

**BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO**

IN THE MATTER OF THE MITIGATION )  
PLAN OF THE NORTH SNAKE AND )  
MAGIC VALLEY GROUND WATER )  
DISTRICTS IMPLEMENTED BY )  
APPLICATIONS FOR PERMIT NOS. 02- )  
10405 AND 36-16645 AND APPLICATION )  
FOR TRANSFER NO. 74904 TO PROVIDE )  
REPLACEMENT WATER FOR CLEAR )  
SPRINGS SNAKE RIVER FARM )  
(Water District Nos. 130 and 140) )  
\_\_\_\_\_ )

**SCHEDULING ORDER**

The Director of the Department of Water Resources (“Director” or “Department”) conducted a prehearing conference on September 8, 2008 to discuss the issues and a hearing schedule for this matter. The parties agreed to work together to come up with a proposed hearing schedule. On September 17, 2008, the Director held a status conference to review the proposed schedule. The following schedule with prehearing deadlines as proposed by the parties to allow adequate time to prepare for the hearing was approved by the Director:

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|-------------------|--|
| October 24, 2008  | Disclosure of all witnesses and summary of expected testimony;                                     |
| November 21, 2008 | Deadline for pre-filed direct testimony (required for experts; optional for lay witnesses);        |
| January 5, 2009   | Deadline for filing dispositive motions;   |
| January 7, 2009   | Deadline for filing rebuttal testimony (required for experts; optional for lay witnesses);         |
| January 7, 2009   | Discovery cutoff (all written discovery and depositions must be completed 30 days before hearing); |
| January 12, 2009  | Exchange exhibit lists;  |
| January 20, 2009  | Commence hearing on issues related to the pump back alternative; and                               |
| February 3, 2009  | Commence hearing on all remaining issues.  |

Also addressed at the status conference was Clear Springs Foods' *Motion to Authorize Discovery* filed on August 14, 2008, which the Director previously ordered would be addressed following the prehearing conference. The Director authorized the parties to commence discovery effective September 17, 2008, including the use of written interrogatories pursuant to Department Rules of Procedure, IDAPA 37.01.01.520 -528.

In addition, Clear Springs Foods requested availability dates for taking the deposition of specific Department employees having knowledge regarding replacement water plans submitted by the North Snake and Magic Valley Ground Water Districts. The Director noted a reservation regarding past replacement water plans that were the subject of final orders presently under judicial review. The scope of the depositions should be limited to matters not encompassed within the November 28 through December 13, 2007 joint hearing on the Clear Springs Foods and Blue Lakes Trout Farm delivery calls. The Director agreed that available deposition dates for the identified employees could be obtained through the Director's administrative assistant.

A final issue raised at the status conference was whether the Department should republish notice in this matter after the September 5, 2008 filing of the *Amended Mitigation Plan for the North Snake Ground Water District and Magic Valley Ground Water District* ("Amended Plan"). The *Amended Plan* proposes a direct pump back of lake water near the outlet of the Snake River Farm as the applicants' first option to provide water for mitigation, whereas the initial plan filed June 13, 2008 identified this pump back alternative as an option to be pursued if other options did not prove viable. Although the Department's notice published on July 17 and 24, 2008 did not specifically describe the pump back alternative, the notice did inform the reader how to obtain or review a complete copy of the proposed plan which described the pump back alternative. The Director has determined that the publication of further notice in this matter is not required and therefore the hearing schedule will not be delayed to provide for republication of notice.

### ORDER

In consideration of the foregoing, **IT IS HEREBY ORDERED** that the hearing schedule and prehearing deadlines are approved as set out above.

**IT IS FURTHER ORDERED** that the parties are authorized to engage in discovery including the use of written interrogatories in accordance with Department Rules of Procedure, IDAPA 37.01.01.520 -528.

Dated this 25<sup>th</sup> day of September, 2008.



DAVID R. TUTHILL, JR.  
Director

### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of September 2008, the above and foregoing, was served by the method indicated below, and addressed to the following:

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Victoria Wigle  
Administrative Assistant to the Director  
Idaho Department of Water Resources