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ATTORNEYS FOR THE GROUND WATER DISTRICTS

BEFORE DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO

IN THE MATTER OF
DISTRIBUTION OF WATER TO
WATER RIGHT NOS. 36-4103A, 36-
4103B and 36-7148 (Snake River
Farm)

IN THE MATTER OF THE THIRD
MITIGATION PLAN (OVER-THE-
RIM) OF THE NORTH SNAKE AND
MAGIC VALLEY GROUND WATER
DISTRICTS TO PROVIDE
REPLACEMENT WATER FOR
CLEAR SPRINGS SNAKE RIVER
FARM

(Water District Nos. 130 and 140)

Docket No. CM-MP-2009-004

**NOTICE OF TAKING
DEPOSITION DUCES TECUM OF
JOHN R. MACMILLAN**

(Over-the-Rim Mitigation Plan)

To: Clear Springs Foods, Inc., and their attorney of record:

YOU WILL PLEASE TAKE NOTICE, that the Magic Valley Ground Water District and North Snake Ground Water District will take the testimony pursuant to Rules 26, 30(a) and 30(b)(6) of the Idaho Rules of Civil Procedure, on oral examination of John R. MacMillan. Said deposition shall take place before a court reporter, a notary public, or before some other officer

authorized to administer oaths, to commence on **Tuesday, November 10, 2009, at 1:30 p.m.** or as soon thereafter as possible on said day at the offices of Barker, Rosholt and Simpson located at 101 W Jefferson, Ste 102, Boise Idaho. Oral examination will continue from time to time until completed and you are hereby notified to appear and take part in the examinations. The deponent is also requested to have the following documents available for inspection and copy if they have not already been previously provided.

1. All diversion and spring discharge records relating to spring discharges including spot measurements at the Clear Springs Foods, Inc. Snake River Farm facility not previously produced;

2. All records relating to spring construction and improvements, collection systems, diversion facilities, measurement devices, including maps, construction plans and designs, drilling records, contractor information, calendars, notes, memoranda, relating to the same at the Clear Springs Foods, Inc. Snake River Farm facility not previously produced;

3. All water rights utilized at the facilities identified in Clear Springs' Responses to Interrogatory No. 4 (hereinafter referred to as "Clear Springs' Facilities") in the Ground Water Districts' First Set of Discovery together with all files and records pertaining thereto, including but not limited to all applications for permits, transfers, Snake River Basin Adjudication claims, field reports, proof of beneficial use, engineering reports and all agreements pertaining to the same, exchanges, subordinations and all engineering reports or studies relating to the same, not previously produced;

4. All documents relating to the production and marketing of commercial Rainbow Trout by Clear Springs Foods, Inc. at Snake River Farm and all other Clear Springs' Facilities including share of the market, sales, profits, revenue, income, expenses and annual fish production records;

5. All documents not previously produced relating to Clear Springs' Facilities' capacities by year, records of disposal of fish by sale or other means, including destruction of fish;

6. All expert reports including economic, business and engineering reports relating to the construction, improvement, operation and use of the water rights at Clear Springs' Snake River Farm facility;

7. All records and data relating to effluent and influent water quality, quantity, and temperature at Clear Springs Foods Inc.'s Snake River Farms facility;

8. All investigations, analysis or studies done on the effects on Clear Springs Facilities' springs from a particular well or groups of wells or surface water management practices or changes of those practices such as lining canals and all records or documents showing the effects that such wells or activities have on said springs;

9. All reports, documents, publications or literature referenced references cited on pages 36 and 37 of the *Expert Report of John R. MacMillan, Ph D., Vice President of Research and Environmental Affairs, Clear Springs Foods, Inc.*, dated October 30, 2009;

10. All documents and data relied upon, incorporated, produced or utilized by you in connection with preparation of any expert reports in regard to or in relation to the above-captioned matter. This includes, but is not limited to all the drafts of documents and pre-filed expert reports and testimony filed on October 30, 2009 by Dr. MacMillan, Mr. Larry Cope and Dr. Charles Brockway;

11. All documents you have reviewed and will review in preparation for this deposition;

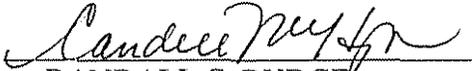
12. All data, documents or information relating to Clear Springs' Responses to the Ground Water Districts' Request for Production Nos. 8, 9, 11, 12 and 14 that were propounded on Clear Springs October 19, 2009;

13. All documents, data, studies, information or reports that support Clear Springs' position that Clear Springs' Rainbow Trout are only grown in fresh, pure pristine water that flows from the Snake River Canyon.

It is requested that all documents and data requested herein be provided to counsel for the Ground Water Districts no later than **Thursday, November 5, 2009** in order to accommodate preparation for your deposition.

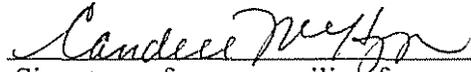
DATED this 3rd day of November, 2009.

RACINE OLSON NYE BUDGE
& BAILEY, CHARTERED

By: 
RANDALL C. BUDGE
CANDICE M. MCHUGH
*Attorneys for North Snake and
Magic Valley Ground Water Districts*

CERTIFICATE OF MAILING

I hereby certify that on this 3rd day of November, 2009, the foregoing, was served by email to those with emails and by U.S. Mail postage prepaid to the following:


Signature of person mailing form

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