



State of Idaho

DEPARTMENT OF WATER RESOURCES

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*updated address per
ret. ad. res label CR
5-11-07*

C.L. "BUTCH" OTTER
Governor
DAVID R. TUTHILL, JR.
Director

April 30, 2007

MARION MC CLAIN, LENA MC CLAIN
PO BOX 186
HAZELTON ID 83335

RECEIVED

MAJ 1 2007
DEPARTMENT OF
WATER RESOURCES

Re: Notice of Potential Curtailment of Ground Water Rights in the Thousand Springs Area

Affected Right No(s): 36-7662

*I do not own this property
Lena M^cClain*

Dear Water Right Holder:

This letter is provided to inform you that I am preparing curtailment orders for issuance on May 14, 2007, that may affect the above identified water right or rights. The orders will implement year three of the five-year phased curtailment schedules ordered on May 19, 2005, in response to the Blue Lakes Trout Farm, Inc. (Blue Lakes) delivery call, and on July 8, 2005, in response to the Clear Springs Foods, Inc. delivery call for its Snake River Farm facility (Clear Springs). The delivery calls were made under the Department's Rules for Conjunctive Management of Surface and Ground Water Sources (IDAPA 37.03.11).

The orders will affect consumptive ground water rights bearing priority dates later than May 10, 1983 for the Blue Lakes call and later than June 9, 1975 for the Clear Springs call, including ground water rights for irrigation, commercial, industrial, municipal, non-exempt domestic use, and other consumptive uses. Non-consumptive uses and culinary in-house uses of water will not be subject to curtailment under the orders.

Blue Lakes Call

The Blue Lakes water rights authorize the diversion of water from Alpheus Creek located in the Devil's Washbowl to Buhl Gage spring reach north of Twin Falls. The 2005 order determined that diversion and use of ground water within Water District 130 under water rights with priority dates junior to December 28, 1973, causes material injury to Blue Lakes' December 28, 1973, priority water right no. 36-07427. See Order issued May 19, 2005, *In the Matter of Distribution of Water to Water Rights Nos. 36-2356A, 36-7210, and 36-7427*. A copy of the order can be found on the main page of IDWR's website at:
<http://www.idwr.idaho.gov/Calls/Surface%20Coalition%20Call/default.htm>.

The 2005 Blue Lakes order provides that replacement water in the amount of 30 cfs shall be delivered during year three to the Devil's Washbowl to Buhl reach. Without mitigation or replacement water being provided, year three of phased curtailment shall require the curtailment of ground water rights in Water District 130 having a priority date of March 9, 1977, and later. Because of the credit given for mitigation proposed by the North Snake Ground Water District and the Magic Valley Ground Water District for 2007, year three of the phased curtailment

schedule will be satisfied by curtailing rights having a priority date junior to May 10, 1983. This date could be adjusted based on further determinations of mitigation credits.

Clear Springs Call

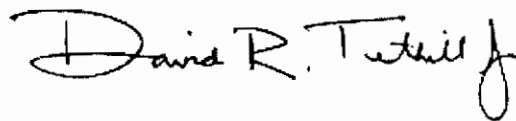
The Clear Springs water rights for use at its Snake River Farm authorize the diversion of water from springs tributary to Clear Lakes located in the Buhl Gage to Thousand Springs reach east of Buhl. The 2005 order determined that diversion and use of ground water within Water District 130 under water rights with priority dates junior to February 4, 1964, causes material injury to Clear Springs' February 4, 1964, priority water right no. 36-04013B. See Order issued July 8, 2005, *In the Matter of Distribution of Water to Water Rights Nos. 36-04013A, 36-04013B, and 36-07148*. A copy of the order can be found on the main page of IDWR's website at: <http://www.idwr.idaho.gov/Calls/Surface%20Coalition%20Call/default.htm>.

The 2005 Clear Springs order provides that replacement water in the amount of 23 cfs be delivered during year three to the Buhl to Thousand Springs reach. Without mitigation or replacement water being provided, year three of phased curtailment shall require the curtailment of additional ground water rights in Water District 130, such that the curtailment will result in simulated cumulative increases to the average discharge of springs in the Buhl Gage to Thousand Springs reach of at least 23 cfs at steady state conditions. All replacement responses will be based on simulations using the Department's ground water model for the ESPA. Because of credit given for mitigation proposed by the North Snake Ground Water District and the Magic Valley Ground Water District for 2007, year three of the phased curtailment schedule will be satisfied by curtailing rights having a priority date junior to June 9, 1975. This date could be adjusted based on further determinations of mitigation credits.

CREP

Issuance of the described curtailment orders on May 14, 2007, will affect the eligibility of land to be enrolled in the Conservation Reserve Enhancement Program (CREP). The United States Department of Agriculture (USDA) Farm Service Agency's rules for CREP require that "the cropland must be physically and legally capable of being irrigated in a normal manner when offered for enrollment." Upon the issuance of a curtailment order, cropland irrigated with curtailed water rights is no longer "legally capable of being irrigated" and is therefore no longer eligible for CREP. Producers should also be aware that CREP is limited to an enrollment of 100,000 acres. For further CREP eligibility requirements, producers should seek advice from their local USDA Farm Service Agency office.

Sincerely,

A handwritten signature in black ink, reading "David R. Tuthill, Jr." with a stylized flourish at the end.

David R. Tuthill, Jr.
Director

Attach. A: Location Map of Potentially Affected Ground Water Rights

Copies: Gregory Kaslo – Blue Lakes Trout Farm, Inc.
Daniel V. Steenson – Ringert Clark Chartered
Larry Cope – Clear Springs Foods
John K. Simpson – Barker Rosholt & Simpson, LLP
Randall C. Budge – Racine Olson Chartered
Angye Leavitt – North Snake Ground Water District
Dean Stevenson – Magic Valley Ground Water District
Michael S. Gilmore – Attorney General's Office
Scott Campbell – Moffatt Thomas
Allen Merritt – IDWR Southern Region
Cindy Yenter – Water District No. 130

Thousand Springs Delivery Calls Potential Curtailment Areas

-  Selected Water Districts
-  Area of Common Ground Water Supply
-  Snake River Farm Ground Water Curtailment Area¹
-  Blue Lakes Trout Ground Water Curtailment Area^{1,2}

1. Water District 140 not subject to curtailment in 2007.
2. Curtailment area in Water District 120 is limited only to several domestic and/or stockwater rights.

