

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
Telephone: (208) 395-0011
rcb@racinelaw.net
cmm@racinelaw.net

John K. Simpson , ISB # 4242
BARKER ROSHOLT & SIMPSON LLP
1010 W Jefferson, Ste 102
PO Box 2139
Boise, ID 83701-2139
Telephone: (208) 336-0700
jks@idahowaters.com

ATTORNEYS FOR THE GROUND WATER DISTRICTS

RECEIVED

MAR 05 2012

DEPARTMENT OF
WATER RESOURCES

BEFORE DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF
WATER TO WATER RIGHT NOS. 36-4013A,
36-40103B, and 36-7148 (Snake River Farm)

Docket No. CM-DC-2009-004
CM-MP-2010-003

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)

**STIPULATED MITIGATION PLAN
AND REQUEST FOR ORDER**

COME NOW Clear Springs Food, Inc. ("Clear Springs") and North Snake Ground Water District and Magic Valley Ground Water District (herein "Ground Water Districts"), pursuant to IDAPA 37.01.11.043.03(o), by and through their respective attorneys of record and do hereby stipulate and agree as follows:

1. Clear Springs and the Ground Water Districts entered into negotiations to explore

other practical and feasible alternatives to the Ground Water Districts' "Over-the-Rim Mitigation Plan", and the pending administrative challenge to the *Final Order Concerning the Over-the-Rim Mitigation Plan* entered on March 18, 2011, by Interim Director Gary Spackman.

2. Clear Springs and the Ground Water Districts have entered into a Mitigation Settlement Agreement ("Agreement") attached hereto as Exhibit A. The Agreement provides specifically:

Whereas, Clear Springs and the Signatory Districts desire to enter into this Agreement for the purpose of fully and finally mitigating, compromising, and settling all current and future water delivery calls, water right administration disputes, and challenges to mitigation plans.

Whereas, in consideration for the transfer of ownership of the Property (defined below), Clear Springs has agreed to accept the transfer of ownership of the Property as full and complete mitigation for any and all past and future injury caused by junior groundwater pumping to all water rights owned or controlled by Clear Springs or any of its subsidiaries or affiliates, by reason of which they will have no right to make a delivery call or request administration against any District Member(defined below).

Whereas, this Agreement is made in accordance with IDAPA 37.01.11.043.03(o), and the parties shall submit the Agreement to the State of Idaho, requesting the State to recognize this Agreement as full and complete mitigation for any and all past and future injury caused by junior groundwater pumping.

Agreement at 1 (emphasis added).

Complete and Final Mitigation. The hydraulic impact from the use of Water Rights of District Members to water rights now owned or hereafter owned or controlled by Clear Springs or any of its subsidiaries or affiliates, including but not limited to the water rights described in Exhibit "D" attached hereto, shall be deemed fully and completely mitigated Water Rights of District Members, such that Clear Springs will have no right to make a delivery call against or otherwise seek curtailment of any Water Rights of District Members pursuant to the Conjunctive Management Rules or otherwise in the future. Within sixty (60) days after the effective date of this Agreement, Clear Springs and the Signatory Districts will file this Agreement with the Idaho Department of Water Resources as a stipulated complete and final Mitigation Plan under the Conjunctive Management Rules. Additionally, the Parties shall request a final Order be

entered by the Director approving this Mitigation Settlement Agreement as a complete and final Mitigation Plan. Further, the Parties will record the Agreement and approval Order in Gooding and Twin Falls Counties.

Agreement at 5¶ 9 (emphasis added).

3. The parties request that the Director enter an order without further notice or hearing accepting the Agreement as a complete and final Stipulated Mitigation Plan in accordance with the parties' provisions as contained in the Agreement.

DATED this 1st day of ^{March}~~January~~, 2012.

RACINE, OLSON, NYE, BUDGE & BAILEY,
CHARTERED

By: Randall C. Budge

RANDALL C. BUDGE
CANDICE M. McHUGH
THOMAS J. BUDGE
Attorneys for Ground Water Districts

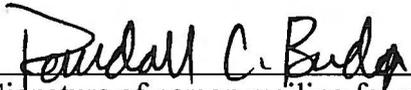
BARKER, ROSHOLT & SIMPSON, LLP

By: [Signature]

JOHN K. SIMPSON
Attorneys for Clear Springs Food, Inc.

CERTIFICATE OF MAILING

I hereby certify that on this 1st day of ^{March}~~January~~, 2012, the foregoing, was served as indicated to the following:


Signature of person mailing form

Gary Spackman, Interim
Director
c/o Victoria Wigle
Idaho Dept of Water Resources
PO Box 83720
Boise ID 83720-0098
garrick.baxter@idwr.idaho.gov
chris.bromley@idwr.idaho.gov

- U.S. Mail, Postage Prepaid
- Facsimile
- E-Mail
- Hand Delivery

John Simpson
Barker Rosholt & Simpson
1010 W Jefferson, Ste 102
PO Box 2139
Boise, ID 83701-2139
jks@idahowaters.com

- U.S. Mail, Postage Prepaid
- Facsimile
- E-Mail
- Hand Delivery

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
- E-Mail
- Hand Delivery