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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF GOODING

NORTH SNAKE GROUND WATER DISTRICT, and MAGIC VALLEY GROUND WATER DISTRICT, Petitioners, vs. GARY SPACKMAN, in his capacity as Interim Director of the Idaho Department of Water Resources; and the IDAHO DEPARTMENT OF WATER RESOURCES, Respondents. vs. CLEAR SPRINGS FOODS, INC. IN THE MATTER OF DISTRIBUTION OF WATER TO WATER RIGHT NOS. 36-04103A, 36-04013B AND 36-7148 (Snake River Farm) (Water District Nos. 130 and 140)	Case No. CV 2009-431 **GROUND WATER DISTRICTS' RESPONSE TO CLEAR SPRINGS' PETITION FOR CLARIFICATION**

COME NOW, PETITIONERS NORTH SNAKE GROUND WATER DISTRICT, and MAGIC VALLEY GROUND WATER DISTRICT ("Petitioners"), acting for and on behalf of their members, through counsel, and hereby respond to *Clear Springs Foods, Inc.'s Petition for*

Clarification of the Court's Order Conditionally Granting Motion for Stay Upon Compliance with Proposed Alternative dated August 31, 2009 ("Petition for Clarification").

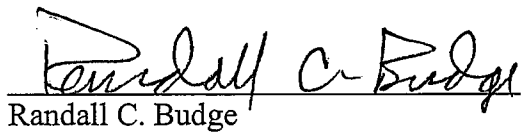
Petitioners respectfully submit that the Court's Order is clear, unambiguous, speaks for itself and needs no clarification.

The Court will recall that during the oral arguments presented to the Court on the Petitioners' *Motion for Stay*, Clear Springs' counsel argued to the Court that the Idaho Department of Water Resource's ("Department") July 2009 Curtailment Orders together with the Petitioners' *Petition for Judicial Review* and *Motion for Stay* were primarily matters of dispute between Petitioners and the Department, which Clear Springs had little interest in. Now that the Stay Order has been issued, Clear Springs' *Petition for Clarification* in effect asks the Court to step into the shoes of the Director and the Department and act as the administrator and manager of the water rights, mitigation, and recharge plans. The Department alone is vested with this authority and discretion. Clear Springs has made no argument, nor any factual showing that the Department is unable or unwilling in this instance to perform its administrative duties as it has amply demonstrated its ability to do so in the past.

Furthermore, approval of Petitioners' Third Mitigation Plan (Over-theRim) remains pending before the Department, has recently been scheduled for hearing before Hearing Officer Justice Gerald Schroeder, commencing December 7, 2009, with discovery now open and prefiled testimony deadlines set. Based on the foregoing Clear Springs' *Petition for Clarification* should be denied without further notice or hearing.

RESPECTFULLY SUBMITTED this ~~1st~~ 2nd day of September, 2009.

RACINE, OLSON, NYE, BUDGE
& BAILEY, CHARTERED



Randall C. Budge
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CERTIFICATE OF MAILING

I hereby certify that on this ~~1st~~ 2nd day of September, 2009, the above and foregoing was sent to the following by U.S. Mail, proper postage prepaid and by e-mail for those with listed e-mail addresses:

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