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WATER RESOURCES
WESTERN REGION

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Attorneys for D. Michael Preston and Shekinah Industries, Inc.

BEFORE THE DEPARTMENT OF WATER RESOURCES

FOR THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR
TRANSFER NO. 78356 IN THE NAME OF
SHEKINAH INDUSTRIES

STIPULATION AND AGREEMENT
FOR WITHDRAWAL OF PROTEST

Protestant Nevid LLC ("Nevid") through its attorney Norman M. Semanko, and Applicant Shekinah Industries, Inc. and D. Michael Preston (together "Shekinah") through their attorneys Givens Pursley LLP, hereby stipulate and agree to Nevid's withdrawal with prejudice of its protest filed in this the above-captioned Transfer provided that:

1. Any approval of the Transfer include a subordination condition for each affected water right, as transferred, substantially as follows:

"This water right shall be subordinated to 61-12090 in the event of priority administration of water rights with points of diversion within administrative basin 61."

2. The above-stated subordination condition shall apply only if, and to the extent that, a license ultimately is issued by IDWR for no greater quantity of water, including diversion rate, annual diversion volume and annual consumptive use attributable to the uses as authorized in Nevid's current Permit 61-12090 and reflective of actual beneficial use established at the time of licensing;

3. The above-stated subordination provision shall apply only if, and to the extent that, Nevid is in compliance with all terms and conditions of permit no. 61-12090 and any license resulting therefrom, as determined by the director of IDWR;
4. The above-stated subordination provision shall not affect the determination in the Department's November 4, 2013 Final Order Regarding Water Sufficiency ("Sufficiency Order") that Shekinah is not required to provide mitigation for its depletions to the reach of the Snake River above Swan Falls Dam;
5. Any approval of the Transfer include a limitation on annual consumptive use of 1,092.24 acre-feet (2.96 acre-feet per acre per year for 369 irrigated acres) and an annual diversion volume of 1,476 acre-feet (4 acre-feet per acre per year for 369 acres). The parties understand and agree that this stipulated annual consumptive use volume of 1,092.24 acre-feet is 14.76 acre-feet per year less than the estimate of 1,107 AFA contained in the Final Order Regarding Water Sufficiency (November 7, 2013) and that this reduction in the quantity of Shekinah's consumptive use (14.76 AFA) will therefore be available for Nevid's application for permit no. 61-12096; and
6. Pursuant to the Final Order Regarding Water Sufficiency, 7,440 AFA is the maximum additional consumptive use that can be authorized in the area and that, pursuant to the estimates of consumptive use adopted for each application in the Final Order Regarding Water Sufficiency, and with the reduction of 14.76 AFA of consumptive use volume for Shekinah contained in this Stipulation, the 7,440 AFA of additional consumptive use in the area is sufficient to satisfy two applications and part of

a third, and will be allocated by IDWR, substantially as follows:

63-32499 (Mayfield Townsite LLC) - 4,320 AFA

78356 (Shekinah Industries, Inc.) - 1,092.24 AFA

61-12096 (Nevid LLC) - 2,027.76 AFA

This Stipulation and Agreement shall be binding on the parties hereto, and their respective successors or assigns.

Respectfully submitted this 24th day of September, 2014.

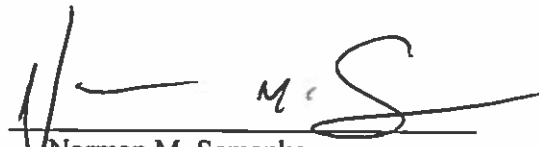
GIVENS PURSLEY LLP

By



Michael C. Creamer
*Attorneys for D. Michael Preston and
Shekinah Industries, Inc.*

By



Norman M. Semanko
Attorney for Nevid LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 24th day of September, 2014, a true and correct copy of the foregoing was served by United States mail, postage prepaid and properly addressed to the following:

Shekinah Industries, Inc.
Attn: Michael Preston
420 Bitterroot Dr.
Boise, ID 83709

Bruce Smith
Moore Smith
950 W. Bannock, Ste. 520
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