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DEPARTMENT OF
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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	)	Subcase Nos.: See Attachment A
	)	
Case No. 39576	)	UNITED STATES' MOTION FOR
	)	SUMMARY JUDGMENT
_____	)	

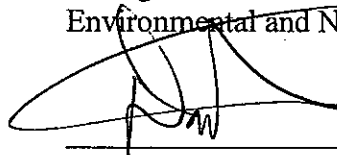
Pursuant to Id. R. Civ. P. 56(c), the United States moves this Court for an Order of Summary Judgment directing that the remarks provided in Attachment B should be incorporated into the water rights at issue in this sub-proceeding as set forth in the accompanying UNITED STATES' MEMORANDUM IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT.

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DATED this 17th day of August, 2009.

Respectfully submitted,

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Attachment A

Subcase Nos.

Minidoka Power Rights

01-217

01-218

01-4024

01-4025

Palisades Storage Power Right

01-2068

Palisades Natural Flow Power Right

01-4054

Attachment B

REMARKS FOR MINIDOKA AND PALISADES POWER RIGHTS

1. Minidoka Powerplant

A. Right Nos. 01-00217 and 01-00218

While the United States has the privilege to use 2,700 cfs for the development of power under water right nos. 01-00217 and 01-00218, it will be the objective of the United States in the operation of the Minidoka powerplant to limit the exercise of water right nos. 01-00217 and 01-00218 for power production at the Minidoka powerplant whenever operation of the Minidoka powerplant to the full extent of these water rights for power production would result in loss of water otherwise storable in the reservoir system. Accordingly, except as it is determined by the Secretary that additional water may be passed through Minidoka Dam without the loss of water that could be stored in the reservoir system, the United States will limit the release of water through the Minidoka Dam. To the extent that it is practicable to do so, the Watermaster and the Water District 1 Advisory Committee will be informed in advance of any plans for the release of water in excess of the foregoing limitation. "Reservoir system" shall mean all Federal reservoirs on the Snake River and its tributaries down to and including Lake Walcott.

B. Right Nos. 01-04024 and 01-04025

This right may be exercised if it is determined by the Secretary that additional water may be passed through Minidoka Dam, in excess of that authorized under right nos. 01-00217 and 01-00218, without the loss of water that could be stored in the reservoir system. "Reservoir system" shall mean all Federal reservoirs on the Snake River and its tributaries down to and including Lake Walcott.

This right carries no entitlement to make a delivery call for hydropower generation except as against junior hydropower rights.

2. Palisades Powerplant

A. Storage Right (no. 01-02068)

The United States, after consultation with the Watermaster and the Water District 1 Advisory Committee, may release stored water from Jackson Lake and Palisades reservoirs for the maintenance of power production at Palisades Dam powerplant and may store such water in American Falls Reservoir. The release of such water will be confined, however, when it appears to the Secretary that American Falls, Palisades, and Jackson Lake reservoirs will fail to fill, to not more than 1,000 cfs for minimum firm power production and that amount which can be stored in American Falls Reservoir; and no such release shall be made that will preclude the later delivery of water, by exchange or otherwise, to the upper valley entities entitled thereto. "Upper valley entities" shall mean those reservoir spaceholders diverting from the Snake River and its tributaries above American Falls Dam.

B. Natural Flow Right (01-4054)

This right may be exercised if it is determined by the Secretary that additional water may be passed through Palisades Dam, in excess of that authorized under water right no. 01-2068, without the loss of water that could be stored in the reservoir system. "Reservoir system" shall mean all Federal reservoirs on the Snake River and its tributaries down to and including Lake Walcott.