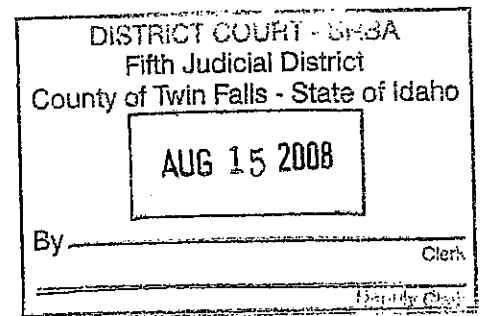




**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA	)	SCHEDULING ORDER RE: MOTION TO CONSOLIDATE AND MOTION FOR SUMMARY JUDGMENT
	)	
	)	
Case No. 39576	)	Subcase No.: 00-92023

This matter came before the Court pursuant to a scheduling and status conference held August 11, 2008. Idaho Power Company also filed a *Motion to Consolidate* on August 8, 2008, seeking to consolidate the instant subcase with Subcases 02-00200 and 00-92002GP¹. The Court did not hear the merits of the *Motion to Consolidate*, but did hear from the parties with respect to scheduling the *Motion*. The State of Idaho requested that the *Motion to Consolidate* be heard in conjunction with its *Motion for Summary Judgment* on the issue of recharge. The State expressed concern over the potential for prejudice resulting from having to brief and argue the merits of its *Motion for Summary Judgment* in the context of the *Motion to Consolidate*, as well as prejudice resulting from including further delays in the proceedings. The State also represents that it does not need to conduct further discovery in order to proceed with its *Motion for Summary Judgment*. Idaho Power expressed the potential for prejudice by having to litigate the same issues in different subcases, as well as the need to include parties from the other subcases that would potentially be affected by the outcome of these proceedings. The Court recognizes that initial hearings have yet to take place in the other two subcases.

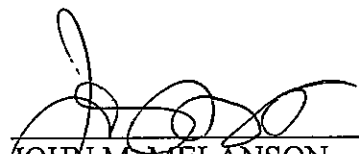
¹ Subcase 02-00200 pertains to a recommended instream flow right of 0 cfs at Milner Dam. Subcase 00-92002GP pertains to recommended general provision 4 in Basin 02 also for 0 flow at Milner Dam.

The Court having heard the arguments and suggestions of the parties will proceed as follows. Idaho Power is entitled to be meaningfully heard on its *Motion*. The Court finds that the State's suggestion of hearing the *Motion to Consolidate* in conjunction with the *Motion for Summary Judgment* to be unworkable. Should the Court grant the *Motion to Consolidate*, the *Motion for Summary Judgment* may have to be reopened to parties to the other subcases after the *Motion* was already briefed and argued. This also may require allowing additional briefing by Idaho Power and/or the State in order to respond to any new arguments raised. Proceeding in this manner would not only result in significant delays, but also cause procedural difficulties in getting the summary judgment submitted to the Court. From a case management perspective, the Court finds it more efficient to rule on the *Motion to Consolidate* in advance of the summary judgment. The Court finds that addressing Idaho Power's *Motion* will not result in any significant delay. In the event the Court declines to consolidate the subcases, the Court will forthwith issue an order resuming the summary judgment proceedings according to the schedule in place at the time the stay was entered.

THEREFORE, the following deadlines apply:

1. August 25, 2008 State of Idaho Response to *Motion to Consolidate*
2. September 2, 2008 Reply to Response
3. September 4, 2008 Oral Argument on *Motion to Consolidate*
1:30 p.m. (MT) Snake River Basin Adjudication Courthouse
253 – 3rd Avenue North
Twin Falls, ID 83301
Parties may participate by telephone by dialing the
number 1-918-583-3445 and when prompted entering
code 406128. If you have any difficulty connecting to
this call, call the SRBA Court immediately at
208-736-3011.

Dated August 15, 2008.



JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SCHEDULING ORDER RE: MOTION TO CONSOLIDATE AND MOTION FOR SUMMARY JUDGMENT was mailed on August 15, 2008, with sufficient first-class postage to the following:

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