

DISTRICT COURT
GOODING CO. IDAHO
FILED

2010 JUL 23 AM 9:12

GOODING COUNTY CLERK

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)
APPROPRIATIONS, INC., NORTH)
SNAKE GROUND WATER DISTRICT)
and MAGIC VALLEY GROUND WATER)
DISTRICT,)

Cross-Petitioner,)

vs.)

IDAHO DAIRYMEN'S ASSOCIATION,)
INC.)

Cross-Petitioner,)

vs.)

RANGEN, INC.)

Case No. 2008-0000444

ORDER DENYING MOTION
FOR STAY

¹ Director David Tuhill retired as Director of Idaho Department of Water Resources effective June 30, 2009. Gary Spackman was appointed as Interim Director. I.R.C.P. 25 (d) and (e).

Cross-Petitioner,)
)
 vs.)
)
)
 GARY SPACKMAN,¹ in his capacity as)
 Director of the Idaho Department of Water)
 Resources, and THE DEPARTMENT OF)
 WATER RESOURCES,)
)
 Respondents.)
)
)
 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 RIGHTS NOS.)
 36-02356A, 36-07210, and 36-07427.)
)
 (Blue Lakes Delivery Call))
)
 _____)

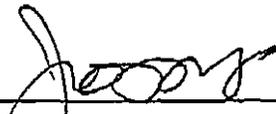
On June 10, 2010, the Idaho Ground Water Appropriators, Inc. ("IGWA") filed a *Motion for Stay* in the above-captioned matter. IGWA requested that this Court stay the proceedings before the Director on remand pursuant to I.R.C.P. 84(m). In addition, pursuant to I.A.R. 13(b), IGWA urged the Court to stay the enforcement of this Court's previous *Orders* remanding the case to the Director so that he may apply the appropriate burdens of proof and evidentiary standards when considering seasonal variations as part of a material injury analysis. Specifically, IGWA asserted that, because significant issues involving the Director's decision on remand are on appeal before the Idaho Supreme Court, allowing the administrative proceedings to continue in this case would result in a procedural quagmire.

On July 19, 2010, the Director issued a *Final Order* on remand. In that *Order*, the Director stated that enforcement of the *Order* would not occur until March, 2011. As

such, some of the concerns raised by IGWA in its *Motion for Stay* are alleviated for the time being. However, having reviewed this Court's previous *Orders*, the Director's *Final Order* on remand, the applicable legal standards, the briefing and oral argument in this matter, and having determined that a stay would unnecessarily delay the administrative process and ultimate appeal (if any) regarding the issues raised in this case, IT IS HEREBY ORDERED, in an exercise of this Court's discretion, that IGWA's *Motion for Stay* is denied.

IT IS SO ORDERED.

Dated July 22, 2010



JOHN M. MELANSON
District Judge, *Pro Tem*.

NOTICE OF ORDERS
I.R.C.P. 77(d)

I, Cynthia R. Eagle-Ervin, Deputy Clerk of Gooding County do hereby certify that on the 23rd day of July 2010, pursuant to Rule 77(d) I.R.C.P., I have filed this day and caused to be delivered a true and correct copy of the within and foregoing instrument: Order Denying Motion for Stay to the parties listed below via US Mail postage prepaid:

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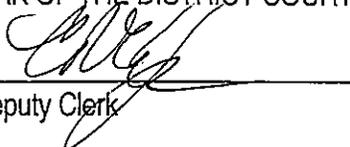
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CLERK OF THE DISTRICT COURT

BY


Deputy Clerk

Notice of Orders
Certificate of Mailing
IRCP 77(d)