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DEPARTMENT OF
WATER RESOURCES

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Attorney for Helen & Gary DeMoss

**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. 37-02128, 37-02471, 37-02472,
	) 37-20709, and 37-20710
Case No. 39576	)
	) DEMOSS WITHDRAWAL OF
	) OBJECTION

Gary DeMoss and Helen DeMoss (DeMoss), parties to the above-captioned subcases, hereby withdraw their objections to Idaho Power Company's (Idaho Power) water rights in Subcase Nos. 37-02128, 37-02471, 37-02472, 37 20709, and 37-20710.

On March 10, 2006, Gary and Helen DeMoss filed objections to these five Idaho Power hydropower water rights for purposes of protecting the historic diversions to storage under DeMoss water rights 37-856, 37-2778, 37-2780, and 37-7754.

On May 10, 2007 Idaho Power filed a complaint with the SRBA Court, in response to which SRBA Consolidated Subcase 92-23 was designated, including these five Idaho Power hydropower rights in Basin 37. *Order Granting in Part, Denying in Part Motion to Dismiss; Consolidating Common Issues Into Consolidated Subcase; and Permitting Discovery Pending Objection Period in Basin 02; and Notice of Scheduling Conference* (SRBA Consolidated Subcase 92-23, July 23, 2007).

Due to statements of record from Idaho Power in SRBA consolidated subcase 92-23, the DeMosses understand that their four rights for diversion to storage from Dry Creek, which were beneficially used prior to October 1, 1984 and for which applications or claims were filed prior to June 30, 1985, will not be subject to a call from Idaho Power rights 37-02128, 37-02471, 37-02472, 37-20709, and 37-20710.

The Idaho Power complaint of record in SRBA consolidated subcase 92-23 states that Idaho Power does not challenge the subordination of its rights **to those persons who beneficially used water prior to October 1, 1984, and who filed an application or claim for said use by June 30, 1985:**

As more fully set forth in Paragraphs 7(C) and 7(D) of the Swan Falls Agreement, and also as more fully set forth in the 1180 Contract and the consent judgment entered in Case No. 81375 in the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada, **Idaho Power also subordinated the water rights identified in Paragraph 22 above () to then existing uses – specifically to the uses of those persons dismissed from Ada County Case No. 81375 pursuant to the 1180 Contract, and to those persons who beneficially used water prior to October 1, 1984, and who filed an application or claim for said use by June 30, 1985. Idaho Power does not challenge here this subordination to existing uses set forth more fully in Paragraphs 7(C) and 7(D) of the Agreement, the 1180 Contract, or the consent judgment in Case No. 81375 in the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada.**

Complaint and Petition for Declaratory and Injunctive Relief, In Re SRBA Case No. 39576, dated May 10, 2007, p. 9, paragraph 25 (emphasis added).

Idaho Power has continued to confirm that it is not challenging this subordination. The following quote is from Idaho Power's February 7, 2008, filing in SRBA consolidated subcase 92-23:

[T]he parties [to the Swan Falls Agreement] clearly contemplated subordinating the priority of certain of Idaho Power's water rights. . . .

Referring to paragraph 7.C of the Swan Falls Agreement (stating that "[t]he Company's rights listed in paragraphs 7(A) . . . and 7(B) . . . are also subordinate to those persons who have beneficially used the water

prior to October 1, 1984, and who have filed an application of claim for said use by June 30, 1985”).

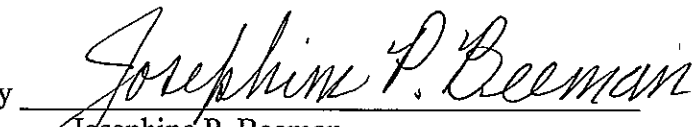
Idaho Power Co. 's Response to State of Idaho's Motion for Partial Summary Judgment, p. 20.

Resolution of Consolidated Subcase 92-23, consistent with the conditions presently recommended for 37-2128, 37-2471, 37-2472, 37-20709 and 37-20710, would also protect “diversions to storage under water rights 37-856, 37-2780, 37-7754, and 37-2778.” However, Idaho Power already acknowledges that it is not challenging the subordination.

For this reason, the DeMoss objections to 37-2128, 37-2471, 37-2472, 37-20709, and 37-20710 are withdrawn at this time.

Dated this 11th day of April 2008.

BEEMAN & ASSOCIATES, P.C.

By 
Josephine P. Beeman
Attorney for Gary A and Helen DeMoss

CERTIFICATE OF MAILING

I certify that on April 11, 2008, I mailed the original and copies of this Withdrawal of Objections, to the following:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

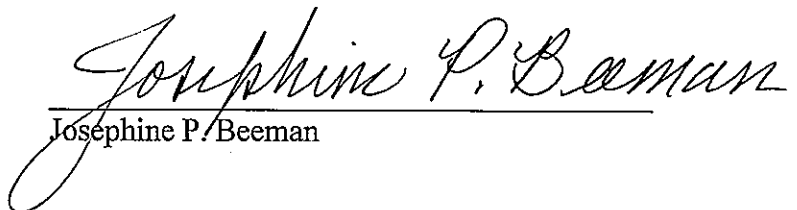
Chief, Natural Resources Division
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