



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER

Governor

8/28/2018

GARY SPACKMAN

Director

THORPE FAMILY TRUST
C/O MICHAEL P LAWRENCE
GIVENS PURSLEY LLP
PO BOX 2720
BOISE ID 83701-2720

CITY OF BOISE
C/O ERIKA MALMEN
PERKINS COIE LLP
1111 W JEFFERSON ST STE 500
BOISE ID 83702

GREG OBENDORF
C/O CHARLES HONSINGER
HONSINGER LAW PLLC
PO BOX 517
BOISE ID 83701

UNITED STATES BUREAU OF RECLAMATION
C/O E GAIL MCGARRY
1150 N CURTIS RD STE 100
BOISE ID 83706-1234

RIVERSIDE IRRIGATION DISTRICT
C/O ALBERT P BARKER
BARKER ROSHOLT & SIMPSON LLP
PO BOX 2139
BOISE ID 83701-2139

Re: Protest Withdrawal – Application for Permit No. 63-34335 (Thorpe Family Trust)

Dear Parties:

The Department of Water Resources ("Department") acknowledges receipt of four documents conditionally withdrawing the remaining protests to the subject application for permit. The documents and date of receipt are as follows:

1. *Stipulation for Withdrawal of Protest*, July 31, 2018 – City of Boise and Thorpe
2. *Stipulation for Withdrawal of Protest and issuance of permit*, July 31, 2018¹ – Riverside and Thorpe
3. *Stipulation for Withdrawal of Protest and issuance of permit*, July 31, 2018 – Obendorf and Thorpe
4. *Stipulation for Withdrawal of Protest and issuance of permit*, July 31, 2018 – USBOR and Thorpe

The four documents conditionally resolve protests to application 63-34335. The parties have agreed to the protestants' withdrawals if the Department conditions any approvals of the permit applications as provided in the stipulations.

¹ This document was first received by the Department on June 26, 2018 and included signatures dated June 25, 2018 for Riverside and June 26, 2018 for Thorpe. The document received on July 31, 2018 is identical, but Thorpe's signature is dated July 27, 2018.

In any conditional withdrawal, the Department must review the agreement to ensure that conditions to be included in an approval are acceptable. The Stipulations included components that are to be addressed by the Department as conditions on the face of the approvals and may have components that are the responsibility of the parties to accomplish and enforce. The attached draft approval contains the conditions stipulated by the parties as well as other conditions required by the Department.

Please review the draft approval carefully. If you think the draft approval is not substantially in conformance with your stipulated conditions, please contact the Department within 14 days of the date of this letter with your concerns. The application has no remaining protests; therefore, if we do not hear from you, the Department will take the steps necessary to bring the application to final resolution. As always, you may file a petition for reconsideration within 14 days after the Department issues a preliminary order approving the permit.

Please feel free to contact this office if you have any questions regarding this procedure.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nick Miller', written over a horizontal line.

Nick Miller
Regional Manager

Enclosures

Cc: Terry Scanlan, SPF Water Engineering LLC

DRAFT

State of Idaho
Department of Water Resources

DRAFT

Permit to Appropriate Water

NO. 63-34335

Priority: January 26, 2017

Maximum Diversion Rate: 9.75 CFS

This is to certify, that THORPE FAMILY TRUST
C/O RYAN THORPE
28854 BOULDER RD
PARMA ID 83660

has applied for a permit to appropriate water from:

Source: DIXIE SLOUGH**Tributary:** BOISE RIVER

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
RECREATION STORAGE	09/01 to 02/28		1,820 AF
DIVERSION TO STORAGE	09/01 to 02/28	9.75 CFS	
IRRIGATION	03/01 to 11/15	1.30 CFS	
WILDLIFE	09/01 to 02/28	9.75 CFS	
RECREATION	09/01 to 02/28	9.75 CFS	
WILDLIFE STORAGE	09/01 to 02/28		1,820 AF

LOCATION OF POINT(S) OF DIVERSION:

DIXIE SLOUGH NE¼SE¼ Sec. 1, Twp 04N, Rge 05W, B.M. CANYON County

PLACE OF USE: RECREATION STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	05W	1			X	X									X				

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	05W	1			24	24									17				65

Total Acres: 65

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PLACE OF USE: WILDLIFE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
04N	05W	1	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
					X	X									X				

PLACE OF USE: RECREATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
04N	05W	1	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
					X	X									X				

PLACE OF USE: WILDLIFE STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
04N	05W	1	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
					X	X									X				

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **September 01, 2023**.
2. Subject to all prior water rights.
3. This right authorizes total annual storage volume of 1816.8 acre-feet, 32.5 acre-feet to be used for the initial filling or carryover storage of the flooded fields and 1784.3 acre-feet for the replacement of losses caused by seepage and evaporation.
4. The field flooding established by the storage of water under this right shall not exceed a total capacity of 32.5 acre-feet or a total surface area of 65 acres.
5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
6. 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.
7. The Wildlife, Recreation, Wildlife Storage, 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.

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State of Idaho
Department of Water Resources

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Permit to Appropriate Water

NO. 63-34335

8. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 63.
9. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.
10. The diversion and use of water described in this right may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement to which the Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the protestant and the water right holder.
11. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.
12. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
13. 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.
14. Water diverted under the wildlife and recreation components of this water right shall be returned to the Dixie Slough, either directly or through seepage associated with seasonal field flooding.
15. Wildlife and recreation use is for flow through and seepage water associated with wildlife and recreation storage of 20 acres of field flooding for waterfowl habitat and hunting.
16. The wildlife and recreation components of this right shall be junior and subordinate to future water rights authorizing the diversion and use of water from the Dixie Slough and its tributaries, including ground water, for consumptive uses, except that this right shall not be subordinate to future water rights for similar wildlife, recreation and/or aesthetic uses.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code.

Signed this _____ day of _____, 20____.

Nick Miller

Manager, IDWR Western Region

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

63-34335

This map depicts the RECREATION, WILDLIFE, IRRIGATION, WILDLIFE STORAGE, and RECREATION STORAGE place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



0 0.075 0.15 0.3 Miles

- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections

