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*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**

IDAHO GROUND WATER
APPROPRIATORS,
INC., 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)

Case No. 2009-0000431

**STIPULATION AND
REQUEST FOR ORDER**

COME NOW PETITIONERS, NORTH SNAKE GROUND WATER DISTRICT, and MAGIC VALLEY GROUND WATER DISTRICT (collectively “Ground Water Districts”) and RESPONDENTS CLEAR SPRINGS FOOD, INC. (hereinafter “Clear Springs”), by and through their respective attorneys of record, and do hereby stipulate and agree as follows:

1. The Ground Water Districts and Clear Springs have entered into negotiations and are collaborating on a cooperative and good-faith basis to explore other practical and feasible alternatives to the Ground Water Districts’ “Over-the-Rim Mitigation Plan” as approved by the Director’s *Final Order Concerning the Over-the-Rim Mitigation Plan*, entered by Interim Director Gary Spackman on March 18, 2011 in the Idaho Department Water Resources, Case No. CM-MP-2009-004. Clear Springs filed a petition for reconsideration of the Director’s order, and no action has been taken pursuant to the parties’ stipulated stay of that proceeding.

2. The parties previously entered into a *2010 Interim Mitigation Agreement* which stayed the Ground Water Districts’ construction of the pipeline project part of the “Over-the-Rim Mitigation Plan” in the Snake River Farms delivery call proceeding and provided for certain ground water conversions to surface water among other things in satisfaction of the Ground Water Districts’ mitigation obligation to Clear Springs during 2010. In compliance with this Agreement, the Ground Water Districts deposited, the amount of \$1,200,000 into the Racine Olson Nye Budge & Bailey Chtd. trust account, to be subject to future use pursuant to the terms of the Agreement. The parties have entered into a *Stipulation and Request Stay providing for a stay of further proceedings under the Final Order Concerning the Over-the-Rim Mitigation Plan.*

The Director granted the parties' motion for stay on April 21, 2011. Copies of the parties' *Stipulation and Request Stay* and the Director's order are attached hereto for the Court's reference.

3. For 2011 the Ground Water Districts agree to continue to supply approximately 24,000 acre-feet of storage water leased from the upper Snake River reservoir system to provide irrigation water to approximately 7,700 conversion acres. In conjunction therewith, the Ground Water Districts are in the process of identifying and compiling information concerning these conversion acres which will be provided to Clear Springs and the Department by June 30, 2011.

4. The parties agree that the foregoing shall be sufficient mitigation, by agreement, to alleviate the need for further curtailment of junior ground water users by the Director of the Department for the year 2011.

5. Upon approval of this *Stipulation and Request for Order* by the Court, the Ground Water Districts' *Petition for Judicial Review* in this case shall be stayed until October 31, 2011, to provide the parties to continued opportunity to reach final resolution.

6. After October 31, 2011, either party may elect to revoke the stay in this proceeding with notice to the Court and the other parties.

7. The parties request that the Court enter the proposed order which is attached hereto without further notice or hearing.

DATED this 3rd day of May, 2011.

RACINE, OLSON, NYE, BUDGE
& BAILEY, CHARTERED


RANDALL C. BUDGE
Attorney for Ground Water Districts

BARKER ROSHOLT & SIMPSON


JOHN SIMPSON
Attorney for Clear Springs Food, Inc.

CERTIFICATE OF MAILING

I hereby certify that on this 4th day of May, 2011, 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
chris.bromley@idwr.idaho.gov
Garrick.baxter@idwr.idaho.gov

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BEFORE THE DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF)
WATER TO WATER RIGHT NOS. 36-4013A,)
36-4013B, and 36-7148 (Snake River Farm))
_____)

Docket No. CM-MP-2009-004

**ORDER GRANTING
REQUEST FOR STAY**

IN THE MATTER OF THE THIRD)
MITIGATION PLAN (OVER-THE-RIM) OF)
THE NORTH SNAKE AND MAGIC VALLEY)
GROUND WATER DISTRICTS TO PROVIDE)
REPLACEMENT WATER FOR CLEAR)
SPRINGS SNAKE RIVER FARM)
)
(Water District Nos. 130 and 140))
_____)

(Over-the-Rim Mitigation Plan)

On April 20, 2011, Clear Springs Food, Inc. (“Clear Springs”) and North Snake Ground Water District and Magic Valley Ground Water District (“Ground Water Districts”) filed with the Idaho Department of Water Resources (“Department”) their *Stipulation and Request for Stay* in the Over-the-Rim matter presently before the Department.

The Department, having reviewed the stipulation, agrees that a stay is appropriate so the parties can work to pursue long-term solutions to stabilize and sustain the aquifer, reduce demands and resolve conflicts.

ORDER

IT IS HEREBY ORDERED that the referenced Over-the-Rim matter is hereby stayed as requested in the April 20, 2011 *Stipulation and Request for Stay*. The stay applies to all further proceedings, including but not limited to, consideration of the *Petition for Reconsideration* filed

by Clear Springs. The stay suspends the parties' obligations under the *Final Order Concerning the Over-the-Rim Mitigation Plan* and the Department will not issue a separate "as-applied" order for the 2011 irrigation season.

After October 31, 2011, either party may elect to revoke the stay and proceed to implement their respective obligations under the *Final Order Concerning the Over-the-Rim Mitigation Plan* and request the Department continue the proceedings upon giving not less than ninety (90) days written notice to the other party and the Department.

Dated this 21st day of April, 2011.

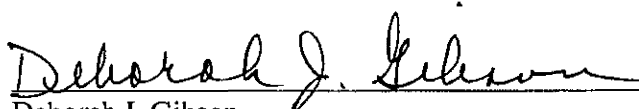

GARY SPACKMAN
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of April, 2011, a true and correct copy of the document described below was served by placing a copy of the same in the United States mail, postage prepaid, and properly addressed to the following:

Document(s) Served: Order Granting Request for Stay

<p>Randy C. Budge Candice M. McHugh RACINE OLSON NYE BUDGE BAILEY P.O. Box 1391 Pocatello, ID 83201 rbc@racinelaw.net cmm@racinelaw.net</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>
<p>John K. Simpson Travis L. Thompson Paul L. Arrington BARKER ROSHOLT & SIMPSON, LLP P.O. Box 2139 Boise, ID 83701-2139 jks@idahowaters.com tlt@idahowaters.com pla@idahowaters.com</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>
<p>Mike Creamer Jeff Fereday GIVENS PURSLEY P.O. Box 2720 Boise, Idaho 83701-2720 mcc@givenspursley.com jefffereday@givenspursley.com</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>


 Deborah J. Gibson
 Administrative Assistant

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BEFORE DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF
WATER TO WATER RIGHT NOS. 36-4013A,
36-4013B, and 36-7148 (Snake River Farm)

IN THE MATTER OF THE THIRD MITIGATION
PLAN (OVER-THE-RIM) OF THE NORTH
SNAKE AND MAGIC VALLEY GROUND
WATER DISTRICTS TO PROVIDE
REPLACEMENT WATER FOR CLEAR
SPRINGS SNAKE RIVER FARM

(Water District Nos. 130 and 140)

Docket No. CM-MP-2009-004

**STIPULATION AND REQUEST
FOR STAY**

(Over-the-Rim Mitigation Plan)

COME NOW Clear Springs Food, Inc. (“Clear Springs”) and North Snake Ground Water District and Magic Valley Ground Water District (herein “Ground Water Districts”), by and through their respective attorneys of record and do hereby stipulate and agree as follows:

1. Clear Springs and the Ground Water Districts have entered into ongoing negotiations and are collaborating on a cooperative and good faith basis to explore other practical and feasible alternatives to the Ground Water Districts’ “Over-the-Rim Mitigation Plan” subject to the proceedings including the *Final Order Concerning the Over-the-Rim Mitigation Plan*

entered on March 18, 2011, by Interim Director Gary Spackman. The parties' objectives are to pursue long-term solutions to stabilize and sustain the aquifer, reduce demands and resolve conflicts.

2. The parties agree to stay the present administrative proceedings on the *Final Order Concerning the Over-the-Rim Mitigation Plan* until further notice as well as the matter in Gooding County, Case NO. 2009-000431.

3. After October 31, 2011, either party may elect to revoke the stay and proceed to implement their respective obligations under the *Final Order Concerning the Over-the-Rim Mitigation Plan* and request the Director to continue the proceedings upon giving not less than ninety (90) days written notice to the other party and the Department.

4. The parties request that the Director enter an Order without further notice or hearing approving this *Stipulation and Request for Stay* and stay any further proceedings, including but not limited to consideration of the *Petition for Reconsideration* filed by Clear Springs, and suspend the parties' obligations under the *Final Order Concerning the Over-the-Rim Mitigation Plan*.

DATED this 8th day of April, 2011.

RACINE, OLSON, NYE, BUDGE & BAILEY,
CHARTERED

By: 

RANDALL C. BUDGE
CANDICE M. McHUGH
Attorneys for Ground Water Districts

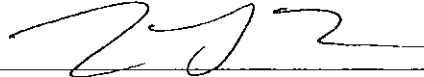
BARKER, ROSHOLT & SIMPSON, LLC

By: 

JOHN K. SIMPSON
Attorneys for Clear Springs Food, Inc.

CERTIFICATE OF MAILING

I hereby certify that on this 8th day of April, 2011, the foregoing, was served as indicated to the following:



Signature of person mailing form

Gary Spackman, Interim
Director
c/o Victoria Wigle
Idaho Dept of Water Resources
PO Box 83720
Boise ID 83720-0098
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