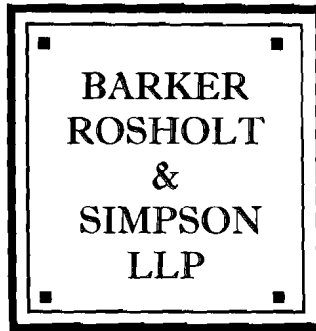


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November 2, 2009

RECEIVED
NOV 04 2009
DEPARTMENT OF
WATER RESOURCES

RECEIVED
NOV 06 2009
DEPT. OF WATER RESOURCES
SOUTHERN REGION

Idaho Department of Water Resources
322 E. Front Street, 6th Floor
P. O. Box 83720
Boise, ID 83720-00098

Re: WRVID #45, Application for Transfer T75341 (Sinnott) and T75342 (Breck)

Dear Clerk:

Enclosed for filing are an original and one copy of Wood River Valley Irrigation District #45 Petition to Intervene for the above transfers. Please return a conformed copy to us in the envelope enclosed.

Done SR?

Very truly yours,

BARKER ROSHOLT & SIMPSON LLP

Sue Estes
Assistant to Albert P. Barker

APB/se
Enclosures

RECEIVED

NOV 05 2009

DEPT. OF WATER RESOURCES
SOUTHERN REGION

RECEIVED

NOV 03 2009

DEPARTMENT OF
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Attorneys for Wood River Valley Irrigation District #45

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

IN THE MATTER OF APPLICATION FOR	)	WOOD RIVER VALLEY IRRIGATION
TRANSFER NO. T75342 IN THE NAME OF	)	DISTRICT #45 PETITION TO
PETER B. BRECK AND ANTONIA	)	INTERVENE
HUNTER BRECK, TRUSTEES OF THE	)	
BRECK FAMILY 1998 REVOCABLE	)	
TRUST	)	

WOOD RIVER VALLEY IRRIGATION DISTRICT #45, Petitioner herein, by and through its attorney, Albert P. Barker of the firm Barker Rosholt & Simpson LLP, petitions to intervene in the above-captioned matter, pursuant to Rules 350 through 354 of the Rules of Procedure of the Idaho Department of Water Resources (IDAPA 37.01.01.350-354).

The Department's rules provide that a petition is timely-filed anytime before a pre-hearing conference has been set (IDAPA 37.01.01.352). No pre-hearing conference has been set in the above-captioned matter. Furthermore, the Department's rules provide that a timely-filed petition for intervention shall be granted if the petition "shows direct and substantial interest in any part of the subject matter of a proceeding and does not unduly broaden the issues, ... unless the applicant's interest is adequately represented by existing parties." IDAPA 37.01.01.353.

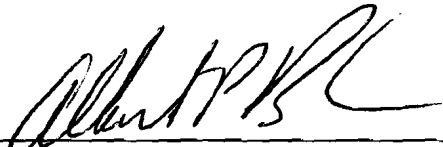
Petitioner is a water right holder of its own right and acts on behalf of the water right holders within the boundaries of the District who could potentially be injured by the granting of Application for Transfer No. T75342. The potential injury that Petitioner and its water right holders could suffer by the granting of this application is in the form of negative impact on Petitioner's ability to deliver water to its patrons; dewatering of the canal without sufficient mitigation; and no water left in the canal for conveyance loss. See "IDWR Memorandum to Transfer 75342 File dated June 10, 2009, Re: Evaluation of Sufficiency of Information Submitted," (specifically paragraph therein entitled "*Injury to Other Water Rights*"), a true and correct copy of which is attached hereto as Exhibit A.

Petitioner seeks only to protect itself and its patrons from injury. Petitioner's interests in this matter are not represented by the existing protestant, Idaho Water Resource Board.

This Petitioner meets the standard for intervention under the Department's Rules of Procedure, and respectfully requests an order granting its intervention in this proceeding.

Respectfully submitted this 21 day of November, 2009.

BARKER ROSHOLT & SIMPSON LLP

By 
Albert P. Barker
Attorneys for Wood River Valley Irrigation
District #45

CERTIFICATE OF SERVICE

I hereby certify that on the 21 day of November, 2009, I mailed the original and copies of the WOOD RIVER VALLEY IRRIGATION DISTRICT #45 PETITION TO INTERVENE to the following persons, by mailing the original and/or copies, postage prepaid and addressed as follows:

Director
IDAHO DEPARTMENT OF WATER RESOURCES
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Boise, ID 83720-00098

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Ross, CA 94957

Brockway Engineering, Rep.
2016 Washington St. North, Suite 4
Twin Falls, ID 83301

James P. Speck, Attorney
P.O. Box 987
Ketchum, ID 83340

Idaho Water Resource Board
PROTESTANT
Helen L. Harrington, Manager
Water Planning Section
Idaho Dept. of Water Resources
322 E. Front St.
P.O. Box 83720
Boise, ID 83720



Albert P. Barker

MEMORANDUM

Date: June 10, 2009
To: Transfer 75342 File
From: Jeff Cooper
Re: Evaluation of Sufficiency of Information Submitted

Transfer proposes to add a point of diversion, change the point of diversion, and the place of use for a 0.12 cfs portion of four Big Wood River rights and a 0.02 cfs portion of a groundwater right currently used to irrigate a farm located approximately a mile south of the town of Bellevue on the east side of the Gannet Highway. Currently, the four Big Wood River rights are diverted via the District 45 Canal headgate (located just west of Bellevue) and the groundwater right is diverted from a well located within the current place of use. Transfer proposes to create a 1.5-acre place of use on property located approximately 4.8 mi. north & 1.4 mi. west of the town of Ketchum. Application proposes to use a new pump to be located at the proposed place of use to divert the portion of the four Big Wood River rights. Two existing wells located on that same proposed property will be used to divert the portion of the groundwater right being transferred. The rights to be transferred are currently regulated by WD37, so watermaster comments will be needed. Also, the proposed well is an existing domestic well, so additional fees will be needed.

- **Authority to File:**

The application was filed by Peter B. and Antonia Hunter Breck, Trustees of the Breck Family 1998 Revocable Trust. A warranty deed was provided with the application indicating the aforementioned trust owns the proposed new place of use. An Agreement for Sale and Purchase of Water Rights was provided by the applicant indicating the owner of the rights, South County Estates LLC, consents to the transfer. The agreement was signed by John Scherer, managing member of South County Estates LLC.

- **Water Right Validity:**

Rights involved with the transfer were recommended by the Department to the SRBA court and are currently unobjected to. However, the SRBA court indicates these rights are currently at issue. Contact with the SRBA Bureau with the Department and their legal staff indicate it is alright to transfer these rights since all of the objectors have withdrawn their objections.

- **Injury to Other Water Rights:**

This transfer proposes to move water rights upstream across reaches of the Big Wood River where the IWRB currently has minimum stream flow (MSF) rights. The IWRB will be notified of this transfer. Also, application does not propose to leave anything in the District Canal for conveyance loss, potentially injuring other right holders on that canal.

- **Enlargement of Use:**

None anticipated. Rights will be limited as recommended. The proportions of surface water and groundwater to be diverted from each source at the new PODs will be maintained as they were at the original PODs. A portion of irrigated ground equaling 1.5 acres will be subsequently dried up at the original place of use upon approval of the transfer.

- **Local Public Interest:**

MSF rights could be affected. Application will be also subject to public notice and protest.

- **Beneficial Use/Conservation of Water Resources:**

Proposed use is recognized as beneficial uses of water. Proposed flow/acre exceeds 0.03 cfs/acre.

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.