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**IN THE DISTRICT COURT FOR THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA	)	
	)	
Case No. 39576	)	Consolidated Subcase: 92-23
	)	
IDAHO POWER COMPANY,	)	AFFIDAVIT OF MICHAEL A. GHELETA
	)	IN SUPPORT OF IDAHO POWER
Plaintiff,	)	COMPANY'S RESPONSE TO STATE OF
v.	)	IDAHO'S MOTION FOR PARTIAL
	)	SUMMARY JUDGMENT
STATE OF IDAHO; C.L. "BUTCH" OTTER,	)	
Governor of the State of Idaho; LAWRENCE G.	)	
WASDEN, Attorney General of the State of Idaho;	)	
IDAHO DEPARTMENT OF WATER	)	
RESOURCES; and DAVID TUTHILL, Director,	)	
Idaho Department of Water Resources	)	
	)	
Defendants.	)	
	)	

STATE OF COLORADO)
) ss.
County of Denver)

MICHAEL A. GHELETA, being first duly sworn upon oath, deposes and states as follows:

1. I am one of the attorneys representing Plaintiff Idaho Power Company in the above-entitled action, and submit the following affidavit based upon my personal knowledge and best belief.
2. Attached hereto as Exhibit A is a true and correct copy of the Swan Falls Agreement, made and entered into by the State of Idaho, by and through Governor John V. Evans and Attorney General Jim Jones, and the Idaho Power Company on October 25, 1984. (Also attached as Exhibit 30 to Affidavit of Michael C. Orr in Support of State of Idaho's Motion for Partial Summary Judgment.)
3. Attached hereto as Exhibit B is a true and correct copy of a legal guidance letter from Robie G. Russell, Deputy Attorney General, to the Honorable Walter E. Little, Idaho House of Representatives, dated March 16, 1983.
4. Attached hereto as Exhibit C is a true and correct copy of the statement submitted by Idaho Power Company to the Idaho Water Resources Board on March 4, 1983.
5. Attached hereto as Exhibit D is a true and correct copy of a letter from Logan Lanham, Idaho Power Company, to the Honorable Tom W. Stivers, Speaker of the Idaho House of Representatives, dated March 21, 1983.
6. Attached hereto as Exhibit E is a true and correct copy of the official minutes of the March 21, 1983 meeting of the Idaho House Resources and Conservation Committee.
7. Attached hereto as Exhibit F is a true and correct copy of the Framework for Final Resolution of Snake River Water Rights Controversy, signed by Governor John V. Evans, Attorney General Jim Jones, and Idaho Power Company Chairman and Chief Executive Officer James E. Bruce on October 1, 1984. (Also attached as Exhibit 29 to Affidavit of Michael C. Orr in Support of State of Idaho's Motion for Partial Summary Judgment.)

8. Attached hereto as Exhibit G is a true and correct copy of an article by Patrick D. Costello & Patrick J. Kole, *Commentary on Swan Falls Resolution*, W. NAT. RES. LITIGATION DIGEST 11 (Summer 1985).

9. Attached hereto as Exhibit H is a true and correct copy of a letter from Clive J. Strong, Deputy Attorney General, to A. Kenneth Dunn, Director of the Idaho Department of Water Resources, dated September 17, 1986.

10. Attached hereto as Exhibit I is a true and correct copy of the Affirmation of Continuation of Agreement, signed by Governor John V. Evans, Attorney General Jim Jones, and Idaho Power Company Vice President Logan Lanham on May 15, 1985. (Also attached as Exhibit 47 to Affidavit of Michael C. Orr in Support of State of Idaho's Motion for Partial Summary Judgment.)

11. Attached hereto as Exhibit J is a true and correct copy of a letter from Governor John V. Evans to Idaho Power Chairman and CEO James Bruce dated May 9, 1984.

12. Attached hereto as Exhibit K is a true and correct copy of a letter from Idaho Power Chairman and CEO James Bruce to Governor John V. Evans dated May 23, 1984.

13. Attached hereto as Exhibit L is a true and correct copy of an undated Memorandum from Patrick J. Kole to Pat Costello, Tom Nelson, Douglas Grant, and Ben Cavaness incorporating a proposed settlement agreement between the State and Idaho Power Company.

14. Attached hereto as Exhibit M is a true and correct copy of the official minutes of the February 19, 1986 meeting of the Idaho Senate Resources and Environment Committee. (Also attached as Exhibit 62 to Affidavit of Michael C. Orr in Support of State of Idaho's Motion for Partial Summary Judgment.)

15. Attached hereto as Exhibit N is a true and correct copy of the official minutes of the January 21, 1986 meeting of the Idaho House Resources and Conservation Committee.

16. Attached hereto as Exhibit O is a true and correct copy of an excerpt from the February 6, 1985 Idaho Senate Journal, incorporating the language of the Statement of Legislative Intent accompanying S 1008.

17. Attached hereto as Exhibit P is a true and correct copy of the official minutes of the February 1, 1985 meeting of the Idaho Senate Resources and Environment Committee. (Also attached as Exhibit 11 to Affidavit of Michael C. Orr in Support of State of Idaho's Motion for Partial Summary Judgment.)

18. Attached hereto as Exhibit Q is a true and correct copy of the official minutes of the January 18, 1985 meeting of the Idaho Senate Resources and Environment Committee. (Also attached as Exhibit 8 to Affidavit of Michael C. Orr in Support of State of Idaho's Motion for Partial Summary Judgment.)

19. Attached hereto as Exhibit R is a true and correct copy of official excerpts from the deposition of Thomas G. Nelson given in *Idaho v. United States*, Case No. 39576, on October 31, 1990.

20. Attached hereto as Exhibit S is a true and correct copy of the Prepared Testimony of Attorney General Jim Jones on Senate Bills 1006 and 1008, submitted to the Idaho Senate Resources and Environment Committee on January 9, 1985.

21. Attached hereto as Exhibit T is a true and correct copy of the official minutes of the March 4, 1985 meeting of the Idaho Senate Resources and Environment Committee. (Also attached as Exhibit 15 to Affidavit of Michael C. Orr in Support of State of Idaho's Motion for Partial Summary Judgment.)

22. Attached hereto as Exhibit U is a true and correct copy of A Resolution in the Matter of Policy 32 of the State Water Plan, approved by officials of the Idaho Water Resources Board on March 1, 1985.

23. Attached hereto as Exhibit V is a true and correct copy of official excerpts from the deposition of A. Kenneth Dunn given in *Idaho v. United States*, Case No. 39576, on November 7, 1990.

24. Attached hereto as Exhibit W is a true and correct copy of the Request for Comment and Notice of Intent to Write and Adopt Rules & Regulations for Water Appropriation, circulated by the Idaho Department of Water Resources on May 6, 1985.

25. Attached hereto as Exhibit X is a true and correct copy of excerpts from the 1986 State Water Plan, dated December 12, 1986.

26. Attached hereto as Exhibit Y is a true and correct copy of recommendations submitted by the Idaho Department of Water Resources to the Federal Energy Regulatory Commission on January 15, 1987.

27. Attached hereto as Exhibit Z is a true and correct copy of a letter from R. Keith Higginson, Director of the Idaho Department of Water Resources, to Robert J. O'Connor, Chairman and CEO of Idaho Power, dated March 15, 1989.

28. Attached hereto as Exhibit AA is a true and correct copy of a letter from Karl Dreher to James Tucker, dated July 25, 2003.

29. Attached hereto as Exhibit BB is a true and correct copy of a memorandum from Karl Dreher to Senator Laird Noh and Representative Dell Raybould, dated June 23, 2004.

30. Attached hereto as Exhibit CC is a true and correct copy of Idaho Power Company's Petition for Declaratory Order, filed with the Federal Energy Regulatory Commission on November 26, 1984.

31. Attached hereto as Exhibit DD is a true and correct copy of the State's Motion to Intervene, filed with the Federal Energy Regulatory Commission on December 21, 1984.

32. Attached hereto as Exhibit EE is a true and correct copy of the Federal Energy Regulatory Commission Order Pursuant to an Act of Congress, Dismissing Petition for Declaratory Order, and Granting Interventions, 42 FERC 61,375, issued on March 25, 1988.

33. Attached hereto as Exhibit FF is a true and correct copy of a letter from Nathan F. Gardiner to J. Mark Robinson, dated January 11, 2000.

34. Attached hereto as Exhibit GG is a true and correct copy of this Court's Order Designating Basin-Wide Issue Re: To What Extent, If Any, Should the *Swan Falls Agreement* be Addressed in the SRBA or Memorialized in a Decree?, issued on August 23, 2004.

35. Attached hereto as Exhibit HH is a true and correct copy of the Joint Motion for Designation of Basin-Wide Issue and for a Stay of the Proceedings, In re SRBA, Case No. 39576, Subcase No. 92-00037, filed by the State and Idaho Power Company in 2004.

36. Attached hereto as Exhibit II is a true and correct copy of excerpts from the official minutes of the September 2, 2004 meeting of the Natural Resources Interim Committee.

37. Attached hereto as Exhibit JJ is a true and correct copy of an excerpt from the January, 1985 issue of Currents, Special Swan Falls Edition II.

38. Attached hereto as Exhibit KK is a true and correct copy of the SB 1180, as printed in the 1983 Idaho Session Laws, Chapter 259, pages 689-691.

Dated this 7th day of February 2008.

Michael A. Gheleta
Michael A. Gheleta, Esq.

SUBSCRIBED AND SWORN to before me this 7th day of February 2008.

Natalie Ann Tippit
Notary Public for Colorado
Residing at: 1274 So Newland Ct, Lakewood CO 80232
Commission Expires: 3-27-2009

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of February 2008, I caused to be served a true and correct copy of the foregoing **AFFIDAVIT OF MICHAEL A. GHELETA IN SUPPORT OF IDAHO POWER COMPANY'S RESPONSE TO STATE OF IDAHO'S MOTION FOR PARTIAL SUMMARY JUDGMENT** by the method indicated below, and addressed to each of the following:

Filed with the Court via Federal Express, Overnight Delivery.

Lawrence Wasden
Steven Olson
Karl T. Klein
Michael C. Orr
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Attorneys for Defendant, State of Idaho

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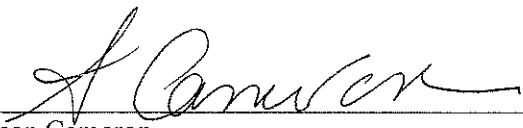
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Alison Cameron

A copy of the CD can be found in both the repository and legal file