



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

June 2, 2008

Sent Electronically and via U.S. Mail

John R. MacMillan
Vice President
Clear Springs Foods, Inc.
P.O. Box 712
Buhl, Idaho 83316

Randall C. Budge, Esq.
Racine Olson
P.O. Box 1391
Pocatello, Idaho 83204-1391

Re: Clear Springs Foods, Inc.'s Snake River Farm Request for 2008 Conjunctive Administration

Gentlemen:

This letter is prepared in response to Mr. Budge's letter dated May 28, 2008, with associated enclosures. This letter and the documents referenced herein are posted to the IDWR website at <http://www.idwr.idaho.gov/>.

My letter dated May 13, 2008 noted "The Ground Water Districts have committed to provide the amended plan within two weeks after the meeting with the Board of Clear Lake County Club, May 29, 2008. Significant progress needs to be made in this regard by that date, to prevent a curtailment order." My letter identified an understanding that the following steps would occur:

1. Representatives from the Ground Water Districts will be meeting with the Board of Clear Lake Country Club on May 15th to discuss a proposal to use an alternative supply for irrigation of the golf course, to allow clean spring water to be used at Snake River Farm.
2. Clear Springs will allow the Ground Water Districts to visit their lands, after making arrangements with Dr. MacMillan, for the purpose of preparing engineering estimates for conveyance of additional water to Clear Springs.

3. The Ground Water Districts will file an Amended Plan, which might be in the form of formal mitigation as defined in the Conjunctive Management Rules.

The May 28, 2008 letter from Mr. Budge indicates that the first two steps occurred, and outlines other steps toward mitigation, but indicates that it is premature to file a mitigation plan at this point, pending the completion of other actions. I consider the progress of the Ground Water Districts thus far to be marginally acceptable. However, additional action is urgently needed to prevent a curtailment order.

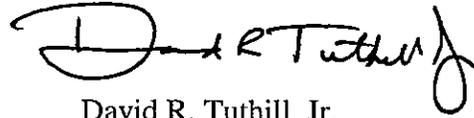
Concerns about the May 28, 2008 letter from Mr. Budge are as follows:

1. While the water rights for the Clear Lake Country Club total 3.5 cfs, this amount represents the *maximum allowable diversion rate* and does not represent the actual amount of water diverted on a sustained basis. Any credit attributed to the Ground Water Districts for providing this water to Snake River Farm must be based on an analysis of water diverted on a sustained basis. The Ground Water Districts need to use the time between now and the meeting of the Board of Directors of the Clear Lake Country Club, which Mr. Budge has indicated is scheduled for June 9, 2008, to assess the credit which should be assigned to the Ground Water Districts. Lacking other information, I anticipate that IDWR will consider the credit to be the year-round average water flow requirement of the acres served by this source. Because this amount is about one-half cfs, it appears that this project will not by itself be sufficient to satisfy the mitigation requirement of the Ground Water Districts for 2008.
2. As you are aware, some of the potential solutions proposed by the Ground Water Districts require water right filings of various types. A water right assessment for each of the mitigation water components is a necessary part of the amended plan.
3. Item (4) of Mr. Budge's letter indicates that an alternative for the delivery of the Fish and Game water is to improve the point of diversion of Spring 1 near the County Club spring pump station. For this purpose a proposal from Eaton Drilling and Pump Service has been provided. This proposal contemplates the drilling of a well as deep as 200 feet. An assessment is needed to indicate why the Ground Water Districts anticipate that a well of this depth will improve the point of diversion.

In light of the fact that we are now well into the irrigation season, and the junior ground water rights are being diverted, this matter continues to require an urgent solution. While the progress thus far has not resulted in a solution, the Ground Water Districts

have demonstrated progress on several fronts. Thus, for now curtailment is not ordered. An additional update is required within two weeks, by June 16, 2008. Significant additional progress needs to be made in this regard by that date, to prevent a curtailment order.

Sincerely,

A handwritten signature in black ink, appearing to read "D R Tuthill, Jr.", with a stylized flourish at the end.

David R. Tuthill, Jr.
Director