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Attorneys for Plaintiffs

**BEFORE THE DEPARTMENT OF WATER RESOURCES
 OF THE STATE OF IDAHO**

IN THE MATTER OF DISTRIBUTION OF WATER) **JOINT AFFIDAVIT OF**
 TO WATER RIGHTS NOS. 36-02356A, 36-07210,) **R. LYNN CARLQUIST AND**
 AND 36-07427) **ORLO H. MAUGHAN**
 (Blue Lakes Delivery Call))
)
)
 _____)

IN THE MATTER OF DISTRIBUTION OF WATER)
 TO WATER RIGHTS NOS. 36-04013A, 36-04013B,)
 AND 36-07148 (SNAKE RIVER FARM); AND TO)
 WATER RIGHTS NOS. 36-07083 AND 36-07568)
 (CRYSTAL SPRINGS FARMS))
 (Clear Springs Delivery Call))
 _____)

STATE OF IDAHO)
) ss:
 County of Jerome)

The undersigned R. Lynn Carlquist and Orlo H. Maughan, having been first duly sworn under oath, do hereby depose and state as follows:

1. We are the respective Chairman of North Snake Ground Water District and Magic Valley Ground Water District and submit this Joint Affidavit to supplement our previous Affidavits dated May 4, 2007 filed in this case.

2. In response to the Idaho Department of Water Resources' (IDWR) Director's May, 2005 Curtailment Orders (2005 Orders) which imposed a five-year graduated curtailment schedule, North Snake and Magic Valley Ground Water Districts (hereinafter "Ground Water Districts") submitted Replacement Water Plans in 2005, 2006 and 2007 in a good faith effort to satisfy the schedule of replacement water required by the Order. In these Replacement Water Plans and the various Petitions for Reconsideration of the Director's 2005 Orders, our Ground Water Districts repeatedly requested a hearing before the Director to challenge the 2005 Orders to provide us with an opportunity to assert our legal defenses challenging the spring users' delivery calls. No hearing date has ever been set.

3. IDWR approved the 2005 Replacement Water Plan pursuant to which our Ground Water Districts in fact supplied 27,700 AF in 2005. Our *Joint Plan for Providing Replacement Water for 2006* (2006 Replacement Water Plan) was never approved or rejected by IDWR. Notwithstanding, our Ground Water Districts supplied approximately 27,000 AF of replacement water in 2006 pursuant to our 2006 Replacement Water Plan.

4. The total costs our Ground Water Districts expended in 2005 and 2006 to supply water pursuant to our 2005 and 2006 Replacement Water Plans is in excess of \$1,510,000, which consists of the cost of renting the replacement water, administrative fees paid to the State Water Supply Bank and Water District 01 Rental Pool and transportation fees relating to the delivery of water for diversion at Milner Dam into the North Side Canal Company system.

5. Our Ground Water Districts filed our *Joint Replacement Water Plan for 2007* with IDWR on April 7, 2007, proposing to provide 45,000 AF of replacement water, which water again would be rented from water right holders in the Upper Snake, diverted at Milner Dam and delivered through the North Side Canal Company system. This replacement water is in the process of being delivered and the estimated cost will exceed \$765,000. The Director has not issued any Order approving or disapproving the Ground Water Districts' *Joint Replacement Water Plan for 2007*, but it appears to have been implicitly denied when IDWR issued its April 30, 2007 Notice of Curtailment letters.

6. It is our understanding that the 45,000 AF of replacement water provided by the Ground Water Districts for the benefit of the spring users pursuant to our *Joint Replacement Water Plan for 2007* was not accepted because IDWR model runs indicated it would not supply to the quantity of water required for the third year under the Director's 2005 Orders. It is physically impossible for the Ground Water Districts to deliver replacement water in excess of 45,000 AF through the North Side Canal Company system due to the physical constraints of that system during the irrigation season. The Ground Water Districts cannot comply with the amounts required by the 2005 Orders this year.

7. Despite IDWR's failure to grant the Ground Water Districts a hearing to present their defenses and challenges to the Director's 2005 Order seeking to curtail ground water pumpers in our Districts, we have filed Replacement Water Plans each year (2005, 2006, and 2007) as described above

to supply water to comply with IDWR's orders. These Replacement Water Plans were provided in a good faith effort to fully comply with these orders and with the understanding that the Ground Water Districts would be given an opportunity to challenge the Director's orders. These Replacement Water Plans were done notwithstanding the fact that we believe the spring users' delivery calls and the Director's 2005 Orders are invalid and unlawful for the reasons set forth in the Verified Complaint. The Ground Water Districts' Replacement Water Plans and objections in response to the Director's 2005 Orders presented our objections and reserved all defenses and at no time were ever intended to admit or acknowledge that the spring users' delivery calls were valid or that our members had any legal obligation to provide replacement water.

8. Because IDWR has not granted the Ground Water Districts a hearing on the 2005 Orders, this lawsuit was reluctantly filed to protect the lawful property rights of our members and the interests of our Ground Water Districts.

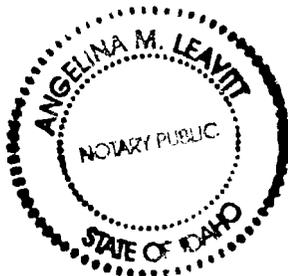
FURTHER YOUR AFFIANTS SAYETH NAUGHT.

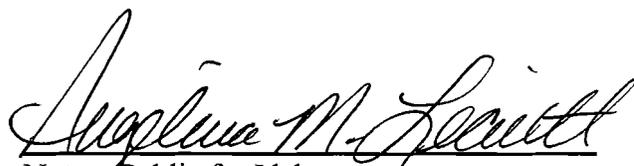
DATED: June 14th, 2007.



R. LYNN CARLQUIST

SUBSCRIBED AND SWORN to before me this 14th day of June, 2007.





Notary Public for Idaho
Residing at: Jerome Idaho
My Commission Expires: 5-27-10

all the attachments are on file at IDWR.

SUPPLEMENTAL AFFIDAVIT OF R. LYNN CARLQUIST AND ORLO H. MAUGHAN - 4
~~JOINT~~

DATED: June 14th, 2007.

Orlo H. Maughan
ORLO H. MAUGHAN

SUBSCRIBED AND SWORN to before me this 14th day of June, 2007.

Ellen W. Stevenson
Notary Public for Idaho
Residing at: Law, ID
My Commission Expires: _____

ELLEN W. STEVENSON
Notary Public
State of Idaho

MY COMMISSION EXPIRES
October 17, 2009
BOONED TERU NOTARY PUBLIC UNDERWRITERS