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DEPT. OF WATER RESOURCES
SOUTHERN REGION

Att: Allen Merriitt
From: Lois M. Willis
3 pages.

FACSIMILE TRANSMITTAL SHEET

NOTES/COMMENTS:

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APR 18 2013

DEPT. OF WATER RESOURCES
SOUTHERN REGION

STIPULATIONS TO WITHDRAW PROTEST
OF
APPLICATION FOR TRANSFER OF WATER RIGHTS

These stipulations are in regard to water transfer request #78376 dated and filed with the Department of Water Resources, January 16, 2013 (time stamped January 16, 2013 by the Idaho Department of Water Resources). All of these stipulations must be fulfilled to the satisfaction of Mrs. Willis (or her representatives or agents) before the protest will be withdrawn. If the stipulations are met to Mrs. Willis' (or her representatives' or agents') satisfaction and if she does withdraw her protest, she reserves the right to monitor Mr. Funk's use of water to ensure that he continues to comply at all times with these stipulations.

STIPULATIONS

1. Mr. Funk will change the point of diversion to the location specified in the meeting held on April 11, 2013 with Southern Region Manager of the Department of Water Resources, Allen Merritt in Twin Falls, Idaho. This location identified by Mr. Merritt and due west of the current location of Mr. Funk's pump. This location is indicated on the attached map which is part of this agreement.
2. Mr. Funk will place a buried pipe beneath the existing ditch, (known as the East Rock Creek or R.O.E. Ditch), not interfering in any way with the integrity of the diverting works of the East Rock Creek Ditch. This is an accession in consideration of the advantage of gravity flow to the pond where Mr. Funk's pump is located. This shall be accomplished in a time sensitive manner so as to allow the flow of water for the 2013 irrigation season. He will maintain this diversion against any and all possible damage to the diverting works of the East Rock Creek Ditch. He will further ensure the removal of any and all obstructions that may be emplaced in the East Rock Creek Ditch.
3. Mr. Funk will install a measuring device, at the point of diversion to ensure that his removal of water from the Rock Creek does not exceed a maximum of 0.76 CFS from the main stream of the Rock Creek. This amount is a varying amount as determined by licensed priority and the Idaho Department of Water Resources, but shall not exceed 0.76 CFS. This measuring device will be under the control of the water master, having full capability to reduce the flow of water according to the varying priority dates of Mr. Funk's Rock Creek Water rights. The water master must be able to reduce flow and lock the regulating diversion mechanism. Mr. Funk will keep this measuring device in good working order and replace it from time to time if the need arises.
4. Mrs. Willis (or her representatives or agents) will have access and will review records kept by the water master so that she (or her representatives or agents) may monitor Mr. Funk's water use. One method of obtaining this information may be to obtain it from the water master in a timely manner. If Mrs. Willis (or her representatives or agents) desire to do the monitoring, in person, this will be granted by the permission of Mr. Funk in a timely manner.
5. Mr. Funk will acknowledge that Mrs. Willis (or her representatives or agents) has the right to clean, maintain and convey water through the East Rock Creek (R.O.E.) Ditch (as defined in McDermid V. Larsen). Mr. Funk is enjoined from any and all acts to restrict the free flow of legally diverted water into the East Rock Creek (R.O.E.) Ditch. Common practice will be used in cleaning the ditch.

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APPLICATION FOR TRANSFER OF WATER RIGHTS

- Watermaster (J.W.)*
6. The ~~Idaho Department of Water Resources~~ will install a locking mechanism on the headgate/diverting works at the East Rock Creek Ditch diversion point, so that no one but the water master can make any adjustments to the flow of water into the East Rock Creek R.O.E.) Ditch.

After Mr. Funk has complied with all these stipulations, Mrs. Willis (her representatives and agents) will withdraw the protest of the Application to Transfer Water Right #78376.

By affixing our signatures hereto we, both parties, are hereby agreeing to all that is stated in this document.

Brent Funk BCF Farms
Brent Funk, BCF Farms, Inc. Owner

Date: 4-19-2013

Lois M. Willis
Lois Willis, Representative or Agent

Date: 4-19-2013

Jessie Givens
Witness

Date: 4-19-2013