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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF GOODING

NORTH SNAKE GROUND WATER DISTRICT, and **MAGIC VALLEY GROUND WATER DISTRICT,** Petitioner, vs. **GARY SPACKMAN** in his capacity as Interim Director of the Idaho Department of Water Resources, and the **IDAHO DEPARTMENT OF WATER RESOURCES** Respondents. vs. **CLEAR SPRINGS FOODS, INC.** **IN THE MATTER OF DISTRIBUTION OF WATER TO WATER RIGHTS NOS. 36-0413A, 36-04013B, AND 36-07148.** **(Clear Springs Delivery Call)**	**CASE NO. CV 2009-431** **AFFIDAVIT OF TRAVIS L. THOMPSON**

STATE OF IDAHO)
) ss.
County of Ada)

TRAVIS L. THOMPSON, being duly sworn upon oath, deposes and states as follows:

1. I am one of the attorneys of record representing Clear Springs Foods, Inc. in this matter and the following is based upon my personal knowledge.

2. Attached hereto as **Exhibit A** is a true and correct copy of an August 20, 2009 memorandum from Cindy Yenter (Watermaster, Water Districts 130 and 140) to Phil Rassier, Deputy Attorney General.

3. Attached hereto as **Exhibit B** is a true and correct copy of a September 18, 2009 memorandum from Cindy Yenter (Watermaster, Water Districts 130 and 140) to Gary Spackman, Interim Director.

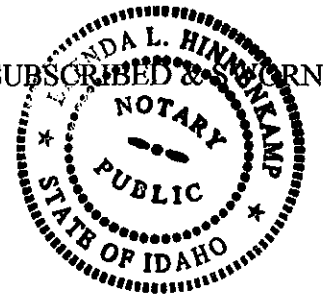
4. Attached hereto as **Exhibit C** is a true and correct copy of Allan Wylie's reach gain summary using the information provided in Cindy Yenter's September 15, 2009 spreadsheet (attached to her September 18, 2009 memo provided as Exhibit B to this affidavit).

5. Attached hereto as **Exhibit D** is a true and correct copy of a May 22, 2009 letter from David R. Tuthill Jr. to Randy Budge.

Dated this 25th day of September, 2009.

Travis L. Thompson

SUBSCRIBED & SWORN to before me this 25th day of September, 2009.



Brenda L. Hinnenkamp
Notary Public in and for the State of Idaho
My Commission Expires: 9/11/2012

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 25th day of September, 2009, I served true and correct copies of the *Affidavit of Travis L. Thompson* upon the following by the method indicated:

Deputy Clerk Gooding County District Court 624 Main St. P.O. Box 27 Gooding, ID 83330	____ U.S. Mail, Postage Prepaid ✓ Hand Delivery ____ Overnight Mail ____ Facsimile ____ Email
Courtesy Copy to Judge's Chambers: Snake River Basin Adjudication 253 3rd Ave. N. P.O. Box 2707 Twin Falls, ID 83303-2707	____ U.S. Mail, Postage Prepaid ✓ Hand Delivery ____ Overnight Mail ____ Facsimile ____ Email
Phillip J. Rassier Chris Bromley Deputy Attorneys General Idaho Department of Water Resources P.O. Box 83720 Boise, Idaho 83720-0098 phil.rassier@idwr.idaho.gov chris.bromley@idwr.idaho.gov	✓ U.S. Mail, Postage Prepaid ____ Hand Delivery ____ Overnight Mail ____ Facsimile ✓ Email
Randy Budge Candice M. McHugh **RACINE OLSON** P.O. Box 1391 Pocatello, Idaho 83204-1391 rcb@racinelaw.net cmm@racinelaw.net	✓ U.S. Mail, Postage Prepaid ____ Hand Delivery ____ Overnight Mail ____ Facsimile ✓ Email
Mike Creamer Jeff Fereday **GIVENS PURSLEY** P.O. Box 2720 Boise, Idaho 83701-2720 jcf@givenspursley.com mcc@givenspursley.com	✓ U.S. Mail, Postage Prepaid ____ Hand Delivery ____ Overnight Mail ____ Facsimile ✓ Email

Travis L. Thompson

Exhibit
A

MEMORANDUM

August 20, 2009

To: Phil Rassier, Deputy Attorney General

From: Cindy Yenter, Watermaster, Water Districts 130 and 140

RE: Status of enforcement efforts pursuant to Snake River Farm Amended Curtailment Order dated August 7, 2009

On July 31, 2009, IDWR and Water District 130 staff under my supervision conducted a mass field review of approximately 10,000 irrigated acres under about 185 ground water systems. These acres were authorized under water rights bearing priority dates junior to January 8, 1981, the curtailment date found in the July 22, 2009 Curtailment Order signed by the interim director. The purpose for this field review was to make an initial finding of which irrigated acres under curtailed rights were already idled and in compliance with the curtailment order.

Approximately 6,000 acres from the 1981 curtailment list were flagged for enforcement followup. After the curtailment priority date was advanced to April 11, 1990 by the Amended Order issued August 7, 2009, affected curtailed acres decreased to about 7000, and acres requiring enforcement followup fell to around 3300.

Phase 1 followup, conducted during the week of August 10, included phone contact with water users, comprehensive map and water right analysis, canal share and surface water delivery verifications, and ground water diversion records review, where available. After Phase 1 followup investigations, slightly over 1100 acres remained which were clearly not in compliance with the curtailment order.

Phase 2 followup, conducted on August 13, 14, 17 and 18 by Tim Luke and/or myself, involved field visits to each site and meetings with water users. Water users were informed in person of the requirement to comply with the order. Some individual followup is ongoing, but as of the date of this memo, less than 100 of the critical 1100 irrigated acres remain out of compliance with the August 7 Order.

In addition to irrigation compliance investigations, I have spoken with legal counsel for the two municipalities with curtailed rights (Dietrich and Wendell), and with a representative for a large commercial water user (Glanbia Foods). Both municipalities have senior water rights which can supply sufficient flow to satisfy consumptive uses. City of Wendell has sufficient senior rights to satisfy all of its typical daily demand, and the junior right is not used much. Glanbia Foods' junior right at the Gooding plant is fully mitigated by land-application activities authorized by the water right, so curtailment is not an issue.

At this time I have not yet conducted investigations of small commercial facilities. Dairy facilities participating in the Idaho Dairy Association mitigation plan were removed from the curtailment list. Water use in the facilities still on the list may need to be measured to determine if these facilities are diverting under junior rights or under other, senior rights.

I have not begun ongoing monitoring for the irrigation rights which were determined to be in compliance as of the date of the August 7 Order, or during Phase 2 followup. Common irrigation practices in the Magic Valley include both fall irrigation of grain stubble, and the planting and irrigation of fall cover crops such as triticale or other winter grain. Many of the previously compliant acres were found to be planted in mature grain crops, which are now in the

process of being harvested. Consequently I anticipate those water users may be preparing to irrigate again, and they must be contacted and informed that fall irrigation will not be allowed on curtailed acres.

It is important to note that virtually all of the water users with non-compliant irrigated acres were cooperative and responsive. Some expended significant effort, at their own cost, to bring alternate water supplies to their crops. Many of the remaining non-compliant acres are in beets. Those water users have been willing to talk with investigators and the watermaster, but have been unwilling to commit to a plan of action to idle the affected acres. IDWR may be required to take legal action against certain water users if voluntary compliance cannot be attained.

Exhibit
B

MEMORANDUM

September 18, 2009

To: Gary Spackman, Interim Director

From: Cindy Yenter, Water District 130 Watermaster

RE: Accounting of Replacement Water Delivered to NSGWD Conversion Acres

This memo seeks to explain apparent contradictions between recently modeled delivery volumes to the North Snake GWD (NSG) conversion acres, and total replacement water delivery volume as shown in a spreadsheet report received from North Side Canal Co (NSCC), and as referred to by Mr. Randy Budge in his email reply to Phil Rassier on this date.

The contradictions are the result of reference to two or three different spreadsheets which do not necessarily contain or represent the same things. Mr. Budge is correct when he states that "Deliveries through August per NSCC records show 13,403 acre feet." The spreadsheet which was distributed by NSCC with updated replacement deliveries through the end of August shows exactly that. Unfortunately, the spreadsheet included with Mr. Budge's email is not the NSCC spreadsheet. It is a list of names and addresses and acreages for NSG conversion participants who were to continue or resume replacement deliveries in August. This spreadsheet does not show actual deliveries and *does not* include the SRF new conversion participants. However, the 13,403 acre-feet value from NSCC *does* include deliveries to the SRF projects. It also includes an NSCC 30% loss ratio, and delivery of about 700 acre-feet of water in the X-1 lateral for private recharge which is not attributable to any SRF conversion project.

The value which I recently asked Allan Wylie to model was 8385.5 acre-feet. That value is from a spreadsheet I authored in which I utilize the NSCC reported replacement delivery volumes to project headgate delivery amounts to the participating conversion projects through the end of the 2009 irrigation season. The projected value of 8385.5 does not include the SRF project deliveries (shown on the NSCC spreadsheet as Box Canyon Ponds #1, 2 and 3) or the 30% loss charges. Dr. Wylie is using a pre-determined end-of-season value of 3680 acre-feet for the 920 acres in the SRF conversion projects. Dr. Wylie includes the total 30% loss volume separately in modeling runs, as seepage loss spread across the delivery laterals to the projects receiving water.

These seemingly ambiguous values do correlate to one another, although when taken out of context no single one of them entirely represents the facts. Here they are in summary:

7517.06 AF	replacement deliveries through August to existing (9300-acre) projects
2249.10 AF	replacement deliveries through August to SRF projects
2929.85 AF	30% loss ratio through August to all projects
707.07 AF	Faulkner recharge w/ 30% loss in X-1 (not credited to mitigation)
13,403.08 AF	**Total NSCC diversions charged to NSG through August**
12,696.01 AF	**Total replacement volume eligible for mitigation**

I recently received an additional update from NSCC which included replacement deliveries through September 15, 2009. As of that date, approximately 8385 AF had been delivered to existing conversion projects, and approximately 2600 AF had been delivered to the SRF projects.

2009 Projected Conversion Water Costs based on 2008 deliveries

NAME	ADDRESS	TOWN & ZIP	LEGAL DESCRIPTION	POD	ACRES
Benedictine Monks of ID Inc.	541 East 100 South	Jerome, ID 83338	08S 17E 25 NENESW	100624	425
Bettencourt (Rodney Bolich)				100181	304
Bettencourt Dairies	2930 South 2300 East	Wendell, Idaho 83355	08S 15E 02 NWNENW 3, 08S 15E 02 NWNWNE, 08S 15E 02 SESENE	100476, 100477, 100478	435
Big Sky West	PO Box 407	Jerome, ID 83338	06S 14E 32 SWSE	700035	304
Brandsma Dairy ***	2250 E 3200 S	WENDELL, ID 83355	converts his own surface water	100497	140
Claar, Ron	1150 Ridgeway Rd South	Hazelton, ID 83335	10S 20E 13 SWSWNW	101067	
C. DeKruyf Dairy Partnership	303 West 300 South	Jerome, Idaho 83339	08S 16E 28 SENWSE	100582	163
Niagra - Adrian Boer Canyonside /K&W Dairy	3751 S 2400 E	Jerome, ID 83338		100541, 100542, 100543, 100544, 100545, 1005456, 100549, 100550	1009.6
Boer Dairy LLC (Davis Place S,M, N)	472 S 200 W-Bart Patterson & 3751 S 2400 E	Jerome, Idaho 83338	08S 15E 26 NENWSE,08S 15E 26 SWNWSW	105521, 100523	405
2+ (Adrian Boer) - Miller Farms	3751 S 2400 E	WENDELL, ID 83355			
Dewit Dairy	2011 Bob Barton Hwy	WENDELL, ID 83355	08S 15E 27	100524	144
Dewit Dairy	2011 Bob Barton Hwy	WENDELL, ID 83355	08S 15E 33 & 08S 15E 34	100554	80
Hutts, Kay	1425 E 3200 S	WENDELL, ID 83355	07S 14E 22 27	100081	22
Henry Farms	204 S 875 E	Jerome, ID 83338	08S 18E 34/ 09S 18E 12	100891	286
Hirai, Jack - used his own Surface water	3060 S 1950 E	WENDELL, ID 83355	08S 15E 04 NENESE	100480	75
Huettig Brothers	1369 S 2000 E	Hazelton, ID 8335	10S 20E 23 NWSWSW	101090	160
Huettig Brothers	1369 S 2000 E	Hazelton, ID 8335	10S 20E 23 NWSWSW	101090	200
McReits LLC (pd by Betten #5)	P.O. Box 5178	Twin Falls, Idaho 83303	08S 16E 20 NENWSW	101134	229
Ted Miller Dairy	268 South 500 West	Jerome, Idaho 83338	08S 16E 31 NESENE	100589	130
Ravenscroft, Bryan	1328-A Shoestring Rd	Bliss, ID 83314	06S 14 E 32 NESENW	700036	27
Richard Trail Trust	PO Box 509	Twin Falls, Idaho 83303	07S 16 E 32 NWNWSE, 07S 16W 32SENENW, 07S 16E 32 SWSESW	100159	160
Roth Family LLC	539 South 800 East	Jerome, Idaho 83338	08S 16E 31 NWSENE	100894	161
Ruby, Ken	1884 E 2800 S	WENDELL, ID 83355	07S 15E 29 NWNENE	100127	134
Sawtooth Sheep Co. Inc.	1989 South 1875 East	Gooding, Idaho 83330	08S 16E 31 SESW	700054	374
U-U Ranch LLC	268 South 500 West	Jerome, Idaho 83338	09S 16E 06 SENESW	100845	120
Veenstra, Frank	2675 South 1300 East	Hagerman, Idaho 83332	07S 14E 17 NESWSW	100070	110
Wert, Keith	491 West Main	WENDELL, ID 83355	08S 15E 28	100528	144
					5741.6

Source: Spreadsheet provided to IDWR by Randy Budge thru North Snake GWD, 9/17/09

2009 Groundwater users running water through NSCC System water delivery only

	rider	h/g	lat	alloted shs by feet	April	May	June	July	August	1st - 15th September	October	Total cfs	Total a/f	Total Cfs thru Aug	Total AF thru Aug
Luis Bettencourt	Young			8.34'								0.00	-	0	0
Brandsma Dairy	Young	37	S-19	1.97'									-	0	0
Trail Est.	Young	4	S-09	3.2'		11.00						11.00	22.00	11	22
Trail Est.	Young	23	W-03	5.83'								0.00	-	0	0
Jack Hirai	Young	1	W-09	1.5'								0.00	-	0	0
Southfield Pond	Kilgrow		W-09										-	0	0
Ken Rudy	Kilgrow	10	X-03	2.67'		26.00						26.00	52.00	26	52
Sawtooth Cattle-Faulkner*	Kilgrow	3	X-01			25.50	77.50	85.25	83.70	40.50					0
Sandy's Pond	Loren		W-26										-	0	0
Henry Farms	Worthington	3	F	2'									-	0	0
Henry Farms	Worthington	30	H	3'		93.00	90.00	45.00	40.00	30.00		298.00	596.00	268	536
Priory	Worthington	115	L	3.17'		37.50	56.00	35.50	30.00	-		159.00	318.00	159	318
Priory	Worthington	116	L	3'								0.00	-	0	0
Si-Ellen	Worthington	16	H	2.42'				74.40	74.40	24.00		172.80	345.60	148.8	297.6
DeKruyf Dairy	Copenbarger	3	N-07	2.45'				48.00	49.60	30.00		127.60	255.20	97.6	195.2
Canyon side	Weeks	30	J-08	19.65'									-	0	0
Canyon side	Weeks	31	J-08			44.00	10.00	124.00	82.00	30.00		290.00	580.00	260	520
Canyon side	Weeks	32	J-08										-	0	0
Adrian Boer (S)	Weeks	22	J-Cou	3.92'								0.00	-	0	0
Miller Farms	Weeks	16	N-10	2.00'									-	0	0
K&W Dairy	Weeks	38	N-10	5.14'									-	0	0
U-U, LLC	Weeks	37	N-10	4.40'		114.40	132.00	136.40	136.40	66.00		585.20	1,170.40	519.2	1038.4
Wayne Wert	Weeks	6	S-23	2.8'		28.00						28.00	56.00	28	56
#1	Weeks	14	S-Cou	6.0'			114.00	197.04	209.56	101.40					0
#3	Weeks	28	S-Cou	3.5'		17.50	105.00	117.30	119.35	57.75					0
#2	Weeks	27	S-39	1.9'		9.50	57.00	85.30	93.00	45.00					0
VanDyke & Sons	Weeks	5	S-39											0	0
Adrian Boer (M)	Weeks	21	S-Cou	6.08'								0.00	-	0	0
Adrian Boer (N)	Weeks	4	S-Cou	2.05'								0.00	-	0	0
Frank Veenstra	Crumrine	57	W	2.69'	43.4	186.62		72.00	-	-		302.02	604.04	302.02	604.04
Joesph Hults	Crumrine	59	W	.45'	2.25	13.95	9.00	9.90	7.65	4.05		46.80	93.60	42.75	85.5
Hole?????	Crumrine		W-37										-	0	0

Source: NSCC deliveries reported to Cindy Yenter, WD130 Watermaster
(Deliveries to "old" conversion projects only. Last two columns are totals thru August - added by C Yenter)
(* Sawtooth Cattle-Faulkner is IDL project separate mitigation delivery)

2009 Groundwater users running water through NSCC System water delivery only

	rider	h/g	lat	alloted shs by feet	April	May	June	July	August	1st - 15th September	October	Total cfs	Total a/f	Total Cfs thru Aug	Total AF thru Aug
Janss Hole	Crumrine												-	0	0
Hess (R.Smith)	Tracy	13	W	2.73'								0.00	-	0	0
190 ac.	Tracy	13	W	2.55'								0.00	-	0	0
Vader (R.Smith)	Tracy	14	W									0.00	-	0	0
Ron Smith	Tracy	28	W	1.46'								0.00	-	0	0
Ron Smith	Tracy	31	W	1.46'								0.00	-	0	0
Frank Veenstra	Tracy	12	X-04	1.20'								0.00	-	0	0
Faulkner	Tracy	11	X-05	5.0'			90.00	155.00	155.00	75.00		475.00	950.00	400	800
Ravenscroft	Tracy	1	X-15	1.8'		25.20	4.80	16.80	19.25	6.40		72.45	144.90	66.05	132.1
Big Sky	Tracy	6	X-30	4.18'			7.29	25.11	25.11	5.67		63.18	126.36	57.51	115.02
Frank Veenstra	Tracy	1	X-33	1.85'								0.00	-	0	0
Frank Veenstra	Tracy	2	X-33	0.69								0.00	-	0	0
Frank Veenstra	Tracy	3	X-33	6.04'								0.00	-	0	0
Luis Bettencourt	Seiberling	9	P	4.00'		124.00	120.00	124.00	124.00	60.00		552.00	1,104.00	492	984
Luis Bettencourt	Seiberling	33	U	4.00'		124.00	120.00	124.00	124.00	60.00		552.00	1,104.00	492	984
Huettig Brothers	Hinton	11	A	3.20'		61.50	41.60	72.00	58.60	27.00		260.70	521.40	233.7	467.4
Ron Claar	Hinton	4	Main	2.39'		33.60	30.70	45.60	45.00	15.60		170.50	341.00	154.9	309.8
Sum of deliveries					45.65	975.27	1,064.89	1,592.60	1,476.62	678.37	-		8,384.50		7517.1
Sum of delivers					91.30	1,950.54	2,129.78	3,185.20	2,953.24	1,356.74	-				
30% Loss Ratio +					27.39	585.16	638.93	955.56	885.97	407.02	-				
Monthly a/f with					118.69	2,535.70	2,768.71	4,140.76	3,839.21	1,763.76	-	15,166.84			
Delivery Charge					8.00	8.00	8.00	8.00	8.00	8.00	8.00				
					949.52	20,285.62	22,149.71	33,126.08	30,713.70	14,110.10	-	121,334.72			
15,166.84	Total a/f used for 2009 with loss ratio														
10,000.00						121,334.72	Total April;May;June;July;Aug.								
10,000.00				NSC		(76,510.92)	Less paid					(15,166.84)			
				(Acct 4012)		44,823.80	Total for August								

Source: NSCC deliveries reported to Cindy Yenter, WD130 Watermaster
(Deliveries to "old" conversion projects only. Last two columns are totals thru August - added by C Yenter)
(* Sawtooth Cattle-Faulkner is IDL project separate mitigation delivery)

2009 Surface Water Conversion Projects (Existing or Old Projects)

WMIS POD #	Owner	2009 Projected AF Adjusted 9/15/09	Wet or Dry	Comments
100535	Anderson, Kenneth C.	0.0	grain	2008 Aug-Oct of 358 AF is greater than 60% of max benefit; adjusted down - 9.15 did not resume use of conversion water, no 2009 deliveries recorded.
100624	Benedictine Monks of Idaho Inc.	315.0	60% grain	used previous ordered amount - 9.15 have taken no water in Sept, appear to be done. value reflects total 09 delivery.
100138	Bettencourt, Luis	0.0	grain	Wendell Farm used 2008 Aug-Oct. - average credit over all 4 pods. - 9.15 did not resume at this location, no 2009 deliveries recorded
100476	Bettencourt, Luis	0.0	grain	Wendell Farm used 2008 Aug-Oct. - average credit over all 4 pods. - 9.15 did not resume at this location, no 2009 deliveries recorded
100477	Bettencourt, Luis	0.0	grain	Wendell Farm used 2008 Aug-Oct. - average credit over all 4 pods. - 9.15 did not resume at this location, no 2009 deliveries recorded
100478	Bettencourt, Luis	0.0	grain	Wendell Farm used 2008 Aug-Oct. - average credit over all 4 pods. - 9.15 did not resume at this location, no 2009 deliveries recorded
100181	Bettencourt, Luis (Bolich place)	1147.0	wet	Bolich Farm - previously modeled at Wendell pods for 2009 - 9.15 on track with projected amount.
100183	Bettencourt, Luis (Bolich place)	1147.0	wet	Bolich Farm - previously modeled at Wendell pods for 2009 - 9.15 on track with projected amount.
700035	Big Sky Dairy, Russ Visser	150.0	wet	used previous ordered amount -9.15 on track with projected amount.
100829	Boer 2+, Miller Farms	0.0	wet	Had no deliveries in 2008. For 2009 used a pro-rata maximum credit estimate. - 9.15 did not resume use. no 2009 deliveries recorded.
100830	Boer 2+, Miller Farms	0.0	wet	Had no deliveries in 2008. For 2009 used a pro-rata maximum credit estimate. - 9.15 did not resume use. no 2009 deliveries recorded.
100831	Boer 2+, Miller Farms	0.0	wet	Had no deliveries in 2008. For 2009 used a pro-rata maximum credit estimate. - 9.15 did not resume use. no 2009 deliveries recorded.
100521	Boer, Adrian (Davis place - M)	0.0	wet	2008 Aug-Oct - exceeds 60% max credit so adjusted down and spread over all three diversions. - did not resume use. no 2009 deliveries recorded.
100514	Boer, Adrian (Davis place - N)	0.0	wet	2009 Aug-Oct - exceeds 60% max credit so adjusted down and spread over all three diversions. - did not resume use. no 2009 deliveries recorded.
100523	Boer, Adrian (Davis place -S)	0.0	wet	2010 Aug-Oct - exceeds 60% max credit so adjusted down and spread over all three diversions. - did not resume use. no 2009 deliveries recorded.
100465	Box Canyon (Hubbard)			project has been abandoned
100536	Box Canyon (Strickland)	0.0	wet	Had no deliveries in 2008. For 2009 used pro-rata of max delivery credit. - 9.15 did not resume. no 2009 deliveries recorded.
100497	Brandsma Dairy	0.0	wet	Had no deliveries in 2008, used shares. For 2009 project a pro-rata maximum credit. -9.15 did not resume. no 2009 deliveries recorded.

Source: Cindy Yenter, WD130 Watermaster, 9/15/09; using data as reported by NSCC

2009 Surface Water Conversion Projects (Existing or Old Projects)

WMIS POD #	Owner	2009 Projected AF Adjusted 9/15/09	Wet or Dry	Comments
101067	Claar, Ron	389.0	wet 87 ac or 1/2, grain 1/2	used previously ordered amount - 9.15 on track with ordered amount
100582	De Kruyf Dairy	325.0	wet	used previously ordered amount - 9.15 using less than estimated, adjusted down.
100524	Dewit, Neil & Melinda	0.0	wet	Had no deliveries in 2008, used private shares. For 2009, used pro-rata of max delivery credit for 144 acres only. prior modeled acres seem to be in error. - 9.15 did not resume, no 2009 recorded deliveries.
100554	Dewit, Neil & Melinda	0.0	wet	Had no deliveries in 2008, used private shares. For 2009 used pro-rata of max delivery credit. - 9.15 did not resume, no 2009 recorded deliveries.
100509	Dimond, Gary B. & Ruth P.			will not participate 2009
100644	Henry Farms			conversion not completed
100891	Henry Farms	610.0	wet	use prior ordered amount -9.15, using less than estimated, adjusted down.
100480	Hirai, Jack J. or Kunie	0.0	wet	2008 Aug-Oct of 292 AF exceeds 60% of max benefit; adjusted down -9.15 did not resume, no 2009 recorded deliveries
101090	Huettig Brothers	578.0	portion grain but total comb ac should be 772, so 09 proj vol seems reasonable	used previously ordered amount - 9.15 on track with ordered amount
100081	Hults, Kay (Harms place)	100.0	wet	use prior ordered amount - 9.15 using less than estimated, adjusted down
100561	Johnson, Jr., Elmer & Judy	0.0	wet	2008 Aug-Oct of 726 af exceeds max benefit. this project may also include replacement water for pod 100594 and acres aren't being counted. newest plan shows 231 acres not 151. adjusted 2009 vol to 60% of max benefit for 231 acres. -9.15 did not resume, no 2009 recorded deliveries
101134	McReits LLC (formerly Beukers)			not participating in 2009; well is off but using private shares
100827	Meyers, Robert	0.0		used 60% max credit - 9.15 did not participate
100542	Niagara - Boer Canyonside	93.5	wet except a128 ac pivot (grain)	used previously ordered amount, average credit over 7 wells - 9.15 using less than estimated, adjusted down.
100543	Niagara - Boer Canyonside	93.5	wet except a128 ac pivot (grain)	used previously ordered amount, average credit over 7 wells - 9.15 using less than estimated, adjusted down.
100544	Niagara - Boer Canyonside	93.5	wet except a128 ac pivot (grain)	used previously ordered amount, average credit over 7 wells - 9.15 using less than estimated, adjusted down.
100545	Niagara - Boer Canyonside	93.5	wet except a128 ac pivot (grain)	used previously ordered amount, average credit over 7 wells - 9.15 using less than estimated, adjusted down.
100546	Niagara - Boer Canyonside	93.5	wet except a128 ac pivot (grain)	used previously ordered amount, average credit over 7 wells - 9.15 using less than estimated, adjusted down.

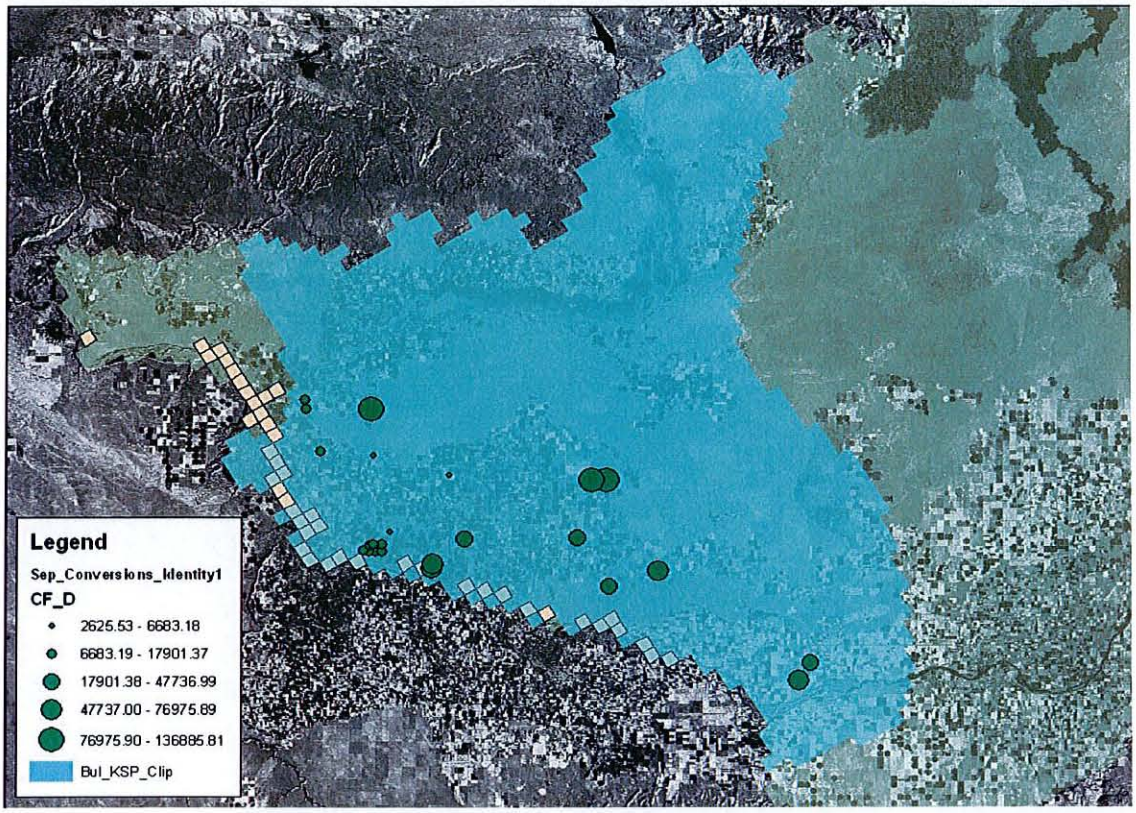
Source: Cindy Yenter, WD130 Watermaster, 9/15/09; using data as reported by NSCC

2009 Surface Water Conversion Projects (Existing or Old Projects)

WMIS POD #	Owner	2009 Projected AF Adjusted 9/15/09	Wet or Dry	Comments
100549	Niagara - Boer Canyonside	93.5	wet except a128 ac pivot (grain)	used previously ordered amount, average credit over 7 wells - 9.15 using less than estimated, adjusted down.
100550	Niagara - Boer Canyonside	93.5	wet except a128 ac pivot (grain)	used previously ordered amount, average credit over 7 wells - 9.15 using less than estimated, adjusted down.
700036	Ravenscroft, Bryan	150.0	20% wet; 80% dry	used previously ordered amount - 9.15 had used more than ordered.
100159	Richard Trail Trust	22.0	wet	used 2008 Aug-Oct plus May 2009 delivery -9.15 did not resume, no 2009 recorded deliveries except for May.
100160	Richard Trail Trust	0.0	wet	used 2008 Aug-Sept -9.15 did not resume
100161	Richard Trail Trust	0.0	wet	used 2008 Aug-Sept -9.15 did not resume
100894	Roth, James	400.0	wet, irr ac about 190	used previously ordered amount - 9.15 using less than estimated, adjusted down
100127	Ruby, Kenneth E.	52.0	wet, grain in 26 ac?	used 2008 aug-Oct plus May 2009 delivered amount - 9.15 did not resume, no 2009 deliveries except in May.
700054	Sawtooth Sheep Co. Inc.	1000.0	wet on 362 of 494 model ac; rt ac lim to 352, max del should be 1408 af	used previously ordered amount -9.15 on track with ordered amount
100072	Smith, Ronnie D.			not participating 2009
100074	Smith, Ronnie D. (Hess)			not participating 2009
100589	Ted Miller Dairy	0.0	wet	Had no deliveries in 2008. For 2009 used pro-rata of max delivery credit. -9.15 did not resume, no 2009 recorded deliveries
100845	U-U Ranch (Ledbetter)	645.0	wet	used previously ordered amount - 9.15 have already diverted more than ordered.
100847	U-U Ranch (Ledbetter)	645.0	wet	used previously ordered amount - 9.15 have already diverted more than ordered.
100073	Vader, Orval E. (R Smith)			not participating 2009
100071	Veenstra, Frank	0.0	wet	used 2008 Aug-Sep = 9.15 did not resume, no 2009 recorded deliveries
100070	Veenstra, Frank (Beck place)	0.0	wet	used 2008 Aug-Sep = 9.15 did not resume, no 2009 recorded deliveries
100078	Veenstra, Frank/V & L Dairy			not participating 2009
100064	Veenstra, Frank/Wellard, Larry			not participating 2009
100512	Wert, Loren			not participating 2009
100528	Wert, Wayne K.	56.0	grain or dry	used 2008 Aug-Oct plus May 2009 delivery. The total, 486 af exceeds 60% max credit, so have adjusted down. -9.15 did not resume, no deliveries in 2009 except for May.
	Total	8385.5		

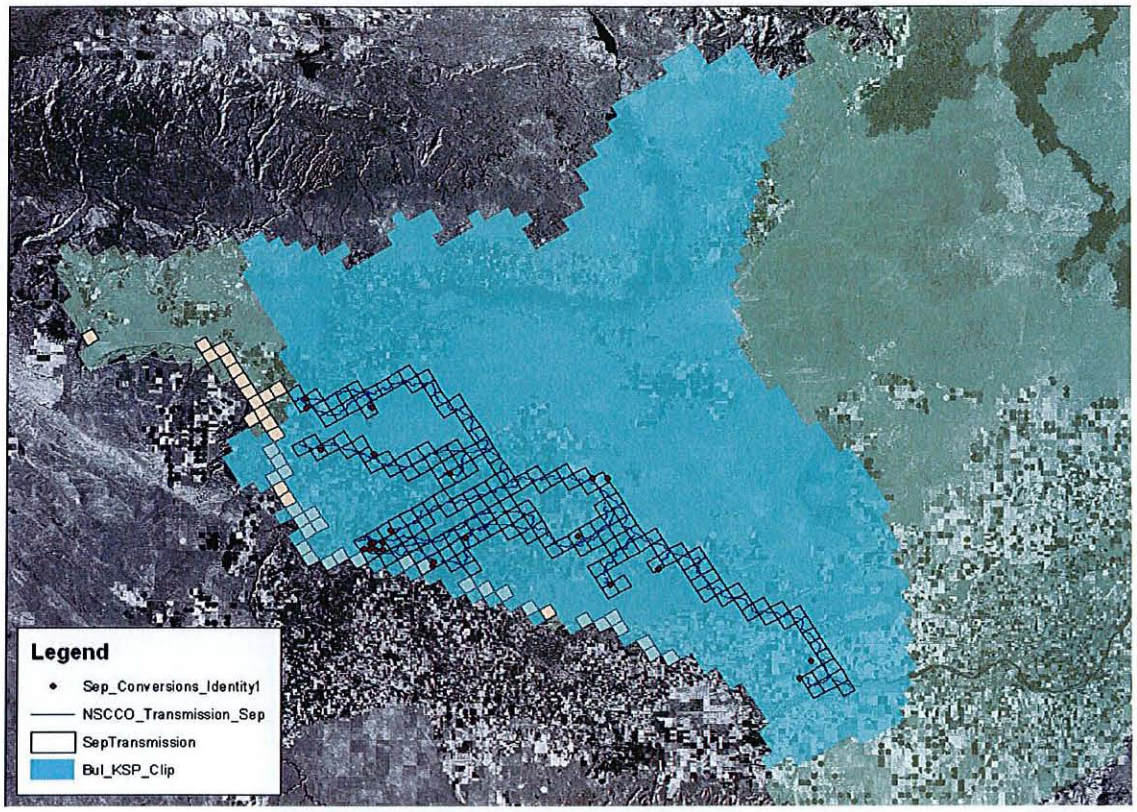
Source: Cindy Yenter, WD130 Watermaster, 9/15/09; using data as reported by NSCC

Exhibit
C



Conversion analysis

reach	cf/d	cfs
MLD-BAN	3601.577	0.041685
MLD	99467.17	1.15124
KSP-MLD	12213.06	0.141355
KSP	110516.9	1.279131
BUL-KSP	179793.5	2.080943
DWB-BUL	395451.7	4.576987
A-R	4108.554	0.047553
H-S	4710.376	0.054518
S-B	35099.02	0.406239
N-M	33500.2	0.387734
B-N	122284.2	1.415326



Transmission loss

reach	cf/d	cfs
MLD-BAN	1102.502	0.01276
MLD	30284.62	0.350516
KSP-MLD	4117.152	0.047652
KSP	37479.52	0.433791
BUL-KSP	58931.02	0.682072
DWB-BUL	114247.1	1.322304
A-R	1112.935	0.012881
H-S	1275.953	0.014768
S-B	9507.567	0.110041
N-M	9042.635	0.10466
B-N	33122.82	0.383366

Exhibit
D

State of Idaho
DEPARTMENT OF WATER RESOURCES
322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098
Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

May 22, 2009

Randall C. Budge
RACINE OLSON
P.O. Box 1391
Pocatello, Idaho 83204-1391

Re: Weekly Progress Report – 2009 Replacement Plan for Snake River Farm

Dear Mr. Budge:

Thank you for the progress report dated May 21, 2009.

This letter is to confirm that the only component of the Replacement Plan for which a stay was granted in my Order in this matter dated May 15, 2009 is the "over-the-rim" component. Thus, beginning June 2, 2009 and continuing for as long as the Replacement Plan is valid, there should be no diversion of water from the wells identified for conversion under the plan.

I am copying Cindy Yenter with this letter, and hereby request that she plan to conduct an inspection of the un-stayed portions of the replacement water plan on June 2, 2009.

Should you have any questions, please feel free to contact me.

Sincerely,

David R. Tuthill, Jr.
Director

cc: Cindy Yenter