

MAY 12 2017

AGREEMENT TO TERMINATE

WATER RIGHT EXCHANGES

10:56 A.M.
BUTTE COUNTY RECORDER
Bym Burnett P.M.

THIS AGREEMENT is made and entered into as of the date of the last signature hereto by and among MARSHALL TODD PERKES and ~~NORMA~~ ^{Norma L} PERKES, husband and wife ("Perkes"), KIRBY A. JENSEN and ~~SHARON~~ ^{Sharon L} W. JENSEN, husband and wife ("Jensen"), JASON JOEL ANDERSEN and MELISSA ANDERSEN, husband and wife ("Jason") and JOEL S. ANDERSEN and BELVA E. ANDERSEN ("Joel").

RECITALS

A. Perkes is the owner of Water Rights 34-7096A and 34-7097A which provide for the diversion of ground water from a well on Jason's property in Butte County, Idaho, the legal description of which is attached hereto as **Exhibit A** and made a part hereof by this reference ("Jason's Property"). The decreed place of use of these water rights is land owned by Perkes in Butte County, Idaho.

B. Jason is the owner of Water Right 34-14229 for the diversion of 4.34 cfs from the Big Lost River to irrigate 213 acres of Jason's Property.

C. Jensen is the owner of Water Right 34-14228 for the diversion of 0.18 cfs from the Big Lost River to irrigate 9 acres of the Jensen property in Butte County, Idaho, the legal description of which is attached hereto as **Exhibit B** and made a part hereof by this reference ("Jensen's Property").

D. Water Rights 34-7096A, 34-7097A, 34-14228 and 34-14229 are the subject of that certain Memorandum Agreement re. Water Exchange and Easement, dated May 19, 1976, among Boyd Burnett and Sandra Burnett, J. Doyle Jensen and Katherine K. Jensen, and Jensen, and that certain Addendum to Memorandum Agreement re. Water Exchange and Easement, dated June 10, 1976, among the same parties (collectively the "Burnett Exchange Agreement"). The Burnett Exchange Agreement was approved by the Idaho Department of Water Resources ("IDWR") by that certain Exchange of Water No. 34-0032A ("Exchange 34-0032A"). The Burnett Exchange Agreement was partially modified by the *Findings of Fact and Conclusions of Law* issued in Case No. CV-96-19 in the Seventh Judicial District in and for Butte County (the "Herndon Decision").

E. The Burnett Exchange Agreement terminated by the expiration of its term on May 19, 2016. Perkes, Jensen and Jason then verbally agreed to exchange the use of the water

rights subject to the Burnett Exchange Agreement for the 2016 and 2017 irrigation seasons only.

F. Perkes is the owner of Water Right 34-7223 which provides for the diversion of ground water from a well on Joel's property in Butte County, Idaho, the legal description of which is attached hereto as **Exhibit C** and made a part hereof by this reference ("Joel's Property"). The decreed place of use of these water rights is land owned by Perkes in Butte County, Idaho.

G. Joel is the owner of Water Right 34-14231 for the diversion of 1.54 cfs from the Big Lost River to irrigate 73 acres of Joel's Property.

H. Jensen is the owner of Water Right 34-14230 for the diversion of 0.06 cfs from the Big Lost River to irrigate 3 acres of Jensen's Property.

I. Water Rights 34-7223, 34-14230 and 34-14231 are the subject of that certain Memorandum Agreement re. Water Exchange and Easement, dated March 30, 1979, among Mitchell D. Sorenson and Elaine R. Sorenson and J. Doyle Jensen and Katherine K. Jensen (the "Sorenson Exchange Agreement"). The Sorenson Exchange Agreement was approved by the Idaho Department of Water Resources ("IDWR") by that certain Exchange of Water No. 2354 dated August 8, 1980 ("Exchange 2354"). The Sorenson Exchange Agreement was partially modified by the Herndon Decision.

J. Perkes, Jensen, Jason and Joel now desire to terminate the Sorenson Exchange Agreement as of December 31, 2017, and agree on the ownership of the water rights, easements, wells, pumps, motors and related equipment which are the subjects of both Exchange Agreements, all on the terms and conditions hereinafter set forth.

TERMS AND CONDITIONS

1. INCORPORATION OF RECITALS. The Recitals set forth above are an integral part of this Agreement and are fully incorporated herein by this reference.

2. TERMINATION OF WATER RIGHT EXCHANGES. The parties hereby agree that the Sorenson Exchange Agreement shall, subject to the provisions of this paragraph 2, terminate on December 31, 2017, and that the Burnett Exchange Agreement terminated on May 16, 2016. The parties further agree to take any additional action which may be required to terminate Exchanges 2354 and 34-0032A.

3. OWNERSHIP OF WATER RIGHTS. The parties agree that Perkes shall, subject to and except as provided in the provisions of paragraph 4, below, retain and be the sole owner of Water Rights 34-7096A, 34-7097A and 34-7223, and Jensen, Joel and Jason shall have no further interest in or claim to the right to use such water rights. Specifically, Joel and Jason hereby waive and release their respective options to purchase these ground water rights pursuant to the Sorenson and Burnett Exchange Agreements. The parties further agree that Jensen shall retain and be the sole owner of Water Rights 34-14228 and 34-14230, and Perkes shall have no further interest in or claim to the right to use such water rights. The parties further agree that Jason shall retain and be the sole owner of Water Right 34-14229, and Perkes shall have no further interest in or claim to the right to use such water right. The parties further agree that Joel shall retain and be the sole owner of Water Right 34-14231, and Perkes shall have no further interest in or claim to the right to use such water right. Jensen, Jason and Joel shall each pay all of the costs and expenses relating to the conversion of their respective irrigation systems to use the above-described Big Lost River water rights.

4. TRANSFER OF POINT OF DIVERSION OF WATER RIGHTS 34-7096A, 34-7097A AND 34-7223.

a. Perkes shall at his sole cost and expense, file one or more applications with the Idaho Department of Water Resources ("IDWR") to transfer the points of diversion of Water Rights 34-7096A, 34-7097A and 34-7223 to one or more of Perkes existing wells. The parties all agree to do their best to communicate often to resolve any differences to allow Perkes to change his point of diversion for these ground water rights.

b. In the event Perkes does not obtain IDWR approval of these point of diversion transfer applications within three (3) years of the effective date of this Agreement, Perkes shall transfer and convey ownership of Water Rights 34-7096A and 34-7097A to Jason, 1.26 cfs of 34-7223 to Joel and 0.34 cfs of 34-7223 to Jensen.

5. OWNERSHIP OF WELLS, WELL ACCESS EASEMENTS, PUMPS, MOTORS AND RELATED EQUIPMENT. Perkes hereby relinquishes, conveys and assigns to Jason any and all right, title or interest he may have in the wells, well access easements, pumps, motors and related equipment which are the subject of the Burnett Exchange Agreement. Perkes hereby relinquishes, conveys and assigns to Joel, effective as of December 31, 2017, any and all right, title or interest he may have in the wells, well access easements, pumps, motors and related equipment which are the subject of the Sorenson Exchange Agreement.

6. NECESSARY ACTS. Each party agrees to perform any further acts and execute any documents that may be reasonably necessary to effect the purpose of this Agreement.

7. NOTICE. All notices and communications under this Agreement shall be in writing and shall be (i) delivered in person or (ii) mailed, postage prepaid, either by registered or certified mail, return receipt requested, or by overnight express carrier, addressed in each case to the party's address set forth in the introductory paragraph of this Agreement, or (iii) sent by facsimile or electronic mail. It is provided, however, that any party may change its respective address for purposes of receipt of any such communication by giving ten (10) days prior written notice of such change to the other party hereto in the manner provided above. All notices sent pursuant to the terms of this paragraph shall be deemed received (i) if sent by overnight, express carrier, on the next business day immediately following the day sent, (ii) if sent by registered or certified mail, on the third business day following the day sent or (iii) if sent by facsimile or electronic mail on the date so sent.

8. GOVERNING LAW. The validity, meaning and effect of this Agreement shall be determined in accordance with the laws of the State of Idaho applicable to agreements made and performed in that state.

9. CAPTIONS TO PARAGRAPHS. The captions to the paragraphs of this Agreement are for convenience only and shall not be deemed to enlarge, diminish, explain or in any manner affect the meaning of such paragraphs.

10. TRANSMISSION OF DOCUMENTS. Facsimile or electronic transmission of any signed original document, and retransmission of any signed facsimile or electronic transmission, shall be the same as delivery of an original of such document. At the request of either party the other party will confirm facsimile or electronically transmitted signatures by signing an original document.

11. COUNTERPARTS. This Agreement may be executed in one or more counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document.

12. BINDING EFFECT. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

13. GOVERNING LAW. The validity, meaning and effect of this Agreement shall be determined in accordance with the laws of the State of Idaho applicable to agreements made and performed in that state.

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the dates set forth below.

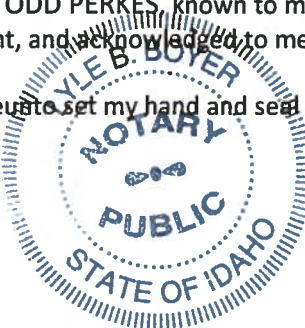
Date: 5-11-17 M Todd Perkes
MARSHALL TODD PERKES
Marshall

STATE OF IDAHO)
) ss.
County of Butte)

On this 11th day of May, 2017, before me, the undersigned, a notary public in and for said state, personally appeared MARSHALL TODD PERKES, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

Stylo B. Boyer
Notary Public for Idaho
Residing at: Ana, ID
Comm. Expires: 6-5-2021



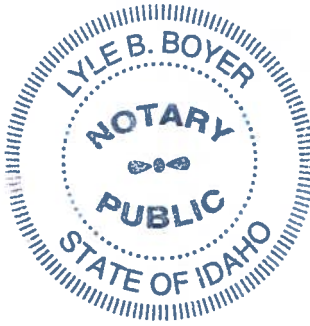
Date: 5-11-17 Norma J. Perkes
NORMA PERKES
Norma L

STATE OF IDAHO)
) ss.
County of Butte)

On this 11 day of May, 2017, before me, the undersigned, a notary public in and for said state, personally appeared NORMA PERKES, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

Lyle B. Boyer
Notary Public for Idaho
Residing at: Arco, ID
Comm. Expires: 6-5-2021



Date: 5/11/17

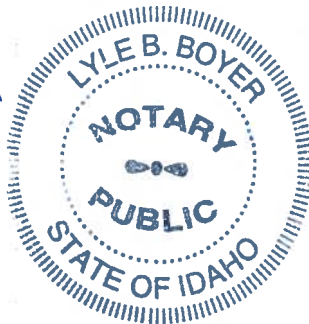
Kirby A. Jensen
KIRBY A. JENSEN

STATE OF IDAHO)
) ss.
County of Butte)

On this 11th day of ~~February~~ May, 2017, before me, the undersigned, a notary public in and for said state, personally appeared KIRBY A. JENSEN, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

Lyle B. Boyer
Notary Public for Idaho
Residing at: Arco, ID
Comm. Expires: 6-5-2021



Date: 5-12-17 Sharon W. Jensen
SHARON W. JENSEN

STATE OF IDAHO)
) ss.
County of _____)

On this May day of ~~February~~, 2017, before me, the undersigned, a notary public in and for said state, personally appeared SHARON W. JENSEN, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

Notary Public for Idaho
Residing at: _____
Comm. Expires: _____

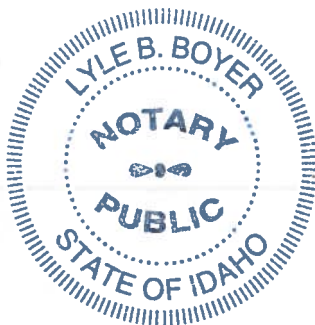
Date: 5/11/17 Jason Joel Andersen
JASON JOEL ANDERSEN

STATE OF IDAHO)
) ss.
County of Butte)

On this 11 day of May ~~February~~, 2017, before me, the undersigned, a notary public in and for said state, personally appeared JASON JOEL ANDERSEN, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

Lyle B. Boyer
Notary Public for Idaho
Residing at: Arco, ID
Comm. Expires: 6-5-2021



Date: 5-11-17

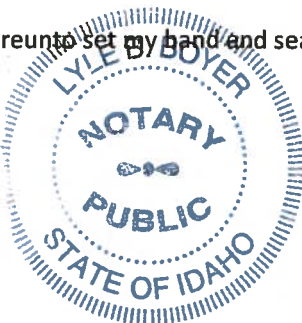
Melissa Andersen
MELISSA ANDERSEN

STATE OF IDAHO)
) ss.
County of Butte)

On this 11th day of May, 2017, before me, the undersigned, a notary public in and for said state, personally appeared MELISSA ANDERSEN, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

Lyle B. Boyer
Notary Public for Idaho
Residing at: Arco, ID
Comm. Expires: 6-5-2021



Date: 5-11-17

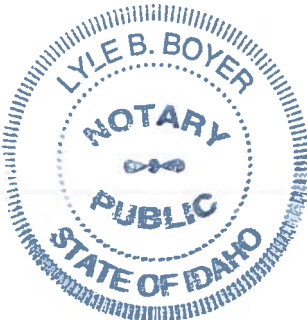
Joel S. Andersen
JOEL S. ANDERSEN

STATE OF IDAHO)
) ss.
County of Butte)

On this 11th day of May, 2017, before me, the undersigned, a notary public in and for said state, personally appeared JOEL S. ANDERSEN, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

Lyle B. Boyer
Notary Public for Idaho
Residing at: Arco, ID
Comm. Expires: 6-5-2021



Date: 5.11.17

Belva E Andersen
BELVA E. ANDERSEN

STATE OF IDAHO)
) ss.
County of Butte)

On this 11 day of ^{May} February, 2017, before me, the undersigned, a notary public in and for said state, personally appeared BELVA E. ANDERSEN, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

Lyle B. Boyer
Notary Public for Idaho
Residing at: Anco, ID
Comm. Expires: 6-5-2021

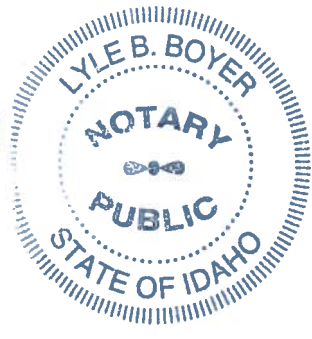


EXHIBIT A
JASON'S PROPERTY

A parcel of farmland which is located in Township 4 North, Range 26 East of the Boise Meridian, Butte County, Idaho and described as follows:

Approximately 214 acres

NW1/4 and the West 54 Rods of the NE1/4 of Section 17 EXCEPT a 24 sq. ft. parcel, with its midpoint being an existing irrigation well, described as follows: Beginning at the NW Corner of said NE1/4NW1/4, then East 388 feet to the Real POINT OF BEGINNING; thence North 12 feet to a point; thence East 24 feet to a point; thence South 24 feet to a point; thence West 24 feet to a point; thence North 12 feet to the Real POINT OF BEGINNING.

EXHIBIT B

JENSEN'S PROPERTY

A parcel of farmland which is located in Township 4 North, Range 26 East of the Boise Meridian, Butte County, Idaho and described as follows:

Approximately 13 acres

The East 26 Rods of the NW1/4 of the NE1/4 of Section 17, Township 4 North, Range 26 East of the Boise Meridian, and

Two parcels of farmland both of which are located in Township 4 North, Range 26 East of the Boise Meridian, Butte County, Idaho and described as follows:

Approximately 5 acres

A portion of the NW1/4SE1/4 of Section 8, Township 4 North, Range 26 East of the Boise Meridian described as follows: Beginning at the NW Corner and proceeding East 600 ft., then South 300 ft., then West 600 ft., then North 300 ft., ending at the point of beginning.; and

Approximately 2 acres

A portion of the SW1/4SE1/4 of Section 8, , Township 4 North, Range 26 East of the Boise Meridian described as follows: Beginning at the SW Corner and proceeding North 300 ft., then East 300 ft., then South 300 ft., then West 300 Ft., ending at the point of beginning. Also included with this 2 acre tract is a 40 ft. road easement running the full length and along the West Side of the SE1/4 of said section, and a 40 ft. road easement running the full length and along the South Side of the SW1/4SE1/4 of said section

EXHIBIT C

JOEL'S PROPERTY

Two parcels of farmland both of which are located in Township 4 North, Range 26 East of the Boise Meridian, Butte County, Idaho and described as follows:

Approximately 73 acres

NW1/4SE1/4 of Section 8 EXCEPT a 5 acre parcel in the NW Corner described as follows: Beginning at the NW Corner and proceeding East 600 ft., then South 300 ft., then West 600 ft., then North 300 ft., ending at the point of beginning.; and

SW1 /4SE1/4 of Section 8 EXCEPT a 2 acre parcel in the SW Corner described as follows: Beginning at the SW Corner and proceeding North 300 ft., then East 300 ft., then South 300 ft., then West 300 Ft., ending at the point of beginning. Also included with this 2 acre tract is a 40 ft. road easement running the full length and along the West Side of the SE1/4 of said section, and a 40 ft. road easement running the full length and along the South Side of the SW1/4SE1/4 of said section