

Docket No. 37308-2010

---

**IN THE SUPREME COURT OF THE STATE OF IDAHO**

---

IN THE MATTER OF DISTRIBUTION OF WATER TO WATER RIGHT  
NOS. 36-04013A, 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)

---

CLEAR SPRINGS FOODS, INC.,  
Petitioner/Respondent/Cross-Appellant,

v.

BLUE LAKES TROUT FARM, INC.,  
Cross-Petitioner/Respondent/Cross-Appellant,

v.

IDAHO GROUND WATER APPROPRIATORS, INC., NORTH SNAKE GROUND  
WATER DISTRICT, and MAGIC VALLEY GROUND WATER DISTRICT,  
Cross-Petitioners/Appellants/Cross-Respondents,

v.

GARY SPACKMAN., in his capacity as Director of the Idaho Department of Water Resources;  
and the IDAHO DEPARTMENT OF WATER RESOURCES,  
Respondents/Respondents on Appeal/Cross-Respondents,

v.

IDAHO DAIRYMEN'S ASSOCIATION, INC., and RANGEN, INC.,  
Intervenors/Respondents/Cross-Respondents.

---

**GROUNDWATER USERS' PETITION FOR REHEARING**

---

On Appeal from the District Court of the Fifth Judicial District  
of the State of Idaho, in and for the County of Gooding.

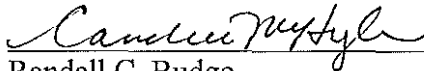
Honorable John M. Melanson, District Judge, Presiding.

COPY

Idaho Groundwater Appropriator's, Inc., North Snake Ground Water District, and Magic Valley Ground Water District respectfully petition the Court pursuant to Idaho Appellate Rule 42 for rehearing of its *Opinion* entered in this case on March 17, 2011. The Groundwater Users ask the Court to reconsider certain interpretations of the Ground Water Act, its conclusion that there is substantial evidence in the record to support the Director's finding of material injury, its conclusion that the futile call doctrine was not raised before the district court, and such other issues as may be identified in the supporting brief to be filed by the Groundwater Users within fourteen days hereof pursuant to Idaho Appellate Rule 42.

RESPECTFULLY SUBMITTED this 7<sup>th</sup> day of April, 2011.

RACINE OLSON NYE BUDGE &  
BAILEY, CHARTERED

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

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of April, 2011, the above document was served upon the following persons in the manner(s) indicated:

### Document Served: Groundwater Users' Petition for Rehearing

Idaho Supreme Court P.O. Box 87320 Boise, Idaho 83720-0101 <a href="mailto:sctbriefs@idcourts.net">sctbriefs@idcourts.net</a>	<input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input checked="" type="checkbox"/> Hand Delivery <input type="checkbox"/> E-Mail
Daniel V. Steenson Charles L. Honsinger S. Bryce Farris RINGERT LAW, CHARTERED P.O. Box 2773 Boise, Idaho 83701-2773 <a href="mailto:dvs@ringertclark.com">dvs@ringertclark.com</a> <a href="mailto:clh@ringertclark.com">clh@ringertclark.com</a> <a href="mailto:sbf@ringertclark.com">sbf@ringertclark.com</a>	<input checked="" type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-Mail
John K. Simpson Travis L. Thompson Paul L. Arrington BARKER ROSHOLT & SIMPSON, LLP P.O. Box 2139 Boise, Idaho 83701-2139 <a href="mailto:jks@idahowaters.com">jks@idahowaters.com</a> <a href="mailto:flt@idahowaters.com">flt@idahowaters.com</a> <a href="mailto:pla@idahowaters.com">pla@idahowaters.com</a>	<input checked="" type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-Mail
Garrick Baxter Chris Bromley IDAHO DEPARTMENT OF WATER RESOURCES P.O. Box 83720 Boise, Idaho 83720-0098 <a href="mailto:garrisck.baxter@idwr.idaho.gov">garrisck.baxter@idwr.idaho.gov</a> <a href="mailto:chris.bromley@idwr.idaho.gov">chris.bromley@idwr.idaho.gov</a>	<input checked="" type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-Mail

<p>Jeff Fereday  Michael C. Creamer  Jeffrey C. Fereday  GIVENS PURSLEY, LLP  P.O. Box 2720  Boise, Idaho 83701-2720  <a href="mailto:jcf@givenspursley.com">jcf@givenspursley.com</a>  <a href="mailto:mcc@givenspursley.com">mcc@givenspursley.com</a></p>	<p><input checked="" type="checkbox"/> U.S. Mail/Postage Prepaid  <input type="checkbox"/> Facsimile  <input type="checkbox"/> Overnight Mail  <input type="checkbox"/> Hand Delivery  <input checked="" type="checkbox"/> E-Mail</p>
<p>Michael S. Gilmore  IDAHO ATTORNEY GENERAL'S OFFICE  P.O. Box 83720  Boise, Idaho 83720-0010  <a href="mailto:mike.gilmore@ag.idaho.gov">mike.gilmore@ag.idaho.gov</a></p>	<p><input checked="" type="checkbox"/> U.S. Mail/Postage Prepaid  <input type="checkbox"/> Facsimile  <input type="checkbox"/> Overnight Mail  <input type="checkbox"/> Hand Delivery  <input checked="" type="checkbox"/> E-Mail</p>
<p>J. Justin May  MAY SUDWEEKS &amp; BROWNING, LLP  P.O. Box 6091  Boise, Idaho 83707  <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"/> Facsimile  <input type="checkbox"/> Overnight Mail  <input type="checkbox"/> Hand Delivery  <input checked="" type="checkbox"/> E-Mail</p>
<p>Robert E. Williams  FREDRICKSEN WILLIAMS MESERVY  P.O. Box 168  153 E. Main Street  Jerome, Idaho 83338-0168  <a href="mailto:rewilliams@cableone.net">rewilliams@cableone.net</a></p>	<p><input checked="" type="checkbox"/> U.S. Mail/Postage Prepaid  <input type="checkbox"/> Facsimile  <input type="checkbox"/> Overnight Mail  <input type="checkbox"/> Hand Delivery  <input checked="" type="checkbox"/> E-mail</p>
<p>Josephine P. Beeman  BEEMAN &amp; ASSOCIATES  409 W. Jefferson  Boise, Idaho 83702  <a href="mailto:jo.beeman@beemanlaw.com">jo.beeman@beemanlaw.com</a></p>	<p><input checked="" type="checkbox"/> U.S. Mail/Postage Prepaid  <input type="checkbox"/> Facsimile  <input type="checkbox"/> Overnight Mail  <input type="checkbox"/> Hand Delivery  <input checked="" type="checkbox"/> E-Mail</p>

  
CANDICE M. MCHUGH