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**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF GOODING**

CLEAR SPRINGS FOODS, INC.,)	Case No. 2008-0000444
)	
Petitioner,)	
)	
vs.)	
)	
BLUE LAKES TROUT FARM, INC.,)	BLUE LAKES TROUT FARM
)	INC.'S OPPOSITION TO
Cross-Petitioner,)	TEMPORARY STAY REQUEST
)	
vs.)	
)	
IDAHO GROUND WATER)	
APPROPRIATORS, INC., NORTH SNAKE)	
GROUNDS WATER DISTRICT and MAGIC)	
VALLEY GROUND WATER DISTRICT,)	
)	
Cross-Petitioner,)	
)	
vs.)	
)	
IDAHO DAIRYMEN'S ASSOCIATION,)	
INC.,)	
)	
Cross-Petitioner,)	
)	

vs.)
)
 RANGEN, INC.,)
)
 Cross-Petitioner,)
)
 vs.)
)
 DAVID R. TUTHILL, JR., in his capacity as)
 Director of the Idaho Department of Water)
 Resources, and THE DEPARTMENT OF)
 WATER RESOURCES,)
)
 Respondents.)
)
 IN THE MATTER OF DISTRIBUTION)
 OF WATER TO WATER RIGHTS NOS.)
 36-0413A, 36-04013B, and 36-07148,)
)
 (Clear Springs Delivery Call))
)
 IN THE MATTER OF DISTRIBUTION OF)
 WATER TO WATER RIGHTS NOS. 36-)
 02356A, 36-07210, and 36-07427,)
)
 (Blue Lakes Delivery Call))
)

COMES NOW, Cross-Petitioner Blue Lakes Trout Farm, Inc., (“Blue Lakes”) and files this *Opposition* to the *Temporary Stay Request* filed on July 12, 2010 by the Idaho Ground Water Appropriators, Inc., the North Snake Ground Water District and the Magic Valley Ground Water District (“Ground Water Users”).

By order issued July 13, 2010, the Court found good cause to grant the Director of the Idaho Department of Water Resources additional time, until July 19, 2010, to comply with the Court’s remand order. To the extent that the Court’s July 13, 2010 *Order* does not resolve the Ground Water User’s *Temporary Stay Request*, Blue Lakes files this pleading to make the record clear that it

opposes the Ground Water Users' *Temporary Stay Request* for the reasons stated in Blue Lakes' previous *Brief* filed in response to the Ground Water Users' pending *Motion for Stay*.

The Ground Water Users have not cited any authority for their *Temporary Stay Request*. They have not shown that they are likely to succeed in their pending appeal to the Idaho Supreme Court, that they are prejudiced by the requirement that the Director issue a decision in response to the Court's remand order, or any extraordinary circumstances or good cause for the Court to grant a temporary stay. The Ground Water Users raise the specter of a "procedural quagmire" that may ensue from the possibility that a party will seek administrative and/or judicial review of an order issued by the Director in response to the Court's remand order. Presumably, the Court was well aware of the possibility that a party may contest an order issued by the Director on remand when the Court issued its remand and enforcement orders.

As previously discussed, the pendency of an appeal does not itself justify a stay of administration of junior ground water rights that are depleting Blue Lakes' water supply and injuring its water rights. Granting a stay on this basis would result in a real quagmire in which IDWR administration to protect senior water rights would be halted every time an IDWR order is challenged. This Court and the Idaho Supreme Court have consistently rejected such stay requests.

While administrative and judicial review of the Director's May, 2005 *Order* have been pending, the Director has administered the 2005 *Order* and approved multiple mitigation plans submitted by the Ground Water Users to address the injury to Blue Lakes 1973 priority water right no. 36-7427. Approved mitigation plans have themselves been the subject of administrative and judicial review, hearings and appeals. Staying the long overdue administration to address the injury to Blue Lakes' 1971 priority water right no. 36-7210 on the basis of pending appeals or procedural

confusion would stand in stark contrast to the administration that has occurred over the last five years.

Dated this 15th day of July, 2010.

RINGERT LAW CHARTERED

By:  for:
Daniel V. Steenson

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of July, 2010, 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:

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