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Attorneys for Applicant Thorpe Family Trust

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JUN 26 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 AND ISSUANCE OF
PERMIT**

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 May 17, 2017, Riverside Irrigation District Ltd. ("Riverside") timely filed a Notice of Protest to the approval of the Application.

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

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

STIPULATION FOR WITHDRAWAL OF PROTEST AND ISSUANCE OF PERMIT- 1

ORIGINAL

1. That the Idaho Department of Water Resources ("Department") include the following condition in any permit 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.

2. Riverside and Thorpe 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, Thorpe agrees to protect and hold harmless Riverside from any and all demands, claims, and liability asserted by Thorpe associated with Riverside's use of the Dixie Slough as a wasteway consistent with historic practices. Thorpe further releases Riverside from any and all claims, demands, and liability that Thorpe may hereafter have, arising from or associated with effects to the operations proposed by Thorpe under Water Right No. 63-34335, and any impact to structures installed in or adjacent to the Dixie Slough by Thorpe to facilitate its operations under Water Right No. 63-34335. This release shall be binding on Thorpe and its successors and assigns.

4. The parties request the Department, pursuant to IDAPA 37.01.01.612, for an order approving the Application and including condition set forth in paragraph 1 above.

5. Riverside's protest to the Application shall be deemed withdrawn upon the issuance of a final order approving the Application and including the condition set forth in

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paragraph 1 above.

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

DATED: June 26th 2018

THORPE FAMILY TRUST

By: 
Ryan Thorpe

DATED: June 25, 2018

BARKER, ROSHOLT & SIMPSON LLP

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

CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of JUNE, 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
Express Mail
Hand Delivery
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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U.S. Mail, postage prepaid
Express Mail
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SPF Water Engineering LLC
c/o Lori Graves
300 E. Mallard Dr., Ste 350
Boise, ID 83706

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U.S. Mail, postage prepaid
Express Mail
Hand Delivery
Facsimile

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

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U.S. Mail, postage prepaid
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Hand Delivery
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Greg Obendorf
Charles L. Honsinger
Honsinger Law PLLC
PO Box 517
Boise, ID 83701

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Express Mail
Hand Delivery
Facsimile

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

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Facsimile

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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

☒ U.S. Mail, postage prepaid
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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: 
Michael P. Lawrence