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Attorneys for the Idaho Department of Fish and Game

BEFORE THE DEPARTMENT OF WATER RESOURCES OF
THE STATE OF IDAHO

IN THE MATTER OF APPLICATION
FOR PERMIT NO. 94-7389 IN THE
NAME OF GOLD CREEK MINES INC.

STIPULATION AND JOINT
MOTION TO APPROVE
CONDITIONS

Applicant Gold Creek Mines Inc. (“Applicant”) and protestant Idaho Department of Fish and Game (“Protestant”) by and through their undersigned counsel of record and/or representatives, and pursuant to IDAPA 37.01.01.204, .260, .557 and .612, hereby stipulate to a settlement of the protest in the above-entitled matter, the terms and conditions of which are set forth herein.

The parties agree that the following conditions (“Conditions”) should be included in any approvals of Applications for Permit No. 94-7389 (“Application”):

1. Proof of application of water to beneficial use shall be submitted on or before [DATE].
2. Subject to all prior water rights
3. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.
4. When diverting and using water in connection with this right, the right holder will allow at least 2 cfs to bypass the point of diversion and continue to flow down Gold Creek.
5. As a means of monitoring the 2 cfs bypass flow described in this right, a measuring device approved by the Department shall be installed by the right holder and maintained at T47N, R5E, S4.
6. Prior to diversion and use of water under this permit, the right holder shall install a functioning fish screen approved by the Idaho Department of Fish and Game on the point of diversion.
7. The use of water under this right shall be non-consumptive.
8. The term of this permit shall extend to [DATE]. Prior to expiration of the term, the Director may issue and order cancelling
9. If it has not been previously provided, the permit holder shall submit a copy of the FERC exemption order and a copy of the effective energy sales/purchase agreement for this project in conjunction with the Proof of Beneficial Use statement.
10. This right is subject to the provisions of Sections 42-205 through 42-210, Idaho Code, restricting the sale, transfer, assignment, or mortgage of this right. Failure to comply with these provisions is cause for immediate cancellation of this right.
11. The rights for the use of water for power purposes acquired under this right shall be junior and subordinate to all other rights for the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this right and shall not give rise to any claim against any future rights for the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.

12. This right does not constitute Idaho Public Utilities Commission or Federal Energy Regulatory Commission approval that may be required.

The parties move the Department, pursuant to IDAPA 37.01.01.557, .612 for an order (“Order”) approving the Conditions set forth herein and confirming that they will be included by the Department in any approval of the Application.

Protestant’s protest to the Application 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 Application’s approval. Provided that the Application is not subsequently amended from its current form except as may be required by the Department to continue processing, the withdrawal of Protestant’s protest shall be with prejudice.

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

DATED this 20th day of April, 2017.



ANN Y. VONDE
Deputy Attorney General

DATED: April 19, 2017



Michael K. Branstetter, Hull and Branstetter
Chartered, attorneys for Gold Creek Mines Inc.

CERTIFICATE OF SERVICE


I hereby certify that on the 20th 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:

Idaho Department of Water Resources
Attn: Morgan Case
7600 North Mineral Drive Ste 100
Coeur d'Alene ID 83815

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Email:

Michael Brandstetter
416 River St.
Wallace ID 83873-0709

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Email:

By: 
Ann Y. Vonde
Deputy Attorney General