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DEPARTMENT OF
WATER RESOURCES

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Attorneys for Idaho Power Company

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	)	Subcase No. 01-02064
	)	(Hydropower Storage Claim at American Falls)
Case No. 39576	)	
	)	AFFIDAVIT OF ADAM T. DEVOE
	)	

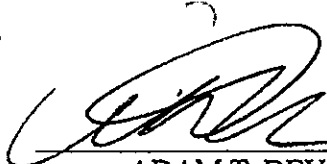
I, ADAM T. DEVOE, being first duly sworn, deposes and states:

1. I am a competent adult over the age of eighteen years, and the statements made herein are based upon my own personal knowledge of the events described.
2. I am counsel for Idaho Power Company in the above-referenced SRBA proceeding.
3. Attached to this affidavit are true and correct copies of the following documents:

Exhibit	Date	Description	Bates Number
68.	03/19/1974	Internal Memorandum from US DOJ, Regional Supervisor of Power to Regional Supervisor of Water & Land Operations	AF000578
69.	10/01/1970	Order to Show Cause, In The Matter of Permits No. 15201/01-2041 and R-273/01-2065 in the name of Idaho Power Company	AF012199

Exhibit	Date	Description	Bates Number
70.	04/22/1971	Letter from State of Idaho, R. Keith Higginson to Idaho Power Company, Mr. James E. Bruce with attachment: Order of Cancellation, In the Matter of Cancellation of Permit to Appropriate the Public Waters of the State of Idaho No. 15201/01-2041 in the name of Idaho Power Company	AF016620 AF012196

Further your affiant sayeth naught.


ADAM T. DEVOE, ESQ.

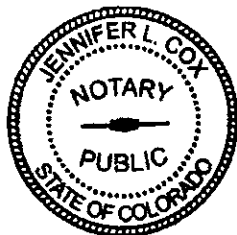
STATE OF COLORADO)
CITY AND COUNTY OF DENVER) ss.

The foregoing instrument was acknowledged before me this 16th day of November, 2010 by Adam T. DeVoe.

Witness my hand and official seal.

My commission expires: 6/6/12

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My Commission Expires June 6, 2012

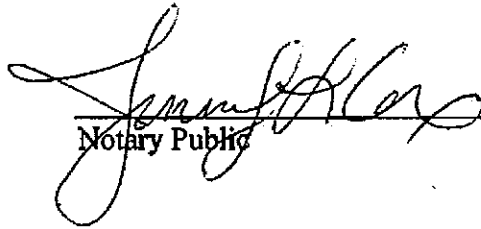

Notary Public

EXHIBIT 68

**TO IDAHO POWER COMPANY'S RESPONSE TO
THE UNITED STATES' MOTION FOR
SUMMARY JUDGMENT**



United States Department of the Interior
BUREAU OF RECLAMATION

FEDERAL BUILDING & U.S. COURTHOUSE
BOX 043-550 WEST FORT STREET
BOISE, IDAHO 83724

Y
FO: 600

March 19, 1974

Memorandum

To: Regional Supervisor of Water & Land Operations
Attention: Code 440

From: Regional Supervisor of Power

Subject: Review of Draft of "Falling Water" Agreement, American
Falls Dam Replacement, Minidoka Project, Idaho
(re Regional Finance Officer's memo dated March 15, 1974)

As we understand Article 17 of the 1923 contract with IPCo, the charge to the Company for O&M is made up of two components. The basic charge is for 45,000 acre-feet of primary storage capacity. The charge for use of 255,000 acre-feet of storage capacity during the winter (when the reservoir is filling) is made at 7/20ths of the basic rate per acre-foot. We do not know the derivation of the fraction, 7/20.

The formula used in the 1923 contract seems to assume that 255,000 acre-feet of the reservoir capacity is used twice in each year. Hence the formula becomes:

$$\text{IPCo share of O\&M} = \frac{45,000 + 7/20 \times 255,000}{1,700,000 + 7/20 \times 255,000}$$

If it is decided that the new proposed falling water contract articles should not include mention of the secondary storage, 255,000 acre-feet, then it would be logical to reduce the Company's share of the O&M costs of the reservoir. If, on the other hand, there would be no interference with Government operations of the reservoir to continue to allow the Company to use the so-called secondary storage, then that could be done and the O&M charge to the Company would be higher, as the Finance Officer has pointed out.

In the 1923 contract with IPCo, the tertiary rights are not storage rights. They are rights to use water releases for power generation at the Company powerplant as against the once proposed Government powerplant.



cc: 560

Save Energy and You Serve America!

EXHIBIT 69

**TO IDAHO POWER COMPANY'S RESPONSE TO
THE UNITED STATES' MOTION FOR
SUMMARY JUDGMENT**

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER ADMINISTRATION
OF THE
STATE OF IDAHO

IN THE MATTER OF PERMITS)
NO. 15201/01-2041 and)
R-273/01-2065 in the name)
of IDAHO POWER COMPANY)

ORDER TO SHOW
CAUSE

On March 17, 1921 Idaho Power Company submitted applications to the Department of Reclamation requesting permits to divert 1200 cubic feet per second of water and to store 300,000 acre feet of water on the Snake River and tributaries at a location in the S $\frac{1}{2}$ S $\frac{1}{2}$ of Section 30, T. 7 S., R. 31 E., B.M., Power County. The water was to be used for power purposes at the proposed reservoir site and several other sites downstream on the Snake River.

On June 20, 1931 the applicant submitted Affidavits of Completion of Works for both Permits 15201/01-2041 and R-273/01-2065.

On September 29, 1932 the Department of Reclamation informed the permit holder that it intended to reject their Proof of Completion of Works since a Certification of Completion of Works had previously been issued to the United States of America, Bureau of Reclamation for the full capacity of the American Falls Reservoir, which was constructed at the proposed power site, and it appeared the applicant's rights to divert and store water at that location had been waived and compensated for by contractual agreement between the applicant and United States.

NOW, THEREFORE, permit holder, Idaho Power Company, is hereby ordered to show cause, if any there be, on or before December 1, 1970 before the Director of the Department of Water Administration, Statehouse, Annex 2, Boise, Idaho as to why Proof of Completion of Works should not be rejected and Permits 15201/01-2041 and R-273/01-2065 cancelled and held for naught.

Dated this 1st day of October, 1970.

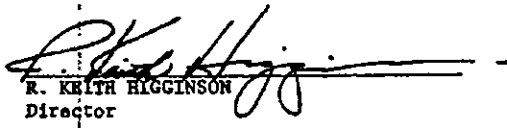

R. KEITH HIGGINSON
Director

EXHIBIT 70

**TO IDAHO POWER COMPANY'S RESPONSE TO
THE UNITED STATES' MOTION FOR
SUMMARY JUDGMENT**

STATE OF IDAHO

DEPARTMENT OF WATER ADMINISTRATION

Statehouse - Annex 2
Boise, Idaho 83707
(208) 384-2215
April 22, 1971



U.S. BUREAU OF RECLAMATION
OFFICIAL FILE COPY

APR 23 1971

R. Keith Higginson
Director

Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Flood Plain Management
Irrigation and
Flood Control Districts

Re: Permit Nos. 01-2041 and 01-2065

450 NW 4/25	
450 NW 4/25	
150 WB	
105	
100	

Mr. James E. Bruce
Vice-President and Secretary
Idaho Power Company
Box 70
Boise, Idaho 88707

Dear Mr. Bruce:

Enclosed you will find a Memorandum Decision cancelling the two above referenced permits.

If you have any questions, please feel free to contact our office.

Very truly yours,

R. KEITH HIGGINSON
Director

EKH:kh

Enclosure

cc. U. S. Bureau of Reclamation

STATE OF IDAHO

DEPARTMENT OF WATER ADMINISTRATION

Statehouse - Annex 2
Boise, Idaho 83707
(208) 384-2215



R. Keith Higginson
Director

Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Flood Plain Management
Irrigation and
Flood Control Districts

IN THE MATTER OF CANCELLATION OF PERMIT)
)
TO APPROPRIATE THE PUBLIC WATERS OF THE)
)
STATE OF IDAHO NO. 15201/01-2041)
)
IN THE NAME OF Idaho Power Company)
)
)

ORDER OF CANCELLATION

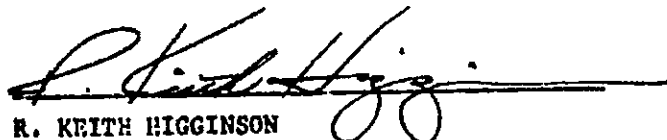
WHEREAS, the permit holder has failed to submit adequate proof of
completion of works due June 21, 1931 ; and,

WHEREAS, on October 1, 1970 notice was sent to the holder of said
permit to appear before the Director of the Department of Water Administration
on or before December 1, 1970 to show cause why said permit should not be
cancelled; and,

WHEREAS, the holder of said permit has failed to comply with the require-
ments of said permit and has not shown adequate cause why such permit should not
be cancelled;

IT IS THEREFORE ORDERED and Permit 15201/01-2041 is hereby CANCELLED.

Dated this 22nd day of April, 19 71.


R. KEITH HIGGINSON
Director