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October 20, 2009

RECEIVED

OCT 21 2009

**DEPARTMENT OF
WATER RESOURCES**

Mr. Tim Luke
Idaho Department of Water Resources
Box 83720
Boise, ID 83720-0098

**RE: Southwest Irrigation District & Goose Creek Irrigation District –
Mitigation Plan - IDWR
Our File No.: 201**

Dear Tim:

I'm enclosing the Mitigation Plan of Southwest Irrigation District and Goose Creek Irrigation District. Attached to the Plan is the disc that contains all of the data that backs up the Plan. You indicated to me that if the disc was referenced in the Mitigation Plan that this would be acceptable.

Please advise if you need anything different at this time.

Very truly yours,

PARSONS, SMITH & STONE, LLP



William A. Parsons

WAP/sw

Enc.

cc: Brian Higgs wo/enc.

RECEIVED
OCT 21 2009
DEPARTMENT OF
WATER RESOURCES

William Parsons
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Attorney for South West and Goose Creek Irrigation Districts

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION)	SOUTHWEST AND GOOSE CREEK
WATER TO RIGHT NOS 36-02356A,)	IRRIGATION DISTRICT
36-07210, 36-07427, 36-04013A, 36-04013B,)	MITIGATION PLAN 2010
and 36-07148)	(BLUE LAKES AND SNAKE RIVER FARM)
)	
(BLUE LAKES AND SNAKE RIVER FARM))	
)	
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)	

COME NOW Southwest Irrigation District (SWID) and Goose Creek Irrigation District (GC), (collectively "Districts" SWID/GC) through the undersigned counsel, and on behalf of their respective landowners and those ground water users who are non landowners in the Districts but participants in their mitigation activities, and provide this Ground Water Users' Mitigation Plan 2010 to provide non-use of respective ground water rights and aquifer recharge waters which will prevent any injury to the senior water rights for the Blue Lakes Trout Farm, Inc., and Snake River Farm. SWID and GC have entered into agreements with the non landowner users in the Districts to provide mitigation for their ground water use and mitigation obligations. Thus, this 2010 Plan includes these entities and their respective landowners and provides them sufficient mitigation to meet their requirements.

This plan is provided in response to the Idaho Department of Water Resources (IDWR) Director's May 19, 2005 Order in the Matter of Distribution of Water to Water Rights Nos. 36-02356A, 36-07210, and 36-07424 and subsequent orders relating thereto. These orders are collectively referred to as Director's Orders.

This 2010 Plan may be considered as a replacement water plan for approval pursuant to Idaho Code 42-602 and as a mitigation plan pursuant to Conjunctive Management Rule 43, IDAPA 37.03.11.043.

I. RESERVATION OF DEFENSES

- A. By submitting this 2010 Plan, the petitioners do not waive and expressly reserve any and all objections and defenses they have made to the Director's Orders whether individually or through counsel of related groups including Idaho Ground Water Appropriator's (IGWA).

II. INTRODUCTION

- A. The Director's Orders require the Ground Water Users to provide mitigation or replacement water in lieu of involuntary curtailment of ground water rights located in Water District 140. The Order included a phased in 5 year approach. Through a series of model runs to include all wells within the trimlines the Director determined that Blue Lakes Trout Farm receives 20% of the Devil's Washbowl to Buhl Gage spring reach gain. ESPAM model runs determined the apportioned amount of obligation of SWID and GC, for both the Blue Lakes, Inc., and Snake River Farms water calls, is a total of 10.2 cfs to the river; 9.8 cfs obliged by SWID and 0.4 obliged by GC. The total obligation apportioned by the ESPAM model in acre feet (AF) is 13,641 per year or 6,820.5 acres calculated at 2 AF per acre (A. Wylie to T.Luke and C.Yenter, April 6, 2009). In addition, there is as yet undetermined an amount of mitigation obligation by the non district landowner users in WD 140 that are included in this mitigation plan and covered by the SWID/GC activities. The total obligation of mitigation by SWID/GC is accomplished through replacement water conversion, voluntary curtailment of acres, and recharge.
- B. This mitigation plan will be a living document considering the variability of the sources of mitigation for the SWID and GC. That is to say that the availability of surface water used for soft conversions and recharge varies from year to year. Therefore, the exact amount of

mitigation each year will vary relative to the availability of surface water. Each year's mitigation plan cannot be submitted until the end of the water year in order to determine the total amount of mitigation.

- C. All mitigation must be included within the boundaries of the Eastern Snake Plain Aquifer (ESPA) boundary established by the IDWR. All activities included within this mitigation plan are within the ESPA. SWID/GC conducts as many mitigation activities outside the ESPA as they accomplish inside. In fact, the boundary cells of the model bordering the Snake River on the southwest side, near Murtaugh, do not reflect the effects of mitigation activities by SWID/GC. However, no mitigation credit is given for these activities and none are included in this plan.

III. MITIGATION PLAN ACTIVITIES

- A. This mitigation plan is the first submitted independently by SWID and GC although SWID/GC mitigation activities have been ongoing for more than 20 years. The ongoing activities have been known by Department Staff and Directors. Many IDWR staff and the two preceding IDWR Directors have toured the SWID/GC areas and have witnessed the replacement acres and recharge efforts. In 2009 SWID and GC leased the required amount of mitigation from Water District 130 to meet their obligations. Efforts delineated in this plan include but are not limited to surface water replacement (soft conversions), voluntarily curtailed acres with valid water rights (CREP and individual voluntary curtailment), and recharge by injection and infiltration.

1. Soft Conversions on the J Canal

- a. Beginning in 1997, members of SWID have been acquiring water from Burley Irrigation District. In addition, SWID purchased a surface water right, 01-23A, to use for soft conversions. Irrigators constructed headgates in the J Canal of the BID system and pumped water south through individually owned and SWID owned pipelines to irrigate

farmland within the boundaries of the SWID/GC. BID dealt with each farmer individually in their delivery.

- b. In 2003, BID completed the purchase of their canal system from the Bureau of Reclamation and began dealing with SWID as an entity; delivering water to SWID through the various private headgates designating SWID comptroller of delivery. In addition to headgates in the J Canal, SWID constructed a catchment basin at the end of the canal system to collect waste water. Waste water from the canal system is collected in the pond and pumped to member farmland to replace ground water pumping.
- c. Initially SWID Directors designated that 1(one) AF of surface water from the BID required 1(one) AF less of ground water pumping. However, the soft conversions began prior to implementation of measuring and reporting requirements in SWID. Strict records of ground water use were not recorded as they are today. Without strict measuring and reporting as verification, irrigators assumed they were replacing equal amounts of ground water with surface water. Mostly due to the then ability to provide the required water onto previously sparsely watered ground the volume of surface water pumped did not equal the volume of ground water not pumped. As a result, the ratio of surface water pumped to the volume of ground water not pumped is 1 AF surface water to 0.5 AF ground water.
- d. Since soft conversions began prior to the requirement of exact measurement of ground water pumping, total discharge for each pumping system was calculated using the Power Consumption Coefficient (PCC). Future plans for measurement include metering each diversion system. However, for this mitigation plan each landowner in the District receiving surface water from the BID canals have had PCC's measured for each pumping system on their farm. Total volume usage was averaged for each system since 2003. An average usage was calculated and measured in negative volumes. This methodology

produced a calculated average for the volume of ground water not pumped. Pumping totals are included on the following table. See Appendix 1 for records and calculations.

- e. As previously stated some landowners began diverting water from the BID prior to keeping records for mitigation. In fact, several of the wells have not been used since the headgates were constructed. Therefore, these wells have no record of usage. In these cases the average usage, accepted by IDWR, of 2'/ac was applied to the entire farm for mitigation credit.

Table 1. Average Soft Conversion Mitigation for Headgates in the BID J Canal and SWID Waste Water Pond.

Name	Average Mitigation KWHr	Average Mitigation AF	Average Mitigation Acres
Jackson Allred	-1,059,085	-1,319	-660
Beck Brothers *	-621,447	-1,281	-641
Paul Christensen *	0	-780	-390
V & R Farms	-226,720	-259	-129
Grant Wyatt	-158,333	-188	-94
Fred Hawker *	-215,613	-613	-307
Heward/Wrigley	-1,137,697	-1,147	-573
Craig Larsen *	-709,860	-1,577	-789
LDS Church	-3,212,243	-3,008	-1,504
Matthews	-50,467	-84	-42
Burley West Invst. *	0	-718	-359
Scott Searle	-316,500	-345	-172
Moo View Cow Plc.	-2,773,727	-2,704	-1,352
Alliance Land	-674,643	-379	-190
Wayment Farms	-640,340	-549	-275
Total:	-11,796,675	-14,952	-7,476

*Indicates no power records for 1 or more of the wells included in the calculations due to non-use prior to recording measurements.

- f. At the request of SWID/GC the IDWR modeling group modeled the effect of the soft conversions on the J Canal. The data supplied to the modeling department was conservative at just under 13,600 AF while the actual mitigation is listed in the above table at 14,952 AF. The preliminary results indicated that the effect of the soft conversion on the J Canal add 4.47 cfs to the Devil's Washbowl to Buhl spring reach gain equaling

3,238 AF. Of course, IDWR reserves the right to re-model the results after verification of the data.

- g. SWID is committed to tightening the ratio between surface water received and less ground water pumped. As a result, less ground water will be pumped and the net non-use of ground water will increase dramatically in future mitigation plans; evidence that mitigation plans for SWID/GC are dynamic.
- h. Recognition must be placed for previous mitigation by SWID/GC. As stated previously, many IDWR staff and Directors have toured the SWID mitigation activities. Knowledge of these mitigation activities have been known since activity inception (1997). However, IDWR has yet to include these pumping reductions in the ESPAM model runs determining mitigation obligations for all junior water right holders. This oversight has wrongly calculated increased mitigation obligations for Water Districts 130 and 140. Therefore, SWID/GC claim average non-use mitigation practices from the J Canal for each year since 2003.
- i. Average annual mitigation along the J canal since 2003 has been 14,952 acre feet. According to the ESPAM model run by the IDWR, the resulting mitigation from SWID/GC since 2003 has been more than (due to the conservative data presented to the IDWR for modeling) 26.82 cfs to the Devil's Washbowl to Buhl spring reach gain $[(4.47 \text{ AF})(6 \text{ yrs})]$ equaling 19,428 AF $[(3,238 \text{ AF})(6 \text{ yrs})]$.
- j. Soft conversions will continue in the future for SWID/GC. SWID currently has 5 year contracts with several entities from whom they lease water. The entities include BID, City of Pocatello, Falls Irrigation Company, Milner Irrigation District, and Twin Falls Canal Company. As contracts increase in the future soft conversions will increase. Higher non-pumping mitigation will occur in future years.

2. West Cassia Pipeline, LLC

- a. A recently completed pipeline adds tremendously to the mitigation of SWID/GC. Some landowners of SWID/GC formed the West Cassia Pipeline, LLC (WCP). The pipeline consists of more than 33 miles of 24 inch pipeline capable of pumping more than 2,500 inches of water. The water is pumped from the Snake River to the Golden Valley Area approximately 13 miles south. There are 12 members of the WCP that paid for the construction and installation of the pipeline.
- b. A Memorandum of Understanding (MOU) was established and is being finalized now that the pipeline is complete and tested. The MOU will be supplied to the IDWR when it is signed. The MOU is that each member will decrease ground water pumping in an amount equal to the volume it receives. The MOU will state that the ground water pumping will be monitored by the District Hydrologist. The non-pumping must be verifiable by the WD 140 Watermaster.
- c. The pipeline is fully equipped with calibrated magnetic flowmeters. Flowmeters are placed at the pumping station and each out dive. Flowmeters are also located on recharge locations.
- d. Each member of WCP determined a plan to reduce groundwater pumping in an equal amount to surface water received. All the plans have been reviewed and accepted by the District Hydrologist and the Board of Directors for WCP, SWID and GC. Results will be verified by the IDWR after the irrigation season. Table 2 lists the committed reduction of each member of the WCP. Plan specifics are contained in Appendix 3.

Name	Purchased Inches in WCP	Committed Reduction in AF
Big Sky Dairy	250"	1,463
Alliance Land & Livestock LLC Russell Patterson and Lisa Patterson	100"	563
John Beukers and Ruth Beukers	300"	1,755

David Beck-Golden Valley Beef	250"	1,463
Wybenga Dairy LLC	200"	1,170
Cranney Ranches and Cranney Land Company LLC	500"	2,925
Oak Valley Land Company LLC	400"	2,340
Way A Farms Inc.	200"	1,170
S.Hepworth Inc.	100"	585
Pickett Ranch & Sheep Company	100"	585
Total	2,500"	14,580

Table 2. WCP, LLC Membership and commitment.

- e. The pipeline was tested through the last half of August, 2009. It is still not fully on line as some members have yet to connect to it. However, the results of testing are very favorable. It is expected that approximately 15,000 AF of surface water will be delivered to the members of WCP. An equal amount of ground water will not be pumped beginning in 2010 for inclusion in this mitigation plan.
- f. In addition, it is anticipated that 5,000 AF will be pumped from the Snake River to injection points throughout the WCP area. Injection points include aquifer recharge wells and a flood ditch. Total mitigation from the WCP is 20,000 AF/yr.
- g. SWID currently has a signed contract with the Water Resource Board for 10,000 AF of recharge water that will come in priority as early as October 20, 2009 (oral comm. Bill Quinn, IDWR). The pipeline was in place as of August 20, 2009 and recharge will commence prior to acceptance of this plan.
- h. The IDWR modeled the effect of the pipeline on the several reaches of the river using the ESPAM model. The modeling effort used the anticipated volumes and locations for data. Results of the modeling are that the WCP will provide 6.8 cfs to the Devil's Washbowl to Buhl spring reach gain equaling 4,915 AF per year. Again, the IDWR reserves the right re-model the results after verification of the data.
- i. Beginning in 2010 mitigation from the pipeline will be in effect.

3. CREP

- a. There are currently 751 acres enrolled in the CREP within the boundaries of the SWID and GC irrigation districts. The acres are listed and located in Appendix 4. Each CREP acre is given full credit in the mitigation analysis that is one acre CREP is equal to 1 acre mitigation obligation at 2 AF/acre. An additional 751 acres or 1,502 AF per year are added toward the SWID/GC mitigation obligation from the CREP acres.
 - b. It is anticipated that there will be no future increase in the amount of acres in the CREP from the SWID or GC irrigation districts.
4. Other Voluntarily Curtailed Acres
- a. There are 2,378 acres with valid ground water rights that have voluntarily curtailed 100%. Two thousand and one acres are in within the SWID boundary and 377 acres inside Goose Creek. Long term commitments (5 years) to keep these acres dry have been obtained from the irrigators. Therefore, the amount of mitigation received from these acres will remain constant.
 - b. Initially the voluntarily curtailed acres were submitted in 2001 as a result of a verbal acknowledgement from the IDWR stating the acres voluntarily curtailed for the SWID Ground Water Management Plan would receive protection from forfeiture (oral comm. Tim Luke, and Cindy Yenter). Several versions of the SWID Management Plan were reviewed between 2001 and 2009 but none were accepted by IDWR. Irrigators kept the acres dry according to their commitment. The forfeiture clock remains stopped for these acres as the acres are moved into this mitigation plan.
 - c. Location, associated water right number, and number of acres are included in Appendix 5. A GIS shape file is attached on a disk.

IV. CREDIT

- A. On April 9, 2009, Director Tuthill requested the IDWR modeling department to determine what time is required for the mitigation occurring in SWID to arrive at the

receptors; the river and/or the springs. The IDWR determined that for SWID the time interval is 15.5 years. The percentage of mitigation reaching the receptors is 25%. Therefore, mitigation by SWID above the obligated volume would be allowed to accrue at 25% for 15.5 years.

- B. Therefore, as stated in III.A.1.i, mitigation by SWID/GC for of soft conversions along the J Canal are 25% of the 26.82 cfs to the Devil's Washbowl to Buhl spring reach gain [(4.47 AF)(6 yrs)] from 2003 through 2009 equaling 6.705 cfs [(25%)(19,428AF)]. This volume, 6.70 cfs, should be applied as credit to future mitigation obligations and to accrue for 15.5 years.
- C. SWID/GC also began voluntarily curtailing acres in 2001. As stated in a previous section the total number of acres is 2,378. No credit for these voluntarily curtailed acres is being requested but should be considered by the IDWR.
- D. After verification of the various activities described in this mitigation plan it will be obvious that SWID/GC are over mitigated for the 2010 obligation. As a result, SWID will accrue credit to be carried over to future mitigation.

V. MITIGATION FOR DISTRICT NON-LANDOWNERS

- A. Several ground water users isolated within and around the boundaries of SWID/GC are not landowners of either district. This plan provides them sufficient mitigation to meet their obligation. A list of the groundwater pumpers that fall into this category are listed in Appendix 6.
- B. Total water rights for these non-landowners equal 27.36 cfs including 545.5 acres. The largest of these is the City of Burley with over 65% of the total.

VI. MITIGATION TABULATION

- A. The mitigation obligation by SWID/GC according to the IDWR is 10.2 cfs to the river (9.8 cfs obliged by SWID and 0.4 obliged by GC). According to the unverified model run by the IDWR using conservative data provided by SWID/GC the gain in the river will be 6.8 from the soft conversions along the J Canal and 4.47 from soft conversions and recharge contributed from the WCP totaling 11.27 cfs to the specified reach gain.
- B. These two activities alone (paragraph A above) more than mitigate for the obligation owed by SWID/GC and the non-district landowners. After mitigation contributions from the CREP acres and voluntarily curtailed acres, with credit obtained from over-mitigation since 2003, SWID/GC will accrue voluminous amounts of mitigation credit to carry forward and continually maintain a positive total in the mitigation bank.
- C. This mitigation plan with attached appendices describes in detail the mitigation activities of SWID/GC. Due to the fact that IDWR has not had an opportunity to verify and model the data contained herein, the total mitigation balance tabulation will be forthcoming.

VII. CONCLUSION

The Southwest Irrigation District and Goose Creek Irrigation District request that:

- A. This 2010 Mitigation Plan be approved; and,
- B. The Director make a determination that this 2010 Mitigation Plan alleviates any need for additional mitigation or curtailment; and,
- C. This Mitigation Plan fully satisfies all shortages and material injuries; and,

- D. The specified carry-over credit be applied to a mitigation bank for SWID/GC at the volumes specified after verification of the data contained herein; and,
- E. SWID/GC reserve the right to modify or withdraw any or all of this plan as necessary to secure approval or comply with the Director's orders.

DATED this ~~30~~ day of October, 2009

Parsons, Smith & Stone



Attorneys for SWID/GC

Approved:



Brian Higgs, Hydrologist