

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 01-10675 AND APPLICATION) **SETTLEMENT AGREEMENT**
FOR TRANSFER NO. 82434 IN THE NAME)
OF LCSC ENTERPRISES, LLC)
_____)

The United States of America ("Protestant") and LCSC Enterprises, LLC ("Applicant") agree and stipulate to resolve the United States Department of Interior, Bureau of Land Management ("BLM") protest of Application for Permit No. 01-10675 ("Application") and of Application for Transfer No. 82434 ("Transfer").

STIPULATION

WHEREAS, the Applicant filed Application for Transfer No. 82434 on May 17, 2018 with the Idaho Department of Water Resources ("IDWR") seeking to: (1) establish a permissible place of use ("PPU") for the Lake Walcott property (approx. Sec. 13, 14, 23, 24, R28E, and Sec. 17, 18, 19, 20, R29E, all in T09S) using water right no.s 35-07274, 35-07491, 35-07616A, and 35-07740; and (2) move the point of diversion ("POD") and place of use (POU") for water right no. 35-07274 from the Rockland property (approx. T03S, R34E, S06) to the Lake Walcott property;

WHEREAS, the BLM filed a protest on July 9, 2018 of Application for Transfer No. 82434 because several of the individual POU's within the proposed PPU involve legal land descriptions that are mixed ownership containing both private and federal land (i.e. T09S, R28E, S14, NESE, NWSE, NESW, and NWSW);

WHEREAS, the Applicant filed Application for Permit No. 01-10625 on June 25, 2018 seeking to authorize the diversion of Palisades storage water (25.4 cfs /5,080 AFY) for 1,270 acres of irrigation use on the Lake Walcott property.

WHEREAS, the BLM filed a protest on August 20, 2018 because several of the individual POU's involve legal land descriptions that are mixed ownership containing both private and federal land (i.e. T09S, R28E, S14, NESE, NWSE, NESW, and NWSW); and because aerial photography appears to show unauthorized irrigation of federal land within T09S, R28E, S14, Lot 3 (NESW) and Lot 4 (NWSW).

WHEREAS, the Applicant filed an Amended Application of Permit No. 01-10675 on October 15, 2018 to: (1) change the total quantity to 25.2 cfs /5,040 AFY; (2) change the total acres to 1,260 acres; (3) remove two PODs (T09S, R29E, S24, Lot 7 (SWNE) and Lot 8 (SENE); and (4) remove two POU's (T09S, R28E, S24, SWNE (4 ac) and SENE (6 ac). BLM's issues are still present after the amendment.

WHEREAS, the mixed ownership issues described above (i.e. T09S, R28E, S14, NESE, NWSE, NESW, and NWSW) were resolved under individual water rights in the Snake River Basin Adjudication ("SRBA") by including certain clarifying conditions in the partial decrees issued that made it clear Federal land is excluded from the water rights.

35-07491: "The use of water within T09S, R28E, S14, NESE and NWSE is limited to the S1/2 of those places of use."

35-07616A: "The use of water within T09S, R28E, S14, NESW and NWSW is limited to the S1/2 of those places of use."

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WHEREAS, the Applicant is seeking to establish a PPU across several water rights, therefore these clarifying conditions will need to be included in all of the relevant rights from the Application and the Transfer that will contain these mixed ownership POUs, including water rights that did not previously include them (i.e. 01-10675, 35-07274, and 35-07740).

WHEREAS, the Protestant and the Applicant wish to resolve their dispute regarding Application for Permit No. 01-10675 and Application for Transfer No. 82434.

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

1. The parties agree and stipulate that the following conditions shall be placed on any approved permit for 01-10675 and included in the description of the water rights in Transfer No. 82434:

(a) "The use of water within T09S, R28E, S14, NESW, NWSW, NESE, and NWSE is limited to the S1/2 of those places of use"; or "The place of use does not include federal land."

(b) " This right does not grant any right-of-way or easement across the land of another."

2. The Applicant hereby affirmatively agrees and stipulates to immediately and forever cease the application of water to, and use of, federal land without prior authorization, including:

T09S, R28E, S14, NESW and NWSW;

T09S, R28E, S24, SWNE and SENE;

T09S, R29E, S19, SWNW and SENW;

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3. The Protestant hereby withdraws its protest of Application for Water Permit 01-10675 and Application for Transfer No. 82434 upon acceptance, approval and adoption of this Agreement by IDWR in its entirety.

Respectfully submitted,

APPLICANT:

LCSC Enterprises, LLC

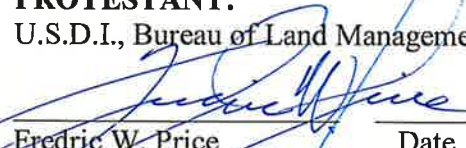

Michael C. Creamer
Of Attorneys for Applicant
GIVENS PURSLEY LLP

Date

5/7/19

PROTESTANT:

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


Fredric W. Price
Water Rights Specialist

Date

5-7-2019

CERTIFICATE OF SERVICE

I certify that on May 7, 2019, I served a true and correct copy of foregoing **Settlement Agreement; Applications for Permit No. 01-10675 and Transfer No. 82434** upon the following individuals by placing the document in the United States Mail in Boise, Idaho, postage paid, and addressed as follows:

Original to:

James Cefalo
Idaho Department of Water Resources
Eastern Regional Office
900 North Skyline Drive, Suite A
Idaho Falls, Idaho 83402-7177

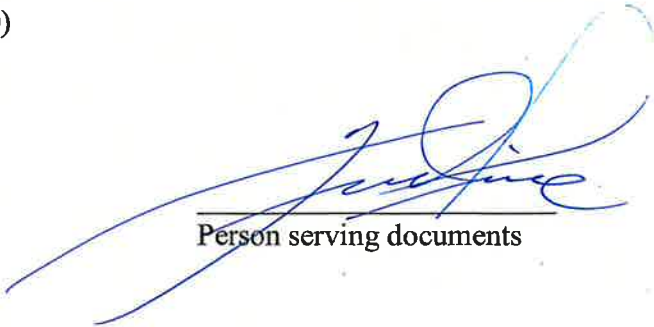
Copies to:

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Boise, Idaho 83701
REPRESENTING:
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Jennifer Cranney, Realty Specialist
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Burley Field Office (MS-220)
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Person serving documents