

COPY

Randall C. Budge (ISB #: 7465)
Candice McHugh (ISB #: 5908)
Thomas J. Budge (ISB #: 7465)
RACINE, OLSON, NYE, BUDGE & BAILEY
201 East Center Street
P.O. Box 1391
Pocatello, Idaho 83204-1391
Telephone: (208) 232-6101
Facsimile: (208) 232-6109

Attorneys for the Ground Water Districts and Aberdeen-Springfield Canal Company

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 No. 92-00023

**THIRD AFFIDAVIT OF
THOMAS J. BUDGE**

STATE OF IDAHO)
 ss
County of Bannock)

Thomas J. Budge begin duly sworn, deposes and states as follows:

1. I am one of the attorneys representing Aberdeen-American Falls Ground Water District, Bingham Ground Water District, Bonneville-Jefferson Ground Water District, Madison Ground Water District, Magic Valley Ground Water District, North Snake Ground Water District, Clark-Jefferson Ground Water District, and Aberdeen-Springfield Canal Company in the above-reference subcase, and make the following Affidavit upon my personal knowledge of the facts and circumstances set forth herein.

2. Attached hereto as Exhibit "A" is a true and correct copy of excerpts from the minutes of the Legislative Council Committee on Aquifer Recharge meeting in Kimberly, Idaho on July 1, 1993.

3. Attached hereto as Exhibit "B" is a true and correct copy of excerpts from the 1982 Idaho State Water Plan.

4. Attached hereto as Exhibit "C" is a true and correct copy of a Notice of Protest filed by Idaho Power Company and received by the Idaho Department of Water Resources on July 29, 1998.

5. Attached hereto as Exhibit "D" is a true and correct copy of a Petition to Intervene filed by the Attorneys for the Idaho Water Users Association, Inc. and received by the Idaho Department of Water Resources on December 3, 1998.

6. Attached hereto as Exhibit "E" is a true and correct copy of a letter to Governor Philip Batt from The Committee of Nine dated November 3, 1997.

7. Attached hereto as Exhibit "F" is a true and correct copy of a letter to Mr. Gary Young from Lynn Harmon dated May 6, 1998.

8. Attached hereto is Exhibit "G" is a true and correct copy of a letter to Governor Phil Batt from Douglas E. Grant dated June 8, 1998.

9. Attached hereto as Exhibit "H" is a true and correct copy of a letter to Governor Batt from Lynn Harmon dated June 10, 1998.

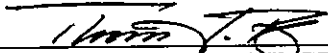
10. Attached hereto as Exhibit "I" is a true and correct copy of Interrogatories – Third Set in Case No. U-1006-124 before the Idaho Public Utilities Commission signed and dated May 24, 1978.

11. Attached hereto as Exhibit "J" is a true and correct copy of a Notice of Applications for Water Right dated March 20, 1998.

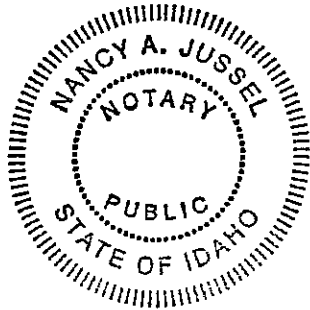
FURTHER SAITH NAUGHT

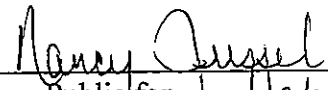
Dated this 7TH day of November, 2008.

RACINE OLSON NYE BUDGE &
BAILEY, CHARTERED

By 
THOMAS J. BUDGE

SUBSCRIBED AND SWORN to before me by Thomas J. Budge this 7th day of
November, 2008.




Notary Public for Idaho
Located at: Idaho Falls
Commission Expires: 2/23/11

CERTIFICATE OF SERVICE

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

Deputy Clerk
Snake River Basin Adjudication
PO Box 2707, 253 Third Avenue N.
Twin Falls, Idaho 83303

- ☐ U.S. Mail/Postage Prepaid
- ☐ Facsimile
- ☐ Overnight Mail (sent Oct. 16, 2008)
- ☒ Hand Delivery

Idaho Power Company
James C. Tucker
PO Box 70
Boise, Idaho 83707
P.O. Box 2773
jtucker2@idahopower.com

- ☐ U.S. Mail/Postage Prepaid
- ☐ Facsimile
- ☐ Overnight Mail
- ☐ Hand Delivery
- ☒ E-Mail

Idaho Power Company
James S. Lochhead
Adam T. DeVoe
Mark J. Mathews
Michael A. Gheleta
Michelle C. Kales
410 17th Street, Ste. 2200
Denver, CO 80202-4432
jlochhead@bhfs.com
mgheleta@bhfs.com

- ☐ U.S. Mail/Postage Prepaid
- ☐ Facsimile
- ☐ Overnight Mail
- ☐ Hand Delivery
- ☒ E-Mail

Idaho Power Company
John K. Simpson
Shelley M. Davis
1010 W. Jefferson, Ste 102
Boise, ID 83701-2139
jks@idahowaters.com
smd@idahowaters.com

- ☐ U.S. Mail/Postage Prepaid
- ☐ Facsimile
- ☐ Overnight Mail
- ☐ Hand Delivery
- ☒ E-Mail

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

- ☒ U.S. Mail/Postage Prepaid
- ☐ Facsimile
- ☐ Overnight Mail
- ☐ Hand Delivery
- ☐ E-Mail

U.S. Department of Justice
Environment & Natural Resources Div.
550 West fort Street MSC 033
Boise, Idaho 83724

☒ U.S. Mail/Postage Prepaid
☐ Facsimile
☐ Overnight Mail
☐ Hand Delivery
☐ E-Mail

Josephine Beeman
Beeman & Associates
409 W. Jefferson Street
Boise, Idaho 83702
Jo.beeman@beemanlaw.com

☐ U.S. Mail/Postage Prepaid
☐ Facsimile
☐ Overnight Mail
☐ Hand Delivery
☒ E-Mail

Jerry R. Rigby
Rigby, Andrus & Moeller
PO Box 250
Rexburg, ID 83440
jrigby@rex-law.com

☐ U.S. Mail/Postage Prepaid
☐ Facsimile
☐ Overnight Mail
☐ Hand Delivery
☒ E-Mail

Steven L. Olsen, Deputy Attorney General
Karl T. Klein
Steven Olsen
Michael C. Orr
Shasta Kilminster-Hadley
700 W. State Street, 2nd Floor
PO Box 44449
Boise, Idaho 83711-4449
karl.klein@ag.idaho.gov
steven.olsen@ag.idaho.gov
michael.orr@ag.idaho.gov
shasta.k-hadley@ag.idaho.gov

☐ U.S. Mail/Postage Prepaid
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☒ E-mail


THOMAS J. BUDGE

Exhibit A

Legislative Council
Committee on Aquifer Recharge
Kimberly Research Center - University of Idaho
Kimberly, Idaho
July 1, 1993

JULY -- 5

MINUTES

The meeting was called to order at 9:30 a.m. by Cochairman Senator Ricks. Other members in attendance were Cochairman Representative Barraclough; Senators Cameron and Peavey; and Representatives Bell and Christiansen. Staff in attendance were Neville and Horton.

Others in attendance included Bill Young, United States Geological Survey; Jim Yost, Idaho Farm Bureau; Representative Bruce Newcomb, District 25; Sheryl Chapman, Idaho Water Users Association; Virgil Temple, A&B Irrigation District; Don Campbell, Idaho Aquaculture Association; Steve R. Hill and Warren Barrash, Idaho Department of Health and Welfare; Bob Burks and Warren Hart, North Side Canal; Chuck Yost, Aberdeen-Springfield Canal Company; Dave Parrish, Idaho Department of Fish and Game; Stefan Esposil, Twin Falls Times News; Gary Lemmon, Blind Canyon Aquaranch; Brad Foltman, Idaho Division of Financial Management; Norm Young, Idaho Department of Water Resources; Ron Golus, United States Bureau of Reclamation; Larry Taylor, Idaho Power; Chuck Brockway, University of Idaho; and John LeMoyné, Idaho Water Alliance/Lower Snake Recharge.

Cochairman Ricks explained that, in addition to the regular meeting agenda for today, the committee's intent is to also incorporate a field trip to an existing aquifer recharge facility. He added that the committee is directed to arrive at an acceptable state policy resolution and/or determination as to aquifer recharge and on-site inspections such as planned for today will help facilitate that process.

Cochairman Ricks briefly reviewed the past years' drought status and pointed out the favorable water conditions now apparent, courtesy of the current season's bountiful snowpack and precipitation. He stressed that, even though the porous formation of underground rocks along the Snake Plain are conducive to recharging efforts, it takes more than just one year of good water conditions to replenish an aquifer. Cochairman Ricks stated that it cannot be anticipated if the state will experience further aquifer down-draft, or to what extent, as the level is cyclical and has a tendency to rise and fall proportionately to existing water conditions. As a result of changes in irrigation methods, increases in usage of water in the state, previously arid acreage going into irrigation, and population growth, demands for water have greatly increased, consequently making the entire recharge issue of vital importance. Cochairman Ricks further stated that the concept of artificial recharge is not new, although little has been done to date in the state of Idaho to implement recharge projects.

Senator Cameron moved, seconded by Representative Bell, that the minutes of the last meeting of May 27, 1993, be approved as printed in Monthly Matters. The motion carried unanimously by

within the by-product. The industry also provides settling basins for silt and sediment harvesting to the extent of about 250,000 pounds of silt per year.

Mr. Campbell pointed out that, if one can assume that the past provides the key for the future, past recharge efforts have been provided to the Snake Plain aquifer by agriculture. Over the last seven years of drought, that aquifer has provided a tremendous economic buffer to the entire area. He said that the eastern Snake Plain Aquifer can be looked upon as a bank account in that it is something that can be drawn on during times of drought, but also something that needs to be replenished during times of plenty. He suggested that the divergent structures already in place, namely the farming community, provide a tremendous recharge potential and at very little cost to the state. There are some programs that perhaps need to be reevaluated, such as the winter water stock program. But, in reevaluating and reviewing the past, he feels certain that the right decisions can be made to improve the value of Idaho's aquifer.

In response to Cochairman Ricks' inquiry, Mr. Campbell said that he does not believe there is a profitable recirculation system in the world outside of an aquarium. To further explain, he said that in order to make a profit, his fish farm has to produce fish at a total cost of no more than 61 cents per pound while the lowest production cost that he has ever seen for a recirculation system is \$1.75 per pound. In 1968, trout was selling for \$1.65 per pound and, in 1992, the average price for trout sold out of the Magic Valley was only \$1.25 per pound. Over the last twenty-five years, the American consumer has realized a tremendous value in terms of the production capability of this industry. Mr. Campbell reiterated that recirculation and recycling techniques are simply not viable options for his industry as it depends entirely upon spring flows.

Mr. Gary Lemmon provided the committee with a brief overview of the field trip plans to inspect the recharge project. In addition, he presented aquifer project slides including a unique view of an actual aquifer taken through a tunnel showing the water flow through the rocks.

He said that it is important to remember that the Snake Plain aquifer is relatively shallow on the north side and water is picked up at a layer approximately sixty to eighty feet below the surface. Mr. Lemmon advised the committee that, in the 1970's, a group of people from the Eagerman valley area began noticing steep declines in water levels and spring flows. Because of their concern and desire to do something to prevent any further decline, they started protesting new well permit applications, but without much success. After this plan of protest failed, the group resorted to another method of solving their problem by becoming proactive and actually replacing water into the aquifer. The group formed the Lower Snake River Aquifer District and were

JULY -- 16

able to start recharging on an experimental basis in 1982. They soon found the ground would accept the water from a surface injectate basis. In 1984, the district instituted its first recharge facility at a cost of \$40,000.

In response to Representative Bell's inquiry, Mr. Lemmon replied that well water level monitoring is conducted for the district by engineers hired by the district and the Department of Health and Welfare performs water quality checks.

In response to Cochairman Barraclough's inquiry, Mr. Lemmon replied that there are measuring devices in place to determine daily records of the amount diverted into the recharge site, and weekly measurements are made on the monitoring well closest to the site. He reported that, in 1984, the district recharged for twenty-three days resulting in a total of 7,000 acre feet. In 1986, with recharges conducted both in the spring and fall, a total of 59,880 acre feet was realized. In 1987, over a twenty-day period, the district had a recharge of 4,761 acre feet and, this past year, the recharge effort extended over a twenty-six day period for 25,460 acre feet. Obviously, the project is getting some amount of water put back into the aquifer from this site, but more sites are needed. Recharge sites should be aquifer-wide with a taxing district in place to support the program.

There being no further business, the committee adjourned at 2:20 p.m. in preparation to attend the field trip to Shoshone. The next meeting date is scheduled for August 5, 1993, at 10:00 a.m. in Rexburg at the Madison County District Public Library.

Exhibit B

Idaho State Water Plan



Adopted by the
Idaho Water Resource Board

January 19, 1982

2. REHABILITATION FUND

The Rehabilitation Fund should receive annual appropriations. These monies would be used to evaluate and rehabilitate abandoned mines and by-product storage areas and other abandoned projects that adversely affect the state's water resources.

The Water Management Fund and Rehabilitation Fund would be administered by the Department of Water Resources as prescribed by the legislature and consistent with the State Water Plan.

3. ENERGY DEVELOPMENT AND STUDY FUND

The Energy Development and Study Fund should receive annual appropriations. These monies would be used to expand geothermal energy research and development, solar energy research and development, conservation studies, pumped storage studies, and assist other programs affecting the adequacy of electrical and other energy supplies. This fund should be administered by the designated energy agency with water resources components assigned to the Idaho Department of Water Resources.

Basin Policies

The available and unappropriated waters of the Snake River Basin are allocated to satisfy existing uses, meet needs for future growth and development, and protect the environment. The allocations recognize and protect existing water uses and rights. The water allocations are made by large regions to allow the widest possible discretion in application.

POLICY 32 Snake River Basin

Water Allocation Criteria

The greatest competition for water in the Snake River Basin exists along the main stem of the Snake River. Existing and potential uses include hydropower generation, irrigation, fish and wildlife, recreation, and protection of water quality. The amount of water required for the potential uses exceeds the remaining available supply.

The river flow is regulated by numerous dams, reservoirs, direct diversions, and return flows as it crosses the southern half of the state. Existing water rights are principally for irrigation and hydropower generation. Irrigation needs are normally met except during extreme low runoff years. Hydropower generation utilizes water remaining after irrigation diversions even though there are licensed water rights for hydro-generation at several points on the Snake River. Some of these rights are subordinated to upstream diversion and depletions and others are not. The largest unsubordinated right is at Swan Falls Dam (near the Murphy gage) with a flow right of 9450 cfs (includes 3300 cfs in claims). Substantial development has occurred above this point, thus reducing flows below the claimed right. Pending applications to divert water could reduce the flows to essentially zero during July, August and September of each year. The resulting impact would substantially reduce electrical energy generation at Swan Falls and at all other points downstream on the main stem Snake River. In the absence of protests from the public and water right holders, the Department of Water Resources has continued to issue permits to develop new water supplies for irrigation from Snake River.

Permits previously issued by the department, if fully developed, would reduce summertime flows in dry years to about 3300 cfs near Murphy. Sequences of consecutive years of flows of this magnitude would have occurred in the early 1930's and again in the late 1950's and early 1960's if present developments, plus the already issued permits, had been fully developed at that time. These flows were computed in a study of major outstanding permits from the Snake River in southwestern Idaho (Technical Studies Report No. 3) and a preliminary estimate of effects of full development of outstanding groundwater permits in the Upper Snake.

A flow of 3300 cfs at Swan Falls is about one-third of the flow necessary to meet the entitlement of hydro-generation of that power plant if the recorded water filings are valid. It is also less than the amount identified as needed for fish, wildlife and recreation purposes at Swan Falls or downstream. The potential uses of water in the main stem Snake River have been identified in sufficient detail to determine that remaining water supplies cannot fulfill all identified needs.

The Idaho Water Resource Board concluded, after considering all current and potential uses of water on the main stem Snake River, that depletion of flows below that currently available in the low flow months to maintain water for production of hydropower and other main stem water uses is not in the public interest.

Therefore, main stem Snake River flows will be protected against further appropriations and preserved to provide the following average daily flows at the following U.S. Geological Survey stream gaging stations:

Gaging Station	Protected Flow (Average Daily)
	0 cfs
Milner	3,300 cfs
Murphy	4,750 cfs
Weiser	

Studies indicate that sufficient water exists in excess of these flows to provide for additional uses if water conserving and storage facilities are constructed.

Water available in excess of the designated flows for development above an average annual flow basis are:

Gaging Station	Water Presently Available for Appropriation (Average Year)
Milner	1,473,000 acre-feet
Murphy	4,218,700 acre-feet
Weiser	7,821,000 acre-feet

The above average daily flows will allow the flow requirements contained in the Federal Power Commission License issued for the Hells Canyon hydropower complex to be met without significantly affecting hydropower production. Article 43 of the license provides the management criteria,

"The project shall be operated in the interest of navigation to maintain 13,000 cfs flow into the Snake River at Lime Point (river mile 172) a minimum of 95 percent of the time, when determined by the Chief of Engineers to be necessary for navigation. Regulated flows of less than 13,000 cfs will be limited to the months of July, August, and September, during which time operation of the project would be in the best interest of power and navigation, as mutually agreed to by the License and the Corps of Engineers. The minimum flow during periods of low flow or normal minimum plant operations will be 5,000 cfs at Johnson's Bar, at which point the maximum variation in river stage will not exceed one foot per hour. These conditions will be subject to review from time to time as requested by either party."

The Board further finds that this requirement is still in the public interest and should be maintained without change.

Within the above management framework, each future use of water can be considered individually. Water allocations for forestry, flood damage reduction, environmental quality, urban lands, land measures, mining, and lake and reservoir management are included as components of other allocations.

Agriculture

Water is allocated for additional new and supplemental irrigation development. A minimum level of irrigation development of 850,000 acres by the year 2020 over that which existed in August 1975 is endorsed. The location of future development is expected to be: Upper Snake — 498,000 acres; Southwest Idaho — 292,000 acres and Lower Snake — 60,000 acres. In addition, 255,000 acres are expected to receive supplemental irrigation water. At least 1.7 million acre-feet of water will be consumptively used to meet the minimum level of irrigation development. A maximum level of irrigation development is not identified but will be determined as water supplies, economic conditions, environmental standards and protected instream water rights allow. The Water Resource Project Feasibility Planning Program is directed to assist in appropriate studies to help accomplish the identified agricultural development.

Municipal and Industrial

Water is allocated for municipal and industrial purposes. It is projected that the basin population will more than double by year 2020 and additional industrialization will occur. Water necessary to process agricultural, forest, minerals, aquaculture and other products are included in this allocation. The plan provides for 830,000 acre-feet of diversion beyond August 1975 levels to meet this growth. The diversion is distributed as follows: Upper Snake — 420,000 acre-feet; Southwest Idaho — 275,000 acre-feet; and Lower Snake — 135,000 acre-feet. The net depletion will be about 105,000 acre-feet.

Exhibit C

James C. Tucker
ROSHOLT, ROBERTSON & TUCKER
P. O. Box 1906
Twin Falls, Idaho 83703-1906
Telephone: (208) 734-0700
shs28ipow@idwrboypgs.pn

COPY

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JUL 29 1998

Department of Water Resource
Southern Region

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF)

APPLICATION FOR WATER RIGHTS)

01-07140; 01-07139; 01-07138;)

21-07580; 21-07579; 21-07578;)

21-07577; 21-07576; 21-07575;)

21-07574; 01-07137; 01-07136;)

01-07135; 01-07134; 02-07473;)

02-07474; 01-07131; 01-07133;)

01-07132; 01-07141)

APPLICANT: IDAHO WATER)

RESOURCES BOARD)

NOTICE OF PROTEST

IDAHO POWER COMPANY (hereinafter the Protestant), by and through its attorneys,
Rosholt, Robertson & Tucker, files its Notice of Protest to the approval of the above-numbered
Applications for Permit filed in the name of IDAHO WATER RESOURCES BOARD. The basis
for the Protestant's protest is as follows:

NOTICE OF PROTEST - 1

IPC034743

1. The proposed diversion and use of the waters as described in the aforesaid applications fail to comply with all, or a portion of, the criteria and requirements of Idaho Code §§ 42-203A(5) & 42-203C, and/or the *Water Appropriation Rules* promulgated by the Department;
2. The applications do not offer sufficient information as to the proposed periods or places of use or of the proposed or expected beneficial use of the water to allow the Protestant to evaluate the potential impact of the proposed uses on the Protestant's water rights; and
3. For such other and further reasons as may be identified in the course of the proceeding and set forth at any informal conference or formal hearing on these applications.

DATED this 29th day of July 1998.

ROSHOLT, ROBERTSON & TUCKER

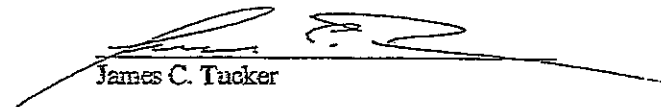
By: 
James C. Tucker

CERTIFICATE OF MAILING

I hereby certify that on this 29th day of July, 1998, I served a copy of the foregoing NOTICE OF PROTEST, by depositing same in the United States mail, postage prepaid, in an envelope, addressed to the following:

Karl J. Dreher, Director
Idaho Department of Water Resources
1301 North Orchard St.
Boise, ID 83706

Idaho Water Resources Board
1301 North Orchard St.
Boise, ID 83706



James C. Tucker

Exhibit D

RECEIVED DEC 3 1998

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Say
"Reclage is good."

1 ROGER D. LING
2 LING, NIELSEN & ROBINSON
3 Attorneys at Law
4 615 H Street
5 P. O. Box 396
6 Rupert, Idaho 83350
7 Telephone (208) 436-4717
8 Facsimile (208) 436-6804

9 Attorneys for
10 Idaho Water Users Association, Inc.

11 BEFORE THE DEPARTMENT OF WATER RESOURCES
12 OF THE
13 STATE OF IDAHO

14 IN THE MATTER OF APPLICATIONS)
15 FOR WATER RIGHT NOS. 01-07131,)
16 01-07132, 01-07133, 01-07134,)
17 01-07135, 01-07136, 01-07137,)
18 01-07139, 01-07140, 01-07141,)
19 02-07473, 02-07474, 21-07574,)
20 21-07575, 21-07576, 21-07577,)
21 21-07578, 21-07579, 21-07580 BY)
22 THE IDAHO WATER RESOURCE BOARD)

PETITION TO INTERVENE

23 COMES NOW the petitioner Idaho Water Users Association,
24 Inc. and petitions the Director of the Idaho Department of Water
25 Resources for an Order granting intervention by the Idaho Water
26 Users Association to become a party in these proceedings, and in
27 support of this petition, alleges:

28 1. That Idaho Water Users Association, Inc. is a non-
profit corporation whose membership consists of approximately 180
irrigation districts and canal companies and 90 associate members,
all of whom are actively engaged in the irrigation of arid lands in
southern Idaho or who have businesses that are dependent upon
irrigated agriculture. The acres irrigated by the irrigation
districts and canal companies of the association cover nearly all

PETITION TO INTERVENE

- 1 -

LING, NIELSEN & ROBINSON

ATTORNEYS AT LAW

RUPERT, IDAHO 83350-0396

IPC034546

1 reclamation project lands in Idaho and the association is the
2 largest association of irrigators representing the owners of the
3 approximately 1.2 million acres of lands in southern Idaho
4 irrigated with ground water and the 1.4 million acres of land
5 irrigated with surface water.

6 2. A direct and substantial interest of petitioner is
7 to insure that its members have an adequate water supply, and
8 ground water recharge with surplus water of the State is essential
9 to insure that an adequate water supply is available for ground
10 water diversions and the charging of springs that replenish the
11 flows to the surface water sources of southern Idaho.

12 3. Petitioner seeks to intervene as a party to support
13 the Idaho Water Resource Board and to obtain approval of its
14 Applications for water rights for ground water recharge.

15 4. The Applications for a permit filed by the Idaho
16 Water Resource Board, Twin Falls Canal Company, and North Side
17 Canal Company should be granted for the following reasons, to-wit:

18 a. The water rights sought to be obtained by the
19 Applications would not in any manner injure senior water
20 rights, if any, of the United States Fish & Wildlife
21 Service or the Bureau of Reclamation.

22 b. That the use of surface water for ground water
23 recharge is in the local public interest and will have no
24 significant impact upon fish and wildlife resources,
25 habitat, aquatic life, water quality or threatened and
26 endangered species.

1 c. That the water supply is sufficient for the
2 purpose of recharge of ground water sources.

3 d. The Applications are not made for speculative
4 purposes, but are made to maximize the beneficial use of
5 the water resources of the State.

6 e. That ground water recharge pursuant to the
7 Applications will result in the conservation of the water
8 resources of the State of Idaho.

9 f. That it is within the public policy of the
10 State of Idaho that ground water recharge occurs with
11 unappropriated surface waters of the State to maximize
12 the utilization of the water resources of the State of
13 Idaho.

14 5. That no formal hearing or pre-hearing conference has
15 been set by the Idaho Department of Water Resources in regard to
16 these Applications.

17 6. The address of petitioner Idaho Water Users
18 Association, Inc. is 410 S. Orchard, Suite 144, Boise, ID 83705.

19 7. That intervention by petitioner will not disrupt
20 these proceedings or prejudice any existing party, or in any way
21 unduly broaden the issues pending before the Department of Water
22 Resources.

23 WHEREFORE, petitioner Idaho Water Users Association, Inc.
24 prays that an Order be entered granting petitioner intervention in
25 these proceedings as a party, in support of the Applications filed.

26
27
28 PETITION TO INTERVENE

LING, NIELSEN & ROBINSON
ATTORNEYS AT LAW
RUPERT, IDAHO 83400-0398

1 DATED this 2nd day of December, 1998.

2 LING, NIELSEN & ROBINSON

3
4
5 By: 
6 Roger D. Ling
7 Attorney for Idaho Water Users
8 Association, Inc.

9
10 CERTIFICATE OF MAILING

11 I hereby certify that on the 2nd day of December, 1998,
12 I served copies of the foregoing Petition to Intervene upon:

13 Idaho Water Resource Board
14 1301 N. Orchard Street
15 Boise, ID 83706

16 John A. Rosholt, Esq.
17 ROSHOLT, ROBERTSON & TUCKER
18 Attorneys for Twin Falls Canal Company
19 and North Side Canal Company
20 P. O. Box 1906
21 Twin Falls, ID 83303-1906

22 James C. Tucker, Esq.
23 ROSHOLT, ROBERTSON & TUCKER
24 Attorneys for Idaho Power Company
25 P. O. Box 1906
26 Twin Falls, ID 83703-1906

27 Barbara Scott-Brier, Agency Representative
28 Fish and Wildlife Service
U.S. Department of the Interior
500 N.E. Multnomah, Suite 607
Portland, OR 97232

Spence Warner
South Fork Outfitters, LLC
P. O. Box 22
Swan Valley, ID 83449

Marv Hoyt
Greater Yellowstone Coalition
1740 E. 17th Street, Suite F
Idaho Falls, ID 83404

PETITION TO INTERVENE

- 4 -

IPC034549

LING, NIELSEN & ROBINSON

ATTORNEYS AT LAW

RUPERT, IDAHO 83400-0398

1 Mike Lawson
2 Henry's Fork Anglers, Inc.
3 EC 66, Box 491
4 Island Park, ID 83429

5 Jarrold D. Gregg, Snake River Area Manager
6 U.S. Bureau of Reclamation
7 214 Broadway Avenue
8 Boise, ID 83702-7298

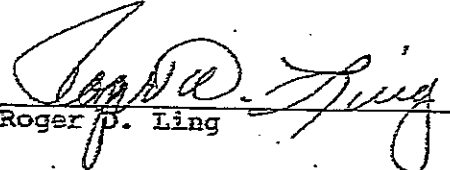
9 Stephen P. Mealey, Director
10 Idaho Fish & Game
11 600 South Walnut
12 Boise, ID 83707-0025

13 Lyn Benjamin
14 Henry's Fork Foundation
15 P. O. Box 852
16 Ashton, ID 83420

17 Marti L. Bridges, Water Policy Director
18 Idaho Rivers United
19 P. O. Box 633
20 Boise, ID 83701

21 Fred and Betty Kippes
22 3951 N 1100 E
23 Buhl, ID 83316

24 by depositing said copies in the United States mail, postage
25 prepaid, in envelopes addressed to said parties at the foregoing
26 addresses.

27 
28 Roger P. Ling

28 PETITION TO INTERVENE

Exhibit E

STATE OF IDAHO
WATER DISTRICT 1

Ronald Carlson
Watermaster
(208) 525-7172

900 N. Skyline Drive
Idaho Falls, Idaho 83402

Committee of Nine

November 3, 1997

Governor Philip E. Batt
Office of the Governor
PO Box 83720
Boise, ID 83720-0034

Dear Governor Batt:

Re: Recharge

Our state has been active in recent years in support of using excess water to recharge groundwater aquifers. A couple of years ago our Legislature authorized \$1 million in State monies to be spent to lease water from water banks and to pay for its conveyance to recharge sites. A water year like 1997, reinforces the wisdom of a continuing recharge program. Not only can recharge help alleviate flood flows, it provides protection for future irrigation and other water uses.

While we are aware that not all waterusers support recharge, we want to advise you that the Committee of Nine continues in support of the State's effort and IDWR's current study to identify the best sites and secure conveyancing agreements with irrigation entities.

I've been asked to advise that the Committee of Nine also supports continued funding of IDWR for this effort, including the State's matching share to undertake an engineering feasibility study for the Little Wood River Re-evaluation Study.

Respectfully,

Committee of Nine

By: Don Kramer

Chairman

DK:ba

cc: Clarence Parr
Karl Dreher

11039701.DK

Exhibit F

American Falls Reservoir District No. 2

112 S. Apple Street • Box C
Shoshone, Idaho 83352
(208) 886-2331

May 06, 1998

Mr. Gary Young
City of Twin Falls
P.O. Box 1907
Twin Falls, ID 83301

RE: Mile #31 Recharge Proposal

Dear Mr. Young:

Thank you for your recent attendance to our May Board of Directors meeting. After review of your proposal, the Board of Directors of the American Falls Reservoir District #2, has decided in favor of proceeding with the Mile #31 Recharge Project.

Please do not hesitate to contact me if I may be of additional service.

Sincerely,



Lynn Harmon
General Manager

LH:jit

IPC034184

Exhibit G

MAGIC VALLEY GROUND WATER DISTRICT

1699 North 400 West
Rupert, Idaho 83350
Phone: 208-532-4524
Fax: 208-532-4720

June 8, 1998

Governor Phil Batt
Idaho State Capitol, 2nd Floor
P.O. Box 83720
Boise, Idaho 83720-0034

Dear Governor Batt:

We appreciate your allowing your assistant, Jim Yost, to attend a meeting with the Idaho Water Alliance and others, who looked at several sights that we feel would be a place to start with recharge for the Snake Plain Aquifer.

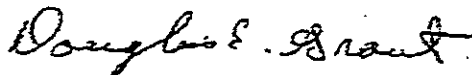
We would appreciate it if you would encourage the Idaho Department of Water Resources to proceed as quickly as possible. We think some of these sights can be completed by the end of 1998 with the money IDWR already has for recharge projects, along with the local cities, counties, water districts, and private companies, who are willing to help fund these project.

We know you are aware of the need for recharge as it pertains to the Snake Plain Aquifer, as one of those who homesteaded on the A & B Irrigation Project.

If we can be of further assistance, please contact us

Thank You.

Sincerely,



Douglas E. Grant
Chairman

DEG/egs

Exhibit H

American Falls Reservoir District No. 2

112 S. Apple Street • Box C
Shoshone, Idaho 83352
(208) 886-2331

June 10, 1998

Office of the Governor
Boise, Idaho

Re: Aquifer Recharge

Dear Governor Batz,

The American Falls Reservoir District No. 2, supports aquifer recharge. We have been working with the Lower Snake River Aquifer Recharge District since 1984, wheeling water to their site north of Shoshone.

Recently the city of Twin Falls and Jerome County have approached the District, wanting to develop a recharge site at mile 31 of the Milner-Gooding canal. This appears to be a good site which would recharge a larger flow than several of the sites considered.

The District is willing to work with those involved to make use of this site. However, financially we would need assistance to cover water wheeling costs, as off season water during winter months creates additional expense, not mention the cost for construction of diversion facilities.

We encourage you to support these recharge efforts both financially and in dealing with the agencies involved in order to accomplish recharge.

Sincerely,

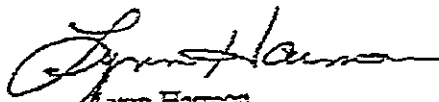

Lynn Harmon
General Manager

Exhibit I

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

Matthew Kellaney, John Peavey, et al.,
Complainants

vs.

The Idaho Power Company, a Maine
Corporation, Respondent

Case No. D-1005-124

INTERROGATORIES - THIRD SET

The following interrogatories are propounded by Complainants to the Idaho Power Company to be answered separately under oath and served upon the attorney for Complainants:

1. State the balances as of December 31, 1977 in Accounts 101, 108 and 111 separately for categories of franchise and consents, land, production, step up, general and totals for each of the following projects: Bliss, Brownlee, C. J. Strike, Hells Canyon, and Jim Bridger. This interrogatory is intended to update the Company's response to Request for Production of Documents No. 3 furnished to Complainants on September 27 and 28, 1977.
2. State the amount of the balance in Account 107 as of December 31, 1977 for the fourth unit of Jim Bridger and the estimated additional cost to complete the project. State the estimated completion date of this project.
3. State in detail the methodology used and the assumptions made in the preparation of the report entitled, "Relationship - Irrigation Pumping Depletions Vs Hydro Generation 'Effects of Snake River Depletion Study' 8/31/77." The report appears to have been prepared under the direction of J. R. Ferrée, Jr. or Donald Barclay of the Idaho Power Company.
4. Without in any way intending to limit the scope of Interrogatory 3 and the answer thereto, state the following with respect to the foregoing report:
 - a. How was the amount of diversion at each river point determined?
 - b. What assumptions were made about return flow?
 - c. How were the number of days the diversion would have been usable at one or more hydro facilities determined?
 - d. How was the generation lost from the diversions calculated? What factors were used for each power facility? How do these factors relate to the Company's Answer 20 to the second set of Complainants' Interrogatories?

AFFIDAVIT OF
MYRNA J. WALTERS

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e. How was the amount of electricity used by the pumps determined?

f. Why was the depletion study limited to diversions by 100 horsepower pumps or larger?

g. Why was the depletion study limited to pumps placed in operation since 1950?

h. Identify the pumps included in the depletion study that were depleting water from the Snake River under a water right that pre-dates the Company's water rights at Swan Falls and the priority date and amount of each right?

5. Has the foregoing depletion report been updated to 1977? If yes, please state fully the results of the update using the same format as was used in the foregoing depletion study. If the depletion report has not been updated, state whether it is in the process of being updated and when the Company expects to complete the update for 1977.

6. Do the numbers contained in Answer 10 to Complainants' Interrogatories - Second Set presume full electrical load at rated machine capability? If not, state what assumptions and methodology were used to derive Answer 10.

7. What is the effect in kilowatts upon the capacity of each of the Company's hydroelectric dams in the Snake River by the diversion without return flow of one cfs of water from the Snake River at each of the following points:

- a) above the Bliss dam
- b) above the C. J. Strike dam
- c) above the Swan Falls dam
- d) above the Brownlee dam?

If the effect varies for any reason, state the reasons and the amount of variance.

8. Using the format employed by the Company in completing the Federal Power Commission Form 12 for the year ending December 31, 1973 and especially the format contained in Schedule 2 thereof and the four pages of data supplementary thereto marked "3/7/74 Revision", state the Company's plant capacity in average megawatts and peak megawatts and aggregate dependable hydroelectric capacity and potential energy (Schedule 2) using the median stream flows by plant and the revised 1934-35 critical stream flows by plant based on the provisional 1928-1975 depletion study furnished to Complainants by letter dated April 25, 1978.

9. Who participated in the development of the provisional 1928-1975 depletion study presently used by the Company in its power system planning? Why was the critical stream flow year changed to 1934-1935 from 1936-1937? Why was the water year changed from the months of July to June to the months of May to April?

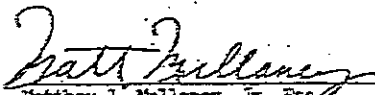
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MYRNA J. WALTERS

-582-

10. When completing the power system statement required by FPC Form 12, the Company consistently throughout the years refers to flow conditions for power system planning as "median flow conditions." Yet, in answer to Interrogatories 3a and 3b of Complainants' first set of interrogatories, the Company attached a copy of the Columbia River Water Management Data for various points on the Snake River that includes an AVERAGE flow by month and not a MEDIAN flow. Likewise in the provisional 1928-1975 depletion study, the caption includes the words "Median Stream Flows by Plant" (Emphasis added by Complainant). Does the Company in fact use monthly MEDIAN flows or monthly AVERAGE flows for the water years of record for its power system planning?

11. State for each year from 1940 to date, in megawatt-hours, the amount of electricity sold for irrigation pumping (presently Rate Schedule 24) by the Idaho Power Company.

12. Should the number in the row/column marked "Above Swan Falls/Minimum" in Answer 10 to Complainants' Interrogatories - Second Set be 430 kilowatt-hours as stated or should it be 425 kilo-watt hours in order to maintain a spread of 55 kilo-watt hours between the column marked "1/2 Full" and the column marked "Minimum?"


Matthew J. Mullaney, Jr., Esq.
Attorney for Complainants and Pro Se

CERTIFICATE OF SERVICE

I hereby certify that I have this 24th day of May, 1978, served a copy of the foregoing Interrogatories-Third Set upon Michael B. White, Esquire, counsel for Respondent Idaho Power Company, by mailing a copy thereof, postage prepaid to his office at 1220 W. Idaho Street, Boise, Idaho.

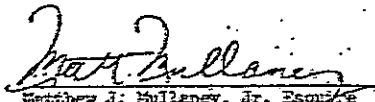

Matthew J. Mullaney, Jr., Esquire

Exhibit J

NOTICE OF APPLICATIONS FOR WATER RIGHT

On March 20, 1998, the Idaho Water Resources Board, 1301 N. Orchard St. Boise, ID 83705, filed the following applications with the Department of Water Resources to appropriate water from the Snake River, Henry's Fork of the Snake River and Fall River. The applicant seeks to intermittently divert water for recharge purposes throughout the year when water is available, through the headworks of the following canals up to the maximum rate described below:

01-07131 - Progressive Irrigation Dist. - 230 cfs
01-07132 - Enterprise Canal Co. Ltd. - 283 cfs
01-07133 - Snake River Valley Irr. Dist. - 682 cfs
01-07134 - Peoples Canal & Irrigation Co. - 475 cfs
01-07135 - New Sweden Irrigation District - 949 cfs
01-07136 - Farmer's Friend Irrigation Co. - 537 cfs
01-07137 - Harrison Canal & Irrigation Co. - 698 cfs
01-07138 - Aberdeen-Springfield - 1387 cfs
01-07139 - Rudy Irrigation Canal Co. Ltd. - 110 cfs
01-07140 - Rigby Canal & Irrigation Co. - 253 cfs
01-07141 - Burgees Canal & Irrigation Co. - 1,095 cfs

02-07473 - Northside Canal Co. Ltd. - 2,831 cfs
02-07474 - Twin Falls Canal Co. - 3,738 cfs

21-07574 - Twin Groves Irr. & Mig. Co. - 150 cfs
21-07575 - Salem Union Canal Co. Ltd. - 338 cfs
21-07576 - Fall River Irrigation Co. - 294 cfs
21-07577 - Egin Canal Co. - 399 cfs
21-07578 - St. Anthony Union Canal Co. - 563 cfs
21-07579 - Independent Canal Co. - 337 cfs
21-07580 - Last Chance Canal Co. - 94 cfs

Diversion for the planned recharge generally will occur during the non-irrigation season due to water availability and canal capacity.

The canal headings are further described as being within Bingham, Bonnaville, Fremont, Jefferson, Jerome and Twin Falls Counties, Idaho. The place of use (recharge) is within the delivery systems and recharge areas of the respective companies and districts as designated in the specific Aquifer Recharge Plan for each application.

For more specific information about the applications, you may contact the department or call (208) 327-7900.

If approved, the applications will be subject to all prior water rights and will authorize recharge of water to the Eastern Snake Plain Aquifer in Idaho during times when there is water in excess of existing water rights and established minimum flows.

Protests must be filed with the Director, Department of Water Resources, 1301 N. Orchard St., Boise, Idaho 83705, together with a \$25 filing fee on or before July 30, 1998. Protests must identify the application or applications objected to. A single \$25 protest fee will be accepted for a protest covering one or more applications.

KARL J. DREHER, Director

PUBLISHED: July 9 and 16, 1998

Times News