

John A. Rosholt, ISB #1037  
Travis L. Thompson, ISB #6168  
BARKER ROSHOLT & SIMPSON LLP  
233 Second St. North, Suite D  
Twin Falls, Idaho 83301  
Telephone: (208) 733-0700  
Facsimile: (208) 735-2444

John K. Simpson, ISB #4242  
BARKER ROSHOLT & SIMPSON LLP  
205 North Tenth St., Suite 520  
P.O. Box 2139  
Boise, Idaho 83701-2139  
Telephone: (208) 336-0700  
Facsimile: (208) 355-6034

Attorneys for Twin Falls Canal Company and Clear Springs Foods, Inc.

**BEFORE THE DEPARTMENT OF WATER RESOURCES**

**OF THE STATE OF IDAHO**

IN THE MATTER OF DISTRIBUTION )  
OF WATER TO WATER RIGHTS NOS. )  
36-15501, 36-02551, 36-07694, )  
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**TWIN FALLS CANAL COMPANY'S  
AND CLEAR SPRINGS FOODS, INC.'S,  
PETITION TO INTERVENE**

COMES NOW, Twin Falls Canal Company ("TFCC") and Clear Springs Foods, Inc. ("Clear Springs"), by and through their counsel of record, Barker Rosholt & Simpson LLP, and pursuant to Rules 350, 351, and 352 of the Rules of Procedure of the Idaho Department of Water Resources ("IDWR") and the Director's *Notice of Contested Case and Notice of Status Conference* dated March 11, 2004, and hereby petition for leave to intervene in the above-captioned matter.

## **BACKGROUND AND BASIS FOR PETITION**

1. TFCC is a non-profit water delivery company organized pursuant to the Carey Act (43 U.S.C. § 641) and the laws of the State of Idaho. TFCC holds various natural flow water rights to the Snake River, along with irrigation storage rights in the United States Bureau of Reclamation's Minidoka and Palisades Projects (Jackson Lake, Palisades Reservoir, and American Falls Reservoir).

2. Clear Springs, an Idaho corporation, owns and operates aquaculture facilities in the Thousand Springs reach of the Snake River. Clear Springs holds various water rights to spring flows discharging from the canyon wall in the reach with priorities dating back to the early 1950s. Clear Springs' water rights are diverted and used within Water District No. 130, or the same district as Rangen, Inc.'s water rights.

3. The Eastern Snake Plain Aquifer ("ESPA") is defined as the aquifer underlying the Eastern Snake River Plain as delineated in the report "Hydrology and Digital Simulation of the Regional Aquifer System, Eastern Snake Plain, Idaho." USGS Professional Paper 1408-F, 1992. The water supply in the ESPA is hydraulically connected to the Snake River and tributary water sources at various places and to varying degrees. TFCC's water rights depend upon various spring flows and reach gains to the Snake River that occur along various points of the river from Shelley, Idaho downstream to Milner Dam just west of Burley, Idaho (hereinafter referred to as the "American Falls reach"). These spring flows and reach gains serve as one source of TFCC's water rights and have been in decline for a number of years impairing TFCC's ability to fully exercise its water rights. Clear Springs' decreed water rights depend upon spring flows that occur in the Thousand Springs reach and are also not being satisfied at this time. Both

TFCC's and Clear Springs' water rights depend upon IDWR's lawful and effective conjunctive administration of junior surface and groundwater rights.

4. The *Petition* filed by the Idaho Dairyman's Association ("IDA") on March 11, 2004, as well as the Director's *Amended Order* issued on March 10, 2004, raise numerous issues concerning the administration of ground and surface water rights within Water District No. 130, as well as within ESPA and the Snake River Basin.

5. The Director's determinations in this matter, and any appeal therefrom, stand to directly and substantially affect how junior ground water rights within the Eastern Snake Plain Aquifer are and will be administered for the benefit of senior surface water users, including TFCC and Clear Springs. Such determinations will directly and substantially affect how TFCC's and Clear Springs' water rights will be administered and enforced. In addition to the issues raised by IDA in its *Petition*, TFCC and Clear Springs reserve the right to raise additional issues if necessary during the course of this contested case proceeding. Finally, although TFCC and Clear Springs are filing a joint petition for intervention, they reserve the right to participate as individual parties in this contested case proceeding.

#### **IDWR'S INTERVENTION REQUIREMENTS**

1. TFCC and Clear Springs have direct and substantial interests in this matter. The Director's determinations stand to affect how senior surface water rights, including TFCC's and Clear Springs', are conjunctively administered with junior ground water rights in the Eastern Snake Plain Aquifer.

2. TFCC's and Clear Springs' participation as parties will not unduly broaden the issues before IDWR.

3. TFCC's and Clear Springs' interests are not represented by any other party to this proceeding.

4. TFCC's and Clear Springs' petition to intervene is timely and is filed in compliance with the deadline set forth in the Director's March 10, 2004 *Notice*.

Dated this 23<sup>rd</sup> day of March 2004.

BARKER ROSHOLT & SIMPSON LLP



John A. Rosholt  
John K. Simpson  
Travis L. Thompson

Attorneys for Twin Falls Canal Company and  
Clear Springs Foods, Inc.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on March 23<sup>rd</sup>, 2004, I served a true and correct copy of the foregoing *Twin Falls Canal Company's and Clear Springs Foods, Inc.'s Petition to Intervene* upon the following by U.S. Mail, postage prepaid:

Original:

Director Karl J. Dreher  
Idaho Department of Water Resources  
1301 N. Orchard St.  
P.O. Box 83720  
Boise, Idaho 83720-0098

Copies:

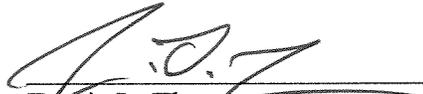
Scott L. Campbell  
MOFFATT THOMAS  
101 S. Capitol Blvd., 10<sup>th</sup> Floor  
P.O. Box 829  
Boise, Idaho 83701

Jeffrey C. Fereday  
Michael C. Creamer  
GIVENS PURSLEY LLP  
601 Bannock St., Suite 200  
Boise, Idaho 83701-2720

Cindy Yenter  
Watermaster, Water District No. 130  
IDWR, Southern Regional Office  
1341 Fillmore St, Suite 200  
Twin Falls, Idaho 83301-3380

J. Dee May  
MAY, SUDWEEKS & BROWNING LLP  
516 Second St. East  
P.O. Box 1846  
Twin Falls, Idaho 83303-1846

Jerry and Patty Nance  
814 Highway 24  
Dietrich, Idaho 83334

  
Travis L. Thompson