

ORIGINAL

Albert P. Barker, ISB # 2867
BARKER, ROSHOLT & SIMPSON LLP
1010 W. Jefferson, Suite 102
P. O. Box 2139
Boise, ID 83701-2139
Telephone: 208-336-0700
Facsimile: 208-344-6034

Attorneys for McConnel Island Ditch Co., Ltd.

✓
RECEIVED
MAY 25 2017
WATER RESOURCES
WESTERN REGION

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

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 63-34334 IN THE) **NOTICE OF PROTEST**
NAME OF THORPE FAMILY TRUST)
)
)
)
)

McCONNEL ISLAND DITCH CO., LTD., (McConnel Island), by and through its attorneys, Barker Rosholt & Simpson, LLP, files its Notice of Protest to the approval of application 63-34334 filed in the name of Thorpe Family Trust. The basis for the Protestant's protest is as follows:

1. This and the companion application seek nearly 14 cfs of water which are proposed to be diverted directly from the Boise River above the location of McConnel Island's point of diversion. The application proposes beginning diversions on September 1 of each year, and continuing through February of the following year. McConnel Island owns senior rights from the Boise River with season of use extending from March 15 to November 14. McConnel Island's rights also contain shoulder remarks authorizing diversion prior to March 15. Turning on these rights sought by the Thorpe Family Trust will affect delivery to McConnel Island for two-and-one-

NOTICE OF PROTEST

Received by CJ
W045322

half months of the irrigation season. This late season is typically when flows on the river decline. Taking 14 cfs out of the river above the point of diversion for McConnel Island at this time jeopardizes McConnel Island's water rights. Moreover, watermaster control of diversions in the lower Boise has not been as thorough and rigorous as it has been above the Middleton gauge.

2. If this right is approved, it must be conditioned to ensure locking and controllable devices on the diversions that can only be operated by the watermaster to ensure downstream users are fully protected from diversion during the entire irrigation season, and to ensure that the right is shut off before the irrigation season begins as authorized by the senior water rights, including the shoulder remarks.

3. The proposed diversion and use of the waters described in these two applications, unless conditioned to protect McConnel Island's rights and interests, 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).

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

DATED this 23rd day of May, 2017.

BARKER, ROSHOLT & SIMPSON LLP



Albert P. Barker
Attorneys for McConnel Island Ditch Co., Ltd.

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of May, 2017, I caused to be served a true and correct copy of the foregoing **NOTICE OF PROTEST** by the method indicated below, and addressed to each of the following:

Original to:

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

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile
☐ Email

Copies to the following:

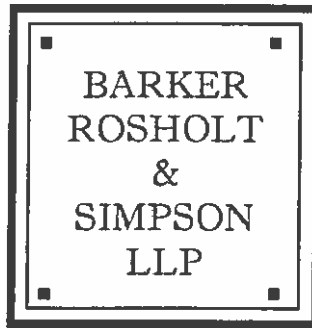
Thorpe Family Trust
c/o Ryan Thorpe
28854 Boulder Rd.
Parma, ID 83660

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile
☐ Email



Albert P. Barker

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



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

163 Second Avenue West
P.O. Box 63
Twin Falls, ID 83303-0063
(208) 733-0700 telephone
(208) 735-2444 facsimile

Albert P. Barker
apb@idahowaters.com

May 23, 2017

VIA U.S. MAIL

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

RECEIVED

MAY 25 2017

WATER RESOURCES
WESTERN REGION

*Re: Notice of Protest for Application for Permit Nos. 63-34333 and 63-34334 in the
Name of Thorpe Family Trust*

Dear Clerk,

Enclosed herewith for filing are Notices of Protest for the above-referenced Application for Permit Nos. Also attached is check number 25314 in the amount of \$50.00 for your filing fee. Please return file-endorsed copies in the enclosed self-addressed, stamped envelope for our files.

If you have any questions, please contact our office. Thank you for your assistance.

Very truly yours,

BARKER ROSHOLT & SIMPSON LLP

Heather A. Rice,
Assistant to Albert P. Barker

/har
Enclosures