



The second proposal, to convey water right no. 36-4076 directly to Clear Springs, would be implemented if the over-the-rim proposal “is rejected or conditioned, or . . . inadequate . . . .” *Id.* at 9. Water right no. 36-4076 is a partially decreed spring right held by the Idaho Department of Fish and Game. The Ground Water Districts estimate that it would cost approximately \$50,000 to implement this proposal.

The 2009 Plan requests that the Director treat it both as a temporary replacement water plan to allow junior ground water users to continue to divert during the 2009 irrigation season, as well as a mitigation plan under Rule 43 of the Department’s Rules for Conjunctive Management of Ground and Surface Water Sources, IDAPA 37.03.11 *et seq.*

After receiving the 2009 Plan, the Director noticed a status conference to occur on March 13, 2009, “to discuss the status of these proceedings.” *Notice Setting Status Conference.* At the March 13 status conference, the Director stated that the Plan could be approvable, but identified four core concerns that were not fully addressed in the Plan: water quality, temperature, reliability of the system, and the time it will take the Ground Water Districts to implement the proposal(s). Verbal responses were given to the Director’s concerns by attorneys for the Ground Water Districts. Additional concerns were raised by attorneys representing Clear Springs and other interested parties.

The Director notified parties that the Department would host a technical review working group, to begin on Tuesday, March 17, 2009, at the Department’s main office in Boise. The Director invited the parties’ technical consultants to attend and discuss the issues identified by the Director with Department staff. The Director solicited written responses from the parties, which could be in the form of bullet points, to be submitted to the Director by March 17, 2009. The working group will also address those concerns.

Because the 2009 Plan could be approvable if concerns can be addressed, the Director provided time to allow for augmentation of the Plan. The Director stated that the working group should endeavor to provide information to the Director by Thursday, March 19, 2009.

As the senior, Clear Springs is entitled to assurance that the Ground Water Districts intend to follow through with their 2009 Plan. The Director discussed the need for the Ground Water Districts to secure a bond equal to the estimated cost of the over-the-rim proposal. Attorneys for the Ground Water Districts did not object to this process.

## **ORDER**

Based on the foregoing, IT IS HEREBY ORDERED as follows:

1. Because further actions were taken by the Ground Water Districts by the March 12, 2009 deadline established in the Notice of Curtailment, curtailment will not be ordered to begin on March 16, 2009.

2. Initial responses to the 2009 Plan are to be submitted to the Director by Tuesday, March 17, 2009.

3. Starting at 9:00 a.m. on Tuesday, March 17, 2009, the parties' technical consultants are invited to the Department's offices, located at 322 East Front Street, Boise, Idaho, to discuss the 2009 Plan. The working group will meet in the Director's conference room. The working group should submit its information on augmentation of the 2009 Plan to the Director by Thursday, March 19, 2009.

4. Telephonic participation in the working group is permitted. The following numbers should be used to participate telephonically:

Dial-in number: (713) 577-1201  
Participant code: 260503

5. If the 2009 Plan is found to be acceptable, the Ground Water Districts will be required to post a bond equal to the estimated cost of installation of the over-the-rim proposal.

6. The Director will review the information presented by the working group on the 2009 Plan and issue an order on the Plan no later than Thursday, March 26, 2009. If the Plan is not acceptable, curtailment will be ordered. The Notice of Curtailment shall therefore be held in abeyance until the Director issues his order on the 2009 Plan.

DATED this 16<sup>th</sup> day of March 2009.

  
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DAVID R. TUTHILL, JR.  
Director

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 16<sup>th</sup> day of March 2009, the above and foregoing, was served by the method indicated below, and addressed to the following:

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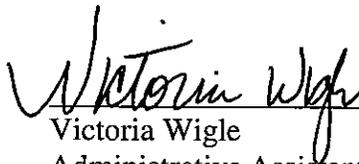
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