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BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the matter of:)	DOCKET NO. CWA-10-2005-0081
)	
LANDSING DEVELOPMENT)	RESPONDENTS'S
GROUP, LLC.)	OPENING PREHEARING EXCHANGE
)	
Boise, Idaho)	

Respondent; Landsing Development Group, LLC submits this Opening Prehearing Exchange. Landsing reserves the right to supplement this Prehearing exchange if necessary prior to hearing with proper notice to Complainant.

I. WITNESSES

1. Dean Briggs; of Briggs Engineering. He will testify that all required documents were prepared and sent to all the required agencies including the E.P.A. We will testify that it is impossible for surface water from SouthFork Subdivision to go up hill into the Snake River. He will testify that the property to date has contained all run off water to the site. He will testify that the disturbed area was less than two acres. He will testify that the drainage system for the site was designed and built to contain on site, a 100 year flood. He will testify that the main issue of the complainants complaint is area owned by local government. And that the respondent was only

following the construction guide lines set forth by that agency.

2. Bruce Hessing; of Landsing Development Group LLC. He will testify that he did mail to the E.P.A. all required documents prior to construction. That construction began in 2003 and ended in April of 2004. That Landsing did practice BMP during the entire construction process. The total disturbed area was less then two acres. That with respect to the county property, which is the county street right of way, Landsing installed straw bales at the down hill end of the property as per the counties design and request to meet the BMP.

3. Lt. Governor James Risch. He will testify that he is the property owner to the north up grade from the respondent's property. That for over twenty five years storm water, irrigation water and discharge water has ran down the side of the road along the front of the Respondents property and that culverts are necessary under all drive way and street accesses to keep the water moving down hill. That he discharges irrigation water several times during the irrigation season each year into the road area as does hundreds of properties along the roads within the county.

4. Rich Lane of; Ada County Highway District. He will testify that they have interest in and control lot 1 block 1 and land within the right of way along the Cole Road portion of SouthFork property. That Landsing did construct a landscape area of less then one acre along Cole Road under a license agreement with the county. That the County's interests in the land are from top of the berms down hill to the road and that all water running off the berms would run over county land. That Landsing installed BMP's at the end of the berm area within the county right of way property to contain sediments at the request of the county.

II EXHIBITS

1. Several photos of the site and area

III PENALTY

No surface water left the site. Not even under the possibility. Water would have to drain up hill to do so. The 100' culvert put in along Cole Road and berm area is less than one acre in size. The EPA can not prove that any unprotected run off water left the site or Cole rd. past the site area. In complainant's exhibits they do not show the down grade end of this site. If they did it would show that BMP's are in place and that any run off water would have to find its way through an open field then along Cole road over a half of mile before it could enter into a irrigation ditch that goes for about fifty miles in to a irrigation reservoir, then out of there about another thirty miles before it get to the Snake River. Landsing Development is a very small construction company and a \$25,000 penalty would be a large hardship on the company. The Respondent has no prior violations with the EPA. No penalties should be imposed.

IV ESTIMATE REGARDING LENGTH OF HEARING

The respondent estimates approximately two days to present its case. One half of a day to visit the site area.

V LOCATION OF HEARING

Respondent proposes Boise, Idaho for the hearing location.

DATED; November 23, 2005



Bruce Hessing
For Landsing Development;
Respondent

CERTIFICATE OF SERVICE

I certify that the foregoing "Opening Prehearing Exchange" was sent to the following persons, in the manner specified on the date below:

A true and correct copy, by U.S. Mail:

Courtney Hamamoto
EPA Region 10
1200 Sixth Avenue
Seattle, Wa. 98101

A true and correct copy, by U.S. Mail:

Judge Carl C. Charneski
Mail Code 1900L
Ariel Rois Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

DATED: November 23, 2005



Jennie Johnson, secretary