

ORIGINAL

RECEIVED

OCT 15 2010

DEPARTMENT OF
WATER RESOURCES

Randall C. Budge, ISB #1949
Candice M. McHugh, ISB #5908
Thomas J. Budge, ISB #7465
RACINE OLSON NYE BUDGE
& BAILEY, CHARTERED
101 S. Capitol Blvd., Suite 208
Boise, Idaho 83702
(208) 395-0011 – Telephone
(208) 433-0167 – Facsimile
rcb@racinelaw.net
cmm@racinelaw.net
tjb@racinelaw.net

Attorneys for North Snake Ground Water District and Magic Valley Groundwater District

BEFORE THE DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF
WATER TO WATER RIGHT NOS. 36-
02356A, 36-7210, AND 36-07427,

(Blue Lakes Delivery Call)

IN THE MATTER OF DISTRIBUTION OF
WATER TO WATER RIGHT NOS. 36-
4013A, 36-04013B, AND 36-07148

(Clear Springs Delivery Call)

**IDWR Docket Nos. CM-DC-2010-02
CM-DC-2010-03**

**MOTION TO CONTINUE
ADMINISTRATIVE HEARING**

North Snake Ground Water District and Magic Valley Ground Water District hereby move the Director to continue the administrative hearing scheduled to begin January 10, 2011, for the following reasons:

1. The pending Idaho Supreme Court appeal involving these delivery calls, Docket Number 37308-2010, could materially affect the Director's decision in this proceeding. Oral argument is scheduled in that appeal on December 3, 2010.

2. Blue Lakes has challenged the limited scope of this hearing by seeking a Writ of Mandate from the Fifth Judicial District Court, Case No. CV-OC 10-13520. The outcome of that challenge will affect the scope of evidence in this hearing, which in turn affects the scope of

discovery.

3. The Ground Water Districts have approved mitigation plans that will enable them to satisfy the new injury findings for both delivery calls until final decisions are entered in the matters described above.

3.1 The *Over-The-Rim Plan* approved February 9, 2010, in administrative case number CM-MP-2009-004, enables the Ground Water Districts to satisfy the injury findings to all of Clear Springs' water rights.

3.2 The Ground Water Districts' *Mitigation Plan for Blue Lakes* approved on May 7, 2010, enables the direct delivery of mitigation water from Alpheus Creek to Blue Lakes. The Ground Water Districts' *Mitigation Plan for Conversions, Dry-Ups, and Recharge* approved on July 19, 2010, provides credit for other mitigation activities of the Groundwater Users. These plans collectively provide sufficient water to meet the injury findings to Blue Lakes.

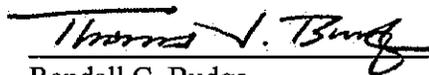
4. In the next 6-12 months, the ESPA Model will be updated. Whether new and updated water data is appropriate and relevant can be addressed more effectively at that time.

5. Continuance will (a) promote judicial economy and more efficient use of the time and resources of the parties, (b) enable the Director to decide this matter with the benefit of a final decision from the Supreme Court and the additional guidance expected from that decision, (c) allow the ESPA Model to be updated along with a decision from the Fifth Judicial District Court concerning the scope of evidence the Director may consider in this case, and (d) cause no prejudice to the Spring Users because their water rights can be mitigated during the continuance.

Based on the foregoing, the Ground Water Districts ask the Director to continue the hearing. The Ground Water Districts suggest the Director schedule a status conference following a final decision from the Idaho Supreme Court in Docket Number 37308-2010.

RESPECTFULLY SUBMITTED this 15th day of October, 2010.

RACINE, OLSON, NYE, BUDGE &
BAILEY, CHARTERED



Randall C. Budge
Candice M. McHugh
Thomas J. Budge
Attorneys for the Ground Water Districts

CERTIFICATE OF MAILING

I certify that on the 15th day of October, 2010, the foregoing document was served on the persons below in the manner indicated.

Document Served: Motion to Continue Administrative Hearing

Keri J. Hawker

Signature of person serving document

Gary Spackman, Interim Director
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098
victoria.wigle@idwr.idaho.gov
garrick.baxter@idwr.idaho.gov
chris.bromley@idwr.idaho.gov

- U.S. Mail/Postage Prepaid
- Facsimile
- Overnight Mail
- Hand Delivery
- E-Mail

John Simpson
Travis L Thompson
Barker, Rosholt
PO Box 2139
Boise, ID 83701-2139
jks@idahowaters.com
tlt@idahowaters.com

- U.S. Mail/Postage Prepaid
- Facsimile
- Overnight Mail
- Hand Delivery
- E-Mail

Daniel V Steenson
Charles L Honsinger
Ringert Clark
PO Box 2773
Boise, ID 83701-2773
dvs@ringertclark.com
clh@ringertclark.com

- U.S. Mail/Postage Prepaid
- Facsimile
- Overnight Mail
- Hand Delivery
- E-Mail

Mike Creamer
Jeff Fereday
Givens Pursley
PO Box 2720
Boise ID 83701-2720
mcc@givenspursley.com
jeffereday@givenspursley.com

- U.S. Mail/Postage Prepaid
- Facsimile
- Overnight Mail
- Hand Delivery
- E-Mail

Michael S. Gilmore
Attorney General's Office
P.O. Box 83720
Boise ID 83720-0010
Mike.gilmore@ag.idaho.gov

- U.S. Mail/Postage Prepaid
- Facsimile
- Overnight Mail
- Hand Delivery
- E-Mail

J. Justin May
May Sudweeks & Browning
1419 W. Washington
Boise ID 83702
(208) 429-0905
jmay@may-law.com

- U.S. Mail/Postage Prepaid
- Facsimile
- Overnight Mail
- Hand Delivery
- E-Mail

Robert E. Williams
Fredericksen Williams Meservy
153 E. Main St.
P.O. Box 168
Jerome, ID 83338-0168
rewilliams@cableone.net

- U.S. Mail/Postage Prepaid
- Facsimile
- Overnight Mail
- Hand Delivery
- E-Mail

Allen Merritt
Cindy Yenter
Watermaster – WD 130
IDWR Southern Region
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301-3380
Allen.merritt@idwr.idaho.gov
Cindy.yenter@idwr.idaho.gov

- U.S. Mail/Postage Prepaid
- Facsimile
- Overnight Mail
- Hand Delivery
- E-Mail