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DEPARTMENT OF
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Counsel for the State of Idaho

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. 01-00217, 01-00218,
	)	01-04024, and 01-04025
Case No. 39576	)	(Minidoka Power Rights)
	)	
	)	Subcase Nos. 01-02068 and 01-04054
	)	(Palisades Power Rights)
	)	
	)	MOTION TO STRIKE

The State of Idaho, by and through the undersigned deputy attorney general, hereby moves the Court pursuant to Idaho Rules of Civil Procedure 7(b)(1), 11(a)(2)(B), 12(f), and 54(e)(1) for an order (i) striking the SWC's *Joint Motion for Reconsideration*, and (ii) awarding attorney fees and costs based upon the following grounds:

1. On February 22, 2011, the SWC moved the Court to reconsider the Court's

February 9, 2011 *Memorandum Decision and Order on Challenge* “pursuant to Idaho Rule of Civil Procedure 11(a)(2)(B).”

2. There is no basis under Idaho Rule of Civil Procedure 11(a)(2) for reconsideration of the Court’s *Memorandum Decision and Order on Challenge*, which was certified as a final judgment pursuant to Idaho Rule of Civil Procedure 54(b). *See Straub v. Smith*, 145 Idaho 65, 71, 175 P.3d 754, 760 (2007); *Order on Motion to Alter or Amend (City of Pocatello)*, In re SRBA Case No. 39576, Subcase No. 29-00271 et al. at 5 (Idaho 5th Dist. Ct. Feb. 9, 2011).

3. In addition, the SWC’s motion satisfies neither the “particularity” nor the “relief or order sought” criteria of Idaho Rule of Civil Procedure 7(b). *See Nanney v. Linella, Inc.*, 130 Idaho 477, 481–82, 943 P.2d 67, 71–72 (Ct. App. 1997), *quoting Patton v. Patton*, 88 Idaho 288, 292, 399 P.2d 262, 264 (1965).

4. Where the SWC’s motion was brought and pursued unreasonably and without foundation, the State is entitled to the reasonable attorney fees and costs pursuant to Idaho Rule of Civil Procedure 54(e)(1) and Idaho Code § 12-121.

PRAYER FOR RELIEF

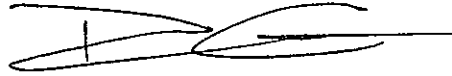
The State of Idaho requests the following relief:

1. That the Court enter an order granting the State’s motion;
2. That the Court enter an order striking the SWC’s *Joint Motion for Reconsideration*;
3. That the Court enter an order awarding the State attorney fees and costs; and
4. That the Court grant such other and further relief as it deems proper and just.

RESPECTFULLY SUBMITTED this 3rd day of March 2011.

LAWRENCE G. WASDEN
Attorney General

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division

A handwritten signature in black ink, appearing to read 'D. Stanish', with a horizontal line extending to the right.

DAVID I. STANISH
Deputy Attorney General

CERTIFICATE OF SERVICE

I certify that on this 3rd day of March 2011, I caused to be served the original and copies of the **MOTION TO STRIKE** on the following persons by the methods indicated:

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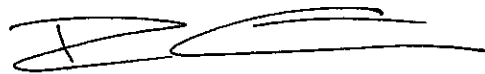
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