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APR 14 2017
DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN
April 14, 2017

Mr. Shelley Keen
Idaho Department of Water Resources
PO Box 83720
Boise, ID 83720-0098

Re: Resolution of Protest of Water Right Applications

Dear Mr. Keen,

Please find attached two documents resolving protests in applications 01-7142 and 01-10609.
Kindly inform me if anything further is needed.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ann Vonde".

ANN VONDE
Deputy Attorney General

AV/mb
Attachments (2)

Clive J. Strong [ISB No. 2207]
Deputy Attorney General
Chief, Natural Resources Division

Ann Y. Vonde [ISB No. 8406]
Deputy Attorney General
P.O. Box 83720
Boise ID 83720-0010
Office: 208-334-4141
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ann.vonde@ag.idaho.gov

*Counsel for Applicant Idaho Water Resource
Board*

BEFORE THE DEPARTMENT OF WATER RESOURCES OF
THE STATE OF IDAHO

IN THE MATTER OF APPLICATIONS
FOR PERMIT NOS. 01-7142 AND 01-
10609 IN THE NAME OF IDAHO WATER
RESOURCE BOARD

STIPULATION AND JOINT
MOTION TO APPROVE
CONDITIONS

Applicant Idaho Water Resource Board ("TWRB") and protestants Trout Unlimited, A&B
Irrigation District, Burley Irrigation District, Milner Irrigation District, Twin Falls Canal
Company, American Falls Reservoir District #2, Idaho Power Company, Idaho Department
of Fish and Game, Idaho Rivers United, and intervenor Idaho Water Users Association
(collectively "Protestants"), by and through their undersigned counsel of record, and pursuant
to IDAPA 37.01.01.204, .260, .557 and .612, hereby stipulate to a settlement of Protestants'

protests in the above-entitled matters, the terms and conditions of which are set forth herein and in attached Exhibit A.

The parties agree that the following conditions ("Conditions") should be included in any approvals of Applications for Permit Nos. 01-7142 and 01-10609 (together, the "Applications"):

Condition No. 1. The diversion and use of water described in this permit may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement to which the Department of Water Resources (IDWR) is not a party. Because the Department of Water Resources is not a party, IDWR 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.

The parties further agree that diversion and use of water in connection with this right shall be subject to the terms and provisions of the Memorandum of Agreement which is attached hereto as Exhibit A. The provisions of the Memorandum of Agreement set forth in Exhibit A are incorporated herein and made part of this Stipulation which shall be binding upon the parties hereto, and their heirs, successors, and assigns.

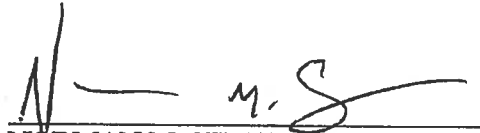
The parties move the Department, pursuant to IDAPA 37.01.01.557, .612 for an order ("Order") approving the Condition and confirming that it will be included by the Department in any approvals of the Applications. The parties further request that a copy of the Memorandum of Agreement be included in the Department's water right files for water rights 01-07142 and 01-10609.

Protestants' protests to Applications shall be deemed withdrawn upon the issuance of a final Order stating that the Conditions are approved and shall be made a part of the respective Applications' approvals. Provided that the Applications are not subsequently amended from their

current form except as may be required by the Department to continue processing, the withdrawal of Protestants' respective protests shall be with prejudice.

The parties respectfully request the entry of an Order approving the stipulated settlement set forth herein including the Conditions and Memorandum of Agreement; each party to bear its own costs, expenses, and attorney's fees.

For the IDAHO WATER USERS ASSOCIATION

A handwritten signature in black ink, appearing to read 'N. M. S.', is written over a horizontal line.

NORMAN M. SEMANKO
1010 W. Jefferson St. Ste. 101
Boise ID 83702

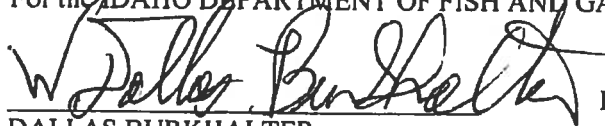
Date: 10-11-16

For IDAHO POWER COMPANY


JAMES C. TUCKER
1221 W. Idaho St.
Boise ID 83707

Date: 1/12/17

For the IDAHO DEPARTMENT OF FISH AND GAME



Date: _____

9/27/16

DALLAS BURKHALTER

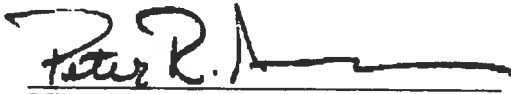
Deputy Attorney General

600 S. Walnut

P.O. Box 25

Boise ID 83707

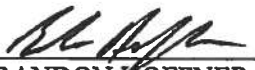
For TROUT UNLIMITED

A handwritten signature in black ink, appearing to read "Peter R. Anderson", written over a horizontal line.

PETER R. ANDERSON
910 W. Main St. Ste. 342
Boise ID 83702

Date: Oct. 6, 2016

For the HENRY'S FORK FOUNDATION



BRANDON HOFFNER
P.O. Box 550
Ashton ID 83420

Date: 8/22/16

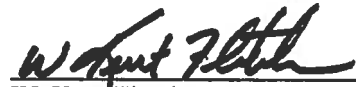
For A&B IRRIGATION DISTRICT, BURLEY IRRIGATION DISTRICT, MILNER
IRRIGATION DISTRICT, NORTH SIDE CANAL CO., and TWIN FALLS CANAL CO.



TRAVIS L. THOMPSON
Barker Rosholt & Simpson LLP
163 Second Ave. West
P.O. Box 63 Twin Falls ID 83303-0063

Date: November 14, 2016

For the AMERICAN FALLS RESERVOIR DISTRICT NO. 2



W. Kent Fletcher
Fletcher Law Office
P.O. Box 248
Burley, Idaho 83318

Date: November 1, 2016

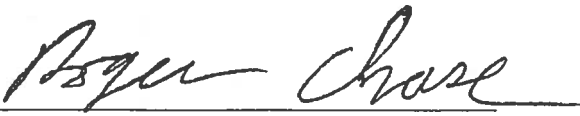
For the IDAHO RIVERS UNITED



KEVIN L. LEWIS
P.O. Box 633
Boise ID 83701

Date: 9-23-18

For the IDAHO WATER RESOURCE BOARD



Roger Chase, Chairman IWRB

Date: 4/14/17

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of April, 2017, a true and correct copy of the foregoing was filed and/or served upon the following individual(s) by the means indicated:

James Cefalo
Idaho Department of Water Resources
900 N. Skyline Dr., Ste. A
Idaho Falls ID 83402-1718

☒ U.S. Mail, postage prepaid
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☐ Hand Delivery
☐ Facsimile _____

Peter R. Anderson
Trout Unlimited
910 W Main St. Ste. 342
Boise ID 83701

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Fredric W. Price
United States Bureau of Land Management
Idaho State Office
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Travis Thompson
Barker Rosholt & Simpson LLP
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Brandon Hoffner
Henry's Fork Foundation
P.O. Box 550
Ashton ID 83420

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Norman Semanko
Idaho Water Users Association
1010 W. Jefferson St. Ste. 101
Boise ID 83702

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☐ Facsimile

By: _____

Ann Y. Vonde

Deputy Attorney General

EXHIBIT A

MEMORANDUM OF AGREEMENT

Between:

Idaho Department of Fish and Game
Idaho Department of Environmental Quality
Idaho Rivers United
Trout Unlimited
Henry's Fork Foundation
Idaho Water Users Association
Idaho Power Company
A&B Irrigation District
Burley Irrigation District
Milner Irrigation District
Twin Falls Canal Co.
American Fall Reservoir District No. 2
Idaho Water Resource Board

Regarding:

Establishment of an Environmental Resources Technical Working Group and Protocol for Review and Recommendations Concerning Potential Impact of Managed Ground Water Recharge Under the Idaho Water Resource Board's Water Right Permit Nos. 01-07142 and 01-10609 on Aquatic, Wildlife, and Recreation Resources and on Water Quality.

WHEREAS, the goal of the Eastern Snake Plain Aquifer Management Plan ("ESPA CAMP") is to sustain the economic viability and social and environmental health of the Eastern Snake Plain by adaptively managing a balance between water use and supplies; and

WHEREAS, the ESPA CAMP provides for continued effort to identify and address all water use needs affected by the ESPA CAMP, including the integration of environmental considerations in decision making; and

WHEREAS, the objectives of the ESPA CAMP are to:

1. Increase predictability for water users by managing for a reliable supply
2. Create alternatives to administrative curtailment
3. Manage overall demand for water within the Eastern Snake Plain
4. Increase discharge to the aquifer
5. Reduce withdrawals from the aquifer; and

WHEREAS, the ESPA CAMP provides opportunities for managing available water supply and demand to address current and future water use needs including, but not limited to, those for irrigated agriculture, aquaculture, industry, hydropower, municipalities, real estate development, and domestic users and to protect environmental values; and

WHEREAS, the ESPA CAMP provides for the establishment of an Implementation Committee and operating protocol to ensure continued public involvement and participation in the implementation of the ESPA CAMP; and

WHEREAS, under the ESPA CAMP, the Implementation Committee is to provide a forum for discussing Phase I implementation, establishing benchmarks for evaluating the effectiveness of actions, coordinating with water users and managers, evaluating and addressing environmental issues and identifying and pursuing funding opportunities; and

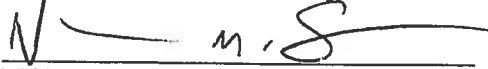
WHEREAS, the ESPA CAMP provides for an ongoing process for assessing, among other things, environmental issues related to implementation of aquifer management strategies, including managed aquifer recharge

NOW THEREFORE, in consideration of these recitals, the promises and covenants contained herein and other good and valuable consideration, including the time, effort, and expense of the Parties to negotiate and enter into this Memorandum of Agreement, the parties agree as follows:

- (a) Upon issuance of the water right permits 01-07142 and 01-10609, the Idaho Water Resource Board ("IWRB") will establish an Environmental Resources and Technical Working Group ("Working Group") as a component of the Implementation Committee to provide information and recommendations to the IWRB regarding any potential impact on aquatic, wildlife, and recreation resources and on water quality resulting from the exercise of the water right permits.
- (b) The Working Group will be composed of representatives from the Idaho Department of Fish and Game, the Idaho Department of Environmental Quality, Idaho Rivers United, Trout Unlimited, the Henry's Fork Foundation, the Idaho Water Users Association, Idaho Power Company, A&B Irrigation District, Burley Irrigation District, Milner Irrigation District, North Side Canal Co., Twin Falls Canal Co., American Fall Reservoir District No. 2, and other stakeholders with technical expertise relevant to the potential impact of managed ground water recharge under the IWRB water right permits on aquatic, wildlife, and recreation resources and on water quality.
- (c) The Working Group will be convened at least twice annually. Additional meetings will be held as needed or requested.
- (d) One meeting will be held each calendar year prior to the initiation of any planned recharge activities. The meetings will provide an opportunity for discussion of potential impacts of the planned recharge activities on aquatic,

- wildlife, and recreation resources and on water quality and consideration of recommendations for minimizing and/or mitigating any potential impacts.
- (e) The Working Group's recommendations will be set out in a memorandum and submitted to the IWRB for consideration at the next regularly scheduled IWRB meeting, prior to the implementation of the planned recharge activities.
 - (f) Working Group members will also have an opportunity to provide additional information to the IWRB should they wish to do so.
 - (g) Each calendar year, following the termination of managed recharge activities Working Group participants will meet to consider:
 - (1) Actual managed recharge accomplishments
 - (2) Information related to any impacts on aquatic, wildlife, and recreation resources, and on water quality resulting from managed recharge activities
 - (3) Information needs related to future recharge activities
 - (4) Protocols necessary to ensure consideration of potential impacts on aquatic, wildlife, and recreation resources and on water quality of future recharge activities
 - (h) The Working Group's review and recommendations for future recharge activities will be set out in a memorandum and submitted to the IWRB for consideration at the next regularly scheduled IWRB meeting.
 - (i) Working Group members will also have an opportunity to provide additional information to the IWRB should they wish to do so.
 - (j) The IWRB will consider the Working Group's review and recommendations in subsequent decision making regarding managed recharge activities.

For the IDAHO WATER USERS ASSOCIATION



NORMAN M. SEMANKO
1010 W. Jefferson St. Ste. 101
Boise ID 83702

Date: 10-11-16

For IDAHO POWER COMPANY



JAMES C. TUCKER
1221 W. Idaho St.
Boise ID 83707

Date: 1/13/17

For the IDAHO DEPARTMENT OF FISH AND GAME



Date: 9/27/16

DALLAS BURKHALTER
Deputy Attorney General
600 S. Walnut
P.O. Box 25
Boise ID 83707

9-22-16 DRAFT CONFIDENTIAL SETTLEMENT DOCUMENT SUBJECT TO IRE
408

For TROUT UNLIMITED

A handwritten signature in black ink, appearing to read "Peter R. Anderson", is written over a horizontal line.

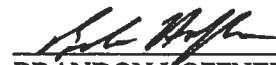
PETER R. ANDERSON
910 W. Main St. Ste. 342
Boise ID 83702

Date: Oct. 6, 2016

MEMORANDUM OF AGREEMENT 7

DRAFT CONFIDENTIAL SETTLEMENT DOCUMENT SUBJECT TO IRE 408

For the HENRY'S FORK FOUNDATION



BRANDON HOFFNER
P.O. Box 550
Ashton ID 83420

Date: 8-22-2016

For A&B IRRIGATION DISTRICT, BURLEY IRRIGATION DISTRICT,
MILNER IRRIGATION DISTRICT, NORTH SIDE CANAL CO., and TWIN
FALLS CANAL CO.



Date: November 14, 2016

TRAVIS L. THOMPSON
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For the AMERICAN FALLS RESERVOIR DISTRICT NO. 2



W. Kent Fletcher
Fletcher Law Office
P.O. Box 248
Burley, Idaho 83318

Date: November 1, 2016

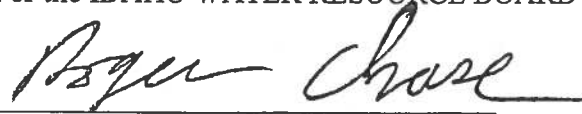
For the IDAHO RIVERS UNITED



KEVIN L. LEWIS
P.O. Box 633
Boise ID 83701

Date: 4/11/2017

For the IDAHO WATER RESOURCE BOARD



Roger Chase, Chairman IWRB

Date: 4/14/17

Clive J. Strong [ISB No. 2207]
Deputy Attorney General
Chief, Natural Resources Division

Ann Y. Vonde [ISB No. 8406]
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ann.vonde@ag.idaho.gov

*Counsel for Applicant Idaho Water Resource
Board*

BEFORE THE DEPARTMENT OF WATER RESOURCES OF
THE STATE OF IDAHO

IN THE MATTER OF APPLICATIONS
FOR PERMIT NOS. 01-7142 AND 01-
10609 IN THE NAME OF IDAHO WATER
RESOURCE BOARD

JOINT STIPULATION TO
RESOLVE PROTEST

Applicant Idaho Water Resource Board ("IWRB") and protestant United States Bureau of Land Management ("Protestant"), by and through their undersigned counsel of record and representatives, and pursuant to IDAPA 37.01.01.204, .260, .557 and .612, hereby stipulate to a settlement of Protestant's protest to water right applications 01-7142 and 01-10609 (the "Applications"), the terms and conditions of which are set forth herein.

The IWRB agrees to file with BLM application(s) for right(s)-of-way across federal lands

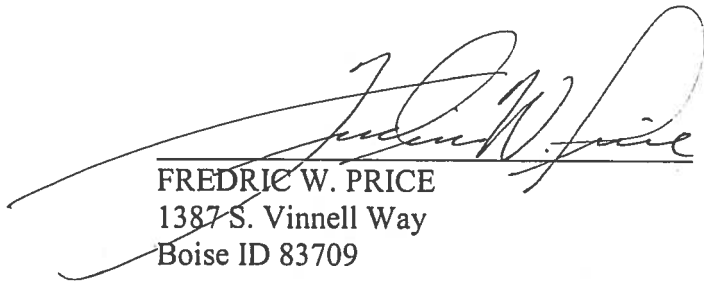
for recharge and recharge conveyance that include, at a minimum, the federal lands described in the places of use for the Applications. The parties agree that, by filing application(s) for right(s)-of-way across federal lands with the BLM, the IWRB has demonstrated to IDWR, for purposes of permitting the Applications, that the IWRB is seeking permission from BLM to use federal lands within the places of use. The BLM agrees that the Applications may proceed to permitting while the application(s) for right(s)-of-way are pending, provided that no water under the Applications may be used on federal lands until authorized in writing by the BLM Authorized Officer. The BLM may issue right(s)-of-way for recharge and conveyance of recharge water across additional portions of federal lands not outlined in the Applications' places of use on the condition that the IWRB cannot use those portions of the right(s)-of-way until authorized in writing by the BLM Authorized Officer. No representation is made hereby as to the legal necessity for right(s)-of-way across federal land for recharge and recharge conveyance under the Applications; nor is there any guarantee or promise implied or inferred that right(s)-of-way will ultimately be granted.

The parties agree that the following conditions shall be placed on any approved water 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 Bureau of Land Management authorization necessary to access the point of diversion or place of use or to convey water across federal land.
- C. Places of use for groundwater recharge describing federal public lands within the canals and discharges outside of the canals onto federal public land are not authorized, unless specifically authorized in writing by the United States.

The parties move the Department, pursuant to IDAPA 37.01.01.557, .612 for an order (“Order”) approving this Joint Stipulation to Resolve Protest; each party to bear its own costs, expenses, and attorney’s fees.

For the UNITED STATES BUREAU OF LAND MANAGEMENT



FREDRIC W. PRICE
1387 S. Vinnell Way
Boise ID 83709

Date: 04-05-2017

For the IDAHO WATER RESOURCE BOARD

Handwritten signature of Roger Chase in cursive script.

Roger Chase, Chairman IWRB

Date: 4/14/17

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of April, 2017, a true and correct copy of the foregoing was filed and/or served upon the following individual(s) by the means indicated:

James Cefalo
Idaho Department of Water Resources
900 N. Skyline Dr., Ste. A
Idaho Falls ID 83402-1718

☒ U.S. Mail, postage prepaid
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Fredric W. Price
United States Bureau of Land Management
Idaho State Office
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Idaho Rivers United
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☐ Express Mail
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☐ Facsimile

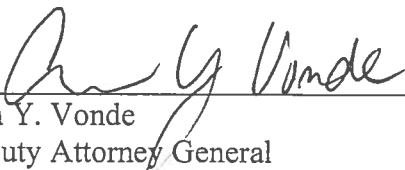
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Boise ID 83702

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By: _____


Ann Y. Vonde
Deputy Attorney General