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JAN 19 2007

DEPARTMENT OF  
WATER RESOURCES

January 19, 2007

Laura E. Burri  
Jeffrey R. Christenson  
David P. Claiborne  
D. Blair Clark  
S. Bryce Farris  
Jon C. Gould  
David Hammerquist  
Charles L. Honsinger  
James P. Kaufman  
Jennifer Reid Mahoney  
James G. Reid  
Daniel V. Steenson

William F. Ringert, of Counsel  
Alyn L. Sweeney of Counsel  
Samuel Kaufman (1921-1986)

BY HAND DELIVERY

David Tuthill, Director  
Idaho Department of Water Resources  
322 E. Front Street  
Boise, Idaho 83720-0098

Re: Delivery of water to Clear Lakes Trout Company, Water Right Nos. 36-02659, 36-07004

Dear Mr. Tuthill:

Clear Lakes Trout Company, Inc. ("Clear Lakes") is entitled to delivery of 175 cfs pursuant to water right nos. 36-02659 and 36-07004. Clear Lakes hereby demands that you direct the Watermaster for Water District 130 to administer water rights in the Water District as required by Idaho Code § 42-607 in order to supply Clear Lakes' prior rights. The facts supporting this demand are set forth in the enclosed Affidavit of Gregory Kaslo.

By submitting this demand for delivery of water, Clear Lakes does not invoke IDWR's Conjunctive Management Rules, which were declared unconstitutional by the District Court for the Fifth Judicial District in *American Falls Reservoir District # 2 et al., v. the Idaho Department of Water Resources and Karl J. Dreher*, or waive any prior demand for delivery of water or any claim or position Clear Lakes' has presented in *Clear Lakes Trout Company, Inc. v. Karl J. Dreher and the Idaho Department of Water Resources*, Case No. CV 2005-426.

Please provide me notice by February 1, 2007, of your instructions to the Water District 130 Watermaster and any other IDWR actions in response to this demand.

Sincerely,



Daniel V. Steenson

Enclosures

cc: Clear Lakes Trout Company

AFFIDAVIT OF GREGORY KASLO

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DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO )  
 ) ss  
COUNTY OF ADA )

GREGORY KASLO, being first duly sworn upon his oath, deposes and says that:

1. I am vice-president of Clear Lakes Trout Company (“Clear Lakes”), and make this affidavit based upon my own personal knowledge and belief of the facts contained herein.

2. Clear Lakes is entitled to delivery of 175 cfs pursuant to water right nos. 36-02659 and 36-07004. True and accurate copies of the amended partial decrees for these water rights are attached hereto as Exhibit A.

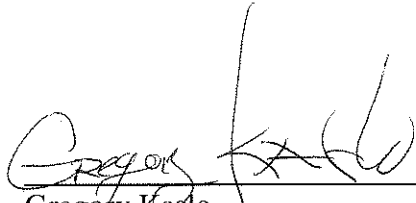
3. A copy of the Snake River Basin Adjudication (SRBA) Court’s *Order of Partial Decree for Connected Sources in Basin 36*, downloaded from the SRBA Court’s web site, is attached hereto as Exhibit B.

4. Currently, Clear Lakes is receiving approximately 125 cfs. Based on our experience over the last four years, we expect that Clear Lakes’ low flows this year will be less than 115 cfs.

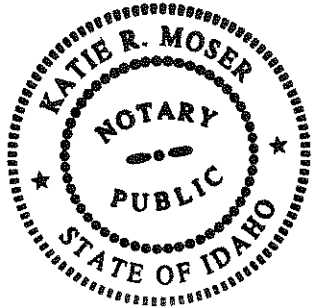
5. Clear Lakes is beneficially using all the water it is currently receiving for fish production at its hatchery. Clear Lakes will beneficially use all additional water available at its headworks, up to 175 cfs, for fish production at its hatchery consistent with its decreed water rights.

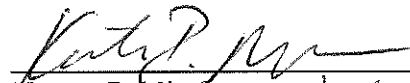
Further your affiant sayeth naught.

Dated this 19<sup>th</sup> day of January, 2007.

  
\_\_\_\_\_  
Gregory Kaslo

SUBSCRIBED AND SWORN to before me this 10<sup>th</sup> day of January, 2007



  
\_\_\_\_\_  
Notary Public for John  
Residing at Boise, Idaho  
My Commission Expires: 2/20/08

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DEPARTMENT OF WATER RESOURCES

2002 APR 22 PM 4:12  
DISTRICT COURT-SRBA  
TWIN FALLS CO. IDAHO  
FILED

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

AMENDED

In Re SRBA )  
Case No. 19576 )  
\_\_\_\_\_ )

PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b) FOR

Water Right 36-02659

NAME AND ADDRESS: CLEAR LAKES TROUT  
1301 VISTA AVENUE  
BOISE, ID 83705

SOURCE: SPRINGS TRIBUTARY: CLEAR LAKES

QUANTITY: 100.00 CFS

PRIORITY DATE: 06/23/1966

POINT OF DIVERSION: T09S R14E S02 SESWNE Within Gooding County  
LOT 05 (SESENE)  
LOT 05 (SWSENE)

THIS WATER RIGHT IS DIVERTED THROUGH A COMBINATION OF TWO ADJACENT SPRING-FED DIVERSION POOLS: (1) A DIVERSION POOL KNOWN AS THE "WESTERN POOL" LOCATED IN THE S 1/2 SESWNE AND THE S 1/2 SWSENE, T09S, R14E, SECTION 2; AND (2) A DIVERSION POOL KNOWN AS THE "EASTERN POOL" LOCATED IN A PORTION OF GOVERNMENT LOT 5 KNOWN AS THE SWSSENE AND SESWSENE, T09S, R14E, SECTION 2. BOTH POOLS DIVERT WATER FROM THE COMMON SOURCE IDENTIFIED IN THE SOURCE ELEMENT OF THIS WATER RIGHT, LISTED ABOVE.

PURPOSE AND PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY  
Fish Propagation 01-01 TO 12-31 100.00 CFS

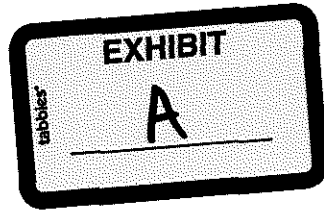
PLACE OF USE: Fish Propagation Within Gooding County  
T09S R14E S02 LOT 05 (SENE) LOT 06 (NESE)  
LOT 08 (NESE)

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:  
  
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

*R. Burdick*  
Roger Burdick  
Presiding Judge of the  
Snake River Basin Adjudication



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

**AMENDED**

In Re SRBA )  
 )  
Case No. 39576 )  
\_\_\_\_\_ )

PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR

Water Right 36-07004

2002 APR 22 PM 4: 12

DISTRICT COURT-SRBA  
TWIN FALLS CO., IDAHO  
FILED

NAME AND ADDRESS: CLEAR LAKES TROUT  
1301 VISTA AVENUE  
BOISE, ID 83705

SOURCE: SPRINGS TRIBUTARY: CLEAR LAKES

QUANTITY: 75.00 CFS

PRIORITY DATE: 07/21/1967

POINT OF DIVERSION: T09S R14E S02 LOT 05 (SWSENE) Within Gooding County  
LOT 05 (SESENE)

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DEPARTMENT OF  
WATER RESOURCES

THIS WATER RIGHT IS DIVERTED THROUGH A SPRING-FED DIVERSION POOL KNOWN AS THE "EASTERN POOL," AND THROUGH PIPES WHICH DIVERT WATER FROM SPRINGS THAT ARE TRIBUTARY TO THE EASTERN POOL, ALL OF WHICH ARE LOCATED IN A PORTION OF GOVERNMENT LOT 5 KNOWN AS THE SWSSENE AND SESWSENE, T09S, R14E, SECTION 2. A PORTION OF WATER RIGHT NO. 36-2659 IS ALSO DIVERTED THROUGH THE EASTERN POOL. ALL WATER DIVERTED IS FROM THE SOURCE IDENTIFIED IN THE SOURCE ELEMENT OF THIS WATER RIGHT, LISTED ABOVE.

PURPOSE AND PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY  
Fish Propagation 01-01 TO 12-31 75.00 CFS

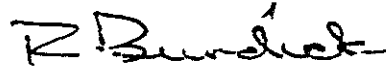
PLACE OF USE: Fish Propagation Within Gooding County  
T09S R14E S02 LOT 05 (SENE) LOT 06 (NESE)  
LOT 08 (NESE)

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



Roger Burdick  
Presiding Judge of the  
Snake River Basin Adjudication

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DEPARTMENT OF  
WATER RESOURCES

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

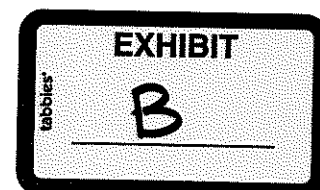
In Re SRBA )  
Case No. 39576 ) ORDER OF PARTIAL DECREE FOR  
\_\_\_\_\_ ) CONNECTED SOURCES IN BASIN 36  
 ) (Conjunctive Management General Provision)

On August 2, 1999, IDWR filed a *Supplemental Director's Report, Reporting Area 3, IDWR Basin 36, Regarding Revision of Period of Use (For Irrigation Water Uses) and Conjunctive Management General Provisions*, in which the Director recommended no water rights be administered separately in Basin 36. All objections to the conjunctive management general provision were designated as Basin-Wide Issue 5 (subcase 91-00005). On February 27, 2002, this Court entered a ***Memorandum Decision and Order of Partial Decree*** in Basin-Wide Issue 5, which set forth the form of the conjunctive management general provision to be issued in each basin in the SRBA.

Therefore, IT IS ORDERED that the ***Conjunctive Management General Provision*** for Basin 36 is hereby **decreed** as set forth in the attached ***Partial Decree for Connected Sources in Basin 36 (Conjunctive Management General Provision)***.

Dated February 27, 2002.

\_\_\_\_\_  
ROGER BURDICK  
Presiding Judge  
Snake River Basin Adjudication



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DEPARTMENT OF  
WATER RESOURCES

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA )  
Case No. 39576 ) PARTIAL DECREE FOR CONNECTED  
\_\_\_\_\_ ) SOURCES IN BASIN 36  
 ) (Conjunctive Management General Provision)

The following water rights from the following sources of water in Basin 36 shall be administered separately from all other water rights in Basin 36 in accordance with the prior appropriation doctrine as established by Idaho law:

<u>Water Right No.</u>	<u>Source</u>
NONE	NONE

The following water rights from the following sources of water in Basin 36 shall be administered separately from all other water rights in the Snake River Basin in accordance with the prior appropriate doctrine as established by Idaho law:

<u>Water Right No.</u>	<u>Source</u>
NONE	NONE

Except as otherwise specified above, all other water rights within Basin 36 will be administered as connected sources of water in the Snake River Basin in accordance with the prior appropriation doctrine as established by Idaho law.

**RULE 54(b) CERTIFICATE**

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does

hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Dated February 27, 2002.

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ROGER BURDICK  
Presiding Judge  
Snake River Basin Adjudication