

Idaho Aquaculture Association Inc.

PO Box 767, Hagerman, ID 83332

February 23, 2009

Idaho Department of Water Resources
322 East Front St.
PO Box 83720
Boise, ID 83720-0098

RECEIVED
FEB 23 2009
DEPT. OF WATER RESOURCES
SOUTHERN REGION

**RE: Protest to Ground Water District's Mitigation Plan
For Water Rights 36-04013A, 36-04013B and 36-07148**

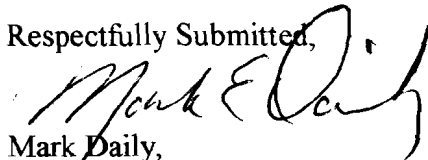
The Idaho Aquaculture Association (IAA) hereby files this Protest to the approval of the 2nd Mitigation Plan ("GWD Plan") filed by the Magic Valley and North Snake Ground Water Districts ("Ground Water Districts") on December 18, 2008 and published in the Twin Falls *Times News* on February 5, 2009. In this GWD Plan, the ground water districts propose to mitigate injury to senior priority rights in the form of monetary compensation per cfs loss of flow per year caused by the junior priority groundwater depletions.

The members of IAA have a direct and substantial interest in the mitigation plan proposed by the Ground Water Districts. Our members utilize spring flows primarily in the Thousand Springs reach of the Snake River pursuant to water rights they hold. IAA can show a direct and substantial interest in the subject matter of this proceeding since part or all of its members water rights may be materially injured if the Department accepts an inadequate or defective mitigation plan contrary to Conjunctive Management Rule 37.03.11.41. A requirement that a senior water right holder accept financial payment for injury *in lieu* of water delivery would further injure our property rights and would set precedence for all water users.

It is IAA's belief that the submitted Mitigation Plan is wholly inadequate and does not comply with the facial and substantive requirements of Conjunctive Management Rule 37.03.11.43. The Mitigation Plan provides no delivery of water required to mitigate all of the material injury that IAA members incur by the continued pumping of Applicant's junior ground water rights.

The IAA requests that its protest be granted and that the mitigation plan be dismissed.

Respectfully Submitted,



Mark Daily,
President

FOR OFFICE USE ONLY

Fee: \$25.00

Receipt No. 5039705

Receipt by: PS

Date Received: 2-23-09

CERTIFICATE OF SERVICE

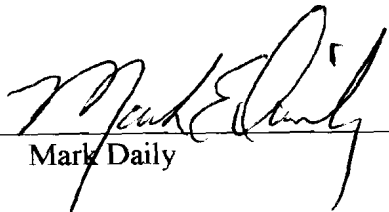
I HEREBY CERTIFY that on this 23rd day of February 2009, the above and foregoing, was served by the method indicated below, and addressed to the following:

David R. Tuthill, Director
Idaho Department of Water Resources
1341 Fillmore St., Suite 200
Twin Falls, ID 83301

☒ Hand Delivery
☐ E-mail
☐ US Mail/Postage Prepaid

North Snake Groundwater District
Magic Valley Groundwater District
c/o Randall C. Budge
Racine, Olson, Nye, Budge & Bailey
PO Box 1391
Pocatello, ID 83204-1391
rcb@racinelaw.net

☐ Hand Delivery
☐ E-mail
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Mark Daily