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DEPARTMENT OF
WATER RESOURCES

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WATER RESOURCES
WESTERN REGION

Attorneys for Applicant Hoot Nanny Farms, Inc.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

APPLICATION FOR TRANSFER NO.
78338 AND APPLICATION FOR PERMIT
NO. 63-33721 IN THE NAME
OF HOOT NANNY FARMS, INC.

STIPULATION TO RESOLVE PROTEST

COMES NOW, Applicant Hoot Nanny Farms, Inc. (hereinafter "Applicant"), and the Protestant Dana and Vicki Purdy and R & H Agriculture, LLC (hereinafter "Protestant"), by and through their counsel of record, and hereby submit this *Stipulation to Resolve Protest* in the above-captioned matter.

Applicant and Protestant hereby stipulate and agree as follows:

1. Applicant will agree to move the location of the proposed point of diversion for the water rights in this matter to the northeast and away from the Protestant's property so long as it is in the same quarter/quarter section as provided on the pending transfer and application. The approximate location of the point of diversion is shown on the map attached hereto as Exhibit A;
2. Applicant will agree to case the proposed well to the first confining layer beyond 125 feet or whatever is determined to be the actual depth of Protestant's existing domestic well;

STIPULATION TO RESOLVE PROTEST - Page 1

ORIGINAL

3. Applicant agrees to pay for a data logger to be installed on the Protestant's existing domestic well to monitor the impacts, if any, the Applicant's proposed well will have on Protestant's domestic well. Said data logger will be installed at Protestant's cost and expense and will be installed a minimum of fifteen (15) days prior to the commencement of any drilling or installation of Applicant's proposed well;

4. For a period of three (3) years from the date Applicant commences diversion and use from Applicant's proposed well, Applicant agrees to ensure that Applicant's proposed well does not impact the diversion and use of Protestant's domestic well. The terms of such agreement are as follows:

a. Should Applicant's proposed well be found to impact the diversion and use of Protestant's domestic well, then Applicant agrees to pay for the cost for the drilling and installation of a new domestic well which will meet the Protestant's existing water rights. For purposes of this paragraph, impact to Protestant's domestic well shall be a reduction in the quantity of water produced by Protestant's domestic well, as shown by the above referenced data logger, and a reduction in use by Protestant from the domestic well.

b. Upon a determination of an impact as provided herein to Protestant's domestic well, Applicant shall within thirty (30) days of said determination obtain a written bid from the driller/contractor Applicant has selected for drilling and installation of the new domestic well and shall provide said selection and bid to Protestant. Protestant shall then have fifteen (15) days to determine whether Protestant would like a different driller/contractor selected, and if so, Protestant shall pay the difference, if any, between the bid of Applicant and the driller/contractor selected by Protestant. Applicant or the driller/contractor selected under the terms of this paragraph shall have

the right and option to utilize any pumps or materials from Protestant's existing domestic well so long they are compatible with the new domestic well.

c. Should Applicant fail to comply with the terms and conditions of this Stipulation, the parties agree that this Stipulation shall be a binding and enforceable contract between the parties and Protestant shall have all rights and remedies under Idaho law to enforce the provisions of this Stipulation, including, but not limited to, obtaining a judgment against Applicant for the costs to drill and install a new domestic well. Provided, further, should either party be required to bring an action to enforce the provisions of this paragraph 4 of the Stipulation, the prevailing party shall be entitled to recover the reasonable costs and attorney fees incurred in doing so.

5. The parties agree that beyond the three (3) year period provided above with respect to Protestant's domestic well, each party shall continue to have all rights, remedies and defenses available under Idaho law with respect to injury and curtailment of each others water rights;

6. Protestant agrees that their protest to Applicant's pending transfer and application is hereby withdrawn;

7. With the exception of the terms and rights provided in paragraph 4(c) of this Stipulation, the parties agree that each party shall bear their own attorney fees and costs.

8. The parties agree that the terms and conditions of this Stipulation shall be binding upon their respective heirs, successors and assigns.

DATED this 19th day of August, 2013.

SAWTOOTH LAW OFFICES, PLLC

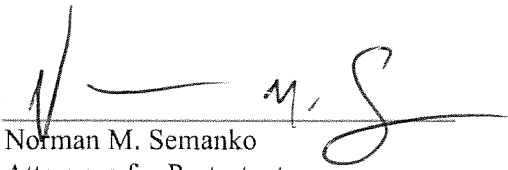
By 

S. Bryce Farris

Attorneys for Applicant

DATED this 19 day of August, 2013.

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

By: 

Norman M. Semanko
Attorneys for Protestant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of August, 2013, I caused to be served a true and correct copy of the foregoing document by the method indicated below to the following:

Norman M. Semanko
Moffatt, Thomas, Barrett, Rock & Fields,
Chartered
101 S. Capitol Blvd., 10th Floor
P.O. Box 829
Boise, ID 83701
nms@moffatt.com

- ☒ U.S. First Class Mail, Postage Prepaid
- ☐ U.S. Certified Mail, Postage Prepaid
- ☐ Federal Express
- ☐ Hand Delivery
- ☐ Facsimile
- ☐ Electronic Mail

Idaho Department of Water Resources
200 W. Front Street
Boise, Idaho 83702

- ☒ U.S. First Class Mail, Postage Prepaid
- ☐ U.S. Certified Mail, Postage Prepaid
- ☐ Federal Express
- ☐ Hand Delivery
- ☐ Facsimile
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- ☐ Electronic Mail



Hoot Nanney Farms, Inc. Application for Transfer & New Permit



Exhibit A

Mailing Address

P.O. Box 7985
Boise, Idaho 83707

Boise Office

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1101 W. River St., Ste. 110
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Tel. (208) 629-7447
Fax (208) 629-7559

Challis Office

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P.O. Box 36
Challis, Idaho 83226
Tel. (208) 879-4488
Fax (208) 879-4248

Twin Falls Office

161 Fifth Avenue South
Twin Falls, Idaho 83301



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WATER RESOURCES
WESTERN REGION

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Idaho Department of Water Resources
322 E. Front Street
Boise, Idaho 83702

Re: In the Matter of the Transfer No. 78338 and Application For Permit No. 63-33721
In The Name Of: Hoot Nanney Farms Inc

Dear Clerk:

Enclosed for filing in the above-referenced matter, please find the following:

1. Original and one copy of the Stipulation to Resolve Protest.

Please file the original and return the conformed copy to me in the enclosed self-addressed stamped envelope. *dk*

Please contact me if you have any questions or comments regarding this matter.

Yours very truly,

Katie R. Kelly
Secretary to S. Bryce Farris

Enclosures