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Attorneys for North Snake and Magic Valley Ground Water Districts

**BEFORE THE DEPARTMENT OF WATER RESOURCES  
 OF THE STATE OF IDAHO**

IN THE MATTER OF DISTRIBUTION OF )  
 WATER TO WATER RIGHT NOS. 36-02356A, )  
 36-07210 and 36-07427 (Blue Lakes) )

And )

IN THE MATTER OF DISTRIBUTION OF )  
 WATER TO WATER RIGHTS NOS. 36-04013A, )  
 36-04013B and 36-07148 (Snake River Farm); )  
 and to Water Rights Nos. 36-07083 and 36-07568 )  
 (Crystal Springs Farms) )

**NORTH SNAKE GROUND WATER  
 DISTRICT AND MAGIC VALLEY  
 GROUND WATER DISTRICT  
 JOINT REPLACEMENT WATER  
 PLAN FOR 2007**

COMES NOW North Snake Ground Water District (NSGWD) and Magic Valley Ground Water District (MVGWD) (collectively referred to herein as Ground Water Districts), through counsel, and on behalf of their ground water district members and those ground water users who are non-member participants in the Ground Water Districts' mitigation activities, and hereby provide this Joint Replacement Water Plan for 2007 (2007 Replacement Water Plan) for the Devil's Washbowl to Buhl and Buhl to Thousand Springs subreaches. This 2007 Replacement Water Plan

is provided in response to the Idaho Department of Water Resources (IDWR or Department) Director's May 19, 2005, Order in the Matter of Distribution of Water to Water Rights Nos. 36-02356A, 36-07210 and 36-07427 (Blue Lakes) and the Director's July 8, 2005, Order in the Matter of Distribution of Water to Water Rights Nos. 36-04013A, 36-04013B, and 36-07148 (Snake River Farm); and to Water Rights Nos. 36-07083 and 36-07568 (Crystal Springs Farm). These orders are referred to herein collectively as the Director's Orders.

## I. RESERVATION OF DEFENSES/REQUEST FOR HEARING

By submitting this 2007 Replacement Water Plan, the Ground Water Districts do not waive and expressly reserve any and all objections and defenses they may have to the Director's Orders. Furthermore, the Ground Water Districts do not admit that any of its members or any ground water users are causing any material injury to the surface water users or spring users or affecting the surface or spring water supplies as set forth in the Director's Orders. The Ground Water Districts reserve the right to challenge any definitions, application and underlying data and conclusions in the Director's Orders. Finally, the Ground Water Districts reiterate their request for a hearing on the Director's Orders.

## II. INTRODUCTION

The Director's Orders require that the Ground Water Districts provide mitigation in lieu of involuntary curtailment of ground water rights located in Water District 130. The Director approved IGWA's *Substitute Curtailment Plan (Blue Lakes Delivery Call<sup>1</sup>)* on July 6, 2005 for the 2005 irrigation season (2005 Replacement Water Plan). The next year, pursuant to the Director's Orders, the Ground Water Districts submitted *North Snake Ground Water District's and Magic*

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<sup>1</sup> "IGWA's Substitute Curtailment Plan" is what the Department called three separate replacement water plans or modifications thereof submitted by IGWA in 2005.

*Valley Ground Water District's Joint Plan for Providing Replacement Water for 2006*, (2006 Replacement Water Plan). However, because of litigation and appeal relating to the constitutionality of the Conjunctive Management Rules, in *American Falls Reservoir Dist. No. 2 v. Idaho Dept. of Water Resources*, the Director did not issue any order approving or disapproving the 2006 Replacement Water Plan, although the Department did request some follow-up information from the Ground Water Districts via a letter dated June 9, 2006. The information requested was provided by the Ground Water Districts following that letter. Although no order or direction was provided to the Ground Water Districts from the Director last year, the Ground Water Districts nevertheless continued to implement portions of their proposed 2006 Replacement Water Plan.<sup>2</sup> And, recently, the Ground Water Districts provided 2006 Delivery and Diversion Data regarding their 2006 Replacement Water Plan efforts to Ms. Cindy Yenter, watermaster for Water District 130, in response to her letter dated March 15, 2007.

The Director's Orders provided for an accelerated schedule of curtailment or mitigation over a five year period. The Director's Orders are in the third year of enforcement. The Ground Water Districts submit this 2007 Replacement Water Plan for approval. If not approved, the Ground Water Districts reserve the right to modify or withdraw this 2007 Replacement Water Plan.

### **III. 2007 REPLACEMENT WATER PLAN ACTIVITIES**

This 2007 Replacement Water Plan and the supporting data and documents previously filed in support of the 2005 and 2006 Replacement Water Plans demonstrate how the Ground Water Districts located within Water District 130 will respond to the Director's Orders and increase

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<sup>2</sup> The entire proposal in the Ground Water Districts' 2006 Replacement Water Plan, specifically, late-season recharge, was not implemented because the Department could not guarantee any mitigation credit for that effort in light of the pending appeal to the Supreme Court. Therefore, the Ground Water Districts could not afford to pursue that program last fall. This also resulted in no early-season recharge program this year.

aggregate aquifer discharge in the Devil's Washbowl to Buhl and the Buhl to Thousand Springs subreaches.

This 2007 Replacement Water Plan addresses alleged material injury to the spring-dependent water supplies in the subreaches and provides for the total delivery of 45,000 acre-feet.

The increase to the subreaches will be accomplished through three activities: 1) the delivery of 35,000 acre-feet to North Side Canal Company's point of diversion at Milner Dam of surface water to approximately 9,300 acres that have been converted from ground water irrigation to surface water irrigation within the North Snake Ground Water District (conversion deliveries), 2) delivery of 10,000 acre-feet of surface water for late-season recharge at Wilson Lake, and 3) by the drying up of acres formerly irrigated by ground water under the Conservation Reserve Enhancement Program (CREP). The delivery of water to the conversion acres and to Wilson Lake for late-season recharge will be via the North Side Canal Company delivery system pursuant to an agreement made by the Idaho Ground Water Appropriator's Inc., (IGWA) on behalf of its members which include the Ground Water Districts.

#### **1. Conversion Deliveries**

As of the end of 2006, approximately 9,300 acres within the NSGWD have been converted from ground water irrigation to surface water irrigation. Surface water deliveries to these lands in 2006 through the efforts of the Ground Water Districts totaled 34,615 acre-feet. The 2006 deliveries were made through the use of the North Side Canal Company delivery system. Under the agreement with North Side Canal Company, a conveyance charge of 30% was added to the delivery amounts. In 2006, this conveyance charge totaled 10,385 acre-feet.

Projected deliveries for 2007 are 35,000 acre-feet at the North Side Canal Company's point of diversion at Milner Dam, with conveyance charges of 10,000 acre-feet. For purposes of the

Department's analysis, the pattern of deliveries in 2007 should be assumed to be the same as the actual deliveries in 2006. All water delivered to the conversion acres should also be assumed to offset consumption of ground water, with any excess water percolating to the aquifer at the location of the converted acres. In addition, North Side Canal Company conveyance charges should be assumed to percolate to the aquifer beneath the pertinent portions of the main canal and laterals used to make the conversion deliveries.

IGWA on behalf of its ground water district members has or will secure 35,000 acre-feet of water for delivery to the North Side Canal Company's point of diversion at Milner Dam for delivery to the conversion acres in 2007. The enclosed compact disc contains a summary of 2006 conversion deliveries.

## **2. Late-season recharge at Wilson Lake**

The Water Districts will deliver to the North Side Canal Company point of diversion at Milner Dam, 10,000 acre-feet after North Side Canal Company stops irrigation deliveries. The 10,000 acre-feet of water will be conveyed to Wilson Lake for recharge purposes. Delivery of this surface water to Wilson Lake will result in recharge to the aquifer in two ways: 1) from seepage or conveyance loss through the canal itself, and 2) seepage from the lake itself. Attached hereto is a copy of a CD that was submitted in support of the 2006 Replacement Water Plan which can be used as part of the Department's analysis. IGWA on behalf of its ground water district members has or will secure 10,000 acre-feet of water for delivery to the North Side Canal Company's point of diversion at Milner Dam for delivery to Wilson Lake in 2007.

## **3. Conservation Reserve Enhancement Program**

The enrollment process for the Conservation Reserve Enhancement Program (CREP) is ongoing. IGWA is continuing to fund the \$30 per acre incentive bonus payments under the CREP

program. As of March 23, 2007, 13,701 CREP enrolled acres have been submitted to IGWA with \$553,838 paid or in the process of payment for incentive bonus payments. A portion of the CREP acreage relates to land within the boundaries of the Ground Water Districts.

For purposes of analysis, these contracted and approved acres should be assumed to no longer be irrigated with ground water (i.e., dried up) starting in 2007.

#### **4. Ground Water Districts' Accounting and Monitoring.**

The Ground Water Districts will continue to maintain documentation and accounting of its Replacement Water Plan activities and will monitor its activities in cooperation with the Department and the Water District 130 watermaster to verify and monitor compliance with the 2007 Replacement Water Plan.

### **IV. 2007 REPLACEMENT WATER PLAN EFFECTS**

The above 2007 Replacement Water Plan Activities are expected to have positive effects on reach gains in the Devil's Washbowl to Buhl and Buhl to Thousand Springs subreaches. To aid in the Department's analysis and approval process, the Ground Water Districts have enclosed copies of the data that was submitted in support of the 2006 Replacement Water Plan and the 2006 actual delivery information for the North Snake Ground Water District conversion acres previously submitted to Cindy Yenter.

### **V. CONCLUSION**

The Ground Water Districts request that the 2007 Replacement Water Plan be approved and that the Director make a determination that the 2007 Replacement Water Plan alleviates any need

for additional mitigation or curtailment. The Ground Water Districts reserve the right to modify or withdraw the 2007 Replacement Water Plan if not approved by the Director.

DATED this \_\_\_\_\_ day of April, 2007.

RACINE OLSON NYE BUDGE & BAILEY  
CHARTERED

By: \_\_\_\_\_

Randall C. Budge  
Attorneys for  
North Snake and Magic Valley Ground  
Water Districts

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, 2007, I served a true and complete copy of the foregoing document by delivering the same to each of the following individuals by the method indicated below, addressed as follows:

David R. Tuthill, Director	<input type="checkbox"/>	U.S. Mail
Idaho Department of Water Resources	<input type="checkbox"/>	Facsimile
P.O. Box 83720	<input type="checkbox"/>	Overnight Mail
Boise, Idaho 83720-0098	<input type="checkbox"/>	Hand Delivery
Gregory Kaslo	<input type="checkbox"/>	U.S. Mail
Blue Lakes Trout Farm	<input type="checkbox"/>	Facsimile
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P.O. Box 2773	<input type="checkbox"/>	Overnight Mail
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Buhl, ID 83316-0712	<input type="checkbox"/>	Hand Delivery
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