

ORIGINAL

Shelley M. Davis, ISB No. 6788
BARKER ROSHOLT & SIMPSON LLP
1010 W. Jefferson St., Suite 102
P.O. Box 2139
Boise, ID 83701-2139
Telephone: (208) 336-0700
Facsimile: (208) 344-6034

RECEIVED
MAR 28 2017
WATER RESOURCES
WESTERN REGION

Attorney for Protestants/Claimants

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF WATER RIGHT
TRANSFER APPLICATION NO. 81039 IN
THE NAME OF WALLACE AND PERMIT
NOS. 78-12439 IN THE NAME OF
KALINOWSKI AND 78-12447 IN THE
NAME OF HENLEY AND 78-12445 IN THE
NAME OF WALLACE

**MOTION FOR SUMMARY
JUDGMENT**

COMES NOW, the Protestants/Claimants, James and Sandra Henley and Edward Kalinowski, by and through their counsel of record, Shelley M. Davis of the law firm Barker Rosholt & Simpson, LLP, and pursuant to IDAPA 37.01.01.260 and Idaho Rule of Civil Procedure 56(c), move this Court for an Order of Summary Judgment, dismissing transfer application no. 81039 for the reasons set forth in accompanying Memorandum in Support of this Motion. Oral argument on the Motion is requested.

DATED this 22nd day of March, 2017.

BARKER ROSHOLT & SIMPSON LLP


Shelley M. Davis
Attorney for Protestants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of March, 2017, I caused a true and correct copy of the foregoing **MOTION FOR SUMMARY JUDGMENT** to be filed with or served upon the following parties by the indicated methods:

Filed with:

Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, ID 83705-5082
Facsimile: (208) 334-2348

☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Facsimile
☐ Overnight Mail
☐ Email

Served on:

Mike and Eulla Wallace
3288 Wallace Lane
New Meadows, ID 83654

☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Facsimile
☐ Overnight Mail
☐ Email

James Cefalo
Hearing Officer
900 North Skyline Drive, Suite A
Idaho Falls, ID 83402-1718

☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Facsimile
☐ Overnight Mail
☐ Email



Shelley M. Davis
Attorney for Protestants

ALBERT P. BARKER
JOHN A. ROSHOLT
JOHN K. SIMPSON
TRAVIS L. THOMPSON
SHELLEY M. DAVIS
PAUL L. ARRINGTON
SCOTT A. MAGNUSON



1010 W. Jefferson, Suite 102
Post Office Box 2139
Boise, Idaho 83701-2139
(208) 336-0700 telephone
(208) 344-6034 facsimile
brs@idahowaters.com

163 2nd Avenue West
Post Office Box 63
Twin Falls, Idaho 83303-0063
(208) 733-0700 telephone
(208) 735-2444 facsimile

Shelley M. Davis
smd@idahowaters.com

March 27, 2017

VIA U.S. MAIL

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

RECEIVED
MAR 28 2017
WATER RESOURCES
WESTERN REGION

Re: Application for Permit No. 78-12445

Dear Clerk:

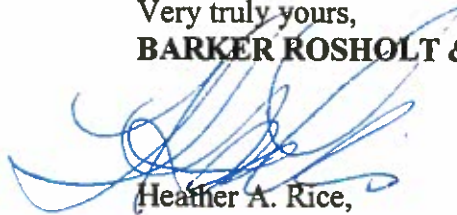
Please find enclosed herewith the following documents for filing in the above referenced application for permit:

1. *Motion for Summary Judgment;*
2. *Memorandum in Support of Motion for Summary Judgment;*
3. *Affidavit of James Henley in Support of Motion for Summary Judgment; and*
4. *Affidavit of Shelley M. Davis in Support of Motion for Summary Judgment.*

Please return conformed copies in the enclosed postage pre-paid, self-addressed stamped envelope. 

Please contact me if you have any questions or concerns. Thank you for your assistance.

Very truly yours,
BARKER ROSHOLT & SIMPSON LLP


Heather A. Rice,
Assistant to Shelley M. Davis

/har
Enclosures

SCANNED
MAR 31 2017