BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO WATER RIGHTS NOS. 36-2356A, 36-7210, AND 36-7427	)))))))	**ORDER DENYING REQUEST FOR STAY AND SCHEDULING HEARING ON PETITION FOR RECONSIDERATION OF ORDER APPROVING IGWA's 2005 SUBSTITUTE CURTAILMENTS (Blue Lakes Delivery Call)**

On April 29, 2006, the Director of the Department of Water Resources ("Director" or "Department") issued *Order Approving IGWA's Substitute Curtailments (Blue Lakes Delivery Call)* ("April 29 Order") in this matter involving a water delivery call by Blue Lakes Trout Farm, Inc. ("Blue Lakes") against the holders of junior-priority ground water rights from the Eastern Snake River Plain Aquifer. The Director's April 29 Order approved substitute ground water curtailments undertaken in 2005 by water users within member ground water districts represented by the Idaho Ground Water Appropriators, Inc. ("IGWA"). The April 29 Order also required that on or before May 30, 2006, the North Snake Ground Water District and the Magic Valley Ground Water District ("Ground Water Districts") must submit plans for substitute curtailments to the Director that will provide 20 cfs of steady state gain to the Devil's Washbowl to Buhl spring reach tributary to the Snake River, or otherwise provide replacement water as required in the Director's Order dated May 19, 2005.

The April 29 Order recognized a total credit of 14.4 cfs in steady state gain to the Devil's Washbowl to Buhl reach of Devil's Washbowl to Buhl spring reach tributary to the Snake River for conversions from ground water irrigation to surface water irrigation and for voluntary curtailments in ground water irrigation. On May 8, 2006, in response to a request from IGWA, the Department served upon IGWA and the other parties to this matter certain spreadsheets and other materials related to the Department's review and conclusions concerning IGWA's 2005 Substitute Curtailments for the Blue Lakes Delivery Call.

On May 12, 2006, IGWA filed *IGWA's Petition For Reconsideration Of Order Approving IGWA's 2005 Substitute Curtailments (Blue Lakes Delivery Call)* ("Petition for Reconsideration"). IGWA asserts in its Petition for Reconsideration that the April 29 Order improperly underestimates the credits the Ground Water Districts should receive for their 2005 substitute curtailments. In addition, IGWA requests a stay of the Director's April 29 Order until such time as the Director convenes a hearing regarding this matter. On May 18, 2006, Blue Lakes filed its *Objection To Motion For Stay* ("Objection") arguing that the facts in this case do not justify entry of a stay "while junior ground water pumping continues to deplete Blue Lakes' water rights." Objection at p. 2.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED as follows:

1. The request for a stay of the Director's *Order Approving IGWA's Substitute Curtailments (Blue Lakes Delivery Call)* issued April 29, 2006, is DENIED.

2. IGWA's request for a hearing on its Petition for Reconsideration of *Order Approving IGWA's 2005 Substitute Curtailments (Blue Lakes Delivery Call)* is GRANTED. A hearing on reconsideration of the Department's Order Approving IGWA's 2005 Substitute Curtailments is scheduled to commence on Monday, June 5, 2006 at 9:00 a.m. at the Idaho Department of Water Resources, 322 East Front Street, Boise, Idaho.

3. For purposes of expediting the hearing scheduled for June 5, 2006, designated Department of Water Resources staff shall be made available to the parties upon appropriate arrangement on either May 24, 2006, or on May 30, 2006, or other mutually agreeable date, to discuss the spreadsheets and other materials related to the Department's review and conclusions concerning IGWA's 2005 Substitute Curtailments for the Blue Lakes Delivery Call.

4. The requirement under the Order of April 29, 2006, that the North Snake Ground Water District and the Magic Valley Ground Water District submit plans for 2006 substitute curtailments on or before May 30, 2006, shall remain in effect.

5. Following the scheduled hearing on June 5, 2006, the Director will rule further upon IGWA's Petition for Reconsideration of the Order Approving IGWA's 2005 Substitute Curtailments by June 15, 2006.

6. The Director will issue a scheduling order in this matter in due course soon after June 15, 2006, designating a date for hearing on the Director's Order of May 19, 2005, in this matter finding that ground water diversions under junior priority rights are materially injuring water rights held by the Blue Lakes Trout Farm, Inc.

DATED this 19th day of May, 2006.

KARL J. DREHER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of May, 2006, the above and foregoing document was served by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

JEFFREY C. FEREDAY MICHAEL C. CREAMER GIVENS PURSLEY PO BOX 2720 BOISE ID 83701-2720 (208) 388-1200 cf@givenspursley.com mcc@givenspursley.com	(x) U.S. Mail, Postage Prepaid ( ) Facsimile (x) E-mail
DANIEL V. STEENSON CHARLES L. HONSINGER RINGERT CLARK PO BOX 2773 BOISE ID 83701-2773 (208) 342-4657 dvs@ringertclark.com clh@ringertclark.com	(x) U.S. Mail, Postage Prepaid ( ) Facsimile (x) E-mail
GREGORY KASLO BLUE LAKES TROUT FARM PO BOX 1237 TWIN FALLS ID 83303-1237 (208) 733-0325	(x) U.S. Mail, Postage Prepaid ( ) Facsimile ( ) E-mail
NORTH SNAKE GWD 152 EAST MAIN STREET JEROME ID 83338 (208) 388-1300	(x) U.S. Mail, Postage Prepaid ( ) Facsimile ( ) E-mail
MAGIC VALLEY GWD 809 EAST 1000 NORTH RUPERT ID 83350-9537	(x) U.S. Mail, Postage Prepaid ( ) Facsimile ( ) E-mail

FRANK ERWIN
WATERMASTER
WATER DIST 36
2628 SOUTH 975 EAST
HAGERMAN ID 83332

(x) U.S. Mail, Postage Prepaid
( ) Facsimile
( ) E-mail

ALLEN MERRITT
CINDY YENTER
IDWR – SOUTHERN REGION
1341 FILLMORE STREET SUITE 200
TWIN FALLS ID 83301-3380
(208) 736-3037
allen merritt@idwr.idaho.gov
cindy.yenter@idwr.idaho.gov

(x) U.S. Mail, Postage Prepaid
( ) Facsimile
(x) E-mail

Victoria Wigle

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