

Boise River Flood Control District No. 10

RESOLUTION 01-2005

**FOR THE PURPOSE OF PROMOTING FLOOD MANAGEMENT
AND THE PREVENTION OF FLOOD DAMAGE**

WHEREAS, Jevin Investments, Inc. has applied for a conditional use permit for the proposed River Ranch Project ("Project") which project lies within the boundaries and jurisdiction of the District; and,

WHEREAS, Boise River Flood Control District No. 10 believes the Project significantly impacts the health, safety, and general welfare of the people and property within the District; and,

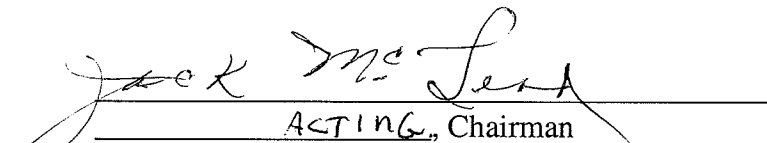
WHEREAS, the District has developed a position statement (the "Position Statement") for the consideration of the Canyon County Board of Commissioners, a copy of which is attached hereto as Exhibit A; and,

WHEREAS, the District desires to adopt the Position Statement, attached hereto and incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED, that in furtherance of its responsibilities the District adopts the Position Statement.

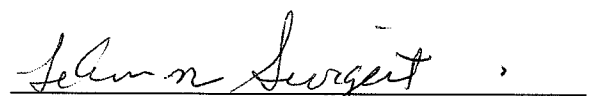
DATED this 19th day of April, 2005.

APPROVED:



ACTING, Chairman
Boise River Flood Control District No. 10

ATTEST:



, Secretary/Treasurer
Boise River Flood Control District No. 10

BOISE RIVER FLOOD CONTROL DISTRICT #10

PO Box 46
Star, Idaho 83669

May 2, 2005

Canyon County Board of Commissioners
c/o Development Services Dept.
1115 Albany St.
Caldwell, ID 83605

Re: Case No.: CU 2004-459
Parcel Nos.: R34039, R34039013, R34039014, and R34039015

Dear Commissioners:

On behalf of Boise River Flood Control District No. 10 (the "District"), I respectfully submit this position statement regarding Jevin Investment, Inc.'s request for a conditional use permit in case number CU 2004-459 for the proposed River Ranch Project (the "Project"). This position statement was adopted by the District on April 19, 2005, by virtue of Resolution 01-2005.

In support of this position statement we will present to you additional testimony and evidence to demonstrate that a conditional use permit for the Project should be denied unless and until the District's concerns are satisfactorily addressed and appropriate conditions are imposed.

As a preface to the recommendations and concerns of the District set forth herein, it is helpful to understand the charge given to the District by the Legislature of the State of Idaho in adopting the Flood Control District Act (the "Act"). The Legislature expressly stated:

It is hereby recognized by the Legislature that the protection of life and property from floods is of great importance to this state. It is therefore declared to be the policy of the state to provide for the prevention of flood damage in a manner consistent with the conservation and wise development of our water resources and thereby to protect and promote the health, safety, and general welfare of the people of this state.

(Emphasis added.)

The District was established by virtue of court order in 1970 pursuant to the statutory provisions found in the Act. Once properly established, a flood control district is considered a governmental subdivision of the State of Idaho and a public body, corporate and politic. Idaho Code Section 42-3104. The powers and duties of the board of commissioners of each flood control district are set forth in Idaho Code Section 42-3115. The powers granted by that section include, in relevant part:

- a. the power to tax the real property within the district (subject to certification by the board of county commissioners of the county or counties, if applicable);
- b. the power to construct, operate, and maintain structural works of improvement for the prevention of flood water and sediment damages and the conservation, development, and utilization of disposal of water, whether within or without the boundaries of the district;
- c. the power of eminent domain for the use of the district in the construction, operation, maintenance, and upkeep of its structures, waterways, dikes, dams, basins, or any other use necessary to use natural streams and to improve the same for use as a flood control structure (subject to approval by the director of the Department of Water Resources);
- d. the power to enter into contracts of agreement with the United States or with the State of Idaho and to cooperate with such governments in effecting, promoting, and accomplishing the purpose of the Flood Control District Act; and
- e. the power "to exercise all other powers necessary, convenient, or incidental to carrying out the purposes and provisions" of the Flood Control District Act.

The District has a long history working along the river bank adjacent to the Project site.

According to the District records, the dike and/or levee feature that is often referred to in the context of the Project is not a recognized flood control structure. This feature is simply a pile of loose, non-structural material previously excavated years ago by the US Army Corps of Engineers during prior river maintenance operations. Unless the applicant provides engineering data that the material has been properly compacted, the feature should be properly termed a "gravel pile." Further, the feature should be regarded as providing no recognized flood control benefits.

During a high water runoff event in June 1996, the District responded to a request by Mr. Patrick G. Lucas, Canyon County Emergency Management Coordinator. Mr. Lucas' request was for the District to assist in shoring up the banks of the Property that were rapidly eroding as a

direct result of high water. The shared concern at that time, as verified by the Area Engineer of the U.S. Army Corps of Engineers, was that the Boise River channel could potentially shift and threaten the community of Middleton if the bank was not shored up.

Once the US Army Corps of Engineers and the Idaho Department of Water Resources issued an emergency permit, the District promptly began work and dedicated its entire supply of armor rock in an effort to protect the banks of the Project. Our work during this flood fight was cooperatively conducted utilizing a Canyon County dump truck requisitioned from the County land fill.

The following year, in the Spring of 1997, the District again participated in a flood fight on a parcel of land immediately upstream of the Project site. High water was again eroding the banks of the river and the District once more provided emergency assistance to protect the banks of the river in the vicinity of the Project.

The Project engineer has represented to the District staff that a large, deep pond will be excavated on site with minimal separation between the pond and the Boise River. The pond is intended to serve as both a visual amenity for the finished development and to generate surplus gravel. This surplus gravel will be utilized to raise the remainder of the Project above the base flood elevation. Following prior discussions with the Applicant's representative, the District is concerned that apparently little thought has been given to the long-term liability that the public will assume by the proposed action to generate fill.

Excavations extending lower than the bottom of an adjacent river channel generate a long-term risk of a channel "capture" by the gravel pit during subsequent high water events. A pit capture occurs when a flooding river overflows one of the banks and begins flowing uncontrolled into an adjacent excavation or low-lying area. Once captured, the lowest point of the excavated area becomes the new controlling, low elevation for the bottom of the river. In a response to the new low point, the river attempts to return to a stable channel gradient and begins to erode both upstream and downstream. Pit capture is known to cause significant channel incision and gravel deposition in rivers affected by this.

Two pit captures have previously occurred in Canyon County. The first instance is the Myrtle Baldwin pit immediately upstream of the Middleton Bridge, and the second is the Idaho Transportation Department pit immediately downstream of the Caldwell Railroad Bridge. From a short-term perspective, the threat of a channel capture is often disregarded because the pit operator is only concerned with the economic benefits associated with gravel mining, which is quite significant. If a channel capture occurs it is typically several years after the statute of limitations against the pit operator has run, and everybody but the pit operator bears the cost.

In addition to the reasoning listed above, the District has real concerns regarding the actual location of the regulatory floodway in the area of the Project. The official flood plain update for this area was originally mapped in the early 1980's with the Flood Insurance Study adopted in 1984. Currently, the Project area is being remapped by the Federal Emergency

Management Agency, along with the remainder of the Boise River between the Ada County line and the Interstate 84 bridge over the river.

This mapping situation is essentially the same that existed in nearby Ada County, prior to the adoption of the latest Ada County Flood Insurance Study in 2003. Based on our recent experience merely a few miles upstream on the same river, the District has observed that changes in the location of the delineated floodway can vary as much as 1,000 feet between flood studies. Therefore, the District recommends that the any approved use within the designated flood plain of the existing 21-year old Canyon County Flood Insurance Study should be as conservative as possible, pending the outcome of the new Flood Insurance Study. In summary, the District recommends that the entire 100-year flood plain area should be left undeveloped to minimize risks relating to future major flood events.

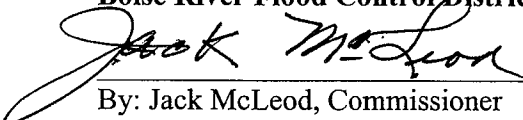
In the event the County deems the Project desirable, the District requests that any approval of the Project be subject to the following conditions (The County's power to add conditions to any conditional use permit are set forth in Articles 6 and 7 of the Canyon County Zoning Ordinance):

1. Proof to the County's and District's satisfaction that there will be no rise in the base flood elevation due to the development of the Project;
2. Granting of easements, to the District's satisfaction, that provide access routes to and along any portion of the Boise River affected by the Project allowing the District to access the Boise River for the purpose of furthering the statutory duties and rights of the District, including access for any emergency and/or clean-up related activities; and
3. In the event the Project requires creation of development-related flood management facilities including gravel extraction ponds with a depth greater than the lowest part of the Boise River channel and that may facilitate a capture of the Boise River, creation of a flood management plan satisfactory to the District and enforceable by the County, which plan would run with the land and meet the approval of the District.

We look forward to working with you on this matter and other matters which may arise along the Boise River in the future.

Sincerely,

Boise River Flood Control District No. 10


By: Jack McLeod, Commissioner



PROPOSED RIVER RANCH DEVELOPMENT
FLOOD CONTROL DETAIL

DATE: _____
 JOB: _____
 E-FILE: _____
 DRAWN BY: _____

**RiveRidge
 Engineering
 Company**



405 W. Myrtle St. Boise, Idaho 83702
 PHONE: (208) 344-1180 FAX: (208) 344-1182