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DEPARTMENT OF
WATER RESOURCES

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Attorney for Gary & Helen DeMoss

**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

Case No. 39576

)
) Subcase Nos. 37-238A, et al. See Exhibit A
)

) **MOTION FOR EXTENSION OF TIME TO**
) **FILE SUMMARY JUDGMENT MOTION,**
) **MOTION FOR EXPEDITED HEARING, and**
) **NOTICE OF HEARING**
)

COME NOW Gary and Helen DeMoss, by and through their counsel of record, Beeman & Associates, P.C., and hereby move this court for an enlargement of time for filing the Summary Judgment Motions due on October 12, 2007. The DeMosses also move for a shortened time for hearing on this motion.

The DeMosses have filed objections to the following subcases which have a summary judgment deadline of October 12, 2007: 37-4112, 37-21595, 37-856, 37-2780, 37-2778, and 37-7754.¹ The DeMoss objections to source, priority date, and period of year for each of these rights, contained the following discussion and request for a general provision:

REASONS SUPPORTING OBJECTION(S): With historical practice pursuant to decree and water master delivery, diversions to storage under water rights 37-856, 37-2780, 37-7754,

¹ The DeMosses filed, and subsequently withdrew, objections to the following water rights: 37-7180, 37-7920, 37-859A, 37-7857, 37-7865, 37-7922, 37-7944, and 37-1175A. The DeMosses also filed objections to the following water rights which are in the final stages of settlement: 37-1160, 37-1175, 37-4091, 37-238A, 37-239A, 37-240A, 37-239D, 37-240D, 37-607D, 37-608D, 37-447C, 37-447D, 37-11131, 37-507, and 37-4241.

and 37-2778 have not been subject to curtailment as a result of priority calls from downstream senior direct flow irrigation water rights before April 1 or by downstream senior direct flow stockwater rights at any time of the year, or by downstream senior direct flow hydropower water rights, recreation or aesthetics water rights, or instream flow water rights at any time of the year. In accordance with the historical practice, these four water rights should not be subject to curtailment as a result of priority calls from downstream senior direct flow water rights.

This water right should be decreed with the following general provisions.

Separate Streams:

For purposes of water distribution in the Big Wood River drainage basin (including the Malad River to which the Big Wood River is a tributary in Basin 37), water rights from the following sources to the extent recommended herein, are not considered junior to water rights from the Big Wood River, and the Malad River, and will be administered separately from all other water rights in Basin 37:

Dry Creek tributary to Big Wood River in T05S, R14E, Section 22

Separate Administration:

The following water rights from the following sources of water in Basin 37 shall be administered separately from all other water rights in Basin 37 in accordance with the prior appropriation doctrine as established by Idaho law:

Dry Creek tributary to Big Wood River in T05S, R14E, Section 22

The following water rights from the following sources of water in Basin 37 shall be administered separately from all other water rights in the Snake River basin in accordance with the prior appropriation doctrine as established by Idaho law:

Dry Creek tributary to Big Wood River in T05S, R14E, Section 22

The issue raised by the DeMosses' common objection and request for a general provision is set for hearing before Judge Melanson on October 16, 2007 at 3:00 p.m., as part of subcases in several basins for which Idaho Power is seeking designation of a basin-wide issue regarding "historic practice" subordination.

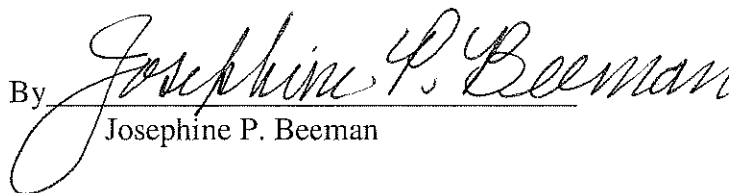
The October 16, 2007 hearing will address the United State's *Motion for Consolidation* and Idaho Power's *Motion for Designation of a Basin-Wide Issue* regarding the "historic practice" subordination issue. Until these motions are granted or denied, it is unknown whether the historic use subordination issue will be set for trial on a separate track. However, if both motions are denied, the historic use subordination issue will no longer affect the trial schedule set by Special Master Bilyeu; however, the October 12 summary judgment deadline will have expired.

NOTICE OF HEARING

PLEASE TAKE NOTICE that a hearing on the above motion for an extension of time will be heard at 4:00 p.m. on Wednesday, October 10, 2007, before Special Master Bilyeu. The call-in phone conference number is 1-225-383-1099, participant code 926-509.

DATED this 9th day of October 2007.

BEEMAN & ASSOCIATES, P.C.
Attorneys for Gary A. and Helen DeMoss

By 
Josephine P. Beeman

CERTIFICATE OF MAILING

I certify that on October 9, 2007, I mailed a copy of the foregoing **MOTION FOR EXTENSION OF TIME TO FILE SUMMARY JUDGMENT MOTION and MOTION FOR EXPEDITED HEARING** to the following:

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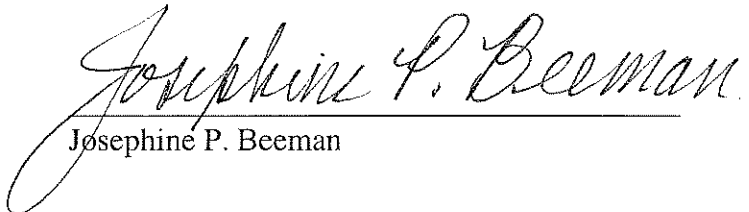

Josephine P. Beeman

EXHIBIT A

37-00238A
37-00239A
37-00239D
37-00240A
37-00240D
37-00447C
37-00447D
37-00507
37-00607D
37-00608D
37-00856
37-00859A
37-01175A
37-02778
37-02780
37-04112
37-04241
37-07108
37-07754
37-07857
37-07865
37-07920
37-07922
37-07944
37-11131
37-21595