BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER TO WATER RIGHTS NOS. 36-02356A,36-07210, AND 36-07427 (BLUE LAKES)	)	**ORDER REQUESTING BRIEFING ON NATURE OF FURTHER PROCEEDINGS**
	)	**(BLUE LAKES DELIVERY CALL)**
IN THE MATTER OF DISTRIBUTION OF WATER TO WATER RIGHT NOS. 36-4013A, 36-4013B, AND 36-7148 (SNAKE RIVER FARM); AND TO WATER RIGHT NOS. 36-7083 AND 36-7568 (CRYSTAL SPRINGS FARM)	)	**(CLEAR SPRINGS DELIVERY CALL)**

The above-captioned matters were initiated by the filing of separate water delivery calls in Spring 2005 by Blue Lakes Trout Farm, Inc. ("Blue Lakes") and Clear Springs Food, Inc. ("Clear Springs") against the holders of junior-priority ground water rights from the Eastern Snake Plain Aquifer ("ESPA"). The Director of the Department of Water Resources ("Director" or "Department") responded to the delivery calls pursuant to the Department's Conjunctive Management Rules, IDAPA 37.03.11, with an order issued on May 19, 2005 in the Blue Lakes matter and an order issued on July 8, 2005 in the Clear Springs matter.

As part of the orders of May 19 and July 8, 2005, the Director required ground water districts representing certain holders of junior priority ground water rights from the ESPA to submit a plan for replacement water or for substitute curtailment with the Department. The ground water districts are represented in the two proceedings by the Idaho Ground Water Appropriators, Inc. ("IGWA"). While the Director issued the orders of May 19 and July 8, 2005, prior to conducting hearings, the parties in both matters have requested hearings.

On May 30, 2006, the affected ground water districts submitted to the Department the *North Snake Ground Water District's and Magic Valley Ground Water District's Joint Plan for Providing Replacement Water for 2006* ("2006 Replacement Water Plan"). The ground water districts subsequently amended the plan on June 19, 2006. The 2006 Replacement Water Plan provides for replacement water actions for 2006 in response to the delivery calls of both Blue Lakes and Clear Springs.

On June 30, 2006, the Fifth Judicial District Court entered its Judgment following its decision of June 2, 2006, declaring that the Department's Conjunctive Management Rules upon which the Director has relied in administering the Blue Lakes and Clear Springs delivery calls are facially invalid on constitutional grounds. *American Falls Reservoir District #2 et al. v. Idaho Department of Water Resources*, Case No. CV-2005-600 (5th Jud. Dist., Gooding Co., Idaho *Order on Plaintiffs' Motion for Summary Judgment,* June 2, 2006), (*appeal docketed*, No. 33249 July 11, 2006, *motion for stay filed with district court* July 20, 2006). The Judgment was stayed for 14 days, from July 11 through July 25, when the appeal was filed.

On July 21, 2006, Blue Lakes and Clear Springs each submitted letters to the Director in response to the 2006 Replacement Water Plan. Both letters state that because of the district court's June 2 order declaring the Conjunctive Management Rules invalid, all of the Director's prior actions in this matter are void and must be revisited by the Department. Copies of both letters, without attachments, are available at the Department's website www.idwr.idaho.gov under "Documents Filed to Date in Water Calls Made in the Thousand Springs Area.

In light of these actions and the approach outlined in the July 21 letters from Blue Lakes and Clear Springs, the Director has determined that it is appropriate to request briefing from the parties regarding their positions on the nature of further proceedings before the Department in these matters, if any, pending action on the Department's appeal and motion for stay.

ORDER

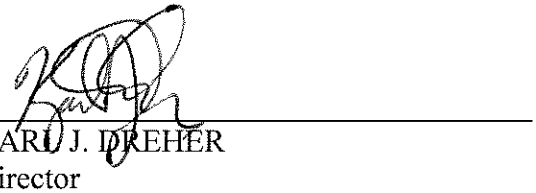
For the foregoing reasons, IT IS HEREBY ORDERED as follows:

1. The parties to the Blue Lakes Delivery Call matter and the parties to the Clear Springs Delivery Call matter are requested to provide briefing to the Director describing their position regarding the nature of further proceedings, if any, that should occur before the Department, pending action on the Department's appeal and motion for stay, in the respective matter to which they are party.

2. The briefing should address the nature of further proceedings, if any, that should occur before the Department both in the event that a stay is obtained, or is not obtained, pending appeal of the court order invalidating the Conjunctive Management Rules.

3. The briefs shall be filed with the Director and served upon the other parties in these matters by the close of business on August 7, 2006.

DATED this 28th day of July, 2006.



KARL J. DREHER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of July, 2006, the above and foregoing document was served in the following manner:

JEFFREY C. FEREDAY MICHAEL C. CREAMER GIVENS PURSLEY PO BOX 2720 BOISE ID 83701-2720 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 dvs@ringertclark.com clh@ringertclark.com	(x) U.S. Mail, Postage Prepaid ( ) Facsimile (x) E-mail
GREGORY KASLO BLUE LAKES TROUT FARM PO BOX 72 BUHL ID 83316-0072 gkaslo@rmci.net	(x) U.S. Mail, Postage Prepaid ( ) Facsimile (x) E-mail
ANGYE LEAVITT NORTH SNAKE GWD 152 EAST MAIN STREET JEROME ID 83338 nsgwd@safelink.net	(x) U.S. Mail, Postage Prepaid ( ) Facsimile (x) E-mail
PAM MILLER MAGIC VALLEY GWD 809 EAST 1000 NORTH RUPERT ID 83350-9537 pkmiller@pmt.org	(x) U.S. Mail, Postage Prepaid ( ) Facsimile (x) E-mail
MICHAEL S. GILMORE ATTORNEY GENERAL'S OFFICE PO BOX 83720 BOISE ID 83720-0010 mike.gilmore@ag.idaho.gov	(x) U.S. Mail, Postage Prepaid ( ) Facsimile (x) E-mail

SCOTT CAMPBELL MOFFATT THOMAS PO BOX 829 BOISE ID 83701 slc@moffatt.com	(x) U.S. Mail, Postage Prepaid ( ) Facsimile (x) 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 WATERMASTER - WD 130 IDWR – SOUTHERN REGION 1341 FILLMORE STREET SUITE 200 TWIN FALLS ID 83301-3380 allen.merritt@idwr.idaho.gov cindy.yenter@idwr.idaho.gov	(x) U.S. Mail, Postage Prepaid ( ) Facsimile (x) E-mail
JOHN SIMPSON BARKER ROSHOLT PO BOX 2139 BOISE ID 83701-2139 jks@idahowaters.com	(x) U.S. Mail, Postage Prepaid ( ) Facsimile (x) E-mail
LARRY COPE CLEAR SPRINGS FOODS PO BOX 712 BUHL ID 83316-0712 larryc@clearsprings.com	(x) U.S. Mail, Postage Prepaid ( ) Facsimile (x) E-mail

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