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AUG 26 2010
Department of Water Resources
Eastern Region

BEFORE THE STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF APPLICATION FOR TRANSFER NO. 76065.

Applicant: Grand Teton Canal Co., Ltd

STIPULATED SETTLEMENT AGREEMENT

This Settlement Agreement is entered into this 24th day of ~~July~~ August, 2010, between the applicant, Grand Teton Canal Co., Ltd. ("GTCC"), and the protestants in the above-entitled matter, Fremont-Madison Irrigation District, the United States Department of Interior Bureau of Reclamation, Friends of the Teton River, and Teton Pipeline Association (collectively the "Protestants").

RECITALS

A. On October 8, 2009, GTCC filed Application for Transfer No. 76075 (the "Application" or "Transfer") with the Idaho Department of Water Resources ("IDWR"), seeking to enable GTCC's shareholders to develop storage ponds using water available to them under their shares of stock.

B. The Protestants filed timely protests to the Application with the IDWR on January 4, 2010 (the "Protests").

C. Fremont Madison Irrigation District and the United States Department of Interior Bureau of Reclamation signed a Stipulated Settlement Agreement in March 2010 (the "March 2010 Agreement"). After further discussions between GTCC and Friends of the Teton River and Teton Pipeline Association, these parties signed a Stipulated Settlement Agreement in June 2010 (the "June 2010 Agreement"). After reviewing the June 2010 Agreement, the United States Department of Interior Bureau of Reclamation raised concerns relative to the June 2010 Agreement potentially in conflict with the March 2010 Agreement.

D. In order to resolve the concerns relative to any perceived conflict between the March 2010 Agreement and the June 2010 Agreement, and to avoid any confusion with IDWR's processing of the Application, the parties hereby agree to substitute this Stipulated Settlement Agreement for the March 2010 Agreement and June 2010 Agreement previously submitted, and request that this Agreement supercede said prior Agreements.

E. GTCC and the Protestants desire to settle and resolve the Protests based upon GTCC's commitment to make certain amendments to the Application as set forth herein below.

AGREEMENT

In consideration for the foregoing and the mutual promises contained herein, Protestants agree to settle and withdraw their Protest on the following terms and conditions:

1. The following shall be conditions of the Transfer:

a. Water shall not be diverted for storage purposes annually until May 15 unless Fremont-Madison Irrigation District ("FMID") and the United States Department of Interior Bureau of Reclamation ("BOR") provide written consent to earlier diversion for storage purposes. A request for earlier diversion for storage purposes shall be made in writing by GTCC. Upon receipt of such a request, FMID and BOR shall have seven (7) days to respond in writing. If no response is provided within seven (7) days, then such non-response shall be deemed written permission for the earlier diversion of storage.

b. The requirements for mitigation of irrigation ponds shall be subject to IDWR's Administrator's Memorandum Application Processing No. 67 (dated February 28, 2003). Irrigation ponds capable of being filled within a 24-hour period do not require mitigation and can be filled any time during the irrigation season. Similarly, mitigation is not required to construct and use a pond or ponds that are part of a system used to distribute and use water in accordance with GTCC's water rights if the pond or ponds do not impound a larger volume of water than is authorized for diversion within a 24-hour period under the shares of stock associated with the project. Mitigation is required for all other ponds. If IDWR policies governing irrigation ponds change in the future, the mitigation requirements under this water right shall remain subject to the policies set forth in IDWR Administrator's Memorandum Application Processing No. 67 (dated February 28, 2003), unless (1) such policy changes are required by a future statute or administrative rule promulgated in accordance with the Idaho Administrative Procedure Act, and such statute or rule expressly provides for retroactive application, or (2) GTCC and the Protestants agree in writing that this water right shall be subject to such changes. Nothing herein shall prevent or limit the ability or rights of GTCC or the Protestants to challenge the legality of such retroactive statutory or administrative rule modifications.

c. All ponds that require mitigation shall be lined to prevent seepage.

d. Ponds may be filled or refilled no more than once annually.

e. GTCC must mitigate for the initial fill and any refill of ponds located within GTCC's service area and supplied with water from GTCC. Mitigation for pond fill/refill may be accomplished by drying up irrigated acres or by utilizing storage water in FMID.

i. The use of FMID storage water to mitigate for pond fill/refill is subject to approval by FMID in its sole and absolute discretion. If storage water in FMID is available to mitigate for pond fill/refill, then GTCC is encouraged to use such storage water before drying up irrigated acres for mitigation.

ii. The use of FMID storage water to mitigate for pond fill/refill must be transacted through the Water District 01 Rental Pool or the Idaho Water Resource Board Water Supply Bank.

iii. GTCC must submit an exchange application to use FMID storage water to mitigate for pond fill/refill if required by IDWR. If IDWR determines that an exchange application is necessary, then GTCC or the pond owner must submit the necessary application to IDWR and also obtain approval from FMID for the exchange, which approval shall be in FMID's sole and absolute discretion.

iv. Prior to each irrigation season, GTCC shall notify FMID of the volume of FMID storage water (by owner) dedicated to mitigation for pond fill/refill.

v. Mitigation for pond fill/refill by drying up irrigated acres shall be calculated using the growing season precipitation deficit tables for the Driggs station found on the University of Idaho website for Evapotranspiration and Consumptive Irrigation Water Requirements for Idaho. First, the volume of fill/refill must be measured. Second, the number of acres that must be dried up to mitigate for fill/refill is calculated by dividing the fill/refill volume by the growing season precipitation deficit for the crop historically grown on the land to be dried up.

vi. If irrigated land is to be dried up to mitigate for pond fill/refill, the pond owner must dry up a minimum of one acre. For example, if 0.5 acres of land must be dried up to meet the mitigation requirement, the pond owner must dry up at least one acre.

f. GTCC must mitigate for annual evaporation from ponds located within GTCC's service area and supplied with water from GTCC by drying up irrigated acres.

i. Mitigation for pond evaporation shall be calculated using the growing season precipitation deficit tables for the Driggs station found on the University of Idaho website for Evapotranspiration and Consumptive Irrigation Water Requirements for Idaho. First, the growing season evaporation volume is calculated by multiplying the surface area of the pond by the precipitation deficit for the type of pond. Second, the number of acres that must be dried up to mitigate for evaporation is calculated by dividing the evaporation volume by the growing season precipitation deficit for the crop historically grown on the land to be dried up.

ii. For ponds constructed on irrigated land, the pond owner need not dry up more land than is covered by the pond. However, for ponds constructed on non-irrigated land, the pond owner must dry up a minimum of one acre for mitigation. For example, if a pond is constructed on non-irrigated land and 0.5 acres of land must be dried up to meet the mitigation requirement, the pond owner must dry up at least one acre.

g. No more than 500 irrigated acres may be dried up for mitigation purposes in any given year. Thus, the maximum amount of water that may be used for pond storage under this Transfer is limited by the amount of mitigation that can be accomplished by drying up 500 irrigated acres.

h. GTCC shall provide an annual accounting to IDWR by November 15th that describes each pond and the mitigation required and provided for the year. The annual accounting shall include a GIS shapefile or other map depicting all acres dried up for mitigation purposes.

2. GTCC shall provide a copy of the annual report described in Condition 1.h above to Friends of the Teton River by first class mail or other acceptable means at the time the annual report is submitted to IDWR.

3. GTCC and the Protestants jointly request that the provisions of this Settlement Agreement be incorporated in an Order from IDWR approving the Application.

4. This Settlement Agreement shall be binding on the parties and their respective heirs, legal representatives, agents, successors-in-interest, and assigns, and shall insure to the benefit of such persons.

5. The parties enter into this Settlement Agreement on the date indicated above.

APPLICANT

GRAND TETON CANAL CO., LTD.

By:_____
Print:_____
Its:_____

Attest:

By:_____
Print:_____
Its:_____

PROTESTANTS

FRIENDS OF THE TETON RIVER

By:_____
Print:_____
Its:_____

ATTEST:

By:_____
Print:_____
Its:_____

FREMONT-MADISON IRRIGATION DISTRICT

By:_____
Print:_____
Its:_____

ATTEST:

By:_____
Print:_____
Its:_____

TETON PIPELINE ASSOCIATION

By: Mark R Ricks
Print: Mark R Ricks
Its:_____

ATTEST: Dale Swensen

By:_____
Print:_____
Its:_____

UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF RECLAMATION

By:_____
Print:_____
Its:_____

ATTEST:

By:_____
Print:_____
Its:_____