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	))))	**ORDER REGARDING IGWA'S PETITION TO INTERVENE (BLUE LAKES DELIVERY CALL)**

This matter is before the Director of the Department of Water Resources ("Director" or "Department") as a result of the *Idaho Ground Water Appropriators' Petition to Intervene in Blue Lakes Trout Farms, Inc.'s Delivery Call* ("IGWA Petition to Intervene"), filed by the Idaho Ground Water Appropriators ("IGWA") on behalf of its members, which include Aberdeen-American Falls Ground Water District, Bingham Ground Water District, Bonneville-Jefferson Ground Water District, Madison Ground Water Districts, Magic Valley Ground Water District, Southwest Irrigation District, and North Snake Ground Water District (collectively referred to as "the Districts").

Based upon the Director's consideration of this matter, the Director enters the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. On May 19, 2005, the Director issued an order ("Order") in response to a delivery call initiated by Blue Lakes Trout Farm, Inc. ("Blue Lakes"). According to the Order, the Director found that junior ground water diversions were causing material injury to Blue Lakes' water rights. The Director instructed junior ground water users in Water District No. 130, who consumptively use water under rights later in time than December 28, 1973, to submit plans for providing replacement water of suitable water quality for review by the Director, or those ground water rights would be curtailed over a period of five years.

2. On May 27, 2005, IGWA, on behalf of the Districts, filed a petition to intervene in the above-titled matter. IGWA, who was not party to the Order, represents water users who own ground water rights that are subject to curtailment pursuant to the Order.

3. In its Petition, IGWA states that its members "claim a direct and substantial interest in the proceeding" because they are subject to curtailment under the Order. *IGWA Petition to Intervene* at 3. Furthermore, IGWA states that its "participation as a party will not unduly broaden the issues before the Department" and that the "interests of IGWA and its members are not represented by any other party to this proceeding." *Id.* at 5.

4. No objections have been filed with the Department regarding IGWA's petition to intervene.

CONCLUSIONS OF LAW

1. IGWA's petition to intervene in the proceeding was timely filed on May 25, 2005. IDAPA 37.01.01.352. In addition, more than seven (7) days have passed since IGWA's petition to intervene was filed; therefore, the Department may rule on the merits of the petition. IDAPA 37.01.01.354.

2. According to IDAPA 37.01.01.353,

> If a timely-filed petition to intervene shows direct and substantial interest in any part of the subject matter of a proceeding and does not unduly broaden the issues, the presiding officer will grant intervention, subject to reasonable conditions, unless the applicant's interest is adequately represented by existing parties. If it appears that an intervenor has no direct or substantial interest in the proceeding, the presiding officer may dismiss the intervenor from the proceeding.

3. IGWA's members own junior ground water rights that are subject to curtailment in accordance with the Director's Order. Therefore, IGWA has a direct and substantial interest in the subject of the proceeding that is not adequately represented by the present parties. Because the interests of IGWA will not unduly broaden the issues, IGWA should be granted intervention.

ORDER

The Director enters the following Order for the reasons stated in the foregoing Findings of Fact and Conclusions of Law:

IT IS HEREBY ORDERED as follows:

The Idaho Ground Water Appropriators' petition to intervene as a party in this matter is GRANTED.

DATED this 6th day of June 2005.

KARL J. DREHER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of June, 2005, 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:

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