



1. contrary to Blue Lakes' water rights, the Director's statutory duties to administer water rights, and Idaho law;
2. inadequate to mitigate Blue Lakes' water shortage and injury; and
3. unacceptable to Blue Lakes.

Blue Lakes understands that the Director is in the process of scheduling a hearing on petitions on the Director's May 19, 2005 *Order*, through which these issues and others raised by Blue Lakes and by other parties will be addressed. By filing this *Petition for Reconsideration of the Director's June 15, 2007 Order*, Blue Lakes does not waive any of its positions, objections or issues presented in its June 3, 2005 *Petition*, including, but not limited to, the aforementioned objections to the mitigation provisions of the May 19, 2005 *Order*.

Blue Lakes seeks reconsideration of the Director's *Curtailment Order* because of the Director's failure to require ground water users to produce the full mitigation required by the May 19, 2005 *Order* for 2006 and 2007. The Director's justification for excusing the ground water users' failure to produce the required mitigation in 2006, and his failure to require them to make up for that shortfall in 2007, is arbitrary and capricious.

Blue Lakes objects to the Director's cursory acceptance in the *Curtailment Order*, Findings of Fact paragraph 13, of IGWA's argument during the June 5, 2006 hearing that it should receive mitigation credit for water it intended to convey through the North Side Canal based on North Side Canal Company's 30% conveyance loss figure used for assessment purposes. This issue was the subject of extensive testimony, which the Director has not examined in any findings of fact, during a hearing for which the Director has never issued an order. The Director's cursory acceptance of

IGWA's position a year after the hearing without findings or an order on the hearing during which the issue was litigated is arbitrary and capricious.

As with IGWA's 2005 mitigation plan, the mitigation plans referenced in the *Curtailment Order* are speculative and contingent upon unconfirmed circumstances and availability of apparently unsecured alternate water supplies water. As IGWA's failure to perform last year demonstrates, these speculative proposals provide inadequate alternatives to curtailment.

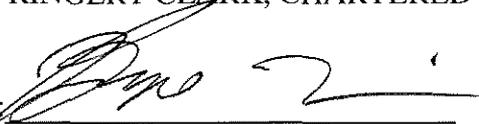
Additionally, Blue Lakes was not a party to the Idaho Dairy Association's Agreement ("IDA Agreement"), and did not approve of or agree to its concepts or terms. The Thousand Springs Water Users Association involvement in that agreement in no way represented Blue Lakes' interests or views.

This petition states Blue Lakes' initial grounds for reconsideration of the *Curtailment Order*. Blue Lakes reserves its rights to amend these grounds, and present additional grounds, through the customary pre-hearing opportunities to submit statements of issues, and to present argument and submit briefing on all issues that are raised during hearing.

By filing this petition, Blue Lakes does not seek or support any stay of the curtailment ordered by the Director, and hereby objects to the request for stay filed by the ground water users.

Dated this 27<sup>th</sup> day of June, 2007.

RINGERT CLARK, CHARTERED

By: 

S. Bryce Farris

## CERTIFICATE OF SERVICE

I hereby certify that on this 29<sup>th</sup> day of June, 2007, I served a true and correct copy of the foregoing by delivering the same to each of the following individuals by the method indicated below, addressed as follows:

Randall Budge  
Candice McHugh  
Racine, Olson, Nye, Budge & Bailey, Chtd.  
P.O. Box 1391  
Pocatello, ID 83204  
(208) 232-6109  
[rcb@racinelaw.net](mailto:rcb@racinelaw.net)  
[cmm@rainelaw.net](mailto:cmm@rainelaw.net)

U.S. Mail, Postage Prepaid  
 Facsimile  
 E-mail

Michael Gilmore  
ATTORNEY GENERAL'S OFFICE  
P.O. Box 83720  
Boise, Idaho 83720-0010  
(208) 334-2830  
[mike.gilmore@ag.idaho.gov](mailto:mike.gilmore@ag.idaho.gov)

U.S. Mail, Postage Prepaid  
 Facsimile  
 E-mail

Scott Campbell  
MOFFATT THOMAS  
P.O. Box 829  
Boise, Idaho 83701  
(208) 385-5384  
[slc@moffatt.com](mailto:slc@moffatt.com)

U.S. Mail, Postage Prepaid  
 Facsimile  
 E-mail

James Tucker  
IDAHO POWER COMPANY  
1221 W. Idaho Street  
Boise, Idaho 83702  
[jamestucker@idahopower.com](mailto:jamestucker@idahopower.com)

U.S. Mail, Postage Prepaid  
 Facsimile  
 E-mail

James Lochhead  
Adam Devoe  
BROWNSTEIN HYATT  
410 17<sup>th</sup> Street, 22<sup>nd</sup> Floor  
Denver, CO 80202  
[jlochhead@bhf-law.com](mailto:jlochhead@bhf-law.com)  
[Adevoe@bhf-law.com](mailto:Adevoe@bhf-law.com)

U.S. Mail, Postage Prepaid  
 Facsimile  
 E-mail

Frank Erwin  
Water Master  
WATER DISTRICT 36  
2628 South 975 East  
Hagerman, Idaho 83332

U.S. Mail, Postage Prepaid  
 Facsimile

Roger Ling  
Ling, Robinson & Walker  
P.O. Box 396  
Rupert, ID 83350  
(208) 436-6804  
[rld@idlawfirm.com](mailto:rld@idlawfirm.com)

U.S. Mail, Postage Prepaid  
 Facsimile

John K. Simpson  
Travis L. Thompson  
Barker, Rosholt & Simpson  
P.O. Box 2139  
Boise, ID 83701-2139

U.S. Mail, Postage Prepaid  
 Facsimile

David R. Tuthill, Director  
Idaho Department of Water Resources  
322 E. Front Street  
Boise, Idaho 83720-0098

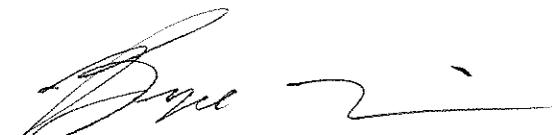
U.S. Mail, Postage Prepaid  
 Facsimile

W. Kent Fletcher  
P.O. Box 248  
Burley, ID 83318  
(208) 878-2548  
[wkf@pmt.org](mailto:wkf@pmt.org)

U.S. Mail, Postage Prepaid  
 Facsimile

Philip A. Brown  
Brown, James & Swenson  
130 Fourth Avenue West  
Gooding, ID 83330

U.S. Mail, Postage Prepaid  
 Facsimile

  
S. Bryce Farris