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DEPARTMENT OF
WATER RESOURCES

Attorneys for: Upper Valley Water Users

**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. 01-2068, 01-2068D, 01-2068E,
	)	01-2068F, 01-2068M, 01-2068Y, 01-10043,
Case No. 39576	)	01-10043A, 01-10043E, 01-10191 and 01-
	)	10389
	)	(Palisades Power Right)
	)	
	)	STATEMENT OF ISSUES
	)	
	)	

To: Special Master Theodore Booth, Acting Mediator

The Fremont-Madison Irrigation District, Egin Bench Canals, Inc., Idaho Irrigation District, New Sweden Irrigation District, Blackfoot Irrigation Company and the United Canal Company (collectively, the "Upper Valley Water Users") by and through counsel of record, hereby submit this statement of issues pursuant to the Court's Order. As provided for in the *Order Setting Mandatory Settlement Conference* dated December 10, 2010, this statement of issues is being served on the Special Master Theodore Booth, acting mediator in this matter as well as the parties to these subcases.

Issues to which the Upper Valley Water Users are parties or have an interest in:

- 1) Whether the United States Bureau of Reclamation ("BOR") request that a

portion for the storage water right be administered with a priority date of 3/29/1921 would result in an enlargement of the water right and an impermissible collateral attack on the license for this water right. Whether the BOR's claim to water right no. 01-10043 constitutes a collateral attack on license no. 01-2068 and should be disallowed as currently recommended by the Director.

- 2) The United States Bureau of Reclamation requests the following remark:

This water right includes the right to refill under the priority date of this water right to satisfy the United States' storage contracts.

Whether this remark would enlarge this water right, change historic administration of Water District 01, injure junior storage right holders and negatively impact the amount of storage water that would be available for mitigation purposes and therefore should not be allowed.

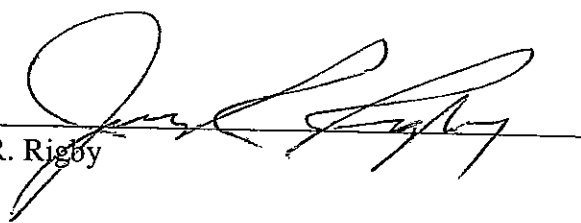
- 3) An issue remains as to whether the Palisades Contract & Eagle Decrees impact the Palisades Reservoir storage water, including the winter water savings provisions of the Palisades Contracts.
- 4) Whether the Palisades storage water right decree(s) should recognize the Idaho Supreme Court's decision in *United State v. Pioneer Irrigation District*.

The Upper Valley Water Users would anticipate some written discovery and possible depositions prior to filing summary judgment motions regarding the objections to quantity and the refill remark.

The Upper Valley Water Users would propose the following schedule:

- 1) Discovery completion date 11/30/2011
- 2) Deadline for Motions for Summary Judgment early January, 2012
- 3) Hearing on Motions for Summary Judgment mid to late February, 2012
- 4) Trial May, 2012

DATED this 4TH day of February, 2011.

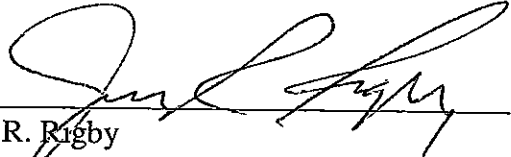

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CERTIFICATE OF SERVICE BY MAIL, HAND DELIVERY
OR FACSIMILE TRANSMISSION

I hereby certify that a true and correct copy of the foregoing document was on this date served upon the persons named below, at the addresses set out below their name, either by mailing, hand delivery or by telecopying to them a true and correct copy of said document in a properly addressed envelope in the United States mail, postage prepaid; by hand delivery to them; or by facsimile transmission.

DATED this 4th day of February, 2011.

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