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MAR 12 2009

DEPARTMENT OF
WATER RESOURCES



James C. Tucker
Attorney
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March 11, 2009

Cindy Yenter
Watermaster
Idaho Department of Water Resources
1341 Filmore Street, Suite 200
Twin Falls, Idaho 83301-3380

Re: Notice of Pending Curtailment of Water Rights

Dear Ms. Yenter:

The Idaho Power Company is in receipt of your letter dated March 6, 2009 relative to the potential curtailment of WR # 36-8761, a water right associated with the Company's Niagara Springs steelhead hatchery. This water right provides the domestic water supply for four homes, the hatchery office building and public restrooms at Niagara Springs steelhead hatchery.

Our review of the March 5, 2009 notice of curtailment referenced in your letter indicates that the notice does not apply to "ground water rights use (sic) for *de minimis* domestic purposes where such domestic use is within the limits of the definition set forth in Idaho Code § 42-111...". Idaho Code § 42-111 defines domestic purposes as follows:

- (a) The use of water for homes, organization camps, public campgrounds, livestock and for any other purpose in connection therewith, including irrigation of up to one-half (1/2) acre of land, if the total use is not in excess of thirteen thousand (13,000) gallons per day, or
- (b) Any other uses, if the total use does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day.

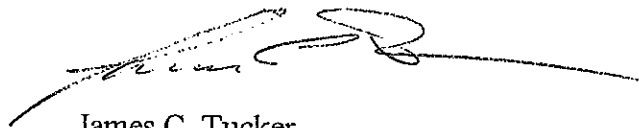
The license that the Company holds for this water right contains the following conditions:

1. The domestic use authorized under this right shall not exceed 13,000 gallons per day per home nor 2,500 gallons per day for the office and restroom facility.
2. Domestic use is for 4 homes, the hatchery office building and public restrooms at Niagara Springs steelhead hatchery and does not include lawn, garden, landscape, or other types of irrigation.

As such, the Company believes that this water right (#36-8761) is excluded from the above referenced curtailment notice. We would appreciate your written confirmation of this fact. In the event that the Department considers that this water right is subject to the curtailment notice, we would appreciate being advised of the basis for that conclusion.

On a more practical note, enclosed is a site-map illustrating that the well location and place of use for this water right is below the canyon rim, in close proximity to the Snake River. From simply the location of this well, it seems clear that the curtailment of this water right would provide no water to the springs from which Clear Springs Foods, Inc. diverts water for its Snake River Farm facility near Buhl, Idaho.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'James C. Tucker', with a long horizontal flourish extending to the right.

James C. Tucker

JCT:sh

Enclosure

cc: Jon Bowling

✓ David R. Tuthill, Jr. Director, IDWR
North Snake Ground Water District
Magic Valley Ground Water District

