

RECEIVED

FEB 09 2009

DEPARTMENT OF WATER RESOURCES

CONSERVATION EASEMENT

THIS INDENTURE, made this 1st day of Oct, 2008, by and between Robert and Reba Thomas (Grantor), and STATE OF IDAHO, IDAHO WATER RESOURCE BOARD, 322 East Front Street, PO Box 83720, Boise, Idaho 83720-0098 and its successors and assigns, (Grantee);

WITNESSETH: That for and in consideration of the sum of ten dollars and 00/100 (\$10.00), lawful money of the United States of America, receipt whereof is hereby acknowledged, the Grantor does hereby grant to the Grantee, its successors, and assigns, forever an easement for conservation purposes to limit the Grantor's withdrawal of water from the Lemhi River to facilitate the migration and habitat for salmon and steelhead. The water rights subject to this easement authorizing the diversion of water for irrigation from the Lemhi River are identified as follows: 74-14994, 74-15241, 74-15865 and subsequent splits. The conservation easement is appurtenant to the following described lands situated in LEMHI COUNTY, State of Idaho, to wit:

Township 21N, Range 22E, Section 9 B.M.:

24.6 acres in the SW1/4SE1/4

1.2 acres in the NW1/4SE1/4

7.8 acres in the SE1/4SE1/4

Township 21N, Range 22E, Section 16 B.M.:

16.8 acres in the NE1/4NE1/4

9.9 acres in the NW1/4NE1/4

State of Idaho) SS No. 278700
County of Lemhi)
This instrument was filed for record at the request
of Idaho Water Resource Board
at 4:13 o'clock p m. 2-4 2009
and duly filed and indexed in the records of Lemhi
County. Terri J. Morton
Ex-Officio Recorder
By Elyssa Cardin Deputy
Fee 9.00
Return to Idaho Water Resource Board

Subject to the following terms:

1. This easement shall be administered pursuant to an agreement ("Agreement") between the Grantor and Grantee dated 11/6/08. The Agreement shall be subject to amendment or revision by mutual agreement of the parties according to its terms.
2. This easement shall burden and run with the property in perpetuity.
3. This easement shall be recorded in the real property records of Lemhi County and designated appropriately in the official files of the Idaho Department of Water Resources to ensure that the water is regulated accordingly in future years. Water authorized for diversion under water right nos. 74-14994, 74-15241, 74-15865 and subsequent splits shall remain appurtenant to the legal place of use described herein and shall not be subject to administrative actions to transfer or otherwise alienate the water from the land.
4. The diversion of water from the Lemhi River under water right nos. 74-14994, 74-15241, 74-15865 and subsequent splits is permanently restricted under the conservation easement as follows:

- a) Water shall be regulated by the State of Idaho to provide that 35 cfs of water remain in the Lemhi River below the L-6 diversion 80 percent of the time, and 25 cfs 100 percent of the time between March 15 and June 30 and 25 cfs between July 1 and November 15 each year in perpetuity as measured at USGS gage 13305310, independent of permanent flows secured beyond 25 cfs.
- b) The water right(s) under this easement are subject to non-diversion as directed by Grantee up to 100 days per irrigation season in order to achieve the target flows in the Lemhi River.

5. In the event that operations pursuant to this Conservation Easement or the Agreement shall be declared illegal or otherwise unenforceable for any reason and the Grantee is prevented from achieving the target flows by a court of competent jurisdiction, the parties shall either amend the Agreement or execute such other instruments and make such other consideration, including but not limited to the purchase of the remainder of water right from the Grantor at fair market value so as to achieve the target flows in the Lemhi River as provided herein.

IN WITNESS WHEREOF the Grantor identified herein executed this Conservation Easement on the date following their signatures.

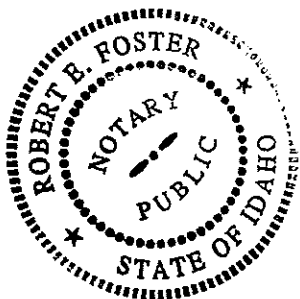
Robert Thomas
(Grantor)

10/1/08
DATE

ACKNOWLEDGMENT

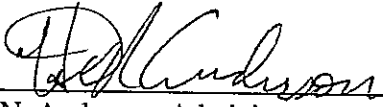
STATE OF Idaho)
COUNTY OF Lemhi) ss.

The foregoing instrument was acknowledged before me this 1st day of Oct, 2008, by
Robert Thomas



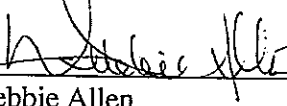
Robert E. Foster
Notary Public
Address: Salm, ID
My commission expires: 3-6-2013

APPROVED AS TO FORM



Hal N. Anderson, Administrator
Planning and Technical Services Div.

9-22-08
Date



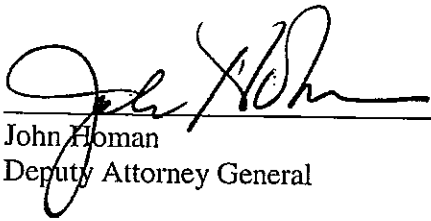
Debbie Allen
Accounting Manager

9-19-08
Date



Janet Garrett
Senior Buyer

9-19-08
Date



John Homan
Deputy Attorney General

9-19-08
Date