

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**

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 3<sup>rd</sup> 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 4<sup>th</sup> 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](mailto:chris.bromley@idwr.idaho.gov)  
[Garrick.baxter@idwr.idaho.gov](mailto:Garrick.baxter@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 Steenson  
Ringert Clark  
P.O. Box 2773  
Boise, ID 83701-2773

- U.S. Mail, Postage Prepaid
- Facsimile
- E-Mail
- Hand Delivery



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 21<sup>st</sup> day of April, 2011.

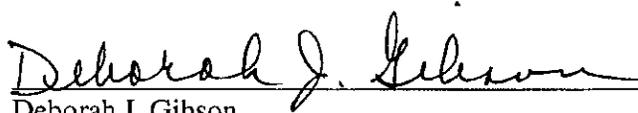
  
GARY SPACKMAN  
Director

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 21<sup>st</sup> 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 <a href="mailto:rbc@racinelaw.net">rbc@racinelaw.net</a> <a href="mailto:cmm@racinelaw.net">cmm@racinelaw.net</a></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 &amp; SIMPSON, LLP P.O. Box 2139 Boise, ID 83701-2139 <a href="mailto:jks@idahowaters.com">jks@idahowaters.com</a> <a href="mailto:tlt@idahowaters.com">tlt@idahowaters.com</a> <a href="mailto:pla@idahowaters.com">pla@idahowaters.com</a></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 <a href="mailto:mcc@givenspursley.com">mcc@givenspursley.com</a> <a href="mailto:jefffereday@givenspursley.com">jefffereday@givenspursley.com</a></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

Randall C. Budge, ISB #1949  
Candice M. McHugh, ISB #5908  
RACINE OLSON NYE  
BUDGE & BAILEY, CHARTERED  
101 S. Capitol Blvd., Suite 208  
Boise, Idaho 83702  
Telephone: (208) 395-0011  
[rcb@racinelaw.net](mailto:rcb@racinelaw.net)  
[cmm@racinelaw.net](mailto:cmm@racinelaw.net)

John K. Simpson, ISB # 4242  
BARKER ROSHOLT & SIMPSON  
1010 W Jefferson, Ste 102  
PO Box 2139  
Boise, ID 83701-2139  
Telephone: (208) 336-0700  
[jks@idahowaters.com](mailto:jks@idahowaters.com)

**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.

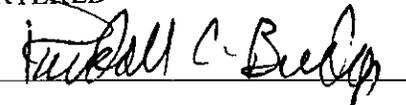
2. The parties agree to stay the present administrative proceedings on the *Final Order Concerning the Over-the-Rim Mitigation Plan* until further notice as well as the matter in Gooding County, Case NO. 2009-000431.

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  
[garrick.baxter@idwr.idaho.gov](mailto:garrick.baxter@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 Simpson  
Barker Rosholt & Simpson  
1010 W Jefferson, Ste 102  
PO Box 2139  
Boise, ID 83701-2139  
[jks@idahowaters.com](mailto:jks@idahowaters.com)

- U.S. Mail, Postage Prepaid
- Facsimile
- E-Mail
- Hand Delivery

Mike Creamer  
Jeff Fereday  
Givens Pursley  
PO Box 2720  
Boise, ID 83701-2720  
[mcc@givenspursley.com](mailto:mcc@givenspursley.com)  
[jeffereday@givenspursley.com](mailto:jeffereday@givenspursley.com)

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