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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. 35-13521)
(in the name of Andrew E. Povey))
_____)

NOTICE OF PROTEST

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 Andrew E. Povey. The initial basis for Canal
Companies' protest is as follows:

1. The application, if not conditioned properly, will result in injury to the Canal
Companies' water rights; and
2. The Applicant has failed to provide information demonstrating that the acres
under water rights proposed for mitigation (35-2727A, 35-7603C, 36-16212, 36-16214, 36-
16216, 36-16218, 36-13345, and 36-13347) will be dried up permanently (i.e. that the relevant

NOTICE OF PROTEST (application for permit no. 35-13521)

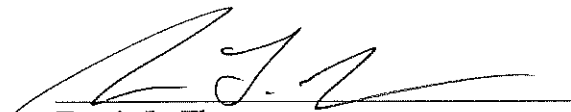
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portions of those water rights will be relinquished or that a transfer will be filed to change the nature of use for those portions of those water rights); and

3. 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

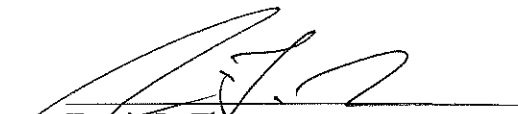
Attorneys for Twin Falls Canal Company and
Northside Canal Company

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd 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:

Andrew E. Povey
2602 Povey Road
American Falls, Idaho 83211

Randy C. Budge
Racine, Olsen, Nye, Budge & Bailey
P.O. Box 1391
Pocatello, Idaho 83204-1391


Travis L. Thompson