



OCT 20 2004

STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL  
LAWRENCE G. WASDEN

October 15, 2004

*VIA U.S. MAIL AND FACSIMILE*  
*(208) 736-2121*

Honorable Brigitte Bilyeu  
Snake River Basin Adjudication Court  
253 3rd Avenue North  
P.O. Box 2707  
Twin Falls, ID 83303

Re: Motion to Participate in Subcase No. 29-10990.

Dear Special Master Bilyeu:

The State of Idaho filed by facsimile a Motion to Participate in the above-entitled subcase proceeding. We did so with much reluctance because we understood that the parties had settled their dispute and were willing to execute a Standard Form 5, but since it may take several days to implement this verbal agreement and since this is the last day to file a Motion to Participate, we did so to preserve our right to participate in this proceeding that concerns THE 1990 FORT HALL INDIAN WATER RIGHTS AGREEMENT. In the event that the court receives a Standard Form 5 for this subcase, we will withdraw our Motion to Participate.

Sincerely,

A handwritten signature in black ink, reading "David J. Barber".

DAVID J. BARBER  
Deputy Attorney General

DJB/ov

cc: Jeanette Wolfley  
Barry T. Williams  
IDWR

OCT 20 2004

COPY

LAWRENCE G. WASDEN  
Attorney General

CLIVE J. STRONG  
Deputy Attorney General  
Chief, Natural Resources Division

DAVID J. BARBER (ISB #2597)  
Deputy Attorney General  
P.O. Box 44449  
Boise, Idaho 83711-4449  
Telephone: (208) 334-2400  
Facsimile: (208) 334-2690

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

|                |   |                            |
|----------------|---|----------------------------|
| In Re SRBA     | ) | Subcase No. 29-10990       |
|                | ) |                            |
|                | ) |                            |
|                | ) |                            |
| Case No. 39576 | ) | STATE OF IDAHO'S MOTION TO |
|                | ) | PARTICIPATE IN SUBCASE AND |
|                | ) | MEMORANDUM IN SUPPORT OF   |
|                | ) | MOTION TO PARTICIPATE      |
|                | ) |                            |

COMES NOW the State of Idaho, by and through the undersigned counsel, and respectfully moves to participate as a respondent in the subcase no. 29-10990 pursuant to Snake River Basin Adjudication, hereinafter the "SRBA," Administrative Order 1, section 10(k) and Rule 24(a) of the I.R.C.P. This motion is supported by the following Memorandum in Support.

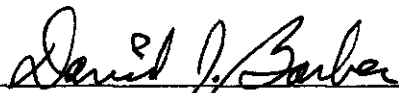
## CONCLUSION

For the reasons stated the State of Idaho requests entry of an order granting it a right to participate in this subcase proceeding. Oral argument is not requested on this motion.

Dated this 15th day of October 2004.

LAWRENCE G. WASDEN  
ATTORNEY GENERAL

CLIVE J. STRONG  
DEPUTY ATTORNEY GENERAL  
CHIEF, NATURAL RESOURCES DIVISION

  
\_\_\_\_\_  
DAVID J. BARBER  
Deputy Attorney General  
Natural Resources Division

**CERTIFICATE OF SERVICE**

I hereby certify that on this 15<sup>th</sup> day of October 2004, I caused to be served the original and/or a copy of the foregoing **STATE OF IDAHO'S MOTION TO PARTICIPATE IN SUBCASE AND MEMORANDUM IN SUPPORT OF MOTION TO PARTICIPATE** on each of the following persons by the method indicated:

1. Original to:

Clerk of the District Court  
Snake River Basin Adjudication  
253 Third Avenue North  
PO Box 2707  
Twin Falls, ID 83303-2707

- ☐ U.S. Mail, postage prepaid  
☐ Hand Delivery  
☐ Federal Express  
☒ Facsimile: (208) 736-2121  
☐ Statehouse Mail

2. Copies to

Jeanette Wolfley  
Attorney at Law  
202 North Arthur  
Pocatello, ID 83204

- ☒ U.S. Mail, postage prepaid  
☐ Hand Delivery  
☐ Federal Express  
☐ Facsimile: \_\_\_\_\_  
☐ Statehouse Mail

United States Department of Justice  
Environment and Natural Resource  
Division  
550 West Fort Street, MSC 033  
Boise, ID 83724

- ☒ U.S. Mail, postage prepaid  
☐ Hand Delivery  
☐ Federal Express  
☐ Facsimile: \_\_\_\_\_  
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IDWR Document Depository  
PO Box 83720  
Boise, ID 83720-0098

- ☐ U.S. Mail, postage prepaid  
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☒ Statehouse Mail

Barry T. Williams  
1277 Mink Creek Road  
Arbon, ID 83212

- ☒ U.S. Mail, postage prepaid  
☐ Hand Delivery  
☐ Federal Express  
☐ Facsimile: \_\_\_\_\_

Chief of Natural Resource Division  
Office of the Attorney General

Not Applicable

  
\_\_\_\_\_  
DAVID J. BARBER  
Deputy Attorney General