

HOFSTETTER LAW OFFICE

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Boise, Idaho 83702

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Dana L. Hofstetter
Attorney at Law

Telephone: (208) 424-7800
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June 11, 2012

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JUN 12 2012

WATER RESOURCES
WESTERN REGION

Steve Lester
Water Rights Supervisor
Western Region
Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705-5082

Re: Transfer No. 77052

Dear Mr. Lester:

Per your request, enclosed is the Settlement Agreement in the above-referenced matter, bearing Ms. Dorothy Timian-Palmer's original signature. Thank you.

Sincerely,

HOFSTETTER LAW OFFICE, LLC



Dana L. Hofstetter

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WATER RESOURCES
WESTERN REGION

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF TRANSFER NO. 77052 IN)
THE NAME OF BASIN AND RANGE) **SETTLEMENT AGREEMENT**
RESOURCE COMPANY, LLC)

The United States of America (hereinafter "Protestant") and Basin and Range Resource Company, LLC (hereinafter "Applicant") agree and stipulate to resolve the United States Department of Interior, Bureau of Land Management (hereinafter "BLM") protest of Transfer No. 77052, involving Water Right Nos. 63-03182, 63-03308, 63-03583, 63-07177, 63-07349 and 63-07903 as follows:

STIPULATION

WHEREAS, the Applicant filed Application for Transfer No. 77052 on February 4, 2011 with the Idaho Department of Water Resources ("IDWR") to establish a permissible place of use for all the above listed water rights. On April 13, 2012, the Applicant filed an Amended Application for Transfer No. 77052 to also add an additional point of diversion.

WHEREAS, the BLM has filed a protest of Transfer No. 77052 for the following reasons:

- a. The point of diversion description includes legal land descriptions describing both private land and federal public land managed by BLM as follows: SESW and SWSE of S23, T06N, R05W;
- b. The place of use description includes legal land descriptions describing both private land and federal public land managed by BLM as follows: SESW, SWSE of S23 and NWSW of S24, T06N, R05W; and

//

c. A Status Conference, involving the water rights listed above, was held November 22, 2011 before the Snake River Basin Adjudication Court. During the hearing, counsel for the Applicant stated "...we may need to address the standard language which says something to the effect that this water right shall not be used on federal public land just because of the factual circumstances presented by this particular case. I'm not suggesting that we list federal public land, but we may need some refinement on that language to cover this situation of a combined system where many water rights are diverted and applied in a small portion to federal public land." Transcript, page 13, lines 13-22.

WHEREAS, the Protestant and the Applicant wish to resolve their dispute regarding Transfer No. 77052;

THEREFORE, the Protestant and the Applicant stipulate and agree as follows:

1. The parties stipulate and agree that Transfer No. 77052 should be approved by the IDWR, provided legal land descriptions defining the point of diversion and place of use elements are clarified such that it is clear only private land is intended and that federal public land is excluded.

2. The parties agree and stipulate that all of the points of diversion defined in water rights involved in Transfer No. 77052 are located on privately owned land and not upon federal public land. In order to clarify the point of diversion element such that it is clear the points of diversion are located on privately owned land and not federal public land, three (3) of the points of diversion shall be defined in terms of ten (10) acre tracts, since the ten (10) acre tract descriptions describe land that is entirely privately owned land, and the IDWR system can accommodate a ten (10) acre tract description, as follows:

NWSESW of S23, T06N, R05W (two (2) PODs); and

NWSWSE of S23, T06N, R05W.

//

3. The parties agree and stipulate that all of the places of use defined in water rights involved in Transfer No. 77052 describe a use of water for irrigation purposes on privately owned land and not upon federal public land. In order to clarify the place of use element such that it is clear each of the legal land descriptions describe acres of irrigation located entirely upon privately owned land and not federal public land, a condition shall be imposed on each of the water rights involved in said transfer which limits the use of water to the private portions of those place of use descriptions, as follows:

“The place of use within the SESW and SWSE of S23, T06N, R05W is limited to the north half of those quarter-quarters.”

“The place of use within the NWSW of S24, T06N, R05W is limited to the west half of that quarter-quarter.”

4. The parties agree and stipulate that no remarks or conditions shall be sought or accepted in Transfer No. 77052 which refers to water or water rights being diverted and applied to federal public land.

5. The Protestant hereby withdraws its protest upon acceptance, approval and adoption of this Agreement by IDWR in its entirety.

Respectfully submitted,

APPLICANT:

Basin and Range Resource Company, LLC

Dorothy Timian-Palmer 6/8/12
Dorothy Timian-Palmer Date
President, Vidler Water Company, Inc.
Its Managing Member

PROTESTANT:

U.S.D.I., Bureau of Land Management

Fredric W. Price
Water Rights Specialist Date

CERTIFICATE OF SERVICE

I certify that on _____, 2012, I served a true and correct copy of foregoing **SETTLEMENT AGREEMENT; TRANSFER NO. 77052** upon the following individuals by placing the document in the United States Mail in Boise, Idaho, postage paid, and addressed as follows:

Original to:

Steve Lester, Manager
Idaho Department of Water Resources (IDWR)
Western Regional Office
2735 Airport Way
Boise, ID 83705-5082

Copies to:

Dana L. Hofstetter
Hofstetter Law Office, LLC
608 W. Franklin St.
Boise, ID 83702-5509
REPRESENTING & REGISTERED AGENT FOR:
Basin and Range Resource Company, LLC

Fredric W. Price, Water Rights Specialist
U.S., Department of the Interior
Bureau of Land Management,
Idaho State Office
1387 S. Vinnell Way
Boise, ID 83709-1657

Person serving documents

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WATER RESOURCES
WESTERN REGION

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OF THE STATE OF IDAHO

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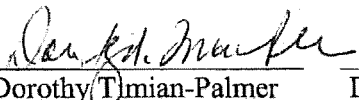
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Respectfully submitted,

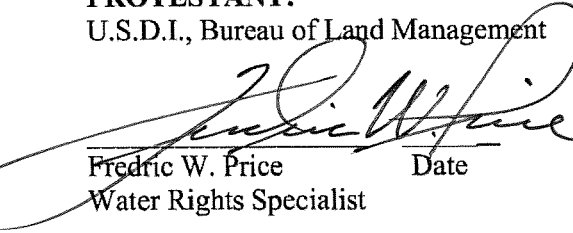
APPLICANT:

Basin and Range Resource Company, LLC

 6/8/12
Dorothy Timian-Palmer Date
President, Vidler Water Company, Inc.
Its Managing Member

PROTESTANT:

U.S.D.I., Bureau of Land Management

 06-8-12
Fredric W. Price Date
Water Rights Specialist

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WATER RESOURCES
WESTERN REGION

CERTIFICATE OF SERVICE

I certify that on June 8, 2012, I served a true and correct copy of foregoing **SETTLEMENT AGREEMENT; TRANSFER NO. 77052** upon the following individuals by placing the document in the United States Mail in Boise, Idaho, postage paid, and addressed as follows:

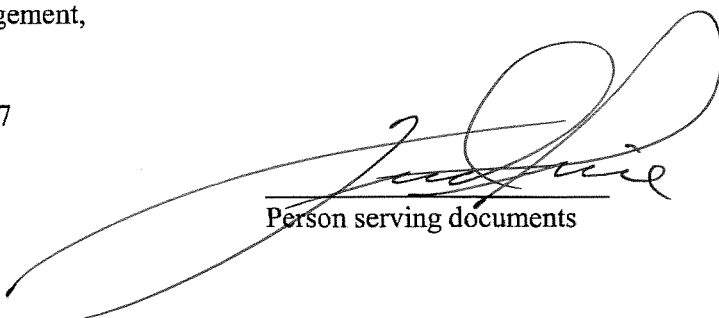
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Fredric W. Price, Water Rights Specialist
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Person serving documents