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DEPARTMENT OF
WATER RESOURCES

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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

**IDAHO POWER COMPANY'S
MOTION TO STRIKE
STATEMENT OF GARY AND
HELEN DEMOSS AND
REQUEST FOR EXPEDITED
HEARING**

COMES NOW the Idaho Power Company ("Idaho Power"), by and through its undersigned attorneys, hereby files its *Motion to Strike Statement of Gary and Helen DeMoss and Request for Expedited Hearing*, and as grounds therefore states as follows:

1. On August 28, 2007, the United States filed and served on DeMoss its *Motion to Consolidate Subcases* ("United States' Motion").
2. On September 4, 2007, Idaho Power filed and served on DeMoss its *Motion to Designate Basin-Wide Issue, or Alternatively to Consolidate Subcases on Common Issues* ("IPC Motion").
3. By orders dated August 31, 2007, and September 5, 2007, the court set a consolidated hearing on the United States' Motion and Idaho Power's motion for October 16, 2007.
4. Under IRCP 7(b)(3)(E), response briefs were due 7 days before the hearing, on October 9, 2007. The State of Idaho filed a timely response brief on October 5, 2007. No other responses were filed.
5. Under IRCP 7(b)(3)(E), reply briefs were due 2 days before the hearing, on October 14, 2007. Idaho Power filed a timely reply brief October 12, 2007, addressing the State of Idaho's timely response.
6. On October 15, 2007, Gary and Helen DeMoss ("DeMoss") filed, and served by fax after the close of business, their *Statement of Gary and Helen DeMoss for October 16, 2007 Hearing on Idaho Power Company's Motion to Designate Basin-Wide Issue or Alternatively to Consolidate Subcases on Common Issue* ("DeMoss Statement").
7. The DeMoss Statement is styled as a status update on the settlement negotiations in the various subcases in which DeMoss filed objections. However, the "Statement" essentially argues that designation of a Basin-Wide Issue or consolidation would be improper. For example, DeMoss argues at page 6 of the Statement that resolution of Subcase 92-23 "consistent with the conditions presently recommended"

would achieve DeMoss' core purpose of protecting their junior priority rights from curtailment. DeMoss is well aware that the recommendations are contested by Idaho Power and that the IPC Motion could affect the outcome of Subcase 92-23. Accordingly, it is apparent that DeMoss is not merely updating the Court on the status of the various subcases, but making arguments in response to the IPC Motion. As such, the DeMoss Statement should be treated as an untimely response brief.

8. The DeMoss Statement also points out that Idaho Power failed to list three additional subcases in which DeMoss filed objections regarding historic practice. Idaho Power inadvertently missed these objections, despite its best attempts to identify every case in which DeMoss filed an objection regarding historic practice. Idaho Power will make an oral motion at the hearing to add these subcases to the pending request for designation of a Basin-Wide Issue or alternative request for consolidation.

9. Idaho Power is prejudiced by DeMoss' late filing, and has not had sufficient opportunity to assess the arguments made by DeMoss, prepare an oral response to the DeMoss filing, or prepare a written reply. Idaho Power does not intend to oppose settlement of cases where Idaho Power is not a party and where DeMoss and the water rights claimant have come to resolution, but Idaho Power obviously was not given time to assess these various claimed settlements and determine whether the DeMoss Statement is accurate and whether the proposed settlements prejudice Idaho Power's water rights.

10. The court should therefore strike the untimely DeMoss filing, and preclude DeMoss from raising at the hearing any of the arguments made in the Statement.

11. In the alternative, if the Court considers the untimely DeMoss filing, or oral argument based on it, Idaho Power should have an opportunity to file a reply before the court decides the matter.

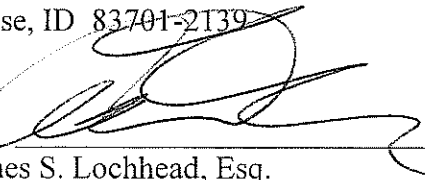
WHEREFORE, Idaho Power respectfully requests an expedited hearing on this motion to strike the DeMoss Statement and preclude DeMoss from raising the arguments made in the Statement at the hearing.

DATED: October 16, 2007

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CERTIFICATE OF MAILING

I certify that on October 16, 2007, I served the original and/or copy of this **IDAHO POWER COMPANY'S MOTION TO STRIKE STATEMENT OF GARY AND HELEN DEMOSS AND REQUEST FOR EXPEDITED HEARING** on each of the following persons by the indicated method:

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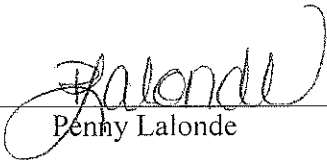
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