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Department of Water Resources  
Southern Region

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Attorneys for Clear Springs Foods, Inc.

Attorneys for Valley School District

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

IN THE MATTER OF APPLICATION )  
FOR PERMIT NO. 36-16299 )  
(in the name of Valley School District )  
No. 262) )  
\_\_\_\_\_ )

**STIPULATION TO RESOLVE  
PROTEST**

CLEAR SPRINGS FOODS, INC. (hereinafter "Clear Springs"), by and through its attorneys of record, BARKER ROSHOLT & SIMPSON LLP, and VALLEY SCHOOL DISTRICT NO. 262 ("Applicant"), by and through its attorneys of record, WHITE PETERSON, P.A., hereby jointly file this *Stipulation to Resolve Protest* in the above captioned matter. The reasons for this stipulation are set forth as follows:

The Applicant filed application for permit no. 36-16299 on September 22, 2004. The Applicant seeks to divert 2 cfs of groundwater for municipal purposes for its school facilities located in Jerome County. Based upon the face of the application, it appeared the Applicant sought a diversion of groundwater from the Eastern Snake Plain Aquifer ("ESPA") for a consumptive use, including for irrigation of landscaping, lawns, and relevant common areas associated with the school. After Clear Springs filed its protest on April 4, 2005, the Applicant's

STIPULATION TO RESOLVE PROTEST (application for permit no. 36-16299)

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counsel contacted Clear Springs' counsel and informed him the application did not purport to cover any irrigation use associated with the school, except for part of the front lawn with equals approximately .20 acres. It is now clear that the Applicant irrigates its property with shares from the North Side Canal Company (share certificate nos. 24141, 22912, 22913 and 23035, issued on May 12, 2003, May 17, 1999, May 17, 1999, and August 5, 1999).

The Applicant and Clear Springs have resolved the protest on the basis that the Applicant agrees that it will not irrigate any landscaping, lawns, and common areas beyond the .20 acres identified as the "front lawn" with water under this permit application.<sup>1</sup> The Applicant currently owns 41.64 shares of stock in the North Side Canal Company that are appurtenant to the school property, which equals approximately 32.23 acres. The Applicant does not intend to transfer these shares off of the school property.

Clear Springs and the Applicant hereby agree that the following conditions shall be included on the water right permit (and license) in order to resolve Clear Springs' outstanding protest<sup>2</sup>:

1. Municipal use is for use at the Valley School District No. 262 school facilities identified as Valley Elementary, Middle and High School, including use for emergency fire protection, and does not include any lawn, garden, landscape, or other types of irrigation beyond .20 acres located in SW1/4, SW1/4, Section 31, T9S, R20E, Boise Meridian, Jerome County at 882 Valley Road South, Hazelton, Idaho, legal description known as the "front lawn."
2. Irrigation water for any lawns, gardens, landscaping, or common areas at the Valley School District No. 262 school facilities is provided by appurtenant surface water represented by shares in the North Side Canal Company (stock shares certificate nos. . 24141, 22912, 22913 and 23035, issued on May 12, 2003, May 17, 1999, May 17, 1999, and August 5, 1999).
3. Prior to the diversion and use of water under this right, the right holder shall install and maintain an acceptable measuring device(s) at the authorized point(s)

<sup>1</sup> By resolution of this protest Clear Springs does not concede or waive any arguments with respect to the basis for their protest should they be used in future protests against new applications for permit.

<sup>2</sup> The Applicant recognizes that IDWR may include other conditions on the permit and license.

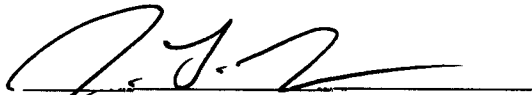
of diversion and in accordance with Department specifications and the recommendation of the Water Master of Water District 30.

The Applicant and Clear Springs specifically request the inclusion of the above conditions on the water right permit and license. If IDWR includes the conditions on the Applicant's water right, then it may consider this stipulation as a withdrawal of Clear Springs' protest.

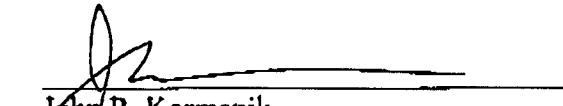
DATED this 22<sup>nd</sup> day of August 2005.

BARKER ROSHOLT & SIMPSON LLP

WHITE PETERSON, P.A.

  
Travis L. Thompson

Attorneys for Clear Springs Foods, Inc.

  
John R. Kormanik  
Attorneys for Valley School District

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CERTIFICATE OF SERVICE

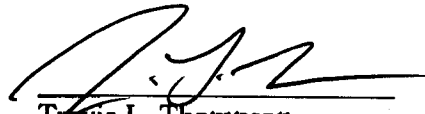
I hereby certify that on this 22<sup>nd</sup> day of August, 2005, I served a true and correct copy of the foregoing *Stipulation to Resolve Protest*, by depositing same in the United States mail, postage prepaid, addressed to the following:

Original:

IDWR  
Southern Regional Office  
1341 Fillmore St., Suite 200  
Twin Falls, Idaho 83301-3380

Copy:

John R. Kormanik  
White Peterson, P.A.  
5700 E. Franklin Road, Suite 200  
Nampa, Idaho 83687-7901

  
Travis L. Thompson