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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 No: **63-03618**

**AFFIDAVIT OF ROBBIN FINCH IN
SUPPORT OF MOTION FOR SUMMARY
JUDGMENT**

STATE OF IDAHO)
 : ss.
County of Ada)

ROBBIN FINCH, being first duly sworn upon oath, deposes and says:

1. I am the Water Quality Manager, Boise City Public Works Department, for the City of Boise, and as such have personal knowledge of the facts stated herein.
2. The loss of storage water from Lucky Peak Reservoir used for stream flow maintenance is likely to result in significantly lower winter flows in the Boise River (e.g., 10 to 20 cfs at Glenwood Bridge versus the usual winter flow rate of 150 to 240 cfs).
3. Lower flows will result in more stringent federal Clean Water Act (CWA) water quality based effluent limitations for the City of Boise's two waste water treatment facilities (WWTFs) and application of more stringent municipal separate storm sewer system

(MS4) requirements.

4. The City's two WWTF's are authorized to discharge treated wastewater to the Boise River in compliance with limitations and conditions contained within CWA National Pollutant Discharge and Elimination System (NPDES) permits. The City and other co-permittees are authorized to discharge storm water in compliance with MS4 NPDES permit conditions that require the application of best management practices (BMPs). All NPDES permits are administered and enforced by the United States Environmental Protection Agency (EPA).

5. The Boise WWTFs NPDES permit limitations and conditions are developed using seasonal flows (irrigation and non-irrigation) of the Boise River to ensure compliance with state water quality standards for the protection of human health, aquatic life, and the environment. Lower flow in the winter will result in the loss of some or potentially all of the assimilative capacity of the Boise River (i.e., lower flow means more stringent and costly treatment and controls). The assimilative capacity of the Boise River is a factor in development of existing and future CWA NPDES permit limitations, conditions, and BMP requirements.

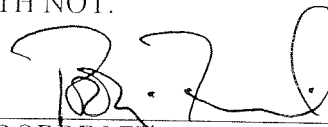
6. If the Boise River winter flows are significantly reduced, then water quality based effluent limitations (WQBELs) could be applied and enforced at the point of discharge or "end of the pipe" for the City's WWTFs and BMPs required in the Boise MS4 permit could become substantially more stringent. Such change would constitute a significant departure from the status quo. Compliance with new more stringent NPDES permit limitations for WWTFs and BMPs for the MS4 discharge could be extremely costly. Additional WQBELs for at least one metal at one WWTF are anticipated if the winter

maintenance flows are eliminated and other WQBELs affected by receiving stream flows and assimilative capacity would become more stringent.

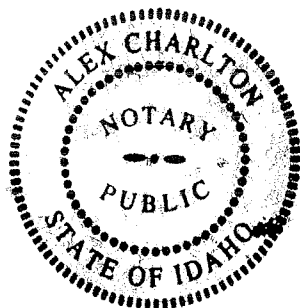
7. Storm water discharges would also need to be reviewed and more stringent BMPs could be required to satisfy the CWA requirement for MS4s. MS4 retro fit costs to provide treatment or minimize/eliminate storm water discharges would be extremely expensive.

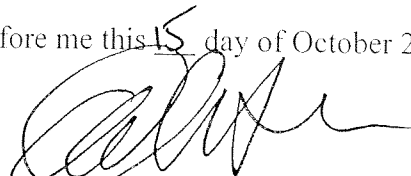
8. The Boise River's existing total maximum daily load (TMDL) allocations could also be affected by loss of winter flow. Any re-allocation has the potential to effect every Boise River permittee, not just the City. Two EPA-approved TMDLs exist on the Boise River for sediment and bacteria. Both TMDLs would need to be reevaluated and could become more stringent if there is a significant change in winter flow in the Boise River. Review of existing TMDLs after a reduction in winter flow would likely conclude that lower bacteria and sediment discharges are required from the MS4 to meet BMP requirements. It is challenging under present conditions to comply with MS4 permitting requirements.

FURTHER YOUR AFFIANT SAYETH NOT.


ROBBIN FINCH

SUBSCRIBED AND SWORN to before me this 15 day of October 2007.




Notary Public for Idaho
Residing at Boise
My Commission Expires 3-13-13

CERTIFICATE OF SERVICE

The undersigned hereby certifies under penalty of perjury under the laws of the State of Idaho that, on this 15th day of October, 2007, he/she/they caused to be served on the person(s) listed below in the manner shown:

AFFIDAVIT OF ROBBIN FINCH IN SUPPORT OF MOTION FOR

SUMMARY JUDGMENT

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