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Attorneys for Respondents

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF GOODING**

CLEAR SPRINGS FOODS, INC., )  
)  
Petitioner, )  
vs. )  
)  
BLUE LAKES TROUT FARM, INC., )  
)  
Cross-Petitioner, )  
)  
vs. )  
)  
IDAHO GROUND WATER APPROPRIATORS, )  
INC., NORTH SNAKE GROUND WATER )  
DISTRICT, and MAGIC VALLEY GROUND )  
WATER DISTRICT, )  
)  
Cross-Petitioners, )  
)  
vs. )  
)  
)

Case No. No. 2008-444

**AFFIDAVIT OF GARY SPACKMAN,  
INTERIM DIRECTOR OF THE  
IDAHO DEPARTMENT OF WATER  
RESOURCES**

**GARY SPACKMAN**, in his capacity as Interim )  
Director of the Idaho Department of Water Resources,) )  
and **THE DEPARTMENT OF WATER** )  
**RESOURCES**, )

Respondents. )

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**IN THE MATTER OF DISTRIBUTION OF** )  
**WATER TO WATER RIGHTS NOS. 36-0413A,** )  
**36-04013B, and 36-07148.** )

**(Clear Springs Delivery Call)** )

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

**(Blue Lakes Delivery Call)** )

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STATE OF IDAHO )  
 ) ss.  
County of Ada )

GARY SPACKMAN, being first duly sworn upon oath, deposes and says:

1. I make the following statements based on personal knowledge.
2. I am the Interim Director of the Idaho Department of Water Resources

("Department"), an executive agency of the State of Idaho. The statements in this affidavit are made in my capacity as Interim Director of the Department.

3. At a status conference held on June 14, 2010, the Department committed to have its order on remand in this matter issued by July 5, 2010.

4. The Department has not met this deadline.

5. While the Department has not met its goal of issuing the order on remand by July 5, 2010, it has not been for lack of attention to this issue.

6. The Court's remand directing me to consider seasonal variability is and has been the highest priority for me. I assigned four Department employees to work with me on this issue. In addition to reviewing this Court's orders, the previous orders issued by the Department in this matter, and the record from the multiple day hearing before the Department, assigned staff and I have been busy reviewing and analyzing the data in this matter and evaluating seasonal variability for the two different spring sources using numerous statistical and analytical tools. The assigned group briefs me multiple times a week about the analysis of the data and the statistical methods employed. Collectively, we have refined our models at both spring sites to better simulate past unrecorded variations in spring flow and water usage.

7. This has been a more complex undertaking than I first thought it would be. The complexity is created by a sparse historical record of spring flow and diversion data. The analysis and determination requires additional time.

8. I do not take lightly my responsibility to this Court. Compliance with this Court's order on remand has been and remains my first priority.

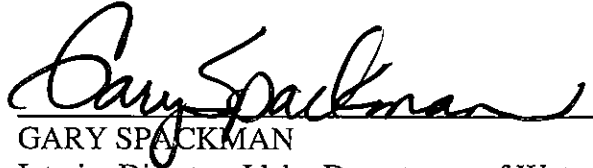
9. However, given the gravity of the determination, which could result in the curtailment of tens of thousands of additional irrigated acres, I believe I have an obligation to ensure that my review is not conducted hastily, but thoroughly evaluates the data and the statistical and analytical approaches to this issue.

10. As such, I request that this Court provide the Department additional time to issue its order on remand. I anticipate that the order on remand will be issued before this Court's next hearing on July 19, 2010.

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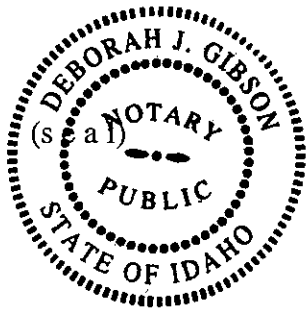
Further your Affiant sayeth naught.

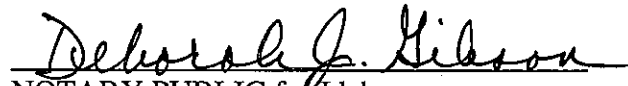
DATED this 6<sup>th</sup> day of July, 2010.



GARY SPACKMAN  
Interim Director, Idaho Department of Water  
Resources

SUBSCRIBED AND SWORN TO BEFORE ME this 6<sup>th</sup> day of July, 2010.



  
NOTARY PUBLIC for Idaho  
Residing at: Harma, Idaho  
My Commission Expires: 8/10/2015

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am a duly licensed attorney in the state of Idaho, employed by the Attorney General of the state of Idaho and residing in Boise, Idaho; and that I served a true and correct copy of the following described document on the persons listed below by mailing in the United States mail, first class, with the correct postage affixed thereto on this 6<sup>th</sup> day of July, 2010.

Document Served: **AFFIDAVIT OF GARY SPACKMAN, INTERIM DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES**

<p><i>Original to:</i> Deputy Clerk Gooding County District Court 624 Main St. P.O. Box 27 Gooding, ID 83330 Fax: (208) 934-4408</p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Email</p>
<p><i>Courtesy Copy to Judge's Chambers:</i> Honorable John Melanson Idaho Court of Appeals P.O. Box 83720 Boise, ID 83720-0101 <a href="mailto:sslover@idcourts.net">sslover@idcourts.net</a> <a href="mailto:mshank@idcourts.net">mshank@idcourts.net</a></p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Email</p>
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<p>J. Justin May  May, Sudweeks &amp; Browning LLP  1419 W. Washington  Boise, ID 83702  <a href="mailto:jmay@may-law.com">jmay@may-law.com</a></p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid  <input type="checkbox"/> Hand Delivery  <input type="checkbox"/> Overnight Mail  <input type="checkbox"/> Facsimile  <input checked="" type="checkbox"/> Email</p>

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