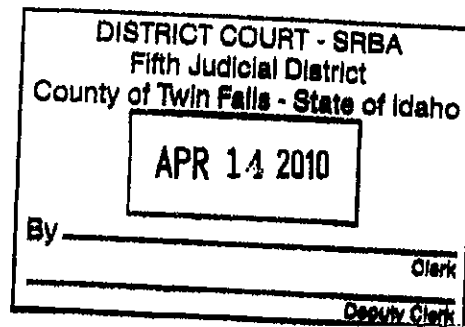


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IN THE DISTRICT COURT FOR THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

Subcase No. 01-02064

(Hydropower Storage Claim at American Falls)

**IDAHO POWER COMPANY'S UNOPPOSED
MOTION TO AMEND SUMMARY
JUDGMENT SCHEDULING ORDER**

COMES NOW, Plaintiff Idaho Power Company ("Idaho Power"), by and through its undersigned counsel, seeks to amend the Summary Judgment Scheduling Order. In summary, Idaho Power seeks an additional 30 days to resolve discovery disputes and complete discovery in this matter, and seeks to amend the briefing schedule accordingly.

Per the Court's February 8, 2010 Summary Judgment Scheduling Order, discovery cutoff in this matter is May 12, 2010. The current deadline for filing motions for summary judgment is June 9, 2010, with responses due July 9, 2010, replies due July 30, 2010 and a hearing date of August 10, 2010. Counsel for Idaho Power agreed to the summary judgment briefing schedule

discussed during the February 4, 2010 telephone status conference on the basis that the Court retain flexibility to amend or modify the schedule for unforeseen circumstances.

Circumstances in this case have changed dramatically since the Court's February 8, 2010 Order necessitating a modification of the current scheduling order. First, litigation counsel for Idaho Power, Mr. Michael Gheleta, recently left the law firm of Brownstein Hyatt Farber Schreck to take a position with the Department of Interior. Mr. Gheleta's last day with the firm was April 1, 2010. Co-counsel on the matter, Mr. James Lochhead, announced on April 12, 2010 that he would be taking a position as CEO/Manager of Denver Water effective June 1, 2010. Mr. Lochhead's transition to Denver Water does not allow him to give full attention to this matter. The new lead litigator in this case, undersigned counsel Adam DeVoe, will require additional time to become familiar with the complex issues surrounding this case. Counsel has worked diligently since Mr. Gheleta and Mr. Lochhead announced their departures, but this matter involves complex legal and factual issues spanning 87 years and thousands of documents. Additional time to complete discovery and brief Idaho Power Company's Motion for Summary Judgment is reasonable under the circumstances.

In addition, the State of Idaho recently responded to Idaho Power's Request for Production by objecting to the request for production and submitting a privilege log listing in excess of 8,000 documents. Idaho Power is currently cross referencing this massive privilege log against the documents already in Idaho Power's possession to determine which of those documents are not already available or otherwise easily obtainable by Idaho Power. At the time of filing this motion, approximately 10% of the documents had been reviewed. The purpose of this review is to determine whether a Motion to Compel disclosure will be necessary and to narrow the scope of any discovery dispute. In the event that this review discloses that the State

of Idaho is withholding documents that are subject to discovery, Idaho Power Company will prepare and file a Motion to Compel. Idaho Power expects to have this review completed no later than April 19, 2010, with a Motion to Compel, if necessary, filed by April 21, 2010. The filing of the Motion to Compel, responsive briefing by the State of Idaho, reply briefing by Idaho Power, and the need for a hearing on the dispute before this Court will likely extend beyond the current discovery cut-off of May 12, 2010 and will cut directly into the time available for preparation of Idaho Power Company's Motion for Summary Judgment. While Mr. Strong advised the parties that there may be a discovery dispute on the February 4, 2010 telephone status conference, there was no way of knowing at that time that the State of Idaho intended to withhold such a large number of documents.

Further, the United States has recently confirmed that it will produce all of its documents on the last day of discovery, May 12, 2010. At the time of the February 4, 2010 status conference, Idaho Power was under the impression that the United States had provided substantially all of the relevant documents in the litigation currently pending in the Court of Federal Claims. Since that time, Idaho Power has conferred with counsel for the United States and learned that an estimated additional 400 documents, none of which were disclosed in the Court of Federal Claims case, will be produced on May 12, 2010, including all e-mails and electronic communications which are potentially relevant to this matter. A brief delay in scheduling will facilitate Idaho Power's, and other parties', review of the documents produced by the US. Additionally, it will provide an opportunity for the parties to determine whether any objections to improper privilege claims will be necessary, to consider the need for additional discovery requests, and to incorporate the appropriate legal and factual analysis of these documents into summary judgment briefing to have the matter decided on a complete record.

Under the current schedule for discovery and summary judgment, the discovery cut-off date will prevent Idaho Power from making any objections to the US' production, prevent Idaho Power or others from conducting any follow up discovery, and will prevent anything more than a cursory review of the documents prior to the summary judgment deadline.

Finally, it is apparent from the earlier motions for summary judgment filed in this matter that the briefs from the State of Idaho and US will be lengthy. In addition, it seems likely that the Spaceholders intend to file a motion for summary judgment in the matter. In all likelihood, Idaho Power Company will be responding to at least three briefs, probably in excess of 300 pages in total length, with an unknown number of exhibits. The original schedule allowed Idaho Power 30 days to file responses, which is not sufficient to properly analyze and respond to the likely voluminous briefs from the State of Idaho and US. Accordingly, Idaho Power respectfully requests that the schedule be modified to allow more time for responses and replies as set forth below.

The minor modification to the Summary Judgment Scheduling Order will not prejudice any party to this action. Undersigned counsel for Idaho Power is working feverishly to come up to speed on the case, complete discovery, complete document review, and draft a summary judgment motion that will dispose of these issues definitively. The proposed modification to the schedule preserves the proposed trial date in October, 2010. The schedule proposed in this motion does not represent a significant delay, and no party would be prejudiced by the modified case management order. Idaho Power, on the other hand, would be prejudiced by an inability to properly complete discovery and briefing in this matter if the schedule is not modified.

Accordingly, Idaho Power moves this Court to amend its Summary Judgment Scheduling Order, as follows:

- June 11, 2010 Discovery Cut-Off
- July 9, 2010 Deadline to file Motions for Summary Judgment;
- August 20, 2010 Deadline to file and serve Responses;
- September 10, 2010 Deadline to file and serve Replies; and
- September 24, 2010 Hearing on Motions for Summary Judgment.

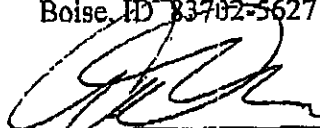
For the foregoing reasons, Idaho Power respectfully requests that this Court amend its February 8, 2010 Summary Judgment Scheduling Order to adopt Idaho Power's proposal.

Idaho Power conferred with counsel for all parties in this matter prior to filing the motion. No party opposes the filing of this motion or the relief requested, except for the State of Idaho who does not oppose the motion, does not support the motion, and would strongly oppose any additional delays. For the Court's convenience, a proposed order is attached.

Respectfully submitted this 14th day of April, 2010.

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CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of April, 2010, I caused to be served a true and correct copy of the foregoing document entitled **IDAHO POWER COMPANY'S UNOPPOSED MOTION TO AMEND SUMMARY JUDGMENT SCHEDULING ORDER** to and delivered per the method indicated below:

1. Original to:

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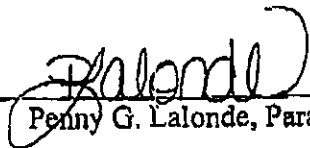
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