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WATER RESOURCES
WESTERN REGION

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT TO	)	
	)	
APPROPRIATE WATER NO. 63-34206	)	STIPULATION TO RESOLVE PROTEST
	)	
IN THE NAME OF:	)	
	)	
HAWK STONE	)	
	)	

WHEREAS, Hawk Stone ("Stone") filed an Application for Permit dated March 22, 2016, to appropriate 0.03 cfs for heating purposes from January 1 to December 31 of each year, and Stone subsequently amended such application.

WHEREAS, on July 25, 2016, Edwards Family LLC ("Edwards") filed a Notice of Protest ("Protest") to the approval of Permit 63-34206.

WHEREAS, Notices of Protest were also filed by other persons and/or entities.

WHEREAS, Edwards and Stone wish to resolve the issues raised in the Protest filed by Edwards.

NOW, THEREFORE, Stone and Edwards stipulate and agree that protestant Edwards will withdraw from participation in the Protest in the matter of Permit No. 63-34206 on the following terms and conditions:

1. That Stone and Edwards shall propose that the following conditions be inserted by the Idaho Department of Water Resources ("Department") into water right 63-34206 stating the following:

a. Measuring devices of a type acceptable to IDWR shall be installed at the proposed point of diversion and the proposed discharge from the heating network. The measuring devices shall ensure that the identical quantity of water being diverted is discharging back to the ditch from which it was diverted. The right holder shall regularly record such measurements and report them annually to Water District 63-S.

b. Use of water under this right shall be non-consumptive.

c. This right shall be regulated by the Watermaster of Water District No. 63-S. Regulation by the Watermaster includes unannounced inspections and measurement of waste water diversion and beneficial use under this right.

d. IDWR shall issue a notice of violation and an order to show cause why this right should not be cancelled or revoked if IDWR determines any of the following:

i. The right holder is consumptively using water under this right.

ii. Low temperature geothermal water is being delivered to the right holder without prior beneficial use of the low temperature geothermal water diverted under Water Right No. 63-5195, or that the beneficial use under 63-5195 is not reasonably efficient.

iii. The right holder is diverting or using water not in compliance with the conditions of this water right.

e. Heating use is for 1 home and an associated greenhouse, agricultural outbuilding and snow melting on driveway.

f. The waste water diverted under this right is subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place of use or manner of wasting it, or to recapture it.

g. This right does not grant any right-of-way or easement across the land of another.

2. Upon execution of this Stipulation to Resolve Protest, Stone shall amend the application to identify "waste water" as the sole source.

3. Stone's diversion system shall incorporate an air gap to ensure physical separation from the waste water discharge source.

4. Upon execution of this Stipulation to Resolve Protest, Edwards will cease involvement in Stone's pending application process except to explain to the Department the terms and conditions set forth in paragraphs 1, 2 and 3 above. Edwards reserves the right to participate further in the Protest should the Department elect not to include all the terms and conditions as set forth in paragraphs 1, 2 and 3 above into any water right issued to Stone for Application for Water Right No. 63-34206.

5. Edwards will file a Withdrawal of Protest with the Department immediately upon the Department's approval of Water Right No. 63-34206, if such approval includes all the terms and conditions as set forth above.

DATED: January 13, 2017

EDWARDS FAMILY LLC

By Garnette K. Edwards (manager)
Garnette K. Edwards, Manager

DATED: January 18, 2017

HAWK STONE

Hawk Stone
Hawk Stone, Applicant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of January, 2017, I caused to be served a true copy of the foregoing STIPULATION TO RESOLVE PROTEST by the method indicated below, and addressed to each of the following:

Charles L. Honsinger
Honsinger Law PLLC
PO Box 517
Boise, ID 83701

- ☒ U.S. Mail, Postage Prepaid
- ☐ Hand Delivered
- ☐ Overnight Mail
- ☐ E-mail
- ☐ Telecopy

Hawk Stone
3921 W. Catalpa Dr.
Boise, ID 83703

- ☒ U.S. Mail, Postage Prepaid
- ☐ Hand Delivered
- ☐ Overnight Mail
- ☐ E-mail
- ☐ Telecopy


Dana L. Hofstetter