

RECEIVED

JAN 31 2008

DEPARTMENT OF
WATER RESOURCES

John K. Simpson, ISB# 4242
Shelley M. Davis, ISB# 6788
Barker, Rosholt & Simpson, LLP
P.O. Box 2139
Boise, ID 83701
Telephone: (208) 336-0700

James S. Lochhead
Michael A. Gheleta
Brownstein Hyatt Farber Schreck, P.C.
410 17th St., Suite 2200
Denver, CO 80202
Telephone: (303) 223-1100

James C. Tucker ISB# 2038
Senior Attorney
Idaho Power Company
P. O. Box 70
Boise, Idaho 83701

**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 No. <u>2-200; 2-201; 2-223; 2-224</u>
	)	
Case No. 39576	)	MOTION TO FILE LATE OBJECTIONS
	)	AND REQUEST FOR EXPEDITED
	)	HEARING
_____	)	

COMES NOW, Idaho Power Company ("Idaho Power"), party in the SRBA, and moves this Court for an Order Granting Motion to File Late Objections in the above-captioned subcases.

Good cause and a meritorious position support the granting of this motion for late objections. Idaho Power only recently became aware of the issues presented by the Director's recommendation on Water Right No. 2-200 subsequent to Idaho Power's filing of a timely objection to General Provision No. 4 of the Director's Report for Basin 2 (Subcase #92-00002GP), which involves the same or similar issues. In addition, Idaho

Power only recently became aware of the issues presented by the Director's recommendation on Water Right Nos. 2-201, 2-223 and 2-224 in conjunction with ongoing briefing regarding issues raised by the parties in Consolidated Subcase 92-23 concerning interpretation and application of the Swan Falls Agreement.

Moreover, the subject claims, which were filed by the State of Idaho - Idaho Water Resource Board, did not follow statutory requirements for the establishment of a minimum instream flow water right. These minimum flow water rights also may overlap with hydropower water rights claimed by Idaho Power. Finally, it is unclear whether any authority exists for an instream flow water right to be decreed or confirmed by legislative adoption of a state water plan.

No party would be prejudiced by the granting of this motion for late objections. There have been no substantive proceedings in these Basin 2 subcases, and the response time has not yet run.

Idaho Power is submitting together with this motion its proposed objections.

Expedited hearing on this matter is hereby requested.

Respectfully submitted this 30th day of January, 2008.


Shelley M. Davis
Counsel for Objector

CERTIFICATE OF MAILING

I certify that on this 30th of January, 2008, I hand-delivered and/or mailed the original and copies of this Motion to File Late Objections and Request for Expedited Hearing, including all attachments, to the following persons:

1. Original ☒ mailed ☐ hand delivered to: *via Fed. Ex*

Clerk of the District Court
Snake River Basin Adjudication
P.O. Box 2707
Twin Falls, ID 83303-2707

2. One copy mailed to the claimant of the water right at the following address:

State of Idaho
Idaho Water Resource Board
322 E. Front St.
Boise, ID 83720-0098

3. One copy mailed to the objector at the following address:

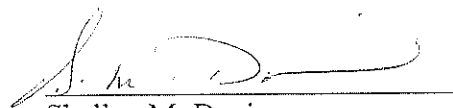
Randall Budge, counsel for Idaho Ground Water Appropriators, et al.
201 E. Center
P.O. Box 1391
Pocatello, ID 83204-1391

4. Copies mailed to:

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

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

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449
Fax: 208-334-2690


Shelley M. Davis
Counsel for Objector