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September 28, 2007

Hon. Gerald F. Schroeder  
c/o Victoria Wigle  
Idaho Department of Water Resources  
322 E. Front St.  
Boise, Idaho 83720-0098

Email: [fcjschroeder@gmail.com](mailto:fcjschroeder@gmail.com)

**Re: October 1, 2007 Status Conference at 10:00 a.m. (BL / CS Call Case)**

Dear Judge Schroeder:

This letter responds to your *Notice of Status Conference* dated September 5, 2007 regarding items parties wish to address at the upcoming status conference referenced above. On behalf of our client, Clear Springs Foods, Inc. ("Clear Springs"), we request the following items be included on the status conference agenda:

**1) Findings of Fact / Conclusions of Law (Director's Orders)**

Below is a list of the Director's prior orders and the findings and conclusions that Clear Springs intends to address at hearing. Clear Springs did not list specific paragraphs in the "ordered" sections of the orders, however, the issues identified and raised below include those based upon the findings of fact and conclusions of law. In addition, Clear Springs is providing a list of the documents previously filed in this matter that identify issues that have been raised.

**Director's Orders:**

June 7, 2005 – *Order Regarding IGWA's Replacement Water Plan (BL Call)*

Facts: 17, 19, 20, 23

Conclusions: 1, 11

July 6, 2005 – *Order Approving IGWA Substitute Curtailment Plan (BL Call)*

Conclusions: 1

July 8, 2005 – Order (CS Call)

Facts: 6, 13, 17, 20, 21, 22, 23, 42, 43, 45, 51, 54, 55, 56, 58, 59, 60, 61, 62, 66, 71, 76, 77, 82, 95, 96, 98, 99, 100, 103, 105

Conclusions: 3, 4, 6, 7, 8, 14, 171, 23, 24, 28, 31, 32, 33, 35, 36, 39, 40

April 29, 2006 – Order Approving IGWA’s 2005 Substitute Curtailments

Facts: 3, 21

Conclusions: 1, 9

June 15, 2007 – Order Curtailing Junior Priority Ground Water Rights (CS Call)

Facts: 3, 7, 8, 12, 13, 14, 15, 26, 27, 28, 30

Conclusions: 4, 6, 7, 8, 9, 12, 14, 15, 16

July 5, 2007 – Order Approving Dairyman’s and IGWA’s Rep. Water Plan etc. (CS Call)

Facts: 4, 7, 8, 9, 10, 11, 12, 14

Conclusions: 2, 3, 4, 5, 6, 7, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20

**Clear Springs’ Petitions / Briefs:**

Clear Springs adopts and incorporates the issues and positions identified in the following petitions and briefs that were previously filed in this matter:

July 25, 2005 – *Clear Springs’ Petition for Rehearing on July 8, 2005 Order (CS Call)*

June 26, 2006 – *Clear Springs’ Response to IGWA’s Post-Hearing Memorandum (CS Call)*

July 21, 2006 – *Clear Springs’ Letter to Director*

August 7, 2006 – *Clear Springs’ Response to July 28, 2006 Order*

June 28, 2007 – *Clear Springs’ Petition for Reconsideration and Hearing (CS Call)*

**2) Agency Record**

Clear Springs requests IDWR to provide a complete record of all information reviewed and relied upon in support of the above-listed orders. To date, a “partial agency record” has been produced regarding the July 8, 2005 order, but no documents or record has been produced with respect to the other orders identified above.

**3) Hearing Schedule**

Clear Springs requests further clarification on the sequence of consideration of the Director’s orders at hearing. The two foundational orders (May 19, 2005 for Blue Lakes; July 8,

2005 for Clear Springs) contain the essential issues for hearing. The Director's subsequent orders attempting to implement that decision should be addressed, if necessary, in proper sequence. It is Clear Springs' position that taking up the implementation orders may be moot and a waste of time and resources if the foundational orders are determined to be unlawful or erroneous.

**4) Motion in Limine (Expert Report of John Church)**

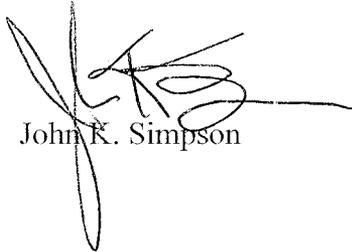
The relevance of John Church's (IGWA witness) testimony is currently subject to a *Motion in Limine* filed by the Surface Water Coalition in its contested case. Clear Springs and Blue Lakes seek to join in, or file their own *Motion in Limine* to exclude the testimony of John Church in this case. Given the expert rebuttal testimony is scheduled to be submitted on October 10, 2007, Clear Springs requests that any deadline for responding to Church's testimony be postponed, as well as any depositions, so that the Hearing Officer can render a ruling on the matter.

**5) Joint Motion for Summary Judgment**

Clear Springs and Blue Lakes are filing a joint motion for summary judgment on distinct legal issues in the case. In Clear Springs' and Blue Lakes' opinion, the resolution of these matters on summary judgment will narrow and expedite the hearing. Clear Springs and Blue Lakes intend to file a supporting affidavit and memorandum on Friday October 5, 2007, and would suggest a response deadline of Friday October 19, 2007, a reply deadline of October 26, 2007, and a hearing on the motion for Friday November 2, 2007.

Sincerely,

BARKER ROSHOLT & SIMPSON LLP



John K. Simpson

cc: Dan Steenson  
Randy Budge / Candice McHugh  
Justin May  
Mike Creamer  
Mike Gilmore