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AGREEMENT AND RESTRICTIONS CONCERNING WATER RIGHTS

THIS AGREEMENT, made and entered into this 33 day of June, 1995, by and between STEPHEN A. SCHAUB, a married man dealing with his sole and separate property, hereinafter called "SCHAUB," and BERNARD BURTON TEATS and GLORIA DAWSON TEATS, husband and wife, hereinafter called "TEATS,"

W I T N E S S E T H:

WHEREAS, Schaub is the owner of certain real property located in Nez Perce County, Idaho, and more particularly described as Exhibit A, attached hereto, said land being hereinafter sometimes referred to as the "Schaub Land," and

WHEREAS, Teats are the owners of certain real property abutting the Schaub land, which is more particularly described as Exhibit B, attached hereto, said land being hereinafter sometimes referred to as the "Teats Land," and

WHEREAS, Smalls Canyon is a canyon which meanders in a generally northwesterly direction from the Schaub Land to the Teats Land and across the Teats Land and the property of others to the Clearwater River, and

WHEREAS, Smalls Canyon contains a creek fed by a series of springs, which creek and the water from the springs feeding the creek are hereinafter called the "Smalls Canyon Water," and

WHEREAS, Teats and his predecessors have diverted and used Smalls Canyon Water upon the Teats Land as more particularly shown in the Claim of Water Right currently filed as Claim No. A8511797, and previously evidenced by Claim No. 9549-1913, with rights dating to 1889, and

WHEREAS, Schaub and his predecessors have also diverted a portion of the Smalls Canyon Water for use upon the Schaub Land and have constructed a diversion of said water in the Southwest Quarter of the Southeast Quarter, Section 36, Township 36 North, Range 5 WBM, Nez Perce County, Idaho, all as more particularly shown in that certain Claim of Water Right, being Claim No. 85-4329, which claim includes both Smalls Canyon Water and additional water from a drilled well, and

AGREEMENT AND RESTRICTIONS
CONCERNING WATER RIGHTS -1-

WHEREAS Schaub has agreed on behalf of himself, his heirs and assigns, to relinquish his water right in the Smalls Canyon Water in exchange for Teats' construction of a new entrance from Old Lapwai Road into the Schaub Land, and

WHEREAS, Teats have completed said work to the satisfaction of Schaub.

NOW, THEREFORE, the parties hereto do hereby covenant and agree as follows:

1. Schaub acknowledges that Teats have completed the building of the access road to the Schaub Land to the complete satisfaction of Schaub, and Schaub accepts said road and the construction thereof and acknowledges that Teats have no further responsibility with respect thereto.

2. In consideration of the construction of the road by Teats, Schaub does hereby sell, assign, transfer and set over unto Teats all of his right, title and interest in the Smalls Canyon Water, as hereinabove defined; and all water rights in the Smalls Canyon Water, and does hereby release, on behalf of himself, his heirs and assigns, any right or interest in and to the Smalls Canyon Water; reserving, however, Schaub's water rights in the water from the drilled well as reflected in Claim of Water Right No. 85-4329, which shall be operated in such a manner as to not interfere with the flow of the Smalls Canyon Water.

3. With the exception of the drilled well in Smalls Canyon referred to above, Schaub shall remove all of his pumps, equipment and facilities used to divert Smalls Canyon Water, as hereinabove defined, and agrees, on behalf of himself, his heirs, representatives, successors and assigns, as follows:

(a) To make no dams or diversions of Smalls Canyon Water for use upon the Schaub Land;

(b) That Schaub shall have the right to drill deep wells which will not affect the flow of the waters in the upper aquifer, and agrees that any deep well that he drills will be cased off.

4. The water rights granted and restrictions herein contained shall run with and benefit the Teats Land and shall constitute burdens upon the Schaub Land.

AGREEMENT AND RESTRICTIONS
CONCERNING WATER RIGHTS -2-

Law Offices of
Keeton and Tait
Lewiston, Idaho

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

SCHAUB:

TEATS:

Stephen A. Schaub
STEPHEN A. SCHAUB

Bernard Burton Teats
BERNARD BURTON TEATS

Gloria Dawson Teats
GLORIA DAWSON TEATS

STATE OF Maryland)
County of Anne Arundel) : SS

On this 23rd day of June, 1995, before me Diane K. Ward, the undersigned a Notary Public in and for said state, personally appeared STEPHEN A. SCHAUB, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he 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 hereinabove



INST. NO. 600356 Diane K. Ward
FILED FOR RECORD Notary Public in and for the
FEE 24.00 REG. BY State of Maryland, residing
at Anne Arundel Co
My Commission Expires: April 11, 1998
1995 AUG 10 P 1:14

STATE OF ID A H O BETTY J. WILSEY
County of Nez Perce DEPUTY
: SS

On this 10th day of August, 1995, before me TRACY C. LEE, the undersigned a Notary Public in and for said state, personally appeared BERNARD BURTON TEATS and GLORIA DAWSON TEATS, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they 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 hereinabove written.



Tracy C. Lee
Notary Public in and for the State
of Idaho, residing at Lewiston
My Commission Expires: 11/26/2001

AGREEMENT AND RESTRICTIONS
CONCERNING WATER RIGHTS -3-

(Community one-half interest of decedent and surviving wife)
Situat in Nez Perce County, State of Idaho, to-wit:

The Southwest Quarter of Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section Thirty (30), Township Thirty-six (36) North, Range Four (4), W.B.M. Northeast Quarter (NE $\frac{1}{4}$) and East Half of Northwest Quarter (E $\frac{1}{2}$ NW $\frac{1}{4}$), and East Half of Southwest Quarter (E $\frac{1}{2}$ SW $\frac{1}{4}$) and Lots Two (2), Three (3) and Four (4) of Section Thirty-one (31), Township Thirty-six (36) North, Range Four (4), W.B.M.

Southeast Quarter (SE $\frac{1}{4}$) of Section Thirty-six (36), Township Thirty-six (36) North, Range Five (5), W.B.M.

Southeast Quarter of Northwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$), and East Half of Southwest Quarter (E $\frac{1}{2}$ SW $\frac{1}{4}$), and Lots Three (3), Four (4), Five (5), Six (6) and Seven (7) of Section Six (6), Township Thirty-five (35) North, Range Four (4), W.B.M.

All of Section One (1), Township Thirty-five (35) North, Range Five (5), W.B.M.

Southeast Quarter of Northeast Quarter (SE $\frac{1}{4}$ NE $\frac{1}{4}$) and East Half of Southeast Quarter (E $\frac{1}{2}$ SE $\frac{1}{4}$), and Lot One (1) of Section Two (2), Township Thirty-five (35) North, Range Five (5), W.B.M.

Those parts of the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$) and the East Half of the Southwest Quarter (E $\frac{1}{2}$ SW $\frac{1}{4}$) and Lot Three (3) of Section Thirty (30), Township Thirty-six (36) North, Range Four (4), W.B.M.; and Lot One (1) of Section Thirty-one (31), Township Thirty-six (36) North, Range Four (4), W.B.M.; and the East Half of the Northeast Quarter (E $\frac{1}{2}$ NE $\frac{1}{4}$) of Section Thirty-six (36), Township Thirty-six (36) North, Range Five (5), W.B.M., which lie South and Easterly of the following described line:

Beginning at a point on North line of Southeast Quarter of said Section Thirty (30) which is three and 5/10 (3.5) chains West of Northeast corner of Northwest Quarter of Southeast Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$) of said Section Thirty (30); and running thence South Seventy (70) degrees West eleven (11) chains; thence South sixty-two (62) degrees West ten (10) chains; thence South forty-nine (49) degrees West three (3) chains; thence South sixty (60) degrees West four (4) chains; thence South seventy-two (72) degrees West four (4) chains; thence South twenty-eight (28) degrees West fifteen and 5/10 (15.5) chains more or less, to a point in West line of Southeast Quarter of Southwest Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$) of said Section Thirty (30) which is seven and 5/10 (7.5) chains South of the center of said Southwest Quarter of Section Thirty (30); thence South twenty-nine (29) degrees West fourteen and 5/10 (14.5) chains, more or less, to a point on South line of Lot Three (3) of said Section Thirty (30) which is seven and 15/100 (7.15) chains West of Southeast corner of said Lot Three (3) of Section Thirty (30); thence South Twenty-nine (29) degrees West Seventeen and 38/100 (17.38) chains; thence South sixty-eight (68) degrees West four and 4/10 (4.4) chains, more or less, to a point on West line of said Section Thirty-one (31); thence South sixty-nine (69) degrees West eighteen and 75/100 (18.75) chains; thence North sixty-five (65) degrees West two and 25/100 (2.25) chains; thence South seventy-eight (78) degrees West 5/10 (.5) chains, more or less, to a point on the West line of Southeast Quarter of Northeast Quarter (SE $\frac{1}{4}$ NE $\frac{1}{4}$) of said Section Thirty-six (36).

EXHIBIT

A-1

Those parts of the Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$) and the Southeast Quarter of the Northwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section Thirty-six (36), Township Thirty-six (36) North, Range Five (5), W.B.M., which lie South and Easterly of the following described line, to-wit:

Beginning at a point on the South line of the Northwest Quarter (NW $\frac{1}{4}$) of said Section Thirty-six (36) which is ten and $\frac{75}{100}$ (10.75) chains west of the center of said Section; and running thence North thirty-nine (39) degrees East three (3) chains; thence North forty-four (44) degrees East two and $\frac{5}{10}$ (2.5) chains; thence North sixty-two (62) degrees East nine (9) chains; thence North eighty-six (86) degrees East four and $\frac{75}{100}$ chains (4.75); thence North sixty-two (62) degrees East four and $\frac{5}{10}$ (4.5) chains; thence North fifty-one (51) degrees East ten (10) chains; thence North seventy-eight (78) degrees East three and $\frac{5}{10}$ (3.5) chains, more or less, to the East line of the Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$) of said Section Thirty-six (36).

That part of the South Half of the Southwest Quarter (S $\frac{1}{2}$ SW $\frac{1}{4}$) and the Northeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section Thirty-six (36), Township Thirty-six (36) North, Range Five (5), W.B.M., described as follows, to-wit:

Beginning at the Southwest corner of said Section Thirty-six (36) and running thence North eleven hundred thirty (1130) feet; thence East fourteen hundred twenty (1420) feet; thence South forty (40) degrees East three hundred ninety-three (393) feet; thence South fifty-six (56) degrees thirty (30) minutes East three hundred fifty (350) feet; thence North thirty-four (34) degrees eight (8) minutes East two hundred ninety (290) feet; thence North twenty-eight (28) degrees forty-two (42) minutes West five hundred seventy-five (575) feet to a point on the North line of the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$) of said Section Thirty-six (36); thence North fifty (50) degrees West six hundred fifty (650) feet to a point four hundred ten (410) feet North of the Southwest corner of said Northeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$); thence North to the Northwest corner of said Northeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$); thence East to the Northeast corner of said Northeast Quarter of Southwest Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$); thence South to the Southeast corner of said Southwest Quarter (SW $\frac{1}{4}$) of Section Thirty-six (36); thence West to the Southwest corner of said Southwest Quarter (SW $\frac{1}{4}$), being the place of beginning.

EXHIBIT B

Situate in Nez Perce County, State of Idaho, to wit:

Parcel 1:

That portion of Section 2, Township 35 North, Range 5, WBM, described as follows:

Commencing at the Southwest corner of Section 35, Township 36 North, Range 5, WBM; thence North 87°15'47" East 1105.21 feet along the South line of said Section 35 to the Point of Beginning; thence continue North 87°15'47" East along said South line a distance of 529.10 feet; thence South 63°22'38" West 567.08 feet to a point on the North line of the County Road; thence North 71°07'04" West 202.55 feet along said County Road; thence North 46°10'05" East 235.82 feet to the Point of Beginning.

That portion of the Southeast Quarter (SE¼) of Section 35, Township 36 North, Range 5, WBM, described as follows:

Commencing at the Southwest corner of said Section 35; thence North 87°15'47" East 2659.25 feet along the South line of said Section 35 to its point of intersection with the West line of said Southeast Quarter (SE¼) of Section 35; thence North 2°46'48" West 752.76 feet along said West line to the Point of Beginning; thence continue North 2°46'48" West along said West line of the Southeast Quarter (SE¼) a distance of 563.41 feet to the Northwest corner of the Southwest Quarter of said Southeast Quarter (SW¼SE¼) of Section 35; thence North 87°15'34" East 1324.78 feet along the North line of said Southwest Quarter of the Southeast Quarter (SW¼SE¼) to the Northeast corner of said Southwest Quarter of the Southeast Quarter (SW¼SE¼); thence South 2°57'37" East 329.45 feet along the East line of said Southwest Quarter of the Southeast Quarter (SW¼SE¼); thence North 87°15'34" East 858.76 feet; and South 36°10'44" West 272.70 feet, and South 69°57'25" West 310.57 feet, and North 75°10'17" West 268.60 feet, and South 80°19'38" West 661.88 feet, and North 75°02'03" West 173.77 feet, and North 72°15'36" West 145.22 feet, and South 83°21'19" West 503.08 feet to the Point of Beginning.

Parcel 2:

That part of the Northeast Quarter of the Northeast Quarter of Section 34, Township 36 North, Range 5, West Boise Meridian, described as follows:

Commencing at the Southeast corner of Section 34; thence North along the East line of said Section 34 a distance of 4062.7 feet to the Point of

Beginning; thence South 88°12' West a distance of 190.6 feet to a point; thence South 88°20' West a distance of 422.6 feet to a point; thence South 87°43' West a distance of 148.6 feet to a point; thence North 2°17' West a distance of 313.5 feet to the South line of the County Road; thence South 56°09' East along the South line of said County Road a distance of 107.6 feet to a point; thence South 82°42' East along the South line of said County Road a distance of 328.2 feet to a point; thence South 70°41' East a distance of 380.5 feet to a point on the East line of said Section 34; thence South along the East line of said Section 34 a distance of 61.2 feet to the Point of Beginning.

Parcel 3:

That portion of the Southwest Quarter of the Southwest Quarter (SW¼SW¼) of Section 35, Township 36 North, Range 5, WBM, described as follows:

Commencing at the Southwest corner of said Section 35; thence North 87°15'47" East 1105.21 feet along the South line of said Section 35 to the Point of Beginning; thence North 31°52'17" East 394.68 feet to a point of intersection with the East line of said Southwest Quarter of the Southwest Quarter (SW¼SW¼) of Section 35; thence South 2°46'48" East 324.85 feet along said East line to its point of intersection with said South line of Section 35; thence South 87°15'47" West 224.42 feet along said South line to the Point of Beginning.

Parcel 4:

That part of Lot 5, Section 35, Township 36 North, Range 5, WBM, commencing at the SW corner of said Lot 5, Section 35, Township 36 North, Range 5, WBM; thence East on South line of said Lot 5, Section 35, Township 36 North, Range 5, WBM 1270 feet to a point; thence North 5° East 300 feet to a point; thence North 4° West 190 feet to a point; thence North 71° West 180 feet to a point; thence North 55°40' West 270 feet to a point; thence North 81° West 150 feet to a point; thence North 58°50' West 130 feet to a point; thence South 77°40' West 642 feet to a point on the West line of Lot 5, Section 35, Township 36 North, Range 5, WBM 668 feet North from the point of beginning; thence South to the point of beginning.

Also: The NE¼SE¼ and the N½N½SE¼SE¼ of Section 35, Township 36 North, Range 5, WBM.

Also: Commencing at the quarter section corner on East line of Section 34, Township 36 North, Range 5, WBM; running thence West on the North line of the SE¼ of Section 34 to the Northwest corner of the SE¼ of said Section

34; thence South on West line of said quarter section a distance of 13.90 chains to top of bluff; thence following meanders of the extreme summit of the bluff to the intersection of the East line of said Section 34; thence North on section line to place of beginning.

Also: the S $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 34 and Lot 3 and the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 35, Township 36 North, Range 5, WBM; Lot 4, the E $\frac{1}{2}$ SW $\frac{1}{4}$ and the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 35, Township 36 North, Range 5, WBM.

Also: the SW $\frac{1}{4}$ SE $\frac{1}{4}$, the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and the W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 36, Township 36 North, Range 5, WBM, SAVE AND EXCEPTING from the above described lands the following pieces, parcels or tracts:

Those certain parcels deeded to Mary W. Smith by deed dated May 9, 1907, and recorded in Book 98 of Deeds at page 288, and to W.A. Smith by deed recorded in Book 103 of Deeds at page 183.

That certain parcel deeded to John A. Miller by deed dated November 1, 1883, and recorded in Book 41 of Deeds at page 121.

That certain parcel deeded to Ira Small by deed dated May 9, 1907, and recorded in Book 93 of Deeds at page 351.

Also excepting therefrom railroad rights-of-way.

Together with such water rights, pipe and pipe lines for the transportation of said water from its source to point of use as are pertinent to the premises and as the same now exist.

Parcel 5:

Commencing at the Southeast corner of Lot 1, said point being the Northeast corner of the Southeast Quarter of the Northeast Quarter of Section 34, Township 36 North, Range 5, WBM, Nez Perce County, Idaho; thence North along the Section line a distance of 183.7 feet to a point on the centerline of the County Road, which is the True Place of Beginning; thence North 85°06' West along said centerline a distance of 363.0 feet; thence North 83°31' West along said centerline a distance of 184.4 feet; thence North 2°16' West a distance of 330.5 feet to a point on the South revised right-of-way line of the Camas Prairie Railroad; thence Easterly along said right-of-way to a point on the East Section line of Section 34; thence South a distance of 174.0 feet to the True Place of Beginning, EXCEPTING from the above-described tract, all that portion lying within the boundaries of the County Road.