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Department of Water Resources
Eastern Region

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Robert L. Harris, Esq.
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Idaho State Bar Number 7018

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR
TRANSFER NO. 74812 IN THE NAME
OF CREEKSIDE MEADOWS, LLC.

STIPULATION FOR
WITHDRAWAL OF PROTEST

THIS STIPULATION FOR WITHDRAWAL OF PROTEST (the "Stipulation") is made and entered into as of the 4th day of June, 2009, by and between Creekside Meadows, LLC., an Idaho limited liability company (hereinafter, "Creekside"), and Fremont-Madison Irrigation District (hereinafter, "Fremont-Madison").

RECITALS:

- A. Creekside is the owner of Water Right No. 22-500D, a water right which authorizes the diversion of .2 cfs for the irrigation of 10 acres.
- B. On April 2, 2007, Creekside submitted an application for transfer to change the nature of use of .05 cfs of Water Right No. 22-500D to a "diversion to storage" nature of use for ponds already constructed on the property. The remaining .15 cfs would be for irrigation purposes. In June of 2008, the application for transfer was advertised, and no protests were received.
- C. However, it was discovered that the advertisement contained an incorrect legal description, which required submission of an amended transfer application. The amended transfer application also included a maximum limit of 5.0 AFA for wildlife storage for the ponds, which amount was the maximum amount that could be diverted to the pond in one year. The

ponds themselves have a capacity of between .3 and .5 acre-feet.

- D. The amended transfer application was submitted in October of 2008, and after it was duly advertised, it was protested by Fremont-Madison.
- E. After discussions between the parties to resolve the protest, Creekside and Fremont-Madison agree as set forth below.

AGREEMENTS:

THE PARTIES HEREBY AGREE AS FOLLOWS:

1. **DIVERSION PERIOD:** Creekside agrees that it will only divert water from Spring Creek to the ponds during the periods during the irrigation season when normal agricultural irrigation diversions are occurring in the immediate area.
2. **DIVERSION LIMITATION.** Creekside will limit diversion to the ponds to .05 cfs, with .15 cfs remaining for irrigation of 7.5 acres. Combined, no more than .2 cfs will be diverted under both uses. Pond size will be limited to approximately .3 acres.
3. **RECORDING.** Creekside will record this fully executed Agreement in the office of the Teton County Clerk, Auditor and Recorder and send a copy with the recording information endorsed thereon to IDWR and FMID.
4. **WITHDRAWAL OF PROTEST.** With the execution of this document, FMID hereby withdraws its protest to the Transfer conditioned upon IDWR's reference to this Settlement Agreement in the approval of the Transfer.
5. **BINDING EFFECT.** This Agreement shall be binding on the parties and their respective heirs, legal representatives, agents, successors in interest and assigns and shall inure to the benefit of such persons.
6. **COOPERATION.** Each party agrees to cooperate with the other in preparing and filing the necessary documents, or taking other actions, to properly achieve the purposes of this Settlement Agreement.

CREEKSIDE MEADOWS LLC.

By: Bruce Simon

Its: Bruce Simon

STATE OF ~~IDAHO~~ ^{WYOMING})
County of TETON) ss.

On this 19 day of ~~June~~ ^{August}, 2009, before me a notary public in and for said State, personally appeared Bruce Simon, Manager known or identified to me (or proved to me on the oath of Manager) to be the Manager of the limited liability company that executed the instrument or the person who executed the instrument on behalf of said limited liability company and acknowledged to me that such limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(seal)

M. M. R. M. F.
Notary Public for ~~Idaho~~ ^{WYOMING}

Residing at: Teton County

My commission expires: July 6, 2013

FREMONT-MADISON IRRIGATION DISTRICT

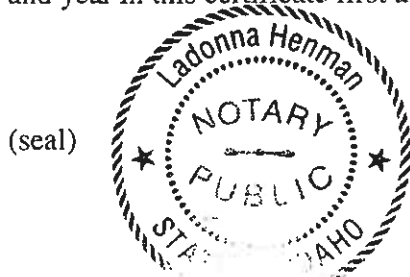
Dale L. Swensen
By: Dale L. Swensen
Its: Executive Director

Attest: _____

STATE OF IDAHO)
)ss.
County of Fremont)

On this 4 day of June, 2009, before me a notary public in and for said State, personally appeared Dale L. Swensen known or identified to me (or proved to me on the oath of _____) to be the Executive Director of the irrigation district that executed the instrument or the person who executed the instrument on behalf of said irrigation district and acknowledged to me that such irrigation district executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Ladonna Henman
Notary Public for Idaho
Residing at: Regley Idaho
My commission expires: 6-1-2011

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Holden Kidwell
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September 4, 2009

Sharla Cox
Idaho Department of Water Resources
900 N. Skyline Dr., Ste. A
Idaho Falls, ID 83402

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Department of Water Resources
Eastern Region

RE: Stipulation for Withdrawal of Protests for Transfer No. 74812 in the Name of
Creekside Meadows, LLC.

Dear Sharla:

Enclosed please find a copy of Stipulation for Withdrawal of Protest for Transfer No. 74812, in the name of Creekside Meadows, LLC. The parties were able to resolve their issues, and we request the transfer be approved with the stipulated condition regarding the diversion. We are also sending the document to the Teton County Recorder to be recorded. We will send a copy of the recorded document once we receive it. If you have any questions, please let me know.

Best Regards,

Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Enclosure

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