



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

April 20, 2011

Clive Strong
Deputy Attorney General
Office of the Attorney General
P.O. Box 44449
Boise, ID 83711-4449

Sent via Statehouse Mail

RE: SRBA Subcase Nos. 02-201, 02-223 & 02-224 (Water Resource Board)

Dear Clive:

I am enclosing a Standard Form 5 ("SF5") for each of the above-referenced water rights. Please review the documents, and if they are acceptable to you, please sign on the indicated signature lines and initial the revised recommendations. After signature, please forward the SF5s to John Simpson for signature and further routing.

If you should have any questions or comments, please feel free to contact me at 287-4815.

Sincerely,

A handwritten signature in cursive script that reads "Ray Williams".

Ray Williams
Paralegal

Enclosures

In Re SRBA	)	Subcase Nos. 02-201
	)	
Case No. 39576	)	
	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

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RESPONDENTS:

Idaho Ground Water Appropriators, Inc.

Candice McHugh, Attorney Date

IDWR Concurrence:

Carter Fritschle Date
Water Rights Adjudication Section Manager

Andrea Courtney Date
Deputy Attorney General

04/19/2011

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 2-201

NAME AND ADDRESS: STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720
BOISE ID 83720-0098

SOURCE: SNAKE RIVER

TRIBUTARY: COLUMBIA RIVER

QUANTITY: 3,300.000 CFS

~~The quantity of this right is the average daily flow measured by the Murphy gaging station near river mile 453.5.~~

~~The rights listed below are limited to a total combined diversion rate of 3,900 cfs. Combined Right Nos.: 2-100, 2-201, 2-4000A.~~

Water rights 02-00201 and 02-00223 are limited to a combined minimum flow rate of 3,900 CFS average daily flow from April 1 to October 31 as measured at the "Murphy Gaging Station," described below. Water rights 02-00201, 02-00223 and 02-00224 are limited to a combined minimum flow rate of 5,600 CFS average daily flow from November 1 to March 31 as measured at the "Murphy Gaging Station," described below.

PRIORITY DATE: 12/29/1976 07/01/1978

~~Water right confirmed by legislative adoption of the State Water Plan, Policy 5A in 1992.~~

POINT OF
DIVERSION:

T01S R01W S35 NWNESE Lot 5 Within ~~OWYHEE~~ ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
MINIMUM STREAM FLOW	1/01 12/31	3,300.000 CFS
Use of water under this right shall be non-consumptive.		

PLACE OF USE:

Place of use is within the reach above and below the point of measurement for this minimum stream flow right.

~~Place of use is within the reach above and below benefiting from the minimum stream flow at the point of measurement for this right.~~

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

1. Average daily flow, as used herein, shall be based upon actual flow conditions; thus, any fluctuations resulting from the operation of Idaho Power Company facilities shall not be considered in the calculation of such flows. Flows of water purchased, leased, owned or otherwise acquired by Idaho Power Company from sources upstream of its power plants, including above Milner Dam, and conveyed to and past its plants below Milner Dam shall be considered fluctuations resulting from the operation of Idaho Power Company facilities.

2. The "Murphy Gaging Station" is located at T01S, R01W, S35, NWSE, Boise Meridian, on the right bank approximately 4.2 miles downstream from Swan Falls Power Plant.

3. This water right is subordinated to all water rights to which hydropower water rights nos. 02-00100, 02-02001A, 02-02001B, 02-02032A, 02-02032B, 02-02036, 02-02056, 02-02057, 02-02059, 02-02060, 02-02064, 02-02065, 02-04000A, 02-04000B, 02-04001A, 02-04001B, 02-10135, 36-02013, 36-02018, 36-02026, 37-02128, 37-02471, 37-02472, 37-20709, and 37-20710 are subordinated pursuant to the provisions of the partial decrees for said hydropower water rights.

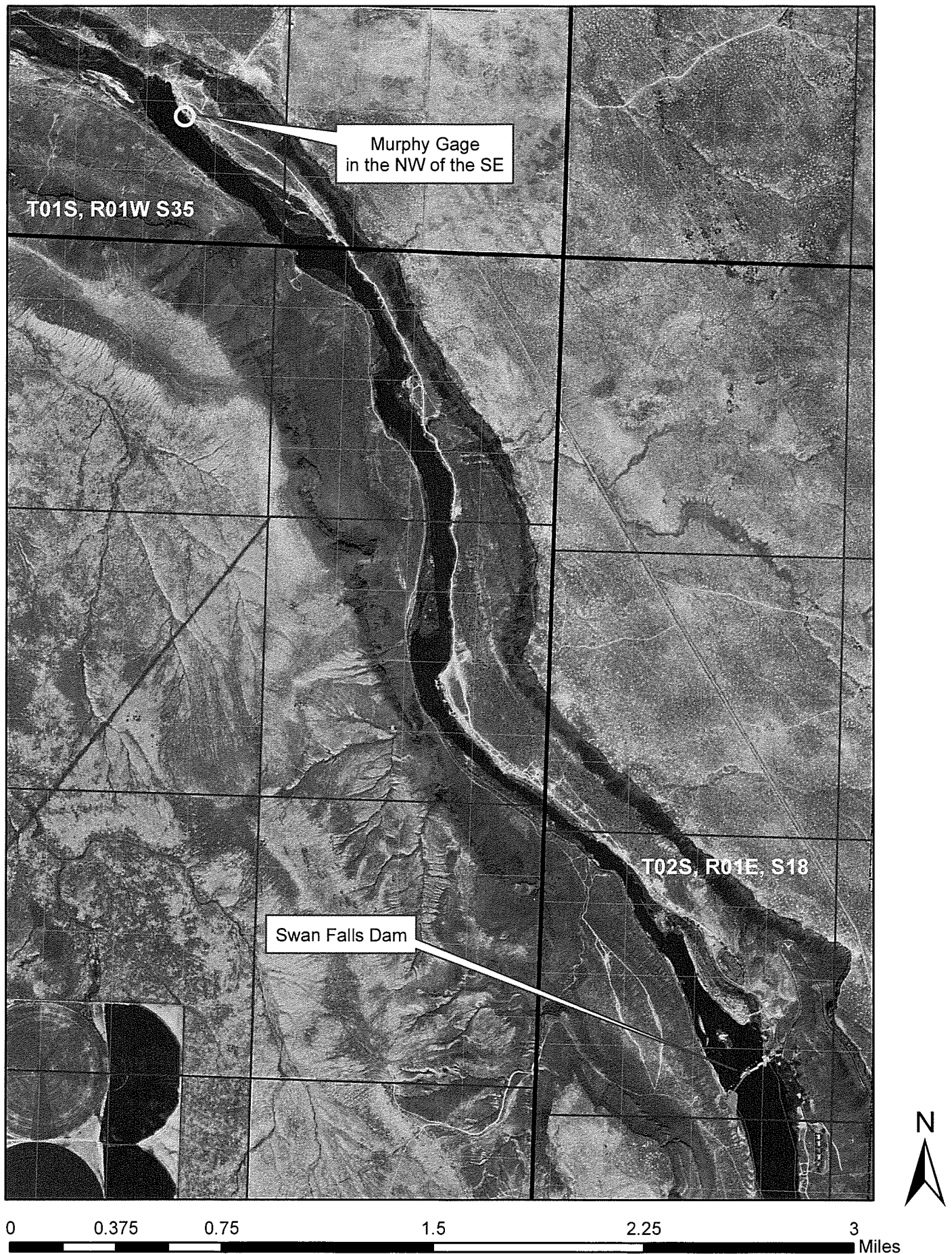
4. For the purposes of the determination and administration of this water right, no portion of the waters of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam shall be considered. This water right may not be administered or enforced against any diversions or uses of the waters identified in this paragraph.

5. This partial decree is subject to such general provisions necessary for the definition of the water rights or for the efficient administration of the water rights as may be ultimately determined by the court at a point in time no later than the entry of a final unified decree. I.C. Section 42-1416(6).

EXPLANATORY MATERIAL: BASIS OF CLAIM - Statute

~~Codified by §42-1736B, Idaho Code, Policy 32.~~

Swan Falls Dam and Murphy Gaging Station



CERTIFICATE OF MAILING

I certify that on _____, 2011, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P. O. Box 2707
Twin Falls, Idaho 83303-2707

2. Copies to:

ABERDEEN AMERICAN FALLS
BINGHAM GROUND WATER DISTRICT
BONNEVILLE-JEFFERSON GROUND
CLARK JEFFERSON GROUND WATER
MADISON GROUND WATER DISTRICT
MAGIC VALLEY GROUND WATER
NORTH SNAKE GROUND WATER

Represented by:
CANDICE MC HUGH
101 S CAPITOL BLVD, STE 208
BOISE, ID 83702

IDAHO POWER CO
Represented by:
ADAM T DEVOE
BROWNSTEIN HYATT ET AL
410 17TH STREET, SUITE 2200
DENVER, CO 80202

IDAHO POWER CO
Represented by:
JOHN K SIMPSON
1010 W JEFFERSON, STE 102
PO BOX 2139
BOISE, ID 83701-2139

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720
BOISE, ID 83720-0098

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

Signature of person or attorney mailing the form

In Re SRBA	)	Subcase Nos. 02-223
	)	
Case No. 39576	)	
	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

RESPONDENTS:

Idaho Ground Water Appropriators, Inc.

Candice McHugh, Attorney Date

IDWR Concurrence:

Carter Fritschle Date
Water Rights Adjudication Section Manager

Andrea Courtney Date
Deputy Attorney General

04/14/2011

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 2-223

NAME AND ADDRESS: STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720
BOISE ID 83720-0098

SOURCE: SNAKE RIVER

TRIBUTARY: COLUMBIA RIVER

QUANTITY: 600.000 CFS

~~The rights listed below are limited to a total combined diversion rate of 3,900 cfs as established by the Swan Falls Agreement codified by §42-203B, Idaho Code. Combined Right Nos.: 2-100, 2-201, 2-223, and 2-4000A.~~

~~The quantity of this right is the average daily flow measured by the Murphy gaging station near river mile 453.5.~~

Water rights 02-00201 and 02-00223 are limited to a combined minimum flow rate of 3,900 CFS average daily flow from April 1 to October 31 as measured at the "Murphy Gaging Station," described below. Water rights 02-00201, 02-00223 and 02-00224 are limited to a combined minimum flow rate of 5,600 CFS average daily flow from November 1 to March 31 as measured at the "Murphy Gaging Station," described below.

PRIORITY DATE: 07/01/1985

~~Water right confirmed by legislative adoption of the State Water Plan, Policy 5A in 1992.~~

POINT OF
DIVERSION:

~~T01S R01W S35 NWNESE Lot 5 Begin of Stream Flow Within ADA County~~
~~T01S R01W S35 NWNESE Lot 5 End of Stream Flow Within ADA County~~

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
MINIMUM STREAM FLOW	1/01 12/31	600.000 CFS
Use of water under this right shall be non-consumptive.		

PLACE OF USE:

Place of use is within the reach above and below the point of measurement for this minimum stream flow right.

~~Place of use is within the reach above and below benefiting from the minimum stream flow at the point of measurement for this right.~~

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

1. Average daily flow, as used herein, shall be based upon actual flow conditions; thus, any fluctuations resulting from the operation of Idaho Power Company facilities shall not be considered in the calculation of such flows. Flows of water purchased, leased, owned or otherwise acquired by Idaho Power Company from sources upstream of its power plants, including above Milner Dam, and conveyed to and past its plants below Milner Dam shall be considered fluctuations resulting from the operation of Idaho Power Company facilities.

2. The "Murphy Gaging Station" is located at T01S, R01W, S35, NWSE, Boise Meridian, on the right bank approximately 4.2 miles downstream from Swan Falls Power Plant.

3. This water right is subordinated to all water rights to which hydropower water rights nos. 02-00100, 02-02001A, 02-02001B, 02-02032A, 02-02032B, 02-02036, 02-02056, 02-02057, 02-02059, 02-02060, 02-02064, 02-02065, 02-04000A, 02-04000B, 02-04001A, 02-04001B, 02-10135, 36-02013, 36-02018, 36-02026, 37-02128, 37-02471, 37-02472, 37-20709, and 37-20710 are subordinated pursuant to the provisions of the partial decrees for said hydropower water rights.

4. For the purposes of the determination and administration of this water right, no portion of the waters of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam shall be considered. This water right may not be administered or enforced against any diversions or uses of the waters identified in this paragraph.

5. This partial decree is subject to such general provisions necessary for the definition of the water rights or for the efficient administration of the water rights as may be ultimately determined by the court at a point in time no later than the entry of a final unified decree. I.C. Section 42-1416(6).

EXPLANATORY MATERIAL: BASIS OF CLAIM - Statute

CERTIFICATE OF MAILING

I certify that on _____, 2011, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

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MADISON GROUND WATER DISTRICT
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NORTH SNAKE GROUND WATER

Represented by:
CANDICE MC HUGH
101 S CAPITOL BLVD, STE 208
BOISE, ID 83702

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410 17TH STREET, SUITE 2200
DENVER, CO 80202

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JOHN K SIMPSON
1010 W JEFFERSON, STE 102
PO BOX 2139
BOISE, ID 83701-2139

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720
BOISE, ID 83720-0098

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

Signature of person or attorney mailing the form

**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. 02-224
	)	
Case No. 39576	)	
	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT:
State of Idaho
Idaho Water Resource Board

OBJECTOR
Idaho Power Company

Clive Strong
Deputy Attorney General

Date

John K. Simpson, Attorney

RESPONDENTS:

Idaho Ground Water Appropriators, Inc.

Candice McHugh, Attorney Date

IDWR Concurrence:

Carter Fritschle Date
Water Rights Adjudication Section Manager

Andrea Courtney Date
Deputy Attorney General

04/18/2011

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 2-224

NAME AND ADDRESS: STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720
BOISE ID 83720-0098

SOURCE: SNAKE RIVER

TRIBUTARY: COLUMBIA RIVER

QUANTITY: 1,700.000 CFS

~~The quantity of this right is the average daily flow measured by the Murphy gaging station near river mile 453.5.~~

~~The rights listed below are limited to a total combined diversion rate 5,900 cfs established by the Swan Falls Agreement codified by §42-203B, Idaho Code. Combined Right Nos.: 2-100, 2-201, 2-223, 2-224, 2-4000A, 2-4001A, and 2-2032A.~~

Water rights 02-00201, 02-00223 and 02-00224 are limited to a combined minimum flow rate of 5,600 CFS average daily flow from November 1 to March 31 as measured at the "Murphy Gaging Station," described below.

PRIORITY DATE: 07/01/1985

POINT OF
DIVERSION:

~~T01S R01W S35 NWNESE Lot 5 End of Stream Flow Within ADA County~~
~~T01S R01W S35 NWNESE Lot 5 Begin of Stream Flow Within ADA County~~

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
MINIMUM STREAM FLOW	11/01 3/31	1,700.000 CFS
Use of water under this right shall be non-consumptive.		

PLACE OF USE:

Place of use is within the reach above and below the point of measurement for this minimum stream flow right.

~~Place of use is within the reach above and below benefiting from the minimum stream flow at the point of measurement for this right.~~

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

1. Average daily flow, as used herein, shall be based upon actual flow conditions; thus, any fluctuations resulting from the operation of Idaho Power Company facilities shall not be considered in the calculation of such flows. Flows of water purchased, leased, owned or otherwise acquired by Idaho Power Company from sources upstream of its power plants, including above Milner Dam, and conveyed to and past its plants below Milner Dam shall be considered fluctuations resulting from the operation of Idaho Power Company facilities.

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EXPLANATORY MATERIAL: BASIS OF CLAIM - Statute

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MADISON GROUND WATER DISTRICT
MAGIC VALLEY GROUND WATER
NORTH SNAKE GROUND WATER

Represented by:
CANDICE MC HUGH
101 S CAPITOL BLVD, STE 208
BOISE, ID 83702

IDAHO POWER CO
Represented by:
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BROWNSTEIN HYATT ET AL
410 17TH STREET, SUITE 2200
DENVER, CO 80202

IDAHO POWER CO
Represented by:
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1010 W JEFFERSON, STE 102
PO BOX 2139
BOISE, ID 83701-2139

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720
BOISE, ID 83720-0098

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

Signature of person or attorney mailing the form