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AUG 12 2009

DEPARTMENT OF
WATER RESOURCES

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Attorneys for Blue Lakes Trout Farm, Inc.

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF DISTRIBUTION OF)
WATER TO WATER RIGHTS NOS. 36-02356A,) **PROTEST TO GROUND WATER**
36-07210, AND 36-07427) **USERS' JOINT MITIGATION**
) **PLAN FOR 2009**
Blue Lakes Delivery Call)
_____)

Blue Lakes Trout Farm, Inc. ("Blue Lakes"), by and through its counsel, files this *Protest to Ground Water Users' Joint Mitigation Plan for 2009 ("Protest")* in the above-captioned matter. This *Protest* is filed pursuant to the Director's *Notice of Application for Approval of Ground Water User's 2009 Joint Mitigation Plan to Compensate Blue Lakes Trout Farm Inc. ("Notice")*. As required by the *Notice*, a \$25 protest fee is filed herewith.

This *Protest* states the initial grounds Blue Lakes has identified to date for protesting the *Ground Water Users' Joint Mitigation Plan for 2009 ("2009 Plan")*. Blue Lakes reserves its rights to amend these grounds, and present additional grounds, for protesting the *2009 Plan* through the customary pre-hearing opportunities to submit statements of issues, and to present argument and submit briefing on all issues that are raised during hearing.

Initial Grounds For Protest

1. The *2009 Plan* is not timely.
2. Junior priority ground water rights causing injury to Blue Lakes' senior rights have been diverting water in 2009 without an approved mitigation plan in violation of Rule 40 of the Department's Rules for Conjunctive Management of Surface and Ground Water Resources. IDAPA37.03.11.040.
3. The *2009 Plan* is inadequate to mitigate for the injury to Blue Lakes' water rights from junior ground water pumping.
4. The *2009 Plan* does not meet the Ground Water Districts "carry-over" mitigation obligations from prior years.
5. The 2009 Plan does not provide adequate assurance that all proposed mitigation activities are performed in a timely manner.
6. The Director cannot lawfully approve the *2009 Plan* unless Blue Lakes agrees to accept such mitigation as an alternative to curtailment of junior ground water rights.

Dated this 12th day of August, 2009.

RINGERT LAW, CHTD.



Daniel V. Steenson
Attorneys for Blue Lakes Trout Farm, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of August, 2009, I served a true and correct copy of the foregoing **PROTEST TO GROUND WATER USERS' JOINT MITIGATION PLAN FOR 2009** by delivering it to the following individuals by the method indicated below, addressed as stated.

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c/o Victoria Wigle
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