SETTLEMENT AGREEMENT ENTERED INTO JUNE 30, 2015 BETWEEN PARTICIPATING MEMBERS OF THE SURFACE WATER COALITION[1] AND PARTICIPATING MEMBERS OF THE IDAHO GROUND WATER APPROPRIATORS, INC.[2]

IN SETTLEMENT OF LITIGATION INVOLVING THE DISTRIBUTION OF WATER TO THE MEMBERS OF THE SURFACE WATER COALITION, THE PARTIES AGREE AS FOLLOWS:

1. **Objectives.**
   a. Mitigate for material injury to senior surface water rights that rely upon natural flow in the Near Blackfoot to Milner reaches to provide part of the water supply for the senior surface water rights.
   b. Provide "safe harbor" from curtailment to members of ground water districts and irrigation districts that divert ground water from the Eastern Snake Plain Aquifer (ESPA) for the term of the Settlement Agreement and other ground water users that agree to the terms of this Settlement Agreement.
   c. Minimize economic impact on individual water users and the state economy arising from water supply shortages.
   d. Increase reliability and enforcement of water use, measurement, and reporting across the Eastern Snake Plain.
   e. Increase compliance with all elements and conditions of all water rights and increase enforcement when there is not compliance.
   f. Develop an adaptive groundwater management plan to stabilize and enhance ESPA levels to meet existing water right needs.

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[1] The Surface Water Coalition members ("SWC") are A&B Irrigation District (A&B), American Falls Reservoir District No. 2 (AFRD2), Burley Irrigation District (BID), Milner Irrigation District (Milner), Minidoka Irrigation District (MID), North Side Canal Company (NSCC), and Twin Falls Canal Company (TFCC). The acronym "SWC" in the Settlement Agreement is used for convenience to refer to all members of the Surface Water Coalition who are the actual parties to this Settlement Agreement.

[2] The Idaho Ground Water Appropriators, Inc. ("IGWA") are Aberdeen-American Falls Ground Water District, Bingham Ground Water District, Bonneville-Jefferson Ground Water District, Carey Valley Ground Water District, Jefferson Clark Ground Water District, Madison Ground Water District, Magic Valley Ground Water District, North Snake Ground Water District, Southwest Irrigation District, and Fremont-Madison Irrigation District, Anheuser-Busch, United Water, Glambia Cheese, City of Blackfoot, City of American Falls, City of Jerome, City of Rupert, City of Heyburn, City of Paul, City of Chubbuck, and City of Hazelton. The acronym "IGWA" in the Settlement Agreement is used for convenience to refer to all members of the Idaho Ground Water Appropriators, Inc. who are the actual parties to this Settlement Agreement.

2. **Near Term Practices.**
   a. For 2015 IGWA on behalf of its member districts will acquire a minimum of 110,000 ac-ft for assignment as described below:
      i. 75,000 ac-ft of private leased storage water shall be delivered to SWC;
      ii. 15,000 ac-ft of additional private leased storage water shall be delivered to SWC within 21 days following the date of allocation;
      iii. 20,000 ac-ft of common pool water shall be obtained by IGWA through a TFCC application to the common pool and delivered to SWC within 21 days following the date of allocation; and
      iv. Secure as much additional water as possible to be dedicated to on-going conversion projects at a cost not to exceed $1.1 million, the cost of which will be paid for by IGWA and/or the converting members.
   b. The parties stipulate the director rescind the April 16 As-Applied Order and stay the April 16 3rd Amended Methodology Order, and preserve all pending rights and proceedings.
   c. "Part a" above shall satisfy all 2015 "in-season" mitigation obligations to the SWC.
   d. This Settlement Agreement is conditional upon approval and submission by the respective boards of the Idaho Ground Water Appropriators, Inc. ("IGWA") and the Surface Water Coalition ("SWC") to the Director by August 1.
   e. If the Settlement Agreement is not approved and submitted by August 1 the methodology order shall be reinstated and implemented for the remainder of the irrigation season.
   f. Parties will work to identify and pass legislative changes needed to support the objectives of this Settlement Agreement, including, development of legislation memorializing conditions of the ESPA, obligations of the parties, and ground water level goal and benchmarks identified herein.

3. **Long Term Practices, Commencing 2016**.
   a. *Consumptive Use Volume Reduction.*
      i. Total ground water diversion shall be reduced by 240,000 ac-ft annually.
      ii. Each Ground Water and Irrigation District with members pumping from the ESPA shall be responsible for reducing their proportionate share of the total annual ground water reduction or in conducting an equivalent private recharge activity. Private recharge activities cannot rely on the Water District 01 common Rental Pool or credits acquired from third parties, unless otherwise agreed to by the parties.
   b. *Annual storage water delivery.*
      i. IGWA will provide 50,000 ac-ft of storage water through private lease(s) of water from the Upper Snake Reservoir system, delivered to SWC 21 days after the date of allocation, for use to the extent needed to meet irrigation

requirements. Any excess storage water will be used for targeted conversions and recharge as determined by SWC and IGWA.

ii. IGWA shall use its best efforts to continue existing conversions in Water Districts 130 and 140.

c. *Irrigation season reduction.*

Ground water users will not irrigate sooner than April 1 or later than October 31.

d. *Mandatory Measurement Requirement.*

Installation of approved closed conduit flow meter on all remaining unmeasured and power consumption coefficient (PCC) measured ground water diversions will be completed by the beginning of the 2018 irrigation season. Measurement device installation will be phased in over three years, by ground water district, in a sequence determined by the parties. If an adequate measurement device is not installed by the beginning of the 2016 irrigation season, a cropping pattern methodology will be utilized until such measuring device is installed.

e. *Ground Water Level Goal and Benchmarks.*

i. Stabilize and ultimately reverse the trend of declining ground water levels and return ground water levels to a level equal to the average of the aquifer levels from 1991-2001. Utilize groundwater levels in mutually agreed upon wells with mutually agreed to calculation techniques to measure ground water levels. A preliminary list of 19 wells has been agreed to by the parties, recognizing that the list may be modified based on additional technical information.

ii. The following benchmarks shall be established:

- Stabilization of ground water levels at identified wells by April 2020, to 2015 ground water levels;
- Increase in ground water levels by April 2023 to a point half way between 2015 ground water levels and the ground water level goal; and
- Increase of ground water levels at identified wells by April 2026 to the ground water level goal.

iii. Develop a reliable method to measure reach gain trends in the Blackfoot to Milner reach within 10 years.

iv. When the ground water level goal is achieved for a five year rolling average, ground water diversion reductions may be reduced or removed, so long as the ground water level goal is sustained.

v. If any of the benchmarks, or the ground water level goal, is not achieved, adaptive measures will be identified and implemented per section 4 below.

f. *Recharge.*

Parties will support State sponsored managed recharge program of 250 KAF annual-average across the ESPA, consistent with the ESPA CAMP and the direction in HB

547. IGWA's contributions to the State sponsored recharge program will be targeted for infrastructure and operations above American Falls.

g. *NRCS Programs*.
Parties will support NRCS funded permanent water conservation programs.

h. *Conversions*.
IGWA will undertake additional targeted ground water to surface water conversions and/or fallow land projects above American Falls (target near Blackfoot area as preferred sites).

i. *Trust Water Rights*.
The parties will participate and support the State in initiating and conducting discussions regarding long-term disposition of trust water rights and whether trust water rights should be renewed or cancelled, or if certain uses of trust water rights should be renewed or cancelled.

j. *Transfer Processes*.
Parties agree to meet with the State and water users to discuss changes in transfer processes within or into the ESPA.

k. *Moratorium Designations*.
State will review and continue the present moratoriums on new applications within the ESPA, including the non-trust water area.

l. *IDWR Processes*.
Develop guidelines for water right applications, transfers and water supply bank transactions for consideration by the IDWR.

m. *Steering Committee*.
   i. The parties will establish a steering committee comprised of a representative of each signatory party and the State.
   ii. Steering committee will be formed on or before September 10, 2015 and will meet at least once annually.
   iii. The Steering Committee will develop an adaptive management plan for responding to changes in aquifer levels and reach gain trends, review progress on implementation and achieving benchmarks and the ground water goal.
   iv. A technical work group ("TWG") will be created to support the Steering Committee. The TWG will provide technical analysis to the Steering Committee, such as developing a better way to predict and measure reach gains and ground water levels, to assist with the on-going implementation and adaptive management of the Settlement Agreement.

4. **Adaptive Water Management Measures**.
   a. If any of the benchmarks or the ground water level goal is not met, additional recharge, consumptive use reductions, or other measures as recommended by the

Steering Committee shall be implemented by the participating ground water parties to meet the benchmarks or ground water level goal.

b. The SWC, IGWA and State recognize that even with full storage supplies, present (2015) reach gain levels in the Near Blackfoot to Milner reach (natural flows) are not sufficient to provide adequate and sustainable water supplies to the SWC.

5. **Safe Harbor**.
No ground water user participating in this Settlement Agreement will be subject to a delivery call by the SWC members as long as the provisions of the Settlement Agreement are being implemented.

6. **Non-participants**.
Any ground water user not participating in this Settlement Agreement or otherwise have another approved mitigation plan will be subject to administration.

7. **Term**.
This is a perpetual agreement.

8. **Binding Effect**.
This Agreement shall bind and inure to the benefit of the respective successors of the parties.

9. **Entire Agreement**.

This Agreement sets forth all understandings between the parties with respect to SWC delivery call. There are no other understandings, covenants, promises, agreements, conditions, either oral or written between the parties other than those contained herein. The parties expressly reserve all rights not settled by this Agreement.

10. **Effect of Headings**.
Headings appearing in this Agreement are inserted for convenience and reference and shall not be construed as interpretations of the text.

11. **Effective Date**.
This Agreement shall be binding and effective when the following events have occurred:
    a. This Agreement is approved and executed by the participating parties consistent with paragraph 2.e. above; and
    b. IGWA has assigned all of the storage water required by paragraph 2.a.i. , ii., and iii. to the SWC by July 8, 2015.

The parties have executed this Agreement on the date following their respective signatures.

RACINE OLSON NYE BUDGE AND BAILEY, CHARTERED

Randall C. Budge 7/1/2015

Randall C. Budge Date

Attorney for Idaho Ground Water Appropriators, Inc.

IDAHO GROUND WATER APPROPRIATORS, INC.

7/1/2015

Tim Deeg Date

President

FLETCHER LAW OFFICE

7-2-15

W. Kent Fletcher Date

On Behalf of the Surface Water Coalition

BARKER ROSHOLT AND SIMPSON LLP

7/7/15

John K. Simpson Date

On Behalf of the Surface Water Coalition