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DEPARTMENT OF WATER RESOURCES

DISTRICT COURT  
GOODING CO. IDAHO  
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GOODING COUNTY CLERK

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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF 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 )  
DEPARTMENT OF WATER )  
RESOURCES, )

Respondents. )

vs. )

CLEAR SPRINGS FOODS, INC. )

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

(Clear Springs Delivery Call) )  
\_\_\_\_\_ )

Case No. 2009-0000431

ORDER ON CONDITIONAL  
STAY OF AUGUST 7, 2009,  
AMENDED ORDER OF  
CURTAILMENT

ORDER AND NOTICE OF  
HEARING SETTING STATUS  
CONFERENCE

I.

PROCEDURAL BACKGROUND

This matter came before the Court pursuant to a status conference held January 28, 2010, on a *Motion for Clarification* filed on behalf of Clear Springs Foods, Inc. The

ORDER ON CONDITIONAL STAY OF AUGUST 7, 2009, AMENDED ORDER OF CURTAILMENT; ORDER AND NOTICE OF HEARING SETTING STATUS CONFERENCE

*Motion* was filed in response to an *Order Conditionally Granting Motion for Stay upon Compliance with Proposed Alternatives* entered by the Hon. John M. Melanson on August 24, 2009. Following hearing on the *Motion for Clarification*, Judge Melanson ordered the Ground Water Districts to file a report verifying the number of conversion acres confirmed under contract for the forthcoming 2010 irrigation season and set the matter for status conference. Idaho Department of Water Resources (IDWR) was ordered to file a report calculating projected shortfall resulting to Clear Springs following the completion of the 2009 mitigation efforts performed by the Ground Water Districts. Effective January 1, 2010, the case was assigned to the undersigned Judge Eric J. Wildman.

## II.

### JANUARY 28, 2010, STATUS CONFERENCE

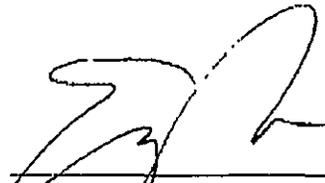
The following were filed prior to and considered in conjunction with the status conference: *Ground Water Users' Report to Court on Conversion Acres*; the *Second Affidavit of Phillip J. Rassier and Clear Springs Foods, Inc.'s Response to IDWR's Mitigation Audit/Ground water Districts' Conversion Acre Report*, together with *Second Affidavit of Travis L. Thompson*. At the status conference, counsel for Clear Springs represented that Clear Springs did not object to the continuation of the stay of enforcement of the Interim Director's August 7, 2009, *Amended Curtailment Order* provided the Ground Water Districts can provide verification of enforceable contracts for over 9000 acres conversion acres in advance of the 2010 irrigation season. Further that Clear Springs would work with the Ground Water Districts towards resolving the issue of shortfall and injury resulting to Clear Springs in 2009, following the filing of a revised injury calculation by IDWR. Counsel for the Ground Water Districts represented that the Ground Water Districts are actively engaged in securing contracts for the conversion acres and should have verification no later than March 1, 2010. Counsel for IDWR represented that a revised shortfall calculation could be prepared and filed no later than February 18, 2010.

**III.  
ORDER**

Based upon the foregoing, THE FOLLOWING ARE HEREBY ORDERED:

- 1) IDWR shall prepare file and serve a revised shortfall and injury analysis **no later than February 18, 2010**. Analysis should explain reasoning for crediting or excluding components of mitigation plan.
- 2) The Ground Water Districts shall provide verification of contracts for conversion acres in excess of 9000 acres **no later than March 1, 2010**.
- 3) **Notice of Hearing:** Notice is hereby given that a status conference is set in this matter to be heard Friday, March 5, 2010 at 1:30 p.m. at the Gooding County Courthouse, 624 Main Street, Gooding, Idaho. **Telephone participation will be available by dialing 1-918-583-3445 and entering 406128 when prompted.** Parties should be prepared to discuss continuation of conditional stay order in light of compliance or non-compliance with mitigation.

Dated: February 4, 2010




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ERIC J. WILDMAN  
District Judge

NOTICE OF ORDERS – CV 2009-431  
I.R.C.P. 77(d)

I, Cynthia R. Eagle-Ervin, Deputy Clerk of Gooding County do hereby certify that on the 4<sup>th</sup> day of February, 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 on Conditional Stay/Order and Notice of Hearing to the parties listed below via US Mail postage prepaid:

✓ Philip Rassier  
Chris Bromley  
Idaho Department of Water Resources  
P.O. Box 83720  
Boise, ID 83720-0098

Gary Spackman, Interim Director  
Department of Water Resources  
P.O. Box 83720  
Boise, ID 83720

Randy Budge  
Candace McHugh  
RACINE OLSON  
P.O. Box 1391  
Pocatello, ID 83204-1391

Michael Creamer  
GIVENS PURSLEY  
P.O. Box 2720  
Boise, ID 83701-2720

John Simpson  
Travis Thompson  
BARKER ROSHOLT & SIMPSON  
P.O. Box 485  
Twin Falls, ID 83303-0485

Daniel Steenson  
RINGERT CLARK  
P.O. Box 2773  
Boise, ID 83701-2773

CLERK OF THE DISTRICT COURT

BY 

Deputy Clerk

Notice of Orders  
Certificate of Mailing  
IRCP 77(d)