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MAR 30 2009

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
MAR 27 2009	
By _____	Clerk
Deputy Clerk	

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. 00-92023 (92-23)
	)
Case No. 39576	) ORDER RE: RULINGS ON PENDING
	) SUMMARY JUDGMENT MOTIONS
	)
	)

Currently pending before the Court is the State of Idaho's and Idaho Power Company's *Joint Motion To Enter Order Temporarily Withholding Rulings On Pending Summary Judgment Motions*. The *Joint Motion* states that the State and Idaho Power have finalized a proposed settlement of this consolidated subcase and requests that this Court withhold ruling on the pending summary judgment motions for a period of ninety (90) days to allow time for review and implementation of the proposed settlement. (and not yet other parties)

The *Joint Motion* states that the proposed settlement contemplates the passage of certain legislation and the execution of a memorandum of agreement by the Idaho Water Resource Board, the Governor and Idaho Power Company, to be followed by submission to this Court of the proposed forms of the partial decrees for the hydropower water rights at issue in this consolidated subcase and a dismissal stipulation. For purposes of the proposed settlement, ~~the parties~~ ^{the State of Idaho and Idaho Power, but not yet other parties} have agreed upon and finalized the form of the proposed legislation, the memorandum of agreement, the partial decrees and the dismissal stipulation.

The proposed settlement allows ninety (90) days for passage of the legislation, execution of the memorandum of agreement, and submission to this Court of the partial decrees. The State and Idaho Power would jointly support passage of the legislation, execution of the memorandum of agreement, and entry of the partial decrees. Should the

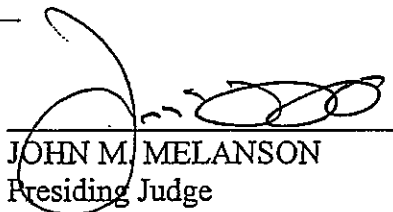
legislation not be passed, the memorandum of agreement not be executed, or the proposed partial decrees not be entered, both the State and Idaho Power would have the option of unilaterally declaring the proposed settlement void.

The *Joint Motion* also states that the State and Idaho Power have provided copies of the proposed settlement (including the proposed legislation, memorandum of agreement, partial decrees and dismissal stipulation) to the other parties to this consolidated subcase.¹ The Court heard the *Joint Motion* on March 27, 2009 ~~[date]~~.

The pending summary judgment motions raise a number of complex and important issues. Amicable settlements of disputed issues are generally favored, the parties have been working diligently towards settlement, and the proposed settlement presents an opportunity to amicably settle this consolidated subcase. The Court finds that there is good cause to temporarily withhold ruling on the pending summary judgment motions.

Accordingly, IT IS HEREBY ORDERED that this Court will withhold issuing or entering any ruling on the summary judgment motions currently pending in this consolidated subcase for a period of ninety (90) days, commencing the day following the date of entry of this order. If the parties have not submitted proposed partial decrees and dismissal motion prior to the expiration of the ninety (90) day period, the Court will enter rulings on the pending summary judgment motions at an appropriate time in the normal course of the Court's work.

DATED March 27, 2009



JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

¹ The City of Pocatello, Aberdeen-Springfield Canal Company, Fremont Madison Irrigation District, Egin Bench Canals, Inc., Idaho Irrigation District, New Sweden Irrigation District, and The United Canal Company.

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER RE:
RULINGS ON PENDING SUMMARY JUDGMENT MOTIONS was mailed on March
27, 2009, with sufficient first-class postage to the following:

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BONNEVILLE-JEFFERSON GROUND
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MADISON GROUND WATER DISTRICT
MAGIC VALLEY GROUND WATER
NORTH SNAKE GROUND WATER

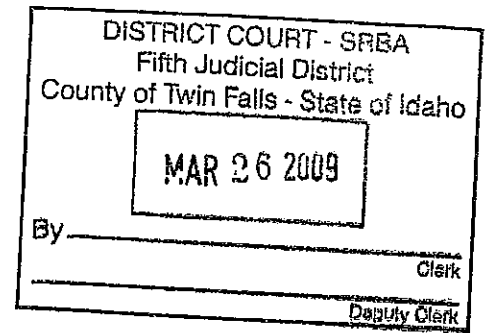
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**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA

Case No. 39576

)
) Consolidated Subcase No. 00-92023 (92-23)
)
) **STATE OF IDAHO'S AND IDAHO**
) **POWER COMPANY'S JOINT MOTION**
) **TO ENTER ORDER TEMPORARILY**
) **WITHHOLDING RULINGS ON**
) **PENDING SUMMARY JUDGMENT**
) **MOTIONS**
)

The State of Idaho and Idaho Power Company ("the Parties"), by and through their counsel of record, hereby move this Court for an order withholding rulings on the summary judgment motions currently pending before this Court for a period of ninety days. A proposed form of order is attached.

The State and Idaho Power Company have finalized a proposed settlement of this consolidated subcase and request that this Court withhold ruling on the pending summary judgment motions to allow time for review and implementation of the proposed settlement. The proposed settlement contemplates the passage of certain legislation and the execution of a memorandum of agreement by the Idaho Water Resource Board, the Governor and Idaho Power Company, to be followed by submission to this Court of the proposed forms of the partial decrees for the hydropower water rights at issue in this consolidated subcase and a dismissal stipulation. For purposes of the proposed settlement, ~~the parties~~ ^{the state of Idaho and Idaho Power Company, but, as yet not the other parties} have agreed upon and finalized the form of the proposed legislation, the memorandum of agreement, the partial decrees and the dismissal stipulation.

The proposed settlement allows ninety (90) days for passage of the legislation, execution of the memorandum of agreement, and submission to this Court of the partial decrees. The State and Idaho Power would jointly support passage of the legislation, execution of the memorandum of agreement, and entry of the partial decrees. Should the legislation not be passed, the memorandum of agreement not be executed, or the proposed partial decrees not be entered, the State and Idaho Power would each have the option of unilaterally declaring the proposed settlement void.

The State and Idaho Power Company have provided copies of the proposed settlement (including the proposed legislation, memorandum of agreement, partial decrees and dismissal stipulation) to the other parties to this consolidated subcase. Exhibit A to this joint motion is a printed and bound copy of the proposed settlement, including all exhibits. Exhibit B to this motion is a CD with pdf files containing a scanned copy of the proposed settlement, including all exhibits.

/

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Respectfully submitted this 26TH day of March 2009.

STATE OF IDAHO

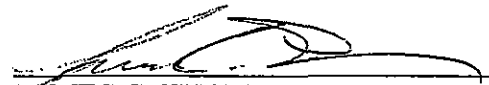
IDAHO POWER COMPANY



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ____ day of March 2009, I caused a true and correct copy of the foregoing STATE OF IDAHO'S AND IDAHO POWER COMPANY'S JOINT MOTION TO TEMPORARILY WITHHOLD RULINGS ON PENDING SUMMARY JUDGMENT MOTIONS to be served on the following parties by the indicated methods:

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- ☒ Hand Delivery
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