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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	)	Consolidated Subcase no. 92-23
	)	
Case No. 39576	)	STATE OF IDAHO'S RESPONSE
	)	TO IDAHO POWER COMPANY'S
	)	MOTION FOR CONTINUANCE
	)	OF STAY
	)	

INTRODUCTION

Idaho Power Company filed a "Motion for Continuance of Stay Pending Filing of Responses to Objections in Basin 2 and Request for Expedited Hearing" ("Motion for Continuance") in this matter on December 7, 2007. The Motion for Continuance requests that the Court "continue its stay of proceedings, except for discovery . . . until responses to objections are due in Basin 2 on February 5, 2008." The State does not believe a stay is warranted and opposes the motion to the extent it would prevent the Court from

resolving questions of law that will narrow the dispute, focus the issues, and better posture the case for expeditious resolution after the close of the response period. Such questions of law are presented in the State's Motion for Partial Summary Judgment, which is grounded in Idaho Code § 42-203B. This statutory provision established and defines the trust, and controls the questions of ownership and subordination arising thereunder.

ARGUMENT

1. Delaying The Resolution Of Questions Of Law Would Frustrate Rather Than Promote Judicial Economy.

A. Judicial Economy Is Not Served By Preventing The Resolution Of Preliminary Legal Matters That Would Avoid Unnecessary Discovery, Expense And Delay.

Idaho Power asserts that judicial economy would be served by extending the stay until the close of the Response period because “[i]t is possible that additional parties may seek to participate, and that additional issues may be raised.” Motion for Continuance at 2 ¶ 3. Judicial economy is not served, however, by preventing the resolution of preliminary matters that are postured for decision and can resolve some claims or issues, provide focus for others, narrow the dispute, or otherwise guide the development of the case. Rather, such a stay is a formula for unnecessary discovery, expense and delay, especially when the Court has before it a twenty-seven (27) page complaint replete with far-reaching allegations and seeking a broad spectrum of relief, including judicial reformation of the Swan Falls Agreement, five declaratory orders, and three injunctions.¹

¹ While Idaho Power Company's "Complaint and Petition for Declaratory and Injunctive Relief" initially sought four injunctions, the Court dismissed Idaho Power Company's claim for an order directing the Attorney General to "repeal" Attorney General Opinion 06-2. See Order Granting in Part, Denying in Part Motion to Dismiss; Consolidating Common Issues Into Consolidated Subcase; And Permitting Discovery Pending Objection Period in Basin 2; And Notice of Scheduling Conference (July 24, 2007) ("Order") at 15.

Under such circumstances, it makes little sense to simply freeze all proceedings pending the filing of responses to objections.

This is particularly true with respect to questions of law that are potentially dispositive of pivotal issues or claims. Judicial economy is best served by allowing such questions to be aired and resolved. Complex cases should be simplified to the extent possible by preliminary motions that can resolve some claims or issues, narrow the dispute, and avoid unnecessary discovery by providing guidance for development of the remaining issues. It is pointless to leave the parties no option but to engage in expensive and time-consuming discovery on a broad range of issues when timely resolution of preliminary legal matters may well render much of the discovery and delay unnecessary and move the case forward.

B. Judicial Economy Is Promoted By Resolving The Statutory Interpretation Questions Raised In The State's Motion For Partial Summary Judgment.

These considerations are illustrated by the State of Idaho's Motion for Partial Summary Judgment ("Motion for Partial Summary Judgment"), which has been filed with the Court. The Motion for Partial Summary Judgment is based on Idaho Code § 42-203B, which is one of the statutes enacted to resolve the Swan Falls dispute. *See Miles v. Idaho Power Company*, 116 Idaho 635, 637, 778 P.2d 757, 759 (1989) ("our legislature enacted legislation to implement the agreement. *See* 1985 Idaho Sess.Laws, ch. 14-17; ch. 18, §§ 1, 3, 4; ch. 162, 204, pp. 20-31, 437, 514");² *see also* "Complaint and Petition for Declaratory and Injunctive Relief" (May 10, 2007) ("Complaint") at 7 ¶¶ 20-21 ("In addition to this 1984 'Agreement,' the overall 'Swan Falls Settlement' also includes:

² Idaho Code § 42-203B was enacted under chapter 17 the 1985 Idaho Session Laws, one of the chapters specifically cited in the *Miles* decision as legislation enacted to resolve the dispute. 116 Idaho at 637, 778 P.2d at 759; *see also* 1985 Sess. Laws 25-26 (setting forth "a NEW SECTION, to be known and designated as Section 42-203B, Idaho Code").

subsequent implementing legislation . . . The Agreement contemplated enactment of a legislative program to implement the Agreement. . .”).

Section 42-203B is an exercise of the State’s constitutional authority to “regulate and limit” hydropower water rights. Section 3 of Article XV of the Idaho Constitution authorizes the State “to regulate and limit the use of water for power purposes.” Idaho Code § 42-203B expressly provides that it is an implementation of this constitutional authority: “[t]he legislature finds and declares that it is in the public interest to specifically implement the state’s power to regulate and limit the use of water for power purposes.” Idaho Code § 42-203B(1) (emphasis added).

Pursuant to this constitutional authority, Section 42-203B establishes a trust, *see* Idaho Code § 42-203B(1) (discussing “[t]he purposes of the trust established by subsections (2) and (3) of this section”), and provides that water rights for power purposes for flows in excess of a minimum stream flow established by state action “shall be held in trust by the state of Idaho, by and through the governor.” Idaho Code § 42-203B(2), (3). Section 42-203B(2) further provides that “the rights held in trust shall be subject to subordination to and depletion by future upstream beneficial users whose rights are acquired pursuant to state law, including compliance with the requirements of section 42-203C, Idaho Code.”³

³ Section 42-203B(3) provides that “the rights held in trust shall be subject to subordination to and depletion by future consumptive upstream beneficial users whose rights are acquired pursuant to state law, excluding compliance with the requirements of section 42-203C, Idaho Code.” Idaho Code § 42-203B(3) (underlining added). The underlining indicates differences between the relevant passages of subsections (2) and (3): the term “consumptive” is not present in subsection (2), and the subsection (2) requires compliance with State law including Section 42-203C to subordinate the rights held in trust, while subsection 3 does not. The difference is due to the fact that subsection (2) applies when the State and the water right holder have executed a subordination agreement, while subsection (3) applies in the absence of a subordination agreement. *Compare* Idaho Code § 42-203B(2) *with* 42-203B(3).

The plain terms of Idaho Code § 42-203B demonstrate that the statute plays a central role in this case. Indeed, the Director's Reports for the water rights in question expressly rely on Idaho Code § 42-203B.⁴ Further, as the State's Motion for Partial Summary Judgment briefly explains, the State believes that Idaho Code § 42-203B is dispositive with respect to the questions of water rights ownership and subordination under the trust arrangement.

Thus, the timely resolution of a question of statutory interpretation the State has identified could avoid unnecessary discovery and delay, provide guidance for the development of the remaining issues Idaho Power has raised, and significantly move the case forward. There is simply no reason to prevent this question of law from being raised, briefed and argued. Indeed, even Idaho Power has stated that it "strongly believes that the SRBA Court should proceed to comprehensively resolve all issues related to the meaning and effect of the Swan Falls Agreement,"⁵ to "settle the legal relations at issue,"⁶ and to clarify "the respective rights, duties and obligations of the parties under the Swan Falls Settlement."⁷

It is inconsistent with these representations for Idaho Power to now seek to extend a stay that would prevent the Court from reaching a legal question that is potentially controlling on important issues. Extending the stay would leave the parties no option but

⁴ The citation is in paragraph 5 of the sections of the Director's Reports entitled "Other Provisions Necessary For The Definition Or Administration Of The Water Right."

⁵ Motion for Stay of Proceedings on Idaho Power Company Water Rights in Basins 2, 36 and 37, or Alternatively to Consolidate Proceedings" at 6 (May 10, 2007).

⁶ Complaint at 3 ¶ 3.

⁷ Complaint at 3 ¶ 3. Note that Idaho Power defines the term "Swan Falls Settlement" to mean not just the "Swan Falls Agreement" but also "the subsequent implementing legislation, rules, regulations and administrative practices." Complaint at 7 ¶ 20.

to engage in potentially unnecessary or overbroad discovery, while questions of law that will focus, limit or dispose of some of the central issues in this case would go unresolved. Judicial economy is promoted by moving such questions of law forward for resolution, not by staying them.

2. The Questions Of Law Arising Under Idaho Code § 42-203B Are Postured For Resolution.

A response is not intended as a means for a new party to raise wholly new claims or issues in a subcase, but only to participate “concerning a particular objection” that has already been filed. Idaho Code § 42-1412(2). The objection period for Basin 2 has closed, and only the State and Idaho Power filed objections. The responses will not introduce new claims of ownership to the water rights. The question of ownership is between the State of Idaho and Idaho Power Company and is postured for resolution.

Moreover, the responses will not change the legal issues presented by the State’s Motion for Partial Summary Judgment, or otherwise assist the Court or the parties in resolving the questions of law that arise under Idaho Code § 42-203B. These questions are controlled by principles of Idaho law, not the positions that additional parties take on the competing objections filed by the two principal parties. Staying the development of this issue pending the filing of responses would be a pointless exercise in elevating form over substance.

Further, the State has provided Idaho Power with copies of the relevant documents upon which the Motion for Partial Summary Judgment will rely, including the full legislative history of Idaho Code § 42-203B. Indeed, the State has provided Idaho Power copies of the principal legislative history of the statute three separate times over the past year, and Idaho Power has long known of the State’s view that the statute and the

legislative history is dispositive with respect to water rights ownership and subordination under the trust. The State respectfully submits that the time has passed for allowing Idaho Power to continue putting off a statutory question that is controlling on some issues and will provide important guidance for developing the remaining issues in the case.

3. Denying The Motion For Continuance Will Not Deprive Potential Parties of The Opportunity To File Responses.

Idaho Power's Motion for Continuance nonetheless argues to extend the stay on the ground that State became a party to the Basin 37 subcases⁸ "only at the stage of filing responses to objections" to the Amended Director's Report, and that the State's opposition to a continuance would "essentially deny" others the opportunity to become involved in this consolidated subcase. Motion for Continuance at 3 ¶ 5. This argument is wrong on the facts and short on logic.

The State was a party to the Basin 37 subcases under the Amended Director's Reports from the outset, because they recommended that the Basin 37 water rights be decreed with the State as legal title holder, pursuant to the Swan Falls Agreement and Idaho Code § 42-203B.⁹ Further, the State objected to the Amended Director's Reports on the ground that identifying the holder of the beneficial or equitable interest in the "Name and Address" section of a partial decree is inconsistent with *United States v.*

⁸ Basin 37 Subcases 37-2128, 37-2471, 37-2472, 37-20709 and 37-20710. These subcases are included in this consolidated subcase. See Order Granting in Part, Denying in Part Motion to Dismiss; Consolidating Common Issues Into Consolidated Subcase; And Permitting Discovery Pending Objection Period in Basin 2; And Notice of Scheduling Conference (*In re SRBA*, Consolidated Subcase 92-23) (July 24, 2007) ("Order") at 16.

⁹ The State had also been party to the Basin 37 subcases prior to the Amended Director's Reports, through Responses the State filed to Idaho Power's objections. Consistent with Idaho Code § 42-1412(2), those responses were limited to the issues raised in Idaho Power's objections.

Pioneer, Irrigation District, 144 Idaho 106, 157 P.3d 600 (2007).¹⁰ In short, the State was a party to the Basin 37 subcases long before filing responses to Idaho Power's objections to the Amended Director's Reports, and Idaho Power's assertion to the contrary is simply incorrect on the record.

Moreover, Idaho Power is mistaken in implying that denying the Motion for Continuance will deprive potential parties of the opportunity to file responses and participate in this subcase. Responses may be filed anytime up to February 5 regardless of whether the stay is extended. There is simply no legal or logical connection between the two. Continuing the stay to the end of the response period is not necessary to provide potential parties with an opportunity to participate in this consolidated subcase.

Further, SRBA procedural mechanisms such as the Docket Sheet and the Director's Reports, as well as the information available from the Court and the SRBA website, have provided potential parties with constitutionally adequate notice of the issues raised in this consolidated subcase. *See generally LU Ranching Co. v. United States*, 138 Idaho 606, 67 P.3d 85 (2003). In addition, Idaho Power's Complaint was filed over seven months ago, served on the "expedited hearing" list, and was loudly announced in the news media. There can be little doubt that the water user community of southern Idaho, and indeed the public at large, has in fact had more than adequate notice of the issues raised in this consolidated subcase. Any suggestion that this consolidated subcase has escaped the notice of potentially interested parties is simply implausible.¹¹

¹⁰ Attached hereto is a copy of the State's "Standard Form 1 Objection to Amended Director's Report," filed in the Basin 37 subcases on May 3, 2007.

¹¹ Any contention that numerous parties are waiting in the wings to participate in this consolidated subcase by filing responses would appear similarly implausible. Despite the facts that the Director's Report was issued last December, that Idaho Power filed its Complaint last May, and that the Court issued its order in July, no parties other than the State and Idaho Power filed objections before the close of the objection period.

Further, even if the questions of law in the State's Motion for Partial Summary Judgment were to be briefed, heard and decided in the State's favor before the response deadline, other issues that Idaho Power raised in its Complaint would remain. The State's Motion for Partial Summary Judgment is based on the theory that Idaho Code § 42-203B established the trust and controls questions of ownership and subordination arising thereunder. It relies on plain statutory language and legislative intent as established by the legislative record, not the contractual theories and equitable doctrines Idaho Power seeks to litigate.

Further, the State's motion does not attempt to resolve the issues that are likely to be the focus of any responses filed by new parties. The State's motion does not seek to interpret or construe the Swan Falls Agreement, resolve the nature or scope of the parties' contractual rights and obligations under the Agreement or the 1180 Contract, nor to resolve the questions presented in Basin-Wide Issue No. 13. The State's Motion for Partial Summary Judgment also does not attempt to resolve Idaho Power's challenges to the Department's administration and permitting of water rights in the Snake River Basin.¹²

5. The Court Has Already Ruled On Idaho Power's Request For A Stay And Idaho Power Has Not Identified Any New Basis For Revisiting The Question.

Idaho Power's Motion for Continuance seeks to re-litigate a previous stay request that Court has already decided. Idaho Power requested a stay of proceedings in May in its "Motion for Stay of Proceedings on Idaho Power Company Water Rights in Basins 2, 36 and 37, or Alternatively to Consolidate Proceedings" ("Motion for Stay") (May 10,

¹² The State vigorously disputes these claims, however, and reserves its positions these claims are beyond the scope of the SRBA, are subject to the requirement of exhaustion of administrative remedies, and that Idaho Power has failed to exhaust its administrative remedies on these claims.

2007). Then, as now, Idaho Power argued that a stay would promote judicial economy. Motion for Stay at 6 (“Not only will the requested stay serve judicial economy, but it will . . .”); *id.* at 4 (“will serve judicial economy”).

The State opposed Idaho Power’s request for a stay, specifically pointing out to the Court that Idaho Power’s objections implicated questions of law that are controlled by statute, and could be decided via summary judgment, thus avoiding unnecessary delay and discovery:

Idaho Power’s objections are appropriately determined as a matter of law under the statutes that implement the trust and subordination provisions of the Agreement, which were drafted by the parties, appended to the Agreement, and the enactment of which was an express pre-condition for the Agreement to take effect. The State believes Idaho Power’s objections can and should be resolved via summary judgment with minimal discovery and expert analysis, and the State is prepared to move forward on that basis.

Response to Motion for Stay of Proceedings on Idaho Power Company Water Rights in Basins 2, 36 and 37 at 13 (footnote citing Idaho Code §§ 42-203B and 42-203C omitted).

In deciding the motion, the Court balanced the parties’ arguments, the sometimes competing concerns of judicial economy and expeditious resolution of the issues, and “considered moving the objection period to an earlier date for the claims in Basin 02 in order to expedite hearing all of Idaho Power’s hydropower claims together.” Order at 16. Ultimately, the Court concluded “a more practical approach would be to stay the proceedings, except for discovery, until the close of the objection period in Basin 02. The issue shall be set for trial thereafter.” Order at 16. The Court’s reasoning is as valid now as it was then, and Idaho Power has identified nothing new that alters the analysis factually or legally.

The Court should deny what amounts to an unsupported motion to reconsider the Order of July 24, 2007. *Devil Creek Ranch, Inc. v. Cedar Mesa Reservoir & Canal Co.*, 126 Idaho 202, 205, 879 P.2d 1135, 1138 (1994) (“A party filing a motion to reconsider pursuant to Rule 11(a)(2)(B) carries the burden of bringing to the trial court's attention the new facts.”)

CONCLUSION

For the foregoing reasons, the State respectfully requests that the Court deny Idaho Power’s Motion for Continuance to the extent it would briefing and argument on the State’s Motion for Partial Summary Judgment, filed herewith, and to the extent it would prevent the Court from considering or resolving any other questions of law.

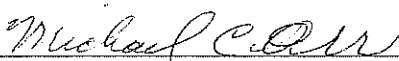
DATED this 14th day of December, 2007.

LAWRENCE G. WASDEN
Attorney General

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

KARL T. KLEIN
Deputy Attorney General
Civil Litigation Division

MICHAEL C. ORR
Deputy Attorney General
Natural Resources Division



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of December 2007, I caused to be served a true and correct copy of the foregoing STATE OF IDAHO'S RESPONSE TO IDAHO POWER COMPANY'S MOTION FOR CONTINUANCE OF STAY to the following parties by the indicated methods:

Clerk of the SRBA Court
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☒ Overnight Mail
- ☐ Facsimile:

Idaho Power Company
Represented by:
James C. Tucker
P.O. Box 70
1221 W. Idaho
Boise, ID 83707

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- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____

Idaho Power Company
Represented by:
James S. Lochhead
Adam T. DeVoe
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Michelle C. Kales
Brownstein Hyatt Farber Shreck
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Idaho Power Company
Represented by
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- ☐ Facsimile: _____
- ☒ Statehouse Mail

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83720-4449

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☒ Not Applicable

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

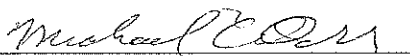
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Candice M. McHugh
Racine Olson Nye Budge & Bailey,
Chartered
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Pocatello, Idaho 83204-1391

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Josephine Beeman
Beeman & Associates, P.C.
409 W. Jefferson Street
Boise, Idaho 83702

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- ☐ Facsimile: _____
- ☒ E-mail: jo.beeman@beemanlaw.com


MICHAEL C. ORR
Deputy Attorney General

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MAY 07 2007

DEPARTMENT OF
WATER RESOURCES

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	)	A.	Subcase Nos.: 37-2128, 37-2471, 37-2472,
	)		37-20709, and 37-20710
	)		
Case No. 39576	)		STANDARD FORM 1
	)		OBJECTION TO AMENDED
	)		DIRECTOR'S REPORT

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: State of Idaho
Address: 700 W. Jefferson, Room 210
P.O. Box 44449
Boise, Idaho 83711-4449
Daytime Phone: (208) 334-2400

Name and Address of Attorney, if any:

Attorney Name: 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
Attorney Address: Office of the Attorney General
700 W. Jefferson, Room 210
P.O. Box 44449
Boise, ID 83711-4449
Attorney Phone No. (208) 334-2400

C. CLAIMANT OF WATER RIGHT AS LISTED IN AMENDED DIRECTOR'S REPORT:

Name and Address: Legal Title
STATE OF IDAHO
STATEHOUSE
PO BOX 83720
BOISE ID 83720

Although the name of the State of Idaho appears in the Name and Address section of this partial decree, legal title is held in trust by the State of Idaho, for the use and benefit of the user of the water, Idaho Power Company, for power purposes and the people of the State of Idaho, pursuant to the Swan Falls Agreement and Idaho Code §42-203B.

Equitable Title
IDAHO POWER CO.
PO BOX 70
BOISE ID 83707

Equitable Title
STATE OF IDAHO, in and for the people of the State of Idaho
STATEHOUSE
PO BOX 83720
BOISE ID 83720

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☒ Name and Address
Should be: Only the State of Idaho should be listed in this element.
2. ☐ Source
Should be: _____
3. ☐ Quantity
Should be: _____
4. ☐ Priority Date
Should be: _____
5. ☐ Point of Diversion
Should be: _____

6. ☐ Instream Flow Beginning and Ending Point
Should be: _____
7. ☐ Purpose of Use
Should be: _____
8. ☐ Period of Year
Should be: _____
9. ☐ Place of Use
Should be: _____
10. ☒ Other
Should be: The date recited in paragraph 5 of the "Other Provisions Necessary for Definition or Administration of this Water Right" should be "October 25, 1984."
11. I object because:
- ☐ This water right should not exist.
- ☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S):

"Name and Address": Under the Idaho Supreme Court's recent decision in *United States of America v. Pioneer Irrigation District*, Docket No. 31790 (March 9, 2007), the "Name and Address" section of a partial decree should identify only the holder of the legal title to a water right.

"Other": Paragraph 5 of the "Other Provisions Necessary for Definition or Administration of this Water Right" in the Amended Director's Report incorrectly states that the date of the contract entered into by the Governor and Idaho Power Company and ratified by Idaho Code § 42-203B(5) was October 25, 1985. The contract was actually executed on October 25, 1984, as stated in the statute. Idaho Code § 42-203B(5).

F.

VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

MICHAEL C. ORR, Deputy Attorney General, duly sworn, upon oath, deposes and says:

That the State of Idaho in its proprietary capacity is filing this objection and that I am a Deputy Attorney General authorized to represent the State of Idaho, which is a party/claimant in this proceeding, as defined by I.C. § 42-1401A(1) and (7), and I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

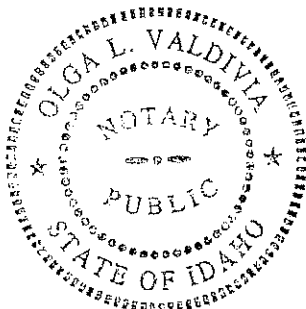
LAWRENCE G. WASDEN
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Chief, Civil Litigation Division
KARL T. KLEIN (ISB # 5156)
Deputy Attorney General
Civil Litigation Division
MICHAEL C. ORR (ISB # 6720)
Deputy Attorney General
Natural Resources Division

Michael C. Orr

By Attorney signing in representative capacity

Subscribed and sworn to before me on: 5-3-07

(Insert Date)



Olga L. Valdivia
Notary Public for IDAHO
Residing at: BOISE, ID
My commission expires: 2/8/2012

INSTRUCTIONS FOR MAILING

You must mail the objection to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G.

CERTIFICATE OF MAILING

I certify that on May 3, 2007, I caused this motion, including all attachments, to be filed and 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

U.S. MAIL

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.
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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

3. Copies to:

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Boise, ID 83720-0098

STATEHOUSE MAIL

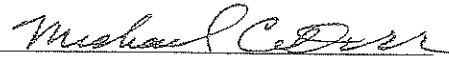
United States Department of Justice
Environment & Natural Resource Division
550 West Fort Street, MSC 033

U.S. MAIL

Boise, ID 83724

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

HAND DELIVERY

A handwritten signature in cursive script, appearing to read "Michael C. Durr", is written over a horizontal line.

Signature of Objector or attorney
Mailing on Objector's behalf