

**BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO**

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| <b>IN THE MATTER OF APPLICATIONS FOR )</b>        |                              |
| <b>PERMIT 77-14377, 77-14378, AND 77-14379, )</b> | <b>ORDER APPROVING</b>       |
| <b>APPLICATIONS FOR TRANSFER 85396 )</b>          | <b>SETTLEMENT AND</b>        |
| <b>85397, 85398, AND 85399 AND APPLICATION )</b>  | <b>CONFIRMING WITHDRAWAL</b> |
| <b>FOR EXCHANGE 85538 IN THE NAME OF )</b>        | <b>OF PROTESTS</b>           |
| <b><u>PERPETUA RESOURCES IDAHO, INC. )</u></b>    |                              |

On October 8, 2021, Perpetua Resources Idaho, Inc. ("Perpetua") filed Applications for Permit 77-14377, 77-14378, and 77-14379, and Applications for Transfer 85396, 85397, 85398, and 85399 with the Idaho Department of Water Resources ("Department"). On November 15, 2021, Perpetua filed Application for Exchange 85538. Nez Perce Tribe, Save the South Fork Salmon, Inc., and Idaho Conservation League filed protests against all above-referenced applications. USDA Forest Service ("USFS") filed protests against Applications 77-14378, 85396, 85397, 85398 and 85538.

On March 1, 2023, Perpetua and USFS filed a Stipulation and Joint Motion to Approve Settlement and Dismiss Protest ("Motion"). The Stipulation set forth terms and conditions that would resolve the protests filed by USFS. The Motion was filed pursuant to Rule 220 of the Department's Rules of Procedure (IDAPA 37.01.01) and asked the hearing officer to issue an order approving the settlement and confirming that the proposed water right conditions would be included in any approvals issued by the Department. The other parties did not file timely responses to the Motion.

The Motion set forth three conditions ("proposed conditions") to be included in any approvals issued by the Department in the pending contested cases. The proposed conditions referred to stream flow at a "Point of Compliance," defined in the Stipulation between Perpetua and USFS. During a status conference, conducted on April 12, 2023, Perpetua confirmed that it would be responsible for calculating the daily flows at the Point of Compliance. Further, Perpetua stated that it would compile and submit an annual report of streamflow at the Point of Compliance and all proposed diversions described in the applications listed above.

The presiding officer finds that the proposed conditions, in combination with standard measurement and reporting conditions for water rights in the Salmon River drainage, are acceptable and can be administered by IDWR or a local watermaster. Therefore, the settlement between Perpetua and USFS should be approved, and the withdrawal of protest proposed by USFS should be confirmed.

## ORDER

IT IS HEREBY ORDERED that the joint Motion filed by Perpetua and USFS is GRANTED. The settlement between Perpetua and USFS is approved. The proposed conditions, or substantially similar conditions, shall be included as conditions of approval on the subject water rights if any of the applications referenced above are approved. Further, this order confirms that the protests filed by USFS against Applications 77-14378, 85396, 85397, 85398 and 85538 have been withdrawn with prejudice.

This is an Interlocutory Order issued pursuant to IDAPA 37.01.01.710.

Dated this 17<sup>th</sup> day of April 2023.



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James Cefalo  
Hearing Officer

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17<sup>th</sup> day of April 2023, true and correct copies of the documents described below were served by placing a copy of the same with the United States Postal Service postage prepaid and properly addressed to the following:

Document Served: Order Approving Settlement and Confirming Withdrawal of Protests

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