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DEPARTMENT OF
WATER RESOURCES

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

700 West State Street, 2nd Floor
P.O. Box 44449
Boise, ID 83711-4449
(208) 334-2400
Attorneys for The State of Idaho

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	)	AFFIDAVIT OF TIMOTHY J.
	)	LUKE IN SUPPORT OF
	)	STATE OF IDAHO'S SECOND
	)	MOTION FOR PROTECTIVE
	)	ORDER
	)	

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

Timothy J. Luke, being first duly sworn upon his oath, deposes and states that:

1. My name is Timothy J. Luke. I am the Section Manager for the Water

Distribution Section for the Idaho Department of Water Resources (IDWR). My work address is Idaho Department of Water Resources, 222 East Front Street, Boise, Idaho 83720-0098. I reside in Boise, Idaho.

2. My education background includes a Bachelor of Arts degree in Geography from West Virginia University in 1982 and a Master of Science degree in Geography and Natural Resource Management from the University of Idaho in 1992. My education and training since college has included, but is not limited to, participation in seminars and courses related to water management such as Ground Water and Surface Water Relationships, Hydraulics, Field Hydrogeology, Irrigation System Design and several water law and water management workshops.

3. From January 1984 to January 1986, I was a graduate student at the University of Idaho.

4. From February 1986 to August 1988, I resided and worked in Arizona filing adjudication claims on behalf of state agencies. I was employed in that capacity first by the State Lands Department and later by the Arizona Attorney General's Office.

5. I began working for IDWR in September 1988. My position from that time until August 1991 was as a Senior Water Rights Agent. My duties included, but were not limited to the review, analysis, recommendation and processing of water right transfers, and the review and processing of applications to reallocate water held in trust under the Swan Falls Agreement. In the performance of my duties, I relied upon applicable state law, IDWR administrative rules and IDWR policy.

6. From September 1991 to February 1992, I worked for IDWR as a Hydrologist-in-Training, in the Water Permits Section. My duties included, but were not

limited to, water district assistance, field inventory and measurement of diversions, and water rights analysis.

7. I worked from March 1992 to February 1997 for IDWR as a Hydrologist in the Water Permits and Water Distribution Sections. My duties included, but were not limited to, assisting in the implementation of the water measurement program, field inventory and measurement of diversions, water district assistance, water right analysis, reduction and analysis of hydrologic data and preparation of reports, and investigation of water distribution complaints and water right disputes.

8. From March 1997 to the present, I have served as the Section Manager for the Water Distribution Section of IDWR. My primary responsibilities are the implementation and management of the water measurement program, provide assistance to water districts, periodic training of watermasters, and assistance with or resolution of water distribution/ water right disputes.

9. I was not involved, either directly or indirectly, in Ada County District Court Nos. 81375 or 62237 or in any negotiations pertaining to the Swan Falls controversy, the Swan Falls Agreement, or the "1180 Contract." I had no involvement in the drafting or enactment of the legislation or amendments to the State Water Plan contemplated by the Swan Falls Agreement, or in the promulgation or amendment of the Water Appropriation Rules and Regulations.

10. I had no involvement in analyzing or estimating the depletive effects of existing uses on Snake River flows as measured at Murphy Gauge prior to or during the negotiations which led to the Swan Falls Agreement in 1984.

11. I have reviewed the Subpoena Duces Tecum to Tim Luke and Notice of

Deposition Duces Tecum of Tim Luke issued by Idaho Power Company. It will not be possible for me to collect the documents requested by Idaho Power by April 18, 2008, the date of the deposition, given the breadth of the request.

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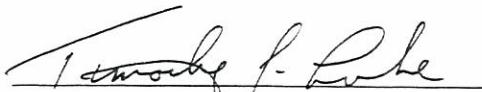
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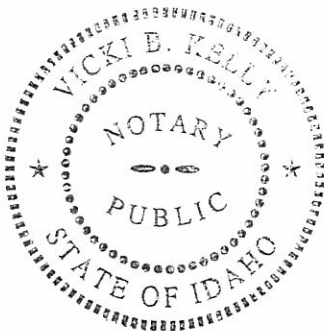
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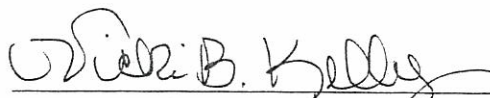
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TIMOTHY J. LUKE

SUBSCRIBED AND SWORN to before me this 4th day of April, 2008.




Notary Public for Idaho
Residing at: Boise, Idaho
My commission expires: Dec. 10th 2010

CERTIFICATE OF SERVICE

I certify that on this 4th day of April, 2008, I caused to be served a true and correct copy of the foregoing AFFIDAVIT OF TIMOTHY J. LUKE IN SUPPORT OF STATE OF IDAHO'S SECONDMOTION FOR PROTECTIVE ORDER, 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: 208-736-2121

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

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

Idaho Power Company
Represented by:
James S. Lochhead
Adam T. DeVoe
Mark J. Mathews
Michael A. Gheleta
Michelle C. Kales
Brownstein Hyatt Farber Shreck
410 17th Street, Ste. 2200
Denver, CO 80202-4432

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: 303-223-0904
- ☒ E-mail: MGheleta@BHFS.com

Idaho Power Company
Represented by
John K. Simpson
Shelley M. Davis
1010 W. Jefferson, Suite 102
Boise, ID 83701-2139

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

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

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

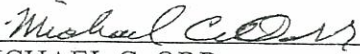
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- ☐ Facsimile: _____

Randall C. Budge
Candice M. McHugh
Racine Olson Nye Budge & Bailey,
Chartered
P.O. Box 1391
Pocatello, Idaho 83204-1391

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☒ E-mail: cmm@racinelaw.net

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

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☒ E-mail: jo.beeman@beemanlaw.com



MICHAEL C. ORR
Deputy Attorney General