

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (the "*Agreement*") is made and entered into by and between Kent L. Jones in his capacity as the Utah State Engineer (the "*State Engineer*"), Utah School and Institutional Trust Lands Administration ("*SITLA*"), Central Iron County Water Conservancy District (the "*District*"), Utah Alunite Corporation ("*UAC*"); and Beaver County (the "*County*") (collectively referred to as the "*Parties*").

RECITALS

The Parties are involved in a consolidated lawsuit captioned *Central Iron County Water Conservancy District v. Jones*, Case No. 140500016, pending in the Fifth Judicial District Court in and for Beaver County, State of Utah (the "*Litigation*"). The Litigation involves *de novo* judicial review of three applications to appropriate groundwater: A76677 (69-101) filed by the District to appropriate 12,000 acre-feet (AF) of groundwater from Wah Wah Valley; A76676 (14-118), filed by the District to appropriate 15,000 AF of groundwater from Pine Valley; and F79462 (69-115), filed jointly by UAC and SITLA to appropriate 6,500 AF of groundwater from Wah Wah Valley. The State Engineer approved A76677 (69-101) for the appropriation of 6,525 AF; approved A76676 (14-118) for the appropriation of 15,000 AF; and approved F79462 (69-115) for the appropriation of 6,500 AF for a 30-year fixed-time period. Also related to the litigation is unapproved application A76677a (69-118), a segregated portion of application A76677 filed by the District.

The District anticipated using water available under the District's applications to supply water to District customers through the District's planned West Desert Pipeline Project. The joint UAC/SITLA application was filed to provide water for mining and processing purposes on SITLA lands in Wah Wah Valley known as the Blawn Mountain Property. Since the time of filing, UAC has conveyed its interest in water right 69-115 to SITLA and retained a contract right to use water available to SITLA for mining and processing at the Blawn Mountain Property.

In addition to the above, the County has filed two applications to appropriate: A78814 (69-109) to appropriate 6,650 AF of groundwater from Wah Wah Valley, and A78815 (14-124) to appropriate 13,900 AF of water groundwater from Pine Valley. The State Engineer has not yet acted on the County's applications, and those applications are not the subject of *de novo* review. But, the County seeks approval to appropriate water from the same sources as the District's and UAC's applications. The County claimed a portion of the unappropriated groundwater in Wah Wah Valley should be reserved for use in that valley, and a portion of the unappropriated groundwater in Pine Valley should be reserved for use in that valley.

This Settlement Agreement contains settlement terms which will resolve the Litigation, allow the District's West Desert Pipeline Project to proceed, allow mining and processing at the Blawn Mountain Property, allow the County to acquire a portion of the water from Wah Wah Valley for use in that valley, and allow the County to proceed to seek approval of its application to appropriate water from Pine Valley.

AGREEMENT

The Parties exchange the following consideration and agree as follows:

1. Water Availability. The Parties acknowledge they have a difference of opinion regarding the amount of water available for development in the Wah Wah Valley and the Pine Valley – namely, the safe yield of the aquifers in those valleys. By way of this Agreement the State Engineer will allow the non-State Engineer Parties to proceed with plans to develop the amount of water stated herein with the understanding that the non-State Engineer Parties assume all risk and full responsibility for the possibility that the safe annual yield of the Wah Wah Valley aquifer and/or the Pine Valley aquifer is less than the amounts referenced in this Agreement. The non-State Engineer Parties expressly understand and acknowledge that the State Engineer is making no warranty or representation about the amount of water available for development in the Wah Wah Valley and the Pine Valley, and that approvals provided under this Agreement may be for more water than future facts demonstrate is actually available for long-term beneficial use. They further understand and acknowledge that under Utah Code Section 73-5-15, the State Engineer may regulate groundwater withdrawals within a specific groundwater basin by adopting a groundwater management plan in accordance with that section for any groundwater basin or aquifer or combination of hydrologically connected groundwater basins or aquifers. Nothing in this Agreement affects or is intended to affect the State Engineer's authority under that section as it presently exists and as it may change. The non-State Engineer Parties expressly understand and acknowledge that proper exercise of that authority may result in a reduction of the amount of water authorized for diversion under this Agreement.

2. District Wah Wah Valley Application A76677 (69-101). A76677 (69-101) will be approved for the permanent appropriation of 6,525 AF (100% consumptive) of groundwater.

3. District Segregated Wah Wah Valley Application A76677a (69-118). The portion of A76677 not approved by the Engineer (5,475 AF) was segregated and assigned Water Right No. 69-118 (Application to Appropriate No. A76677a). To accommodate the terms of this Agreement, the District segregated 725 AF from A76677a (69-118) to A76677aa (69-120) and 4,025 AF from A76677a to A76677ab (69-121) leaving 725 AF in A76677a (69-118). As a result, the District has three segregated applications to appropriate: A76677a (69-118) for the appropriation of 725 AF, A76677aa (69-120) for the appropriation of 725 AF, and A76677ab (69-121) for the appropriation of 4,025 AF. Those pending applications' status is currently unapproved.

a. A76677a (69-118). A76677a (69-118) will be approved for the permanent appropriation of 725 AF (100% consumptive) of groundwater. The Parties agree to reduce the priority of Water Right 69-118 to October 18, 2006.

b. A76677aa (69-120). A76677aa (69-120) will be approved for the permanent appropriation of 725 AF (100% consumptive) of groundwater. The Parties agree to reduce the priority of Water Right 69-120 to October 19, 2006.