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DEPARTMENT OF
WATER RESOURCES

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Attorneys for: Upper Valley American Falls Spaceholders

**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 No. 01-02064 et. al.
	)	
Case No. 39576	)	STATEMENT OF ISSUES
	)	(American Falls Reservoir)
	)	
	)	
	)	
	)	
	)	
	)	

To: Special Master Theodore Booth, Acting Mediator

The Blackfoot Canal Company, Burgess Canal Company, Butte & Market Lake Canal
Company, Corbett Slough Ditch Company, Dilts Irrigation Company, Enterprise Canal
Company, Enterprise Irrigation District, Harrison Canal Company, Idaho Irrigation District,
Lenroot Canal Company, New Sweden Irrigation District, Osgood Canal Company, Peoples
Canal & Irrigation Company, Poplar, Progressive Irrigation District, Reid Canal Company, Rudy

Irrigation Company, Snake River Valley Irrigation District, Trego Ditch Company and Woodville Canal Company (collectively, the "Upper Valley American Falls Spaceholders") 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 American Falls Spaceholders are parties or have an interest in:

- 1) Whether the quantity of the reservoir should be limited to the actual physical reservoir capacity.
- 2) Whether the United States Bureau of Reclamation 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 therefore be an impermissible collateral attack on the license for this water right. Whether the BOR's claim to water right no. 01-10042 constitutes a collateral attack on license no. 01-2064 and should be disallowed as currently recommended by the Director.
- 3) The United States Bureau of Reclamation's 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 may negatively impact the amount of storage water that would be available for mitigation purposes and should not be allowed.

- 4) Whether Idaho Power's right to hydro-power in American Falls Reservoir is subordinate to water uses for irrigation and other non-hydro-power purposes except for 45,000 acre-feet.
- 5) Whether the American Falls Reservoir storage water right decree(s) should recognize the Idaho Supreme Court's decision in *United State v. Pioneer*

Irrigation District.

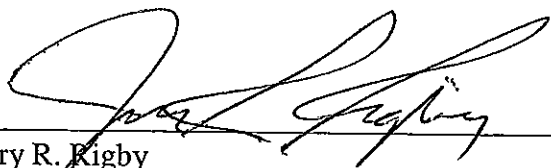
- 6) An issue remains as to whether the Palisades Contract & Eagle Decrees impact the American Falls Reservoir storage water, including the winter water savings provisions of the Palisades Contracts.

The Upper Valley American Falls Spaceholders would anticipate some written discovery and possible depositions primarily involving documents and personnel of the United States Bureau of Reclamation prior to filing summary judgment motions regarding the objections to quantity and the refill remark.

The Upper Valley American Falls Spaceholders would propose the following schedule:

- 1) Discovery completion dated 9/20/2011
- 2) Deadline for Motions for Summary Judgment early November 2011
- 3) Hearing on Motions for Summary Judgment December 2011
- 4) Trial end of March early April 2012

DATED this 4TH day of February, 2011.



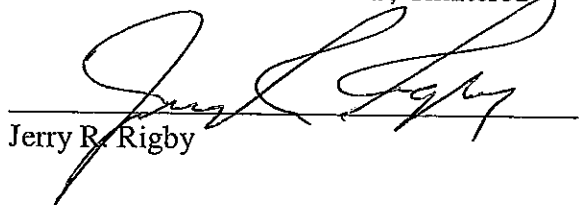
Jerry R. Rigby

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 mail-
ing, 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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