

John A. Rosholt
John K. Simpson
Amy D. Chestnut
BARKER ROSHOLT & SIMPSON LLP
205 North 10th Street, Suite 520
P.O. Box 2139
Boise, Idaho 83701-2139
Telephone: (208) 336-0700
Fax: (208) 344-6034
ISB #1037, 4242, 5904

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NOV 10 2003

WATER RESOURCES
WESTERN REGION

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

RECEIVED

NOV 14 2003

Department of Water Resources
Eastern Region

IN THE MATTER OF)
APPLICATION FOR TRANSFER)
NUMBER 70663, WATER RIGHT)
NO. 35-2391, 35-7777 in the name of)
ANDREW E. POVEY)

NOTICE OF PROTEST

TWIN FALLS CANAL COMPANY and NORTH SIDE CANAL COMPANY
(hereinafter the "Canal Companies"), by and through their attorneys, Barker Rosholt &
Simpson, file this Notice of Protest to the approval of the above-numbered Application for
Transfer filed by Andrew Povey. The basis for the Canal Companies' protest is as follows:

1. The proposed application will result in injury to the Canal Companies in that
depletion will occur in the reaches of the Snake River that supply the Canal Companies'
water rights.

SUB - ID
NOV 24 2003

Receipt
#W031093

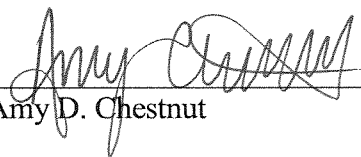
2. The proposed mitigation plan appears to be insufficient and uncertain. It does not provide adequate mitigation water especially considering that the primary source of mitigation is storage water, which is not a reliable source of water in that the reservoirs do not always fill. Additionally, the plan does not provide sufficient detail as to the timing of when such mitigation water will be provided and how it will be provided to those water users injured. The plan is also based upon the finalization and implementation of the global rental pool that has not occurred as of this time and its final form may impact the ability of this applicant to provide mitigation as proposed.

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

This protest could be resolved by the Applicant providing sufficient mitigation in an amount agreed upon by the parties.

DATED this 10th day of November, 2003.

BARKER ROSHOLT & SIMPSON

By: 
Amy D. Chestnut

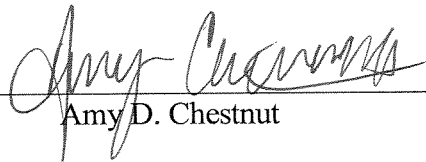
8/27/03
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CERTIFICATE OF MAILING

I hereby certify that on this 10th day of November, 2003, I served a copy of the foregoing NOTICE OF PROTEST, by depositing same in the United States mail, postage prepaid, in an envelope, addressed to the following:

Idaho Department of Water Resources
Eastern Regional Office
900 N. Skyline
Idaho Falls, ID 83401-3653
(original with filing fee filed in IDWR Western office)

Andrew Povey
2602 Povey Road
American Falls, Idaho 83211



Amy D. Chestnut

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