



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

November 2, 2009

TO: Water Right Holder in the Eastern Snake Plain Aquifer

Re: Notice of Potential Curtailment of Ground Water Rights in the Eastern Snake Plain Aquifer

Dear Water Right Holder:

This letter is provided to inform you that you are the water right holder of record for one or more water rights that could be subject to curtailment during 2010. The enclosed map depicts areas of potential curtailment based on three water right calls, described below. The delivery calls were made under the Idaho Department of Water Resources' (IDWR) Rules for Conjunctive Management of Surface and Ground Water Resources (IDAPA 37.03.11). The calls apply to ground water rights for irrigation, commercial, industrial, municipal, non-exempt domestic uses, and other consumptive uses. Non-consumptive uses and culinary in-house uses of water are not subject to curtailment under the orders.

Clear Springs Call

Clear Springs Foods, Inc. (Clear Springs) holds several water rights for fish propagation at its Snake River Farm facility near Buhl. These rights authorize the diversion of water from springs tributary to Clear Lakes located in the Buhl Gage to Thousand Springs reach east of Buhl. An order issued on July 8, 2005, determined that diversion and use of ground water under water rights with junior priority dates causes material injury to Clear Springs' water right no. 36-04013B (February 4, 1964). A copy of the order can be found on the IDWR website at:

<http://www.idwr.idaho.gov/Calls/Spring%20Users%20Calls/Clear%20Springs%20Order%2007-08-05.pdf>.

As of 2009, the fifth and final year of phased curtailment, junior ground water users were required to provide 39 cfs of replacement water to the Buhl Gage to Thousand Springs reach, or 2.68 cfs of direct and suitable quality replacement water to the Clear Springs Snake River Farm facility (6.9 percent of 38.9 cfs), or a combination thereof. In 2009, Clear Springs and the Idaho Ground Water Appropriators, Inc. (IGWA), who represent the North Snake and Magic Valley Ground Water Districts, agreed upon a level of mitigation to be implemented by IGWA during the 2009 and 2010 calendar years, pending a hearing and determination of a permanent mitigation plan filed by IGWA to provide direct delivery of ground water to Clear Springs via a pipeline over the canyon rim. In July of 2009, IDWR found that IGWA was not providing all of the mitigation that it had agreed to and IDWR subsequently ordered curtailment of certain junior priority ground water rights. IGWA then filed a motion with the Idaho Fifth District Court to stay IDWR's curtailment order. District Court Judge John Melanson conditionally granted IGWA's request for stay on August 24, 2009. Judge Melanson has since granted requests by Clear Springs seeking clarification of his conditional stay order. The Court has scheduled a second status conference on this matter for November 6, 2009.

Pending further clarification or decision from the District Court, IDWR may require curtailment of ground water rights having a priority date junior to August 11, 1990 if IGWA provides no additional mitigation in 2010 as it did in 2009.

Water users are further advised that IDWR has scheduled a hearing on December 7, 2009 regarding IGWA's pipeline mitigation plan. If the mitigation plan is not approved, ground water rights junior to February 4, 1964 could be subject to curtailment.

Blue Lakes Call

The Blue Lakes Trout Farm, Inc. (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. An order issued on May 19, 2005 determined that diversion and use of ground water under water rights with junior priority dates causes material injury to Blue Lakes' water right no. 36-07427 (December 28, 1973). A copy of the order can be found on the IDWR website at:

<http://www.idwr.idaho.gov/Calls/Spring%20Users%20Calls/Blue%20Lakes%20Order%2005-19-05.pdf>

IGWA has provided direct and continuous delivery of 10 cfs additional flow to Blue Lakes since 2008 through the purchase of a 1964 priority water right from Alpheus Creek formerly held by Pristine Springs, Inc. The approved plan and 10 cfs delivery provides relief to holders of ground water rights junior to Blue Lakes' December 28, 1973 priority water right who are located within the Blue Lakes delivery call area from potential curtailment if the right holders are members of ground water districts or irrigation districts participating in the IGWA plan. As of 2009, the fifth and final year of phased curtailment, junior ground water users were required to provide 61 cfs of replacement water to the Devils Washbowl to Buhl spring reach, 12.2 cfs of direct and suitable quality replacement water to Blue Lakes (20 percent of 61 cfs), or a combination thereof. The on-going direct delivery of 10 cfs to Blue Lakes, combined with conversion projects and enrollment of lands in the Conservation Reserve Enhancement Program (CREP), has provided the required 12.2 cfs amount of replacement water to Blue Lakes.

IDWR plans to conduct a hearing as required by IDWR Conjunctive Management Rules regarding mitigation plans submitted by IGWA and the A&B Irrigation District for the Blue Lakes call. IDWR anticipates that a hearing will be scheduled after the Clear Springs mitigation plan hearing. A separate curtailment date has not been selected for the Blue Lakes call based on the on-going mitigation being provided to Blue Lakes.

Surface Water Coalition Call

The Surface Water Coalition call applies to ground water rights that impact the Snake River in the American Falls area where the aquifer and river are hydraulically connected. This priority administration of water rights is occurring as required by the order of May 2, 2005, issued in response to the water delivery call made by members of the Surface Water Coalition, which includes A&B Irrigation District, American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company. A copy of the order can be found on IDWR's website: <http://www.idwr.idaho.gov/Calls/Surface%20Coalition%20Call/Edited%20Amended%20Order%2005-2-05.pdf>

Under the 2005 order, I am required to make a determination of the extent of material injury reasonably likely to occur to members of the Surface Water Coalition during the 2010 irrigation season as a result of depletions caused by the diversion of water under junior priority ground water rights. This determination will be made with forecasts of the expected runoff based on the snow survey conducted on April 1, 2010. Depending on the expected snow pack, the determination could result in the curtailment of consumptive ground water rights during the 2010 irrigation season. IDWR computations predict that if the expected runoff is at least 65 percent of normal, no curtailment will be required. If the predicted runoff is the same as in 1977, the lowest runoff year on record (48 percent of normal), ground water rights with priority dates junior to March 29, 1978 could be subject to curtailment. A mitigation plan has not yet been submitted by IGWA in response to this delivery call.

Sincerely,



Gary Spackman
Interim Director

Enclosure: Location Map of Curtailment Areas

Map of Curtailment Areas

-  Selected Water Districts
-  Area of Common Ground Water Supply
-  Snake River Farm Ground Water Curtailment Area
-  Blue Lakes Trout Ground Water Curtailment Area
-  Blue Lakes Trout and Snake River Farm Ground Water Curtailment Areas
-  Surface Water Coalition Ground Water Curtailment Area

