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March 15, 2002

Ms. Cindy Yenter
Sr. Water Resource Agent
Idaho Department of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301-3380

RECEIVED

MAR 21 2002

Department of Water Resources

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MAR 19 2002
Department of Water Resources
Southern Region

RE: *Operation of Geothermal Well at Pristine Springs- Notice of Over Appropriation and unauthorized change in Place of Use.*

Dear Ms. Yenter:

I am writing in my representative capacity for Pristine Springs and am attorney of record in this and all matters before the Department concerning Pristine Springs, all future correspondence or concerns may be addressed to my office. We are in receipt of your letter dated March 13, 2002. Under the authority granted by the Department Administrative Rules, Pristine Springs formally requests a Compliance Conference in order to demonstrate that Pristine Springs current use is in full compliance with all pertinent licenses, decrees and permits. We specifically waive our right to have that conference within the 21 day period allotted. I am sure our respective offices can coordinate a convenient time and location for the Compliance Conference.

Pristine Springs respectfully but vigorously disagrees with your preliminary conclusion that Pristine Springs' use of the geothermal well constitutes an over appropriation. Pristine Springs is in complete compliance with the precise terms of permit 36-8094. Furthermore, Pristine Springs has been inspected on numerous occasions by the department within the last few years, cooperated fully with the Department, and the Department has consented to Pristine Springs' complete use of 36-8094. Pristine Springs invested significant capital to improve its diversion works and facilities in total reliance upon the terms of the permit. In its current configuration, Pristine Springs' economic feasibility is dependant upon full use of Permit 36-8094. We shall fully explain the legal predicate for our longstanding full use of 36-8094 at the compliance conference.

Please forward to us all materials, documents, affidavits, or other materials utilized by the department in its preliminary decision and forward any new materials which may be generated in the near future. If you have any questions or concerns please feel free to contact my office as I am sure we will be discussing this matter frequently.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason R. Miciak", written over the printed name.

Jason R. Miciak

To Norm & Phil
ASAP

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**AFFIDAVIT OF
WENDELL STARKE**

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WENDELL STARKE, being first duly sworn upon oath, deposes and states

1. Prior to purchase by Pristine Springs, Inc. in June 1991, the Pristine water well was flowing (with no measuring device) into an open lake where the water was used to grow catfish in open direct ponds.

2. Pristine Springs, Inc. purchased the property with the intent to build a "state of the art" tilapia facility which would set a new standard for environmental responsibility and efficient use of the hot water resource. Upon inspection, it was determined that it was possible that the hot well was defective because hot water was possibly seeping into the cold-water strata. Working cooperatively with IDWR, Pristine Springs put the 7.0 CFS hot well permit to use, the hot well was re-drilled in 1993 at a cost of \$145,000.00.

3. To fully use the hot water resource, a tilapia-raising facility of 40 concrete raceways was constructed (cost of \$690,000) together with extensive systems for environmental treatment, quiescent zones and settlement lakes (cost of \$185,000). When adequate secondary use capability was established as required, a 7.0 CFS power generator system was installed along with appropriate measuring devices (costs of \$165,000) prior to filing proof of use with IDWR in 1995.

4. To better utilize the hot water resource, an additional \$110,000 was invested to re-oxygenate and re-circulate the warm water for multiple re-uses. With this multiple re-use of the heat-resource from this warm water, this facility has been estimated (by Auburn University Fisheries Department) to have a total capacity to grow about 1,900,000 pounds of tilapia annually.

5. In preparation for the production, processing, sale and delivery of tilapia, Pristine Springs has worked with EPA and IDEQ to build the most environmentally sound and productive facility in Idaho with the State's largest concrete quiescent zones, automated cleaning systems and a series of man-made settling channels, ponds and lakes.

6. In addition to the above expenditures, Pristine Springs, Inc. has installed extensive 42" steel pipe and 18" PVC pipe to conserve water most efficiently without seepage. These installations have cost \$147,000 (steel) and \$85,000 (PVC).

7. In recent months, Pristine Springs has invested an additional \$70,000.00 in "purging ponds" for tilapia and \$150,000 in additional trucks and tanks for fish delivery. The total invested in the 7.0 CFS power generation system and the 1.9 million pound tilapia facility is approximately \$1.75 million.

8. The above expenditures of about \$1.75 million does not include the \$2.25 million purchase price of the property and does not include the cost of construction of the trout-raising (cold water) facilities. Although a large expenditure (\$4.0 million capital commitment), this investment provides direct employment to 60 employees of the farm, the processing plant and the trucking staff. In addition to 60 directly employed, many additional jobs are created through the businesses which provide feed, supplements, monitoring services, maintenance, power fuel transportation, packaging, cold storage and many other services and products used to produce and deliver Pristine Springs' products.

9. The economic viability of this business is dependent on the efficient utilization of warm water under our 7.0 CFS permit for which every effort has been made to comply with IDWR and IDEQ and EPA regulations.

10. Although I have received expert legal advice that the power-generation permit and the fish-rearing permit should not be combined. I have not chosen to assert this point up to this time. Neither, have I contested IDWR's requests that Pristine Springs comply with regulations not enforced on other water users (re-working of defective wells, installation of adequate monitoring equipment and frequent monitoring visits). I have supported IDWR's efforts whether or not applied equally to others.

DATED this ____ day of _____, 2002.

WENDELL STARKE

2002.

SUBSCRIBED AND SWORN to before me this ____ day of _____,

NOTARY PUBLIC FOR IDAHO

Residing at: _____

My commission expires: _____