Three in One Ditch across federal lands.

**WHEREAS**, Randy Purser approached BLM on April 5, 2017 and submitted an application for a right-of way (ROW) for a new POD on the Three-in-One Ditch on BLM managed lands.

**WHEREAS**, the Protestant and the Applicants wish to resolve their dispute regarding Application for Transfer No. 81477;

**THEREFORE**, the Protestant and the Applicants stipulate and agree as follows:

1. The Applicants agree and stipulate to file an application for right-of-way (ROW) with BLM in order to seek authorization to:

(a) Use PODs located on federal public lands (SEnwSE, S14, T06N, R25E) under water right numbers 34-00235D, 34-00424D, 34-00790D, and 34-00791D (subject of this transfer), as well as, 34-00314 (subject of a prior transfer); and

(b) Request authorization to transport these water rights across BLM lands within the Three in One Ditch within the following legal land descriptions: NENE, S26, T06N, R25E and Lot 9 (NWNE), S06, T05N, R26E.

2. The parties agree that, by filing application for ROW with the BLM, the Applicants have demonstrated to IDWR, for purposes of approving the Application, that the

Applicant is seeking permission from BLM to use federal land. The BLM agrees that the Application may proceed while the application(s) 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.

Applicants recognize and understand that there is no guarantee or promise implied or inferred by this Agreement that the BLM will authorize a ROW; nor does this Agreement prevent BLM from establishing terms and conditions in accordance with applicable law and policy should it issue a ROW.

3. The Applicants agree and stipulate to voidance of the transfer if BLM ultimately denies the ROW application.

4. The Applicants agree and stipulate to obtain written permission from all of the owners of the Three in One Ditch allowing the Applicants to use their ditch, and to provide copies to BLM and IDWR.

5. The parties agree and stipulate that 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 under this approval, the right holder shall obtain Bureau of Land Management authorization necessary to access the point of diversion or place of use or to convey water across federal land."

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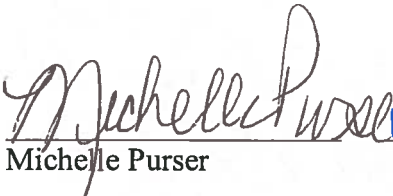
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6. The Protestant hereby withdraws its protest upon acceptance, approval and adoption of this Agreement by IDWR in its entirety.

Respectfully submitted,

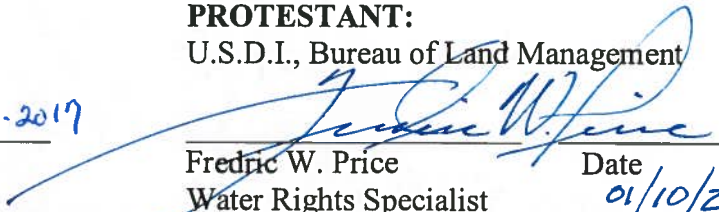
**APPLICANTS:**

 12-29-2017  
Randy Purser Date

 12-29-2017  
Michelle Purser Date

**PROTESTANT:**

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

 01/10/2018  
Fredric W. Price Date  
Water Rights Specialist

## CERTIFICATE OF SERVICE

I certify that on Jan. 10, 2018, I served a true and correct copy of foregoing **Settlement Agreement; Application for Transfer No. 81477** upon the following individuals by placing the document in the United States Mail in Boise, Idaho, postage paid, and addressed as follows:

Original to:

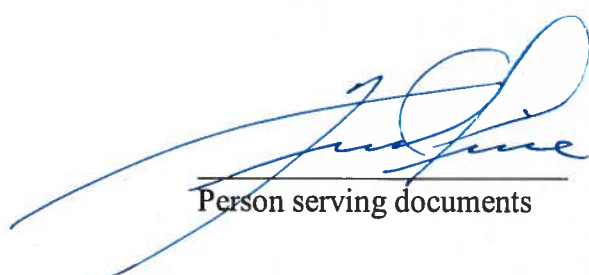
Jeff Peppersack, Administrator  
Idaho Department of Water Resources  
Idaho State Office  
Water Management Division  
P.O. Box 83720  
322 East Front Street  
Boise, Idaho 83720-0098

Copies to:

Lyle Swank, Regional Manager  
Idaho Department of Water Resources  
Eastern Region  
900 N. Skyline Drive  
Idaho Falls, Idaho 83402-1718

Randy Purser  
3539 West 3600 North  
Moore, Idaho 83255-8731

Deena Teel, Supervisory Natural Resource Specialist  
Becky Lazdauskas, Realty Specialist  
U.S., Department of the Interior  
Bureau of Land Management  
Upper Snake Field Office  
1405 Hollipark Drive  
Idaho Falls, Idaho 83401-2100



Person serving documents