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DEPARTMENT OF
WATER RESOURCES

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Attorneys for Cross-Petitioner Blue Lakes Trout Farm, Inc.

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF GOODING**

CLEAR SPRINGS FOODS, INC.,)
)
Petitioner,)

vs.)

BLUE LAKES TROUT FARM, INC.,)
)
Cross-Petitioner,)

vs.)

IDAHO GROUND WATER)
APPROPRIATORS, INC., NORTH SNAKE)
GROUNDS WATER DISTRICT and MAGIC)
VALLEY GROUND WATER DISTRICT,)
)
Cross-Petitioner,)

vs.)

IDAHO DAIRYMEN'S ASSOCIATION,)
INC.,)
)
Cross-Petitioner,)

Case No. 2008-0000444

**AFFIDAVIT OF DANIEL V.
STEENSON IN SUPPORT OF
MOTION TO ENFORCE
ORDERS**

COPY

vs.)
)
 RANGEN, INC.,)
)
 Cross-Petitioner,)
)
 vs.)
)
 DAVID R. TUTHILL, JR., in his capacity as)
 Director of the Idaho Department of Water)
 Resources, and THE DEPARTMENT OF)
 WATER RESOURCES,)
)
 Respondents.)
)
 IN THE MATTER OF DISTRIBUTION)
 OF WATER TO WATER RIGHTS NOS.)
 36-0413A, 36-04013B, and 36-07148,)
)
 (Clear Springs Delivery Call))
)
 IN THE MATTER OF DISTRIBUTION OF)
 WATER TO WATER RIGHTS NOS. 36-)
 02356A, 36-07210, and 36-07427,)
)
 (Blue Lakes Delivery Call))
)

STATE OF IDAHO)
) ss
 COUNTY OF ADA)

DANIEL V. STEENSON, being first duly sworn upon his oath, deposes and says that:

1. I am an attorney of record for Cross-Petitioner Blue Lakes Trout Farm, Inc. (“Blue Lakes”) in the above-captioned action, as well as attorney for Blue Lakes in proceedings before the Director of the Idaho Department of Water Resources (“Director”) related to the Blue Lakes’ water delivery call involved in the above-captioned action.

2. Exhibits A-1 through A-11 attached hereto were filed by parties or issued by the Director in proceedings before the Director related to the Blue Lakes' water delivery call involved in the above-captioned action.

a. Attached here to as **Exhibit A-1** is a true and correct copy of the *Ground Water Users' Joint Mitigation Plan for 2009 (Blue Lakes)*, filed July 6, 2009.

b. Attached here to as **Exhibit A-2** is a true and correct copy of Blue Lakes' August 12, 2009 *Protest to Ground Water Users' Joint Mitigation Plan for 2009*.

c. Attached here to as **Exhibit A-3** is a true and correct copy of Blue Lakes' October 7, 2009 *Motion for Order Authorizing Limited Discovery*.

d. Attached here to as **Exhibit A-4** is a true and correct copy of the Director's November 2, 2009 *Order Authorizing Limited Discovery*.

e. Attached here to as **Exhibit A-5** is a true and correct copy of the *Ground Water District's Motion to Limit Scope of Hearing and Proposed Schedule*, filed with IDWR December 4, 2009.

f. Attached here to as **Exhibit A-6** is a true and correct copy of Blue Lakes' December 16, 2009 *Brief in Opposition to Ground Water District's Motion to Limit Scope of Hearing and Proposed Schedule*.

g. Attached here to as **Exhibit A-7** is a true and correct copy of the *Affidavit of Daniel V. Steenson*, filed December 16, 2009.

h. Attached here to as **Exhibit A-8** is a true and correct copy of the Director's December 22, 2009 *Order Granting Motion to Limit Scope of Hearing; Denying Motion to Strike Clear Springs' Protest; and Scheduling Order*.

i. Attached here to as **Exhibit A-9** is a true and correct copy of Blue Lakes' February 9, 2010 *Petition for Reconsideration*.

j. Attached here to as **Exhibit A-10** is a true and correct copy of Blue Lakes' February 9, 2010 *Notice of Partial Withdrawal of Protest to Ground water Users' Joint Mitigation Plan*.

k. Attached here to as **Exhibit A-11** is a true and correct copy of the Director's April 2, 2010 *Order denying Blue Lakes' Petition for Reconsideration*.

3. Attached hereto as Exhibits **B-1 through B-8** are true and correct copies of the following pleadings, transcript and order in the district court case in the Fifth Judicial District of the State of Idaho entitled *American Falls Reservoir District No. 2, et al., v. Idaho*, CV-2005-600:

a. Defendants July 11, 2006 *Notice of Appeal*, attached hereto as **Exhibit B-1**.

b. Defendants July 20, 2006 Motion For Stay Under IRCP 62(d) and Idaho Appellate Rule 13(b), attached hereto as **Exhibit B-2**.

c. Defendants July 20, 2006 Memorandum in Support of Motion For Stay Under IRCE 63(d) and Idaho Appellate Rule 13(b), attached hereto as **Exhibit B-3**.

d. Reporter Transcript of August 8, 2006 hearing on Defendants' Motion for Stay of June 2, 2006 Order and June 30, 2006 Judgment, attached hereto as **Exhibit B-4**.

e. August 9, 2006 Order Denying Stay, attached hereto as **Exhibit B-5**.

f. Defendants' August 17, 2006 *Motion For Stay Pending Appeal Under Appellate Rule 13(g)*, filed in Idaho Supreme Court Case No. 33249, attached hereto as **Exhibit B-6**.

g. Defendants' August 17, 2006 *Memorandum IN Support of Motion For Stay Pending Appeal Under Appellate Rule 13(g)*, filed in Idaho Supreme Court Case No. 33249, attached hereto as **Exhibit B-7**.

h. September 27, 2006 Order Expediting Appeal Denying Motion to Stay setting Briefing and Oral Argument, filed in Idaho Supreme Court Case No. 33249, attached hereto as **Exhibit B-8**.

4. Attached hereto as Exhibits **C-1 through C-9** are true and correct copies of the following pleadings and orders in the case entitled *Musser v. Higginson*, which I obtained from the Idaho Supreme Court records for Case No. 20807:

a. *Writ of Mandate*, issued in Snake River Basin Adjudication (SRBA) Case No. 39576, attached hereto as **Exhibit C-1**.

b. *Idaho Department of Water Resources' Motion to Stay Writ of Mandate During Pendency of Appeal*, filed in SRBA Case No. 39576, attached hereto as **Exhibit C-2**.

c. *Affidavit of Norman C. Young Dated August 17, 1993*, filed in SRBA Case No. 39576, attached hereto as **Exhibit C-3**.

d. *Order Denying Motion to Stay Writ of Mandate*, issued in SRBA Case No. 39576, attached hereto as **Exhibit C-4**.

e. *Motion to Stay Writ of Mandate (and Ex Parte Temporary Stay)*, filed in Idaho Supreme Court Case No. 20807, attached hereto as **Exhibit C-5**.

f. *Affidavit of Norman C. Young, Dated September 8, 1993*, filed in Idaho Supreme Court Case No. 20807, attached hereto as **Exhibit C-6**.

g. *Brief in Opposition to IDWR's Motion to Stay Writ of Mandate (and Ex Parte Temporary Stay)*, filed in Idaho Supreme Court Case No. 20807, attached hereto as **Exhibit C-7**.

h. *Affidavit of Margaret Candy*, filed in Idaho Supreme Court Case No. 20807, attached hereto as **Exhibit C-8**.

i. *Order Denying Motion to Stay Writ of Mandate*, issued in Idaho Supreme Court Case No. 20807, attached hereto as **Exhibit C-9**.

4. Attached hereto as **Exhibit D** is a true and correct copy of pages 1, 4, 39 and 37 of the Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover, issued by the Director April 7, 2010, downloaded from the IDWR website at http://www.idwr.idaho.gov/News/WaterCalls/Surface%20Coalition%20Call/2010/04Apr/20100407_FinalOrder.pdf. I added the highlighting to pages 4 and 30 of **Exhibit D**.

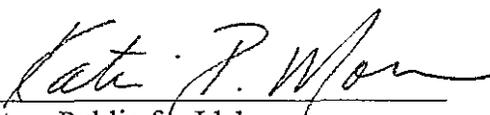
Further your affiant sayeth naught.

Dated this 12th day of April, 2010.


Daniel V. Steenson

Sworn to and subscribed before me this 12 day of April, 2010.




Notary Public for Idaho
Residing in Dasi's, Idaho
My Commission Expires: 2/20/14

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of April, 2010, I served a true and correct copy of the foregoing by delivering the same to each of the following individuals by the method indicated below, addressed as follows:

- | | |
|---|--|
| Randall C. Budge
Candice M. McHugh
Racine, Olson, Nye, Budge & Bailey, Chtd.
P.O. Box 1391
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rcb@racinelaw.net
cmm@rainelaw.net | <input checked="" type="checkbox"/> U.S. First Class Mail, Postage Prepaid
<input type="checkbox"/> Federal Express
<input type="checkbox"/> Hand Delivery
<input type="checkbox"/> Facsimile
<input type="checkbox"/> Electronic Mail |
| ✓ Phil Rassier
Chris M. Bromley
Deputy Attorneys General
Idaho Department of Water Resources
PO Box 83720
Boise, ID 83720-0098
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<input type="checkbox"/> Federal Express
<input type="checkbox"/> Hand Delivery
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Daniel V. Steenson