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Department of Water Resources
Southern Region

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Attorneys for Twin Falls Canal Company and Northside Canal Company

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 35-13522) **NOTICE OF PROTEST**
(in the name of Frank Exler dba Rolling)
Hills Development))
_____)

TWIN FALLS CANAL COMPANY AND NORTHSIDE CANAL COMPANY
(hereinafter "Canal Companies"), by and through their attorneys of record, BARKER
ROSHOLT & SIMPSON LLP, hereby file this *Notice of Protest* to the approval of the above-
numbered application for permit filed by Frank Exler (dba Rolling Hills Development). The
initial basis for Canal Companies' protest is as follows:

1. The application will result in injury to the Canal Companies in that depletion will occur to the reaches of the Snake River that supply the Canal Companies' water rights; and
2. The Applicant has failed to provide sufficient evidence to demonstrate that the application is exempt from the *Amended Moratorium Order, In the Matter of Applications for Permit for the Diversion and Use of Surface and Ground Water within the Eastern Snake River*

NOTICE OF PROTEST (application for permit no. 35-13522)

Receipt # 5027259
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Plain Area and Boise River Drainage Area (April 30, 1993)("Moratorium Order") and has not provided a mitigation plan in the alternative; and

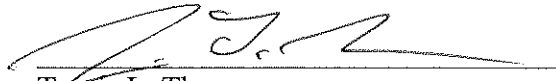
3. The application does not meet the definition of "domestic" purpose or use as set forth in I.C. § 42-111; and

3. The application violates the criteria of I.C. § 42-203A(5); and

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

DATED this 3rd day of January 2005.

BARKER ROSHOLT & SIMPSON LLP

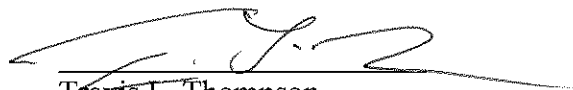

Travis L. Thompson

Attorneys for Twin Falls Canal Company and
Northside Canal Company

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of January, 2005, I served a true and correct copy of the foregoing *Notice of Protest*, by depositing same in the United States mail, postage prepaid, addressed to the following:

Frank Exler
c/o Rolling Hills Development
P.O. Box 465
Rigby, Idaho 83442


Travis L. Thompson