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DEPARTMENT OF
WATER RESOURCES

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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

)
) Subcases Nos. 37-2128, 37-2471, 37-2472,
) 37-30709 and 37-20710

)
) **STATE OF IDAHO'S STATEMENT OF**
) **ISSUES REMAINING BEFORE THE**
) **SPECIAL MASTER**
)
)

The State of Idaho, by and through its counsel of record, and pursuant to the
Special Master's order, hereby submits this statement of the issues that remain to be
decided by the Special Master in the above-referenced Basin 37 subcases.

1. On July 24, 2007, the Honorable John M. Melanson, Presiding Judge of the SRBA, entered a consolidation order for Consolidated Subcase 00-92023 (92-23) providing, in relevant part:

Pursuant to *AOI* § 11 and I.R.C.P. 42, in order to avoid unnecessary costs or delay, issues pertaining to ownership and interpretation and/or application of the *Swan Falls Agreement* in subcases . . . 37-02128, 37-02471, 37-02472, 37-20709 [and] 37-20710 . . . shall be separated and consolidated with subcase 92-23 into a single consolidated subcase for purposes of resolution. . . . Matters other than ownership of the water rights and interpretation and/or application of the *Swan Falls Agreement* shall remain with the assigned special master and may proceed as determined by the special master.

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 at 16-17.

2. On October 22, 2008, the Special Master entered an order in the above-referenced Basin 37 subcases requiring “all parties to file a short statement explaining what issues remain to be decided at the Special Master level” by April 24, 2009. Order Setting Deadline and Scheduling Conference at 1.

3. Upon review of the record, the State of Idaho has identified no disputed issues that remain to be decided by the Special Master in the above-referenced Basin 37 subcases. It is the State of Idaho’s position that all disputed issues in the above-referenced Basin 37 subcases are subject to the above-quoted consolidation order, and that no disputed issues remain to be decided by the Special Master in the Basin 37 subcases.

4. The following counsel on behalf of their clients informed the State via e-mail that they concur that no disputed issues remain to be decided by the Special Master in the

above-referenced Basin 37 subcases, and also requested that the State inform the Special Master of their concurrence through this filing:

Josephine Beeman, Counsel for the City of Pocatello; and

Jerry Rigby, Counsel for Fremont-Madison Irrigation District, Egin Bench Canals, Inc., Idaho Irrigation District; New Sweden Irrigation District, & The United Canal Company; and

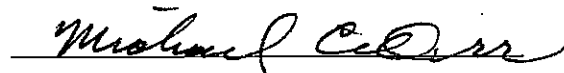
Candice McHugh, Counsel for Aberdeen American Falls Ground Water District, Bingham Ground Water District, Bonneville-Jefferson Ground Water District, Madison Ground Water District, Magic Valley Ground Water District, North Snake Ground Water District, & Clarke Jefferson Ground Water District.

Respectfully submitted this 24th day of April 2009.

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A handwritten signature in cursive script, reading "Michael C. Orr", is written over a horizontal line.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of April 2009, I caused a true and correct copy of the foregoing STATE OF IDAHO'S STATEMENT OF ISSUES REMAINING BEFORE THE SPECIAL MASTER to be filed with the Court and served on the following parties by the indicated methods:

Clerk of the SRBA Court
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

- ☐ U.S. Mail
- ☐ Hand Delivery
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