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**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

Case No. 39576

Consolidated Subcase 00-92023

SECOND AFFIDAVIT OF RONALD D. CARLSON

STATE OF IDAHO)
)
COUNTY OF BANNOCK) ss.

1. My name is Ronald D. Carlson. I am an engineer, with expertise in hydrology and irrigation. I was employed by the Idaho Department of Water Resources from September 1972 until I retired in 2006. From 1974 until 2006 I was the Regional Manager of the Department's Eastern Region Office. From 1978 until 2006 I was the Water Master for Water District 1 which administered all water in the Snake River Basin and its tributaries upstream from Milner Dam. I also managed the Water District 1 Rental Pool which was started in 1979.

2. During negotiation of the Swan Falls Settlement, I actively participated and consulted with the Governor's Office, legislators, the Director of the Department, and the Attorney General's Office. I attended many of the settlement negotiation meetings.

3. I have reviewed *Idaho Power Company's Opening Brief in Support of Motion for Partial Summary Judgment on Recharge Subordination* in SRBA Consolidated Subcase No. 00-92023. In that document, Idaho Power Company makes certain representations of historical "facts" relating to aquifer recharge and the Swan Falls Settlement that are contrary to my knowledge and experience derived from delivering water to all water rights diverting above Milner Dam in addition to the understanding I gained from participating in the negotiation of the Swan Falls Settlement. It is likely because of my unique knowledge and experience, at the time of the Swan Falls negotiations, I had a better understanding of ESPA recharge than any other person in the world.

4. During the negotiation of the Swan Falls Settlement, I recall recharge being recognized as one way the State could protect the minimum Snake River flow requirements at the Murphy Gauge. Since surface water arising above Milner Dam was not part of the water supply computed in establishing the minimum flow at Murphy, using Snake River water to enhance groundwater and thus spring flows had great appeal. Water District 1 was, and continues to be, managed such that no water flowed past Milner except during flood control operations. The State-established zero flow at Milner Dam was intended to facilitate maximum use of water supplies in the eastern portion of the Snake River Basin. All of the flow of Snake River and its tributaries are expected to be distributed to water users who divert water upstream from Milner Dam. The "zero flow" policy that was incorporated into the first State Water Plan in 1976 represented both a historic reality and a water management philosophy that has remained in every subsequent amendment of the State Water Plan. During the Swan Falls negotiations, water users from the upper Snake and the legislators who represented their collective interests were adamant about protecting the historic zero flow at Milner and assuring that the unsubordinated

portion of Idaho Power's water rights measured at the Murphy gauge could not demand the delivery of surface water from above Milner. Water making up the minimum flow established at the Murphy gauge was to come exclusively from sources entering the river below Milner Dam. Because the State did not own any surface water storage that it could use to insure the minimum flows at Murphy, intentionally routing surface water through the Eastern Snake River Plain Aquifer seemed to be the most logical way augment Snake River flows to protect the required minimum flows.

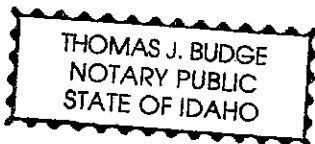
5. The minimum stream flow established in the Swan Falls Settlement is based upon the fact that the source of water for Idaho Power's hydropower facilities is limited to waters that are tributary to the Snake River below Milner Dam. Prior to the Settlement, the lowest summer-time flow that had been observed at the Murphy Gauge was 4,500 c.f.s. The 1976 State Water Plan established a minimum Snake River flows at Murphy Gauge of 3,300 c.f.s. The difference between 4,500 cfs and 3,300 cfs was 1,200 c.f.s. In true Solomon fashion, the baby was divided, with Idaho Power receiving a 600 c.f.s. addition to the minimum flow at Murphy and the State retaining 600 c.f.s. for new consumptive depletions of water tributary to the Snake below Milner. This was the computation behind changing the Snake River minimum flow at Murphy from 3,300 cfs to 3,900 cfs. The agreement provided for a higher minimum flow at Murphy during the winter. This increase simply reflected the anticipated change in river flows between Buhl and King Hill after the high-lift pumps were shut off. The computed change was found to be an additional 1,700 cfs. Neither the summer 3,900 c.f.s. nor the 5,600 c.f.s. winter minimum flows contemplated or required flow from the upper Snake River Basin. The zero flow at Milner was expressly incorporated into the Settlement.

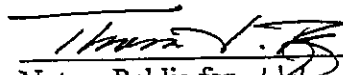
6. From a water administration perspective, the use of recharge to maintain minimum Snake River flows at Murphy Gage was in keeping with the policy of managing for a zero flow at Milner. Water exits the Upper Snake River Basin in one of two ways. Either it flows down the Snake River past Milner Dam or discharges from the Eastern Snake Plain Aquifer (ESPA) through spring outlets in the Thousands Springs Area. Most of these springs occur between Twin Falls and King Hill. Any water intentionally released from the Upper Snake River Basin and allowed to flow past Milner Dam will forever be lost to water users in the Upper Snake River Basin. Optimum management would route through the aquifer all water that would otherwise flow past Milner. This routing water through the aquifer was commonly referred to as "artificial recharge". It makes sense to continue to maintain artificially elevated aquifer levels in the ESPA for the purpose of augmenting the supply of water available for irrigation of the Eastern Snake Plain while also maintaining minimum flow requirements.

DATED this 7th day of November, 2008.


RONALD D. CARLSON

SUBSCRIBED AND SWORN to before me by Ronald D. Carlson this _____ day of
November, 2008.




Notary Public for Idaho
Located at: Pocatello, ID
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CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of November, 2008, the foregoing document was served by placing a copy in the U.S. Mail, postage prepaid and addressed to the following:

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