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DEPT. OF WATER RESOURCES
SOUTHERN

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

IN THE MATTER OF APPLICATION)
FOR EXCHANGE NO. 75007)
(in the name of the Idaho Water Resource)
Board and the U.S. Bureau of Reclamation))
_____)

NOTICE OF JOINT PROTEST

A&B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2,
BURLEY IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, TWIN FALLS
CANAL COMPANY, NORTH SIDE CANAL COMPANY, and MILNER IRRIGATION
DISTRICT, (hereinafter "Protestants"), by and through their attorneys of record, BARKER
ROSHOLT & SIMPSON LLP, FLETCHER LAW OFFICE, and CAPITOL LAW GROUP PLLC,
hereby file this *Notice of Joint Protest* to the approval of the above-numbered application for

NOTICE OF JOINT PROTEST (application for exchange no. 75007)

FOR OFFICE USE ONLY

Fee: \$25.00

Receipt No. 2030403

Receipt by: C. Arkoosh

Date Received: 9/08/08

exchange of water filed by the Idaho Water Resource Board and the U.S. Bureau of Reclamation (“Applicant”). The initial bases for the protests are as follows:

1. The application fails to identify any “right” the Idaho Water Resource Board (“Board”) has acquired through the Water District No. 65 Rental Pool. Although the application refers to water right no. 65-2927A and Black Canyon Irrigation District’s (“BCID”) storage under that water right, no agreement between the Board and BCID is attached to the application to demonstrate the Board has a “right” to any water to exchange.

2. The application fails to specifically identify the location of where the proposed exchanged water right will be used by the Board. The reference “for other purposes on the Eastern Snake Plain” is vague and does not comply with Idaho Code § 42-240 or the information requested on the Department’s *Application for Exchange of Water* form. Although the *Memorandum of Agreement* between the Board and Reclamation states the Board has a “need to provide storage water from the Water District No. 01 Rental Pool as mitigation for irrigation (surface and/or groundwater pumping)” the application contains no information specifying where or on whose behalf the water will be used. To the best of the Protestants’ knowledge the Board does not hold or use any water rights for irrigation purposes in Water District 01.

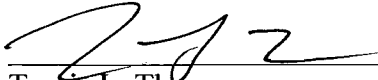
3. The application violates the Water District 01 Rental Pool Rules. The Protestants currently supply storage water to the U.S. Bureau of Reclamation’s “flow augmentation” program through the Water District 01 Rental Pool. The application proposes to exchange that water to the Board for unspecified purposes in violation of the Water District 01 Rental Pool Rules. In addition, since the exchanged water will not be made available for use or lease by spaceholders in Water District 01, the exchange stands to injure other water rights.

4. The application violates the criteria of I.C. § 42-240(5); and

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

DATED this 25 day of September 2008.

BARKER ROSHOLT & SIMPSON LLP


Travis L. Thompson

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CERTIFICATE OF SERVICE

I hereby certify that on this 25 day of September, 2008, I served a true and correct copy of the foregoing *Notice of Joint Protest*, by depositing same in the United States mail, postage prepaid, addressed to the following:

Idaho Water Resource Board
322 E. Front St.
Boise, Idaho 83720

Bill McDonald, Regional Director
U.S. Bureau of Reclamation, PN Region
1150 N. Curtis Rd.
Boise, Idaho 83706


Travis L. Thompson