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LAWRENCE G. WASDEN
Attorney General

STEVEN L. OLSEN
Deputy Attorney General
Chief, Civil Litigation Division

KARL T. KLEIN (ISB # 5156)
Deputy Attorney General
Civil Litigation Division

MICHAEL C. ORR (ISB # 6720)
Deputy Attorney General
Natural Resources Division

700 W. Jefferson, Room 210
P.O. Box 44449
Boise, ID 83711-4449
(208) 334-2400

Attorneys for Defendants

DAVID HENSLEY (ISB # 6600)
Counsel to the Governor

Attorney for Defendant C.L. "Butch" Otter, Governor of the State of Idaho

**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 Nos. 37-2128, 37- 2471,
	)	37-2472, 37-20709, 37-20710
Case No. 39576	)	
	)	AMENDED
	)	MOTION TO STRIKE OR
IDAHO POWER COMPANY,	)	ALTERNATIVELY TO DISMISS
	)	"COUNTERCLAIM"
Plaintiff,	)	
	)	
v.	)	
	)	
STATE OF IDAHO; C.L. "BUTCH OTTER,	)	
Governor of the State of Idaho; LAWRENCE G.	)	
WASDEN, Attorney General of the State of	)	

Idaho; IDAHO DEPARTMENT OF WATER)
RESOURCES; and DAVID TUTHILL, Director,)
Idaho Department of Water Resources,)
)
Defendants.)
_____)

Objectors the State of Idaho, Governor C.L. “Butch” Otter, Attorney General Lawrence Wasden, and the Idaho Department of Water Resources and its Director David Tuthill move, through their undersigned counsel, to strike or dismiss the “Counterclaim” attached to Idaho Power Company’s May 11, 2007 “Standard Form 2 Response to Objection to Amended Director’s Report” under Rules 12(f), 12(b)(1), (2),(4) and/or (5), (6) and (8) of the Idaho Rules of Civil Procedure, Idaho Code §§ 42-1401 through 42-1423, and Administrative Order 1, and the Order of Reference Appointing Brigette Bilyeu Special Master for Irrigation and Other Claims in Reporting Area 16, Basin 37, Part 1.

The Objectors are not, by filing this motion, conceding that the “Counterclaim” is a valid pleading requiring a response of any kind. They view it, at best, as being a list of issues that Idaho Power wishes to inject into these subcases. The Objectors file this motion, in an abundance of caution, simply to foreclose the possibility that Idaho Power might seek a default.

The Objectors’ motion does not seek to prevent this Court from determining the elements of the water rights at issue in these subcases, or to prevent Idaho Power Company from identifying issues to be heard pursuant to Idaho Code § 42-1412(3). Accordingly, the Objectors suggest that in lieu of completely dismissing or striking the “Counterclaim” the Court might possibly enter an order relieving the Objectors of any

duty to reply and deeming the "Counterclaim" to simply identify the issues Idaho Power Company seeks to raise in support of its objections to the Amended Director's Reports in these subcases for purposes of Idaho Code § 42-1412(3).

The grounds for the Objectors' motion are that the "Counterclaim" contains redundant, immaterial, and impertinent matters. Further, it is not a claim, objection, or response contemplated for use in the SRBA or allowed under AO1 or the above-referenced statutes, and it seeks relief beyond a determination of the elements of a water right and beyond the scope of the Order of Reference. Idaho Power's "Counterclaim" asserts claims involving persons, entities, and subjects over which the Court lacks jurisdiction. It asserts claims against persons and entities who are not parties to these subcases and who were never served. It also asserts claims upon which relief may not be granted. Further, Idaho Power filed the "Counterclaim" despite having filed a virtually identical "Complaint" against the same "Defendants" in the main SRBA case, thereby wasting judicial resources and setting up the possibility of different rulings on the very same issues.

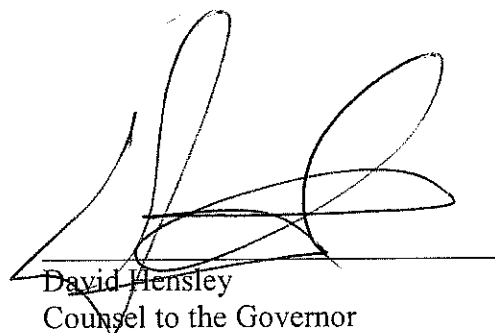
The Objectors request oral argument.

DATED this 13th day of June, 2007.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL



By: Karl T. Klein, Deputy Attorney General,
Attorneys for Defendants State of Idaho,
Attorney General Lawrence Wasden, the Idaho
Department of Water Resources, and Director
David Tuthill



David Hensley
Counsel to the Governor

CERTIFICATE OF MAILING

I certify that on June 13, 2007, I caused the foregoing **Amended Motion To Strike Or Alternatively To Dismiss "Counterclaim"** to be served on the following persons by the method designated:

1. Original to:
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707
Hand Delivery
2. One copy to each entity identified in the ownership section of the water right at the following addresses:

STATE OF IDAHO
700 W. Jefferson, Room 210
P.O. Box 44449
Boise, Idaho 83711-4449
NOT APPLICABLE

IDAHO POWER CO.
P.O. Box 70
Boise, Idaho 83707
U.S. MAIL

James S. Lochhead
Brownstein Hyatt Farber Schreck, P.C.
410 17th Street, Suite 2200
Denver, Colorado 80202
lochhead@bhfs.com
U.S. MAIL & E-Mail

John K. Simpson
Barker Rosholt & Simpson
P.O. Box 2139
Boise, Idaho 83701
U.S. MAIL

Josephine P. Beeman
409 West Jefferson
Boise, Idaho 83702
Facsimile: (208) 331-0954
U.S. MAIL

Scott J. Smith
Racine, Olson, Nye, Budge & Bailey
P.O. Box 1391
U.S. MAIL

Pocatello, Idaho 83204
Facsimile: (208) 232-6109

3. Copies to:

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Boise, ID 83720-0098

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

U.S. MAIL

Chief of Natural Resource Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

HAND DELIVERY



Karl T. Klein