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*Attorneys for Applicant Thorpe Family Trust*

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JUL 31 2018  
WATER RESOURCES  
WESTERN REGION

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

IN THE MATTER OF APPLICATION FOR  
PERMIT NO. 63-34335 IN THE NAME OF  
THORPE FAMILY TRUST

**STIPULATION FOR WITHDRAWAL  
OF PROTEST**

WHEREAS, Thorpe Family Trust ("Thorpe") filed an Application for Permit No. 63-34335 dated January 27, 2017 (the "Application"), to appropriate 1.3 cfs for irrigation purposes from March 1 through November 15, and 9.75 cfs for wildlife and recreation purposes and diversions to storage from September 1 through February 28, and 1,816.8 acre-feet for wildlife and recreation storage purposes from September 1 to February 28 with the source of water from Dixie Slough.

WHEREAS, on June 5, 2017, City of Boise ("City") filed a Notice of Protest to the approval of the Application.

WHEREAS, City and Thorpe wish to resolve the issues raised in City's Notice of Protest.

NOW, THEREFORE, Thorpe and City, by and through its attorneys of record, stipulate and agree that City will withdraw its Notice of Protest to the Application on the following terms:

1. That the Idaho Department of Water Resources ("Department") include the following conditions in any permit and license issued under the Application:

- 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, or to recapture.
- The Wildlife & Recreation, Wildlife & Recreation Storage, and Diversion to Storage uses of this right shall be junior and subordinate to water right no. 63-33467 and 63-34318 [if approved], and water right no. 63-33467 and 63-34318 [if approved] shall be junior and subordinate to this right's irrigation use of 1.3 cfs.
- To the extent surface return flows result from the diversion of water under this right, the holder shall cause such flows to be returned to the Dixie Slough, and shall not allow any such return flows to be diverted into the Meadows Drain.

2. Should the Department approve the Application, the parties request an order including conditions identical to those set forth in paragraph 1 above.

3. The City's protest to the Application shall be deemed withdrawn upon the issuance of a final order approving the Application and including the conditions identical to those set forth in paragraph 1 above.

4. Each party shall bear its own costs, expenses, and attorney fees in connection with the above-captioned matter.

DATED: 7/27/18

THORPE FAMILY TRUST

By:   
Ryan Thorpe

DATED: 7/24/18

PERKINS COIE LLP

By:   
Erika E. Malmen  
Attorneys for City of Boise

### CERTIFICATE OF SERVICE

I hereby certify that on the 31<sup>st</sup> day of JULY, 2018, a true and correct copy of the foregoing was filed and/or served upon the following individual(s) by the means indicated:

#### DOCUMENT FILED:

Idaho Department of Water Resources  
Western Regional Office  
2735 Airport Way  
Boise, ID 83705

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U.S. Mail, postage prepaid  
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Facsimile

#### DOCUMENT SERVED:

Robert B. Firpo  
Office of the Solicitor  
US Department of the Interior  
960 Broadway Ave., Ste 400  
Boise, ID 83706

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SPF Water Engineering LLC  
c/o Terry Scanlan  
300 E. Mallard Dr., Ste 350  
Boise, ID 83706

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Thorpe Family Trust  
c/o Ryan Thorpe  
28854 Boulder Rd.  
Parma, ID 83660

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Greg Obendorf  
Charles L. Honsinger  
Honsinger Law PLLC  
PO Box 517  
Boise, ID 83701

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City of Boise  
c/o Erika Malmen of Perkins Coie, LLP  
1111 W. Jefferson St., Ste. 500  
Boise, ID 83702

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Riverside Irrigation District  
Attn: Albert P. Barker  
Barker Rosholt & Simpson LLP  
1010 Jefferson St., Ste. 102  
PO Box 2139  
Boise, ID 83701

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United States of America Bureau of Reclamation  
c/o E. Gail McGarry  
1150 N. Curtis Rd., Ste. 100  
Boise, ID 83706-1234

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By   
for Michael P. Lawrence