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WATER RESOURCES
WESTERN REGION

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF PROTEST

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, and 42-222, Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information.

1. Matter being protested: **Application 63-34905 in the name of Obendorf Hop, Inc.**
2. Name of protestant: **Riverside Irrigation District Ltd.**
3. Protestant's Representative for service (if different than protestant)

Albert P. Barker
Barker Rosholt & Simpson LLP

4. Service mailing address: **P.O. Box 2139, Boise, ID 83701-2139**
5. Service telephone no. **208-336-0700** Email address: **apb@idahowaters.com**
6. Basis of protest (including statement of facts and law upon which the protest is based)

a. **Flows in the Dixie Slough are significantly influenced by releases from the Riverside Canal. The Dixie Slough also is an emergency spillway historically used for that purpose by Riverside. Riverside has the right to recapture waste water or not spill at all into the Dixie Slough and cannot be obligated to deliver water to meet the needs of this right. In addition, Riverside must use and has the right to use the Dixie Slough as an emergency spillway in the event of canal break or other problems, requiring that any diversion structures contemplated under this water right must be designed and built so that Riverside is not responsible to the Applicant for any damage caused by use of Dixie Slough as an emergency spillway.**

b. **The proposed diversion and use of the waters described in the application, unless conditioned to protect the rights and interests of Riverside, violate all, or a portion of, the criteria set forth in Idaho Code Section 42-203A(5), specifically including subparagraphs (a), (b), (e), (f), and (g).**

c. **For such other and further reasons as may be set forth at the hearing on this matter.**

d. **Riverside's protests would be resolved by Applicant's stipulation to include conditions #1-3 contained in the Stipulation to Resolve Protest and Release between Riverside and Energy Resource Group LLC in Water Right No. 63-33673. (copy attached hereto)**

I hereby acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 6th day of October, 2020.

RIVERSIDE IRRIGATION DISTRICT

Protestant



Protestant's Representative

FOR DEPARTMENT USE ONLY

Received by LE Date 10/08/2020 Time 10:45 AM

\$25.00 fee Receipted by LE # W048767 Date 10/06/2020

CERTIFICATE OF MAILING

I hereby certify that on this 6th day of October 2020, I filed the original of the foregoing Notice of Protest, together with appropriate filing fee; and caused a true and correct copy to be served upon the following, by U.S. Mail:

ORIGINAL WITH FILING FEE TO:

IDAHO DEPARTMENT OF WATER RESOURCES
WESTERN REGION
2735 AIRPORT WAY
BOISE, IDAHO 83705-5082

Obendorf Hop, Inc.
24034 Batt Corner Rd
Parma, ID 83660-7308

David Shaw
4001 E Main Street
Emmett, ID 83617

City of Boise City
Attn: Abigail Germaine
105 N. Capitol Blvd
P.O. Box 500
Boise, ID 83701

RECEIVED
JUN 30 2016
WATER RESOURCES
WESTERN REGION

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF:

APPLICATION FOR PERMIT NO.
63-33673 IN THE NAME OF ENERGY
RESOURCE GROUP LLC

**STIPULATION TO RESOLVE
PROTEST AND RELEASE**

WHEREAS, Energy Resource Group LLC (ERG) filed an Application for Permit dated July 18, 2012 to appropriate 180 cfs for water quality improvement and wildlife and storage purposes from January 1 to December 31 of each year with the source of water from Dixie Slough and groundwater.

WHEREAS, on July 24, 2015, Riverside Irrigation District Ltd (Riverside) filed a Notice of Protest for the approval of permit 63-33673.

WHEREAS, Notices of Protest were filed also by other persons and entities.

WHEREAS, protestant Riverside and ERG wish to resolve the issues raised in the Protest filed by Riverside.

NOW, THEREFORE, the ERG and Riverside, by and through their attorneys of record, stipulate and agree that protestant Riverside will withdraw from participation in the protest in the matter of permit No. 63-33673 on the following conditions:

1. That ERG and Riverside shall propose a condition on the water right to be inserted by the Idaho Department of Water Resources (Department) into water right 63-33673 stating the following:

“The source of this right is wastewater. The wasting of water may be discontinued at any time. This right remains subject to the right of the original

appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture.”

2. Riverside and ERG recognize that the Dixie Slough has been used in the past by Riverside as a wasteway for water in the event of canal break or to prevent overtopping the canal in the event of flows into the canal from other sources, particularly including the West End Drain which is located upstream of the Dixie Slough on the Riverside Canal, and the parties recognize that Riverside maintains a headgate on the Riverside Canal to the Dixie Slough allowing Riverside to release water from the Riverside Canal into Dixie Slough.

3. Based upon Riverside’s historic uses, ERG agrees to waive any claims against Riverside associated with Riverside’s use of the Dixie Slough as a wasteway. ERG further releases Riverside from any and all claims, demands, and liability that ERG may hereafter have, arising from or associated with effects to the operations proposed by ERG under Water Right No. 63-33673 and any impact to structures installed in or adjacent to the Dixie Slough by ERG to facilitate its operations under Water Right No. 63-33673. This release shall be binding on ERG and its successors and assigns.

4. Upon execution of the Stipulation to Resolve Protest and Release, Riverside will cease involvement in ERG’s pending application process except to explain to the Department the terms and conditions of the remark set forth in paragraph 1 above. Riverside reserves the right to participate further in the protest should the Department elect not to include the remark set forth in paragraph 1 above into any water right issued to ERG for diversions from the Dixie Slough as identified in the Application for Water Right No. 63-33673.

5. Riverside will file a Withdrawal of Protest with the Department immediately upon the Department's approval of Water Right No. 63-33673, if such approval includes the remark set forth in paragraph 1 above.


DATED: June 30, 2016

HOFSTETTER LAW OFFICE

By: 
Dana Hofstetter
Attorneys for Energy Resources Group LLC

DATED: June 30, 2016

BARKER, ROSHOLT & SIMPSON LLP

By: 
Albert P. Barker
Attorneys for the Riverside Irrigation District Ltd

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of June, 2016, I served the a copy of the foregoing
STIPULATION TO RESOLVE PROTEST AND RELEASE by depositing same in the U.S. Mail,
postage prepaid, as indicated, addressed to the following:

Bruce M. Smith
Moore Smith Buxton & Turcke
950 W Bannock Street, Suite 520
Boise, ID 83702

James Otradosky
652 N Morningside Way
Boise, ID 83712

SPF Water Engineering LLC
c/o Lori Graves
300 E Mallard Drive, Suite 350
Boise, ID 83706

Shaw Cattle Co. Inc.
23020 Howe Road
Caldwell, ID 83607

Energy Resource Group LLC
9165 W State Street
Boise, ID 83714

V Jay Harper
23750 Howe Road
Parma, ID 83660

Hofstetter Law Office
Attn: Dana Hofstetter
608 W Franklin Street
Boise, ID 83702

City of Boise
c/o Erika Malmen
Perkins Coie LLP
1111 W Jefferson Street, Suite 500
Boise, ID 83702

Dixie Land LLC
22993 Howe Road
Caldwell, ID 83607



Albert P. Barker



**Barker Rosholt
& Simpson LLP**

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OCT 08 2020

**WATER RESOURCES
WESTERN REGION**

Boise

1010 W. Jefferson St. Suite 102
Boise, Idaho 83702
p. 208.336.0700
f. 208.344.6034

Attorneys

Albert P. Barker
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Travis L. Thompson
Scott A. Magnuson
Sarah W. Higer

John A. Rosholt
(1937-2019)

Albert P. Barker

EMAIL: apb@idahowaters.com
PHONE: 208.336.0700
WEB: idahowaters.com

October 6, 2020

Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

Re: Application 63-34905 in the name of Obendorf Hop, Inc.

Dear Clerk,

Enclosed please find Riverside Irrigation District, Ltd.'s Notice of Protest including a check of \$25.00 filing fee.

Please return the copy with your file or received stamp in the enclosed envelope for our records. Thank you for your assistance.

Sincerely,

BARKER ROSHOLT & SIMPSON LLP


Ailen Evaniuck
Legal Assistant

Enc. a/s