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John K. Simpson
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Travis L. Thompson
tlt@idahowaters.com

April 21, 2005

VIA FACSIMILE & U.S. MAIL

Kent W. Foster
Holden Kidwell Hahn & Crapo, P.L.L.C.
1000 Riverwalk Dr., Suite 200
Idaho Falls, Idaho 83405

RE: Applications for Permit No. 25-14071

Dear Kent:

Please find enclosed the signed original of the *Stipulation to Resolve Protest* for the above-referenced matter. If you would please sign and file with IDWR I would appreciate it. Also, please send me a copy (I changed the certificate of service page). However, I have an extra copy of the mitigation plan, so there is no need to send a copy of the plan. Thank you for your cooperation in this matter.

Sincerely,

BARKER ROSHOLT & SIMPSON LLP



Travis L. Thompson

Enc.

RECEIVED APR 22 2005

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Travis L. Thompson, ISB #6168
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Attorneys for Twin Falls Canal Company and
North Side Canal Company

Kent W. Foster, ISB #1198
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P.O. Box 50130
Idaho Falls, Idaho 83405-0130
Telephone: (208) 523-0620
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Attorneys for Applicant Timberview
Properties LLC

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

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 25-14071)
(in the name of Timberview Properties LLC))
)
_____)

**STIPULATION TO RESOLVE
PROTEST**

TWIN FALLS CANAL COMPANY and NORTH SIDE CANAL COMPANY
(hereinafter "Canal Companies"), by and through their attorneys of record, BARKER
ROSHOLT & SIMPSON LLP, and TIMBERVIEW PROPERTIES LLC ("Applicant"), by and
through its attorneys of record, HOLDEN KIDWELL HAHN & CRAPO PLLC, 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. 25-14071 on March 16, 2004. The
Applicant seeks to divert 0.76 cfs of groundwater for domestic purposes for approximately forty-
four (44) homes in Bonneville County, Idaho. The application seeks 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 within the development. It is estimated the

consumptive use at the Timberview development will be approximately 55 acre-feet per year (22 acres multiplied by 2.5¹). The Canal Companies protested the application on July 6, 2004, for various reasons, including the Applicant's failure to mitigate for the depletion to the ESPA, and the resulting impact on the Snake River.

Counsel for the Applicant and the Canal Companies have resolved the protest by means of an acceptable mitigation plan to accompany the application.² The Applicant's proposed development site, 33 acres, is within the boundaries of the Progressive Irrigation District ("Progressive"). In addition, the land has been irrigated with surface water provided by Progressive. As a landowner within Progressive's boundary, the Applicant is entitled to receive 33 miner's inches of water (0.66 cfs) for use on its land. Since the Applicant proposes to use groundwater for irrigation purposes associated with the development, it also proposes to use the appurtenant surface water rights for mitigation recharge purposes. Progressive consents to the Applicant's proposed use. The Applicant proposes to construct an on-site recharge facility with dimensions of approximately 70 feet in width and 140 feet in length. The recharge pond will be located adjacent to one of Progressive's laterals. The soil and gravel composite of the pond makes it a suitable recharge facility. See pictures included in Attached Mitigation Plan. However, in order to maintain the appropriate seepage rate, the Applicant (or its successor) is required to perform any necessary maintenance work on the pond in the future. The diversion and use of the canal water for mitigation recharge of the ESPA will offset the new consumptive use of groundwater for irrigation purposes under the application.

¹ It is estimated that the irrigation of lawns, landscaping, and common area will consume approximately 2.5 acre-feet per acre on an annual basis.

² By resolution of this protest the Canal Companies do 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.

The Canal Companies and the Applicant hereby agree that the following conditions shall be included on the application for permit (and license) in order to resolve the Canal Companies' outstanding protest:

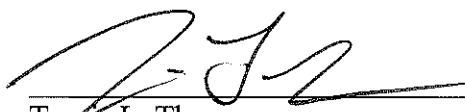
1. The estimated consumptive use of 55 acre-feet per year under this water right, which represents an equivalent depletion to the Eastern Snake Plain Aquifer, is mitigated by the use of surface water recharge as detailed in the attached mitigation plan.
2. The Applicant is a landowner within the Progressive Irrigation District and is entitled to receive approximately 0.66 cfs of surface water during the irrigation season for use in the SWNE and SENE of Section 21, Township 3 North, Range 38 East, Bonneville County, Idaho (site of Timberview subdivision).
3. The Applicant shall be responsible for providing an annual report to IDWR documenting the recorded diversions into and out of the on-site recharge pond facility. The monitoring and reporting requirements are necessary to ensure that 55 acre-feet per year is diverted and used for recharge purposes at the on-site pond facility. The reports shall be maintained with IDWR's water right file.
4. Prior to the diversion and use of water under this right, the right holder shall install and maintain an acceptable measuring device(s), including data logger(s), at the authorized point(s) of diversion and in accordance with Department specifications.

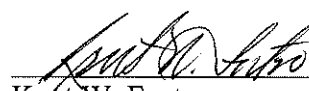
The Applicant and the Canal Companies specifically request the inclusion of the above conditions on the water right permit and license. The referenced mitigation plan is attached to this stipulation. If IDWR includes the conditions on the Applicant's water right, then it may consider this stipulation as a withdrawal of the Canal Companies' protest.

DATED this 25th day of April 2005.

BARKER ROSHOLT & SIMPSON LLP

HOLDEN KIDWELL HAHN & CRAPO


Travis L. Thompson


Kent W. Foster

Attorneys for Twin Falls Canal Company and
North Side Canal Company

Attorneys for Timberview Properties LLC

CERTIFICATE OF SERVICE

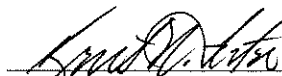
I hereby certify that on this 25th day of April, 2005, I served a true and correct copy of the foregoing *Stipulation to Resolve Protest*, by depositing same in the United States mail, postage prepaid, addressed to the following:

Original:

IDWR
Eastern Regional Office
900 N. Skyline Dr., Suite A
Idaho Falls, Idaho 83402-1718

Copy:

Travis L. Thompson
Barker Rosholt & Simpson LLP
113 Main Ave West., Suite 303
Twin Falls, Idaho 83301-6167


Kent W. Foster

TIMBERVIEW PROPERTIES, LLC
MITIGATION PLAN - APPLICATION FOR
PERMIT NO. 25-14071

Data Entry

Patron

Lienholder

Pin Number

First Name Timberline Properties LLC
Last Name
2nd First
2nd Last
Care of
Address 9215 Berggren Ln
Address 2
City deho Falls
State D
Zip 83401-0000
Phone

Patron # 2810

☐ Pop

Duplicate

Widow/Widower on SS:

Land Description: 32.15 Acres S1/2 NE1/4

Section.....	21	Poplar power cost 2004.....	\$2 656.84
Township.....	3N	Total Poplar acres 2004.....	668.219
Range E.B.N..	3E	Poplar cost per acre 2004..	\$3.98
Addition.....		Poplar Total Cost 2004.....	\$0.00
Block.....			

Acres Assessed 2004.....	32.15	2003	2002
Minimum Rate.....	\$0.00		
Rate Per Acre.....	\$9.50		
Total 2004 Assessment.....	\$305.49		
First Half Amount 2004....	\$152.71		
Second Half Amount 2004..	\$152.72		

Canal
Headgate #

Levies for 2004
Maintenance and Operation..... \$9.39
Modification of Jackson Lake Dam.. \$0.11
Total assessment per acre..... \$9.50
Minimum 2004 Assessment
for less than 4 acres will be.... \$45.00

Note : History of assessments as follows: To Billing Date of 3/20/2005

Today's Date
3/14/2005

Waive Redemption Certificate for 2003

Redemption Cert Due Date for the Current Year: Monday, July 25, 2005.

Delinquent Date on	Year	Original Amount	First Half		Second Half		Yearly Balance Due	Penalty 2 %	Redemption Certificate	Interest 12 %	Delinquent Payment	Delinquent Date Paid	Yearly Total To Billing Date	Redemption Certificate Adjustment
			Due Date	Delinquent	Due Date	Delinquent								
			12/20/04	Yes	6/20/05	Yes								
12/20/2004	2004	\$105.43					\$105.43	\$6.13		\$9.64			\$320.58	
12/19/2003	2003						\$0.00	\$0.00	\$0.00	\$0.00			\$0.00	
12/20/2002	2002						\$0.00	\$0.00	\$0.00	\$0.00			\$0.00	
12/20/2001	2001						\$0.00	\$0.00	\$0.00	\$0.00			\$0.00	
12/20/2000	2000						\$0.00	\$0.00	\$0.00	\$0.00			\$0.00	

Total Delinquent Taxes plus Current Balance Due for 2004

\$320.58

FRUIT : P10

FRUIT : 5223102

Mar. 22 2005 03:34AM P1

PROGRESSIVE IRRIGATION DISTRICT
Bonneville and Jefferson Counties, Idaho
2585 N. Ammon Rd
Idaho Falls, Id 83401-1949
(208) 522-3102

George McDaniel
4955 E 21st South
Idaho Falls, ID 83401

March 21, 2005

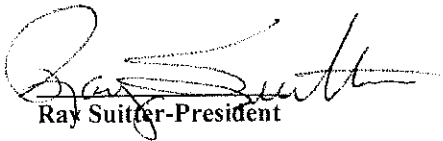
RE: Timberline Estates 3rd Party Verification

To Whom It May Concern:

This letter is stating that **PROGRESSIVE IRRIGATION DISTRICT** will be doing the third Party verification that has been requested of us.

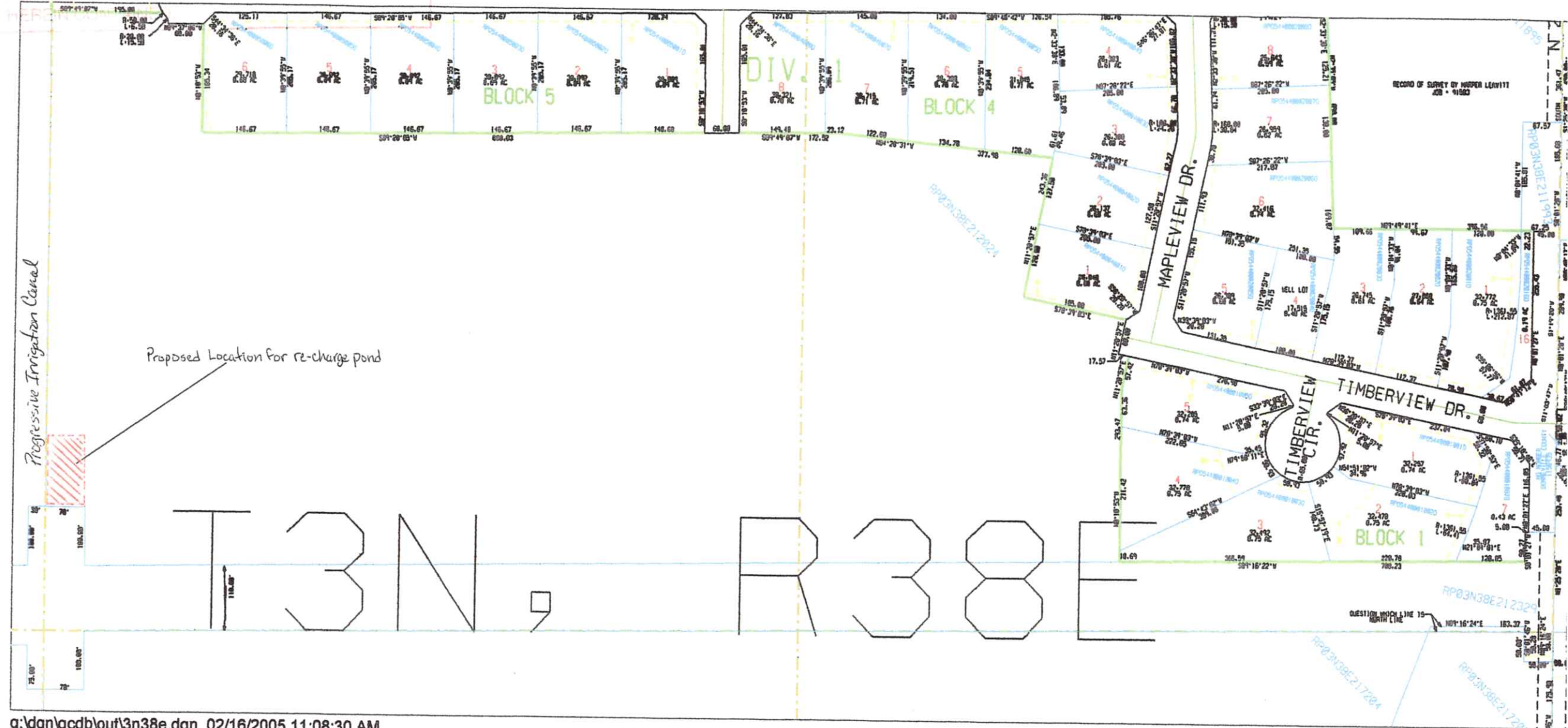
Timberline Estates will be required to bury pumping discharge pipe 1 foot under ground, to not block the canal right away required by our employees.

Sincerely,


Ray Suiter-President



PLEASE NOTE:
THIS DRAWING IS FOR REFERENCE ONLY.
NOT RESPONSIBLE FOR ANY INACCURACIES.



SECRET ALONG
NOT A NO COPY
SECRET-SECRET

LEGEND

----- 1st fully covered along the coast
 findings of all later visits otherwise noted
 nothing to report

1102744 Jessop
ell site

Proposed re-charge site

SCANNED
MAY 13 2005

LAURENCE-HEVLY ENGINEERING, INC.

GEORGE MADANEL

ROBERTSON CO. DATE

PRELIMINARY PAT



