

Randall C. Budge (ISB #1949)  
Candice M. McHugh (ISB #5908)  
Thomas J. Budge (ISB #7465)  
RACINE OLSON NYE BUDGE &  
BAILEY, CHARTERED  
201 East Center Street  
Post Office Box 1391  
Pocatello, ID 83201  
(208) 232-6101 - Telephone  
(208) 232-6109 - Facsimile

*Attorneys for IGWA, North Snake Ground Water District, and Magic Valley Ground Water District*

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

NORTH SNAKE GROUND WATER  
DISTRICT, and MAGIC VALLEY GROUND  
WATER DISTRICT,

Petitioners,

vs.

GARY SPACKMAN, in his capacity as  
Interim Director of the Idaho Department of  
Water Resources; and the IDAHO  
DEPARTMENT OF WATER RESOURCES,  
Respondents.

vs.

CLEAR SPRINGS FOODS, INC.

IN THE MATTER OF DISTRIBUTION OF  
WATER TO WATER RIGHT NOS. 36-  
04103A, 36-04013B AND 36-7148 (Snake  
River Farm)

(Water District Nos. 130 and 140)

Case No. CV 2009-431

**GROUND WATER DISTRICTS'  
RESPONSE TO CLEAR SPRINGS'  
PETITION FOR CLARIFICATION**

COME NOW, PETITIONERS NORTH SNAKE GROUND WATER DISTRICT, and  
MAGIC VALLEY GROUND WATER DISTRICT ("Petitioners"), acting for and on behalf of  
their members, through counsel, and hereby respond to *Clear Springs Foods, Inc.'s Petition for  
Ground Water Districts' Response to Clear Springs Foods, Inc.'s Petition  
For Clarification* – Page 1

*Clarification of the Court's Order Conditionally Granting Motion for Stay Upon Compliance with Proposed Alternative* dated August 31, 2009 ("Petition for Clarification").

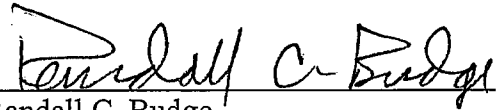
Petitioners respectfully submit that the Court's Order is clear, unambiguous, speaks for itself and needs no clarification.

The Court will recall that during the oral arguments presented to the Court on the Petitioners' *Motion for Stay*, Clear Springs' counsel argued to the Court that the Idaho Department of Water Resource's ("Department") July 2009 Curtailment Orders together with the Petitioners' *Petition for Judicial Review* and *Motion for Stay* were primarily matters of dispute between Petitioners and the Department, which Clear Springs had little interest in. Now that the Stay Order has been issued, Clear Springs' *Petition for Clarification* in effect asks the Court to step into the shoes of the Director and the Department and act as the administrator and manager of the water rights, mitigation, and recharge plans. The Department alone is vested with this authority and discretion. Clear Springs has made no argument, nor any factual showing that the Department is unable or unwilling in this instance to perform its administrative duties as it has amply demonstrated its ability to do so in the past.

Furthermore, approval of Petitioners' Third Mitigation Plan (Over-theRim) remains pending before the Department, has recently been scheduled for hearing before Hearing Officer Justice Gerald Schroeder, commencing December 7, 2009, with discovery now open and prefiled testimony deadlines set. Based on the foregoing Clear Springs' *Petition for Clarification* should be denied without further notice or hearing.

RESPECTFULLY SUBMITTED this <sup>2<sup>nd</sup></sup> 1<sup>st</sup> day of September, 2009.

RACINE, OLSON, NYE, BUDGE  
& BAILEY, CHARTERED

A handwritten signature in cursive script that reads "Randall C. Budge". The signature is written in black ink and is positioned above a horizontal line.

Randall C. Budge  
Candice M. McHugh  
Thomas J. Budge

**CERTIFICATE OF MAILING**

I hereby certify that on this <sup>2nd</sup> 1st day of September, 2009, the above and foregoing was sent to the following by U.S. Mail, proper postage prepaid and by e-mail for those with listed e-mail addresses:

Deputy Clerk  
Gooding County District Court  
624 Main St.  
PO Box 417  
Gooding, ID 83330

- U.S. Mail, postage prepaid
- Facsimile
- E-Mail
- Hand Delivery

Gary Spackman, Interim Director  
Idaho Department of Water Resources  
322 East Front Street  
P.O. Box 83720  
Boise, ID 83720-009  
[victoria.wigle@idwr.idaho.gov](mailto:victoria.wigle@idwr.idaho.gov)  
[phil.rassier@idwr.idaho.gov](mailto:phil.rassier@idwr.idaho.gov)  
[chris.bromley@idwr.idaho.gov](mailto:chris.bromley@idwr.idaho.gov)

- U.S. Mail, postage prepaid
- Facsimile
- E-Mail
- Hand Delivery

John K. Simpson  
Travis L. Thompson  
Paul L. Arrington  
BARKER ROSHOLT & SIMPSON LLP  
1010 W. Jefferson, Suite 102  
P.O. Box 2139  
Boise, Idaho 83701  
[jks@idahowaters.com](mailto:jks@idahowaters.com)  
[tlt@idahowaters.com](mailto:tlt@idahowaters.com)  
[pla@idahowaters.com](mailto:pla@idahowaters.com)

- U.S. Mail, postage prepaid
- Facsimile
- E-Mail
- Hand Delivery

Michael C. Creamer,  
GIVENS PURSLEY LLP  
601 W. Bannock St.  
Post Office Box 2720  
Boise, Idaho 8370 I-2720  
[mcc@givenspursley.com](mailto:mcc@givenspursley.com)

- U.S. Mail, postage prepaid
- Facsimile
- E-Mail
- Hand Delivery

Daniel V. Steenson  
RINGERT CLARK  
PO Box 2773  
Boise, Idaho 83701-2773  
[dan@ringertlaw.com](mailto:dan@ringertlaw.com)

- U.S. Mail, postage prepaid
- Facsimile
- E-Mail
- Hand Delivery

