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Department of Water Resources  
 Eastern Region

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Applicant

Attorneys for Twin Falls Canal Company and  
 North Side Canal Company

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

|                                          |   |                               |
|------------------------------------------|---|-------------------------------|
| IN THE MATTER OF APPLICATION             | ) |                               |
| FOR PERMIT NO. 25-14162                  | ) | <b>STIPULATION TO RESOLVE</b> |
| (in the name of Rivers Edge Development) | ) | <b>PROTEST</b>                |
|                                          | ) |                               |
|                                          | ) |                               |

TWIN FALLS CANAL COMPANY and NORTH SIDE CANAL COMPANY  
 (hereinafter "Canal Companies"), by and through their attorneys of record, BARKER  
 ROSHOLT & SIMPSON LLP, and Rivers Edge Development, Inc. ("Applicant"), by and through  
 its President, Kendall Shippen, 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. 25-14162 on December 13, 2004. The  
 Applicant originally applied for a diversion of 1.46 cfs of groundwater for domestic purposes for  
 approximately one hundred and thirty (130) homes in Jefferson County, Idaho. The application,  
 as originally filed, 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 within the development. Accordingly, the Canal Companies protested the

application on February 7, 2005, for various reasons, including the Applicant's failure to mitigate for the depletion to the ESPA, and resulting impact on the Snake River.

The Applicant and the Canal Companies have resolved the protest on the basis that the Applicant no longer seeks the diversion rate and volume associated with the primary irrigation of landscaping, lawns, and common areas (0.96 cfs).<sup>1</sup> Instead, the Applicant now only seeks 0.50 cfs for "in house" domestic use only for each unit within the development.<sup>2</sup> The Applicant currently owns 12 shares of stock in the North Rigby Irrigation Canal Company, Inc. for irrigation purposes on the development site, approximately 48 acres. Each share of stock represents 10 miner's inches of water for a total of 120 miner's inches (2.4 cfs). The Applicant proposes to use the appurtenant surface water rights in a separate pressurized irrigation system to serve the Jefferson Greens Estates subdivision. The North Rigby Irrigation Canal Company consents to the Applicant's proposed irrigation system.

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. Domestic use is for the "in-house" use at a 130 home subdivision (Jefferson Greens Estates) and does not include lawn, garden, landscape, or other types of irrigation.
2. Irrigation water for lawns, gardens, landscaping, and common areas is provided by a separate pressurized surface water system with appurtenant canal shares of the North Rigby Irrigation Canal Company, Inc. (stock certificate no. 216, issued on 08/24/2000).

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<sup>1</sup> 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.

<sup>2</sup> The Canal Companies acknowledge that each residence may have one or more outside spigots that are used for incidental irrigation of landscaping, gardens, or other areas. However, the primary irrigation use for each residence will be provided by the surface water rights represented by the development's canal shares.

3. The Applicant shall provide copies of "as-built" drawings or design maps of the surface water irrigation system to the Department to maintain with the 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.

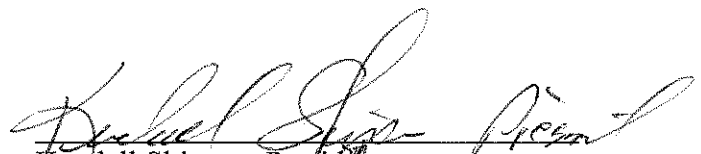
The Applicant and the Canal Companies specifically request the inclusion of the above conditions on the water right permit and license. If IDWR includes the conditions on the Applicant's water right, and the water right permit is approved for 0.50 cfs, then it may consider this stipulation as a withdrawal of the Canal Companies' protest.

DATED this 7<sup>th</sup> day of ~~March~~ <sup>April</sup> 2005.

BARKER ROSHOLT & SIMPSON LLP

RIVERS EDGE DEVELOPMENT, INC.

  
Travis L. Thompson

  
Kendall Shippen, President

Attorneys for Twin Falls Canal Company and  
North Side Canal Company

Applicant

CERTIFICATE OF SERVICE

I hereby certify that on this 7<sup>th</sup> day of <sup>April</sup>~~March~~, 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:

Kendall Shippen  
c/o Rivers Edge Development, Inc.  
4184 East 460 North  
Rigby, Idaho 83442

  
Travis L. Thompson