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DEPARTMENT OF
WATER RESOURCES

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Attorney General

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Attorneys for 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. 03-00006, 03-00007, and 03-00008
)
) AFFIDAVIT OF CLIVE J. STRONG IN SUPPORT OF
Case No. 39576) MOTION TO SET ASIDE AND AMEND PARTIAL
) DECREES
)

STATE OF IDAHO)
) S.S.
COUNTY OF ADA)

CLIVE J. STRONG, being first duly sworn upon his oath, deposes and states that:

1. I am a Deputy Attorney General in the Idaho Office of the Attorney General and one of the attorneys of record for the State of Idaho in the above-entitled proceedings.
2. The following is based upon my own personal knowledge.
3. Attached hereto as Exhibit 1 are true and correct copies of excerpted pages of the 1976 Idaho State Water Plan – Part 2.
4. Attached hereto as Exhibit 2 are true and correct copies of excerpted pages of the

1982 Idaho State Water Plan.

5. Attached hereto as Exhibit 3 are true and correct copies of excerpted pages of the 1986 Idaho State Water Plan.

6. Attached hereto as Exhibit 4 are true and correct copies of excerpted pages of the 1992 Idaho State Water Plan.

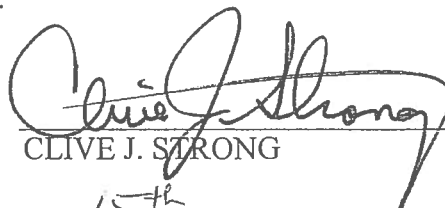
7. Attached hereto as Exhibit 5 are true and correct copies of excerpted pages of the 1996 Idaho State Water Plan.

8. Attached hereto as Exhibit 6 is a true and correct copy of the pages of the 1978 Idaho Session Laws 884-886 amending chapter 17, title 42, Idaho Code, by the addition of a new section 42-1736A.

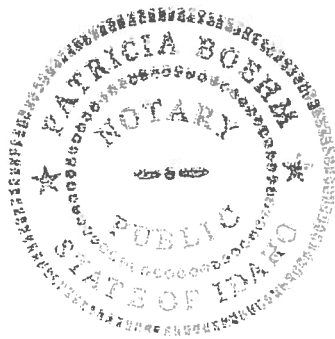
9. Attached hereto as Exhibit 7 is a true and correct copy of the Idaho Water Resource Board's "A Resolution" In The Matter Of Policy 32 Of The State Water Plan dated March 1, 1985.

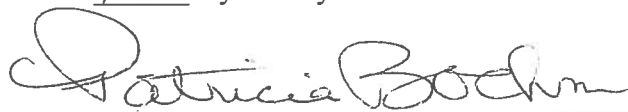
Further your affiant sayeth naught.

DATED this 15th day of July 2011.


CLIVE J. STRONG

SUBSCRIBED AND SWORN to before me this 15th day of July 2011.





Notary Public for Idaho

Residing at: Boise, Idaho

My commission expires: 2/5/16

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of July 2011, I caused a true and correct copy of the foregoing to be filed with the Court and served on the following parties by the indicated methods:

CLERK OF THE SRBA COURT
253 THIRD AVENUE NORTH
P.O. BOX 2707
TWIN FALLS, IDAHO 83303-2707

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☐ Statehouse Mail
- ☐ Overnight Mail
- ☐ Facsimile:

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

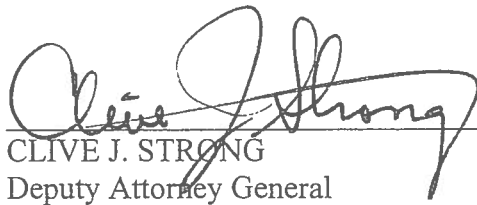
- ☐ U.S. Mail
- ☐ Hand Delivery
- ☒ Statehouse Mail
- ☐ Overnight Mail
- ☐ Facsimile:

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

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☒ Statehouse Mail
- ☐ Overnight Mail
- ☐ Facsimile:

UNITED STATES DEPT OF JUSTICE
ENVIRONMENT & NAT'L RES. DIV.
550 WEST FORT STREET MSC 033
BOISE ID 83724

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☐ Statehouse Mail
- ☐ Overnight Mail
- ☐ Facsimile:


CLIVE J. STRONG
Deputy Attorney General

1976 Idaho State Water Plan – Part Two

EXHIBIT 1

TO

**AFFIDAVIT OF CLIVE J. STRONG IN SUPPORT OF
MOTION TO SET ASIDE AND AMEND PARTIAL
DECREES**

SRBA SUBCASE NOS. 03-00006, 03-00007, and 03-00008

EXHIBIT 1

State of Idaho

The State Water Plan — Part Two

Idaho Water Resource Board:

John F. Streiff
Chairman

George L. Yost
Vice-Chairman

Donald R. Kramer
Secretary

Joseph H. Nettleton

Franklin Jones

Scott W. Reed

Edwin C. Schlender

M. Reed Hansen

December 1976

Idaho Water Resource Board, Statehouse, Boise, Idaho 83720

Basin Policies

The available and unappropriated waters of the Snake River Basin are allocated to satisfy existing uses, meet needs for future growth and development, and protect the environment. The allocations recognize and protect existing water uses and rights. The water allocations are made by large regions to allow the widest possible discretion in application.

Policy 32 Snake River Basin

The greatest competition for water in the Snake River Basin exists along the main stem of the Snake River. Existing and potential uses include hydropower generation, irrigation, fish and wildlife, recreation and protection of water quality. The amount of water required for the potential uses exceeds the remaining available supply.

Water Allocation Criteria

The river flow is regulated by numerous dams, reservoirs, direct diversions and return flows as it crosses the southern half of the state. Existing water rights are principally for irrigation and hydropower generation. Irrigation needs are normally met except during extreme low runoff years. Hydropower generation utilizes water remaining after irrigation diversions even though there are licensed water rights for hydro-generation at several points on the Snake River. Some of these rights are subordinated to upstream diversion and depletions and others are not. The largest unsubordinated right is at Swan Falls Dam (near the Murphy gage) with a flow right of 9,450 cfs (includes 3,300 cfs in claims). Substantial development has occurred above this point, thus reducing flows below the claimed right. Pending applications to divert water could reduce the flows to essentially zero during July, August and September of each year. The resulting impact would substantially reduce electrical energy generation at Swan Falls and at all other points downstream on the main stem Snake River. In the absence of protests from the public and water right holders, the Department of Water Resources has continued to issue permits to develop new water supplies for irrigation from Snake River.

Permits previously issued by the department, if fully developed, would reduce summertime flows in dry years to about 3,300 cfs near Murphy. Sequences of consecutive years of flows of this magnitude would have occurred in the early 1930's and again in the late 1950's and early 1960's if present developments, plus the already issued permits, had been fully developed at that time. These flows were computed in a study of major outstanding permits from the Snake River in southwestern Idaho (Technical Studies Report No. 3) and a preliminary estimate of effects of full development of outstanding groundwater permits in the Upper Snake.

A flow of 3,300 cfs at Swan Falls is about one-third of the flow necessary to meet the entitlement of hydro-generation at that power plant if the recorded water filings are valid. It is also less than the amount identified as needed for fish, wildlife and recreation purposes at Swan Falls or downstream. The potential uses of water in the main stem Snake River have been identified in sufficient detail to determine that remaining water supplies cannot fulfill all identified needs.

The Idaho Water Resource Board concluded, after considering all current and potential uses of water on the main stem Snake River, that depletion of flows below that currently available in the low flow months to maintain water for production of hydropower and other main stem water uses is not in the public interest.

Therefore, main stem Snake River flows will be protected against further appropriations and preserved to provide the following average daily flows at the following U.S. Geological Survey stream gaging stations:

Gaging Station	Protected Flow (Average Daily)
Milner	0 cfs
Murphy	3,300 cfs
Weiser	4,750 cfs

Studies indicate that sufficient water exists in excess of these flows to provide for additional uses if water conserving and storage facilities are constructed.

Water available in excess of the designated flows for development above an average annual flow basis are:

Gaging Station	Water Presently Available for Appropriation (Average Year)
Milner	1,437,000 acre-feet
Murphy	4,218,700 acre-feet
Weiser	7,821,000 acre-feet

The above average daily flows will allow the flow requirements contained in the Federal Power Commission License issued for the Hells Canyon hydropower complex to be met without significantly affecting hydropower production. Article 43 of the license provides the management criteria,

"The project shall be operated in the interest of navigation to maintain 13,000 cfs flow into the Snake River at Lime Point (river mile 172) a minimum of 95 percent of the time, when determined by the Chief of Engineers to be

necessary for navigation. Regulated flows of less than 13,000 cfs will be limited to the months of July, August, and September, during which time operation of the project would be in the best interest of power and navigation, as mutually agreed to by the License and the Corps of Engineers. The minimum flow during periods of low flow or normal minimum plant operations will be 5,000 cfs at Johnson's Bar, at which point the maximum variation in river stage will not exceed one foot per hour. These conditions will be subject to review from time to time as requested by either party."

The Board further finds that this requirement is still in the public interest and should be maintained without change.

Within the above management framework, each future use of water can be considered individually. Water allocations for forestry, flood damage reduction, environmental quality, urban lands, land measures, mining and lake and reservoir management are included as components of other allocations.

Water is allocated for additional new and supplemental irrigation development. A minimum level of irrigation development of 850,000 acres by the year 2020 over that which existed in August 1975 is endorsed. The location of future development is expected to be: Upper Snake - 498,000 acres; Southwest Idaho - 292,000 acres, and Lower Snake - 60,000 acres. In addition, 255,000 acres are expected to receive supplemental irrigation water. At least 1.7 million acre-feet of water will be consumptively used to meet the minimum level of irrigation development. A maximum level of irrigation development is not identified but will be determined as water supplies, economic conditions, environmental standards and protected instream water rights allow. The Water Resource Project Feasibility Planning Program is directed to assist in appropriate studies to help accomplish the identified agricultural development.

Agriculture

Water is allocated for municipal and industrial purposes. It is projected that the basin population will more than double by year 2020 and additional industrialization will occur. Water necessary to process agricultural, forest, minerals, aquaculture and other products are included in this allocation. The plan provides for 830,000 acre-feet of diversion beyond August 1975 levels to meet this growth. The diversion is distributed as follows: Upper Snake - 420,000 acre-feet; Southwest Idaho - 275,000 acre-feet; and Lower Snake - 135,000 acre-feet. The net depletion will be about 105,000 acre-feet.

Municipal and Industrial

Electric Energy

Water is allocated for electric energy. Future electric energy requirements will be largely supplied from thermal plants. The plan provides for 170,000 acre-feet beyond August 1975 levels for consumptive use in cooling thermal power plants. The depletion is distributed as follows: Upper Snake - 75,000 acre-feet; Southwest Idaho - 30,000 acre-feet. In addition, flows in the Snake River will be stabilized for the hydropower generating capability of the river.

Navigation

No specific allocation of water is made for commercial or recreational navigation. Commercial navigation enroute to Lewiston on the Columbia River and Lower Snake River can be accommodated with the flows leaving Idaho in Snake River at Lewiston. Above Lewiston, commercial and recreational navigation should be accommodated within the protected flows on Snake River and the instream flows on tributary streams, however, both commercial and recreational navigation are included as components of the multi-lake and reservoir management program.

Aquaculture

No specific allocation of water is made for aquaculture uses. Water necessary to process aquaculture products is included as a component of the municipal and industrial water allocation. Aquaculture is encouraged to continue to expand when and where water supplies are available and where such uses do not conflict with other public benefits. Future management and development of the Snake Plain aquifer may reduce the present flow of springs tributary to the Snake River. If that situation occurs, adequate water for aquaculture will be protected, however, aquaculture interests may need to construct different water diversion facilities than presently exist.

Recreation

No specific allocation of water is made for recreation. The instream flow program for fish and wildlife will provide water for recreation on tributary streams. Main stem Snake River recreation may be affected because of lower flows than presently exist particularly during summer months. Some existing reservoirs may experience greater seasonal fluctuations from increased use of stored water. The State Natural and Recreational River System and Greenway-Greenbelt System will aid and promote water-oriented recreation in the basin. Recreation is also a component of the multi-use lake and reservoir management program.

Indian Resource Use

No separate allocation of water is made for Indian resource use on the Indian reservations. Indian water needs are included as components of other water uses. Irrigation, municipal, industrial, electric energy and the instream flow program include water for Indian uses. Identification of specific needs is required before water allocations can be made specifically to Indian water uses. Several policies in the plan are designed to assist the Indian tribes in obtaining necessary information and incorporating their needs into the State Water Plan.

Fish and Wildlife

No specific allocation of water on the main stem Snake River is made for fish and wildlife, however, the plan does provide for maintaining flows on selected tributary streams to the Snake River for fish and wildlife.

Additional detailed study should be conducted on the principal streams before setting stream resource maintenance flows for fish and wildlife. Information provided by the Idaho Fish and Game Department in the report, *Stream Resource Maintenance Flow Studies, 1975 and 1976* will serve as a guide until detailed studies are complete. Completion of a State Fish and Game Plan will improve management decisions where fish and wildlife are involved. Flows in the Snake River will be less than identified as needed for fish and wildlife in some months of the year. However, significant habitat will be protected for fish and wildlife as a result of protected flows at Murphy and Weiser in the Snake River to meet other uses.

No specific allocation of water is made for water quality and pollution control. As of this date no assessment has been completed which calls for or identifies flows necessary to maintain water quality. Other policies of the plan are based upon the assumption that the water quality goals established by the Congress in P.L. 92-500, The Federal Water Pollution Control Act Amendments of 1972, will be met in Idaho. The instream flow program is directed towards meeting fish, wildlife and recreation needs, not to dilution of pollution.

Water Quality and Pollution Control

The Snake River Compact, enacted in 1949, establishes the allocation of water between Idaho and Wyoming. No other compacts exist with regard to the allocation of the Snake River flows. The State of Washington has previously expressed its desire to see a minimum flow of 22,000 cfs at the Idaho-Washington boundary on the Snake River. The plan does not provide any minimum flow at that point except that which would result under the provisions of the Federal Power Commission License for Hells Canyon Dam of 5,000 cfs at Johnson's Bar. Flows at the Idaho-Washington border will be less than 22,000 cfs at times.

Interstate Considerations

The major policy action of the State Water Plan is the allocation of the available and unappropriated waters of the state to meet a selected level of future water use. The State Water Plan is the legal and administrative vehicle for reserving the future use of these waters to a selected level for each water use function. The allocation procedure is particularly critical in the Snake River Basin where studies have shown that future water uses will exceed supplies.

Administration of State Water Plan

Periodic reviews at five-year intervals of the amount of water allocated to the various water use functions are to be part of the continuing planning process for updating the State Water Plan to meet current and projected needs. This periodic review will enable any apparent irregularities or discrepancies in the water allocated to any particular use to be identified and needed modifications made to the State Water Plan.

The allocation process as established by the State Water Plan, therefore, is specific for each water use function and will be administratively monitored and enforced. The allocation process is not specific as to where the water uses are to occur other than within the planning region. In this way, flexibility is maintained for the public to develop, use and manage the state's available water resources to meet desirable goals and means.

The impact of future development cannot be fully described at this time. The large number and scattered location of existing permits will have profound impact and could cause beneficial or adverse effects depending on the nature of development. Because the extent to which these permits may ultimately be developed is not known, impacts as a result of the State Water Plan will vary from area to area. The plan is based on development of water authorized by existing permits as the first stage of the allocations. The second stage of development will be based on approval of new permits when and where all economic, environmental and social criteria can be met. The plan does not determine where specific agricultural development must occur nor set instream flows for fish and wildlife, but it does preserve options and provide opportunities throughout the basin. In adopting this State Water Plan there are several actions that should be taken to protect the public interest in water resources. The Department of Water Resources will include in their basic program of water inventories and data collection the following:

1. Expand the data collection program and evaluation studies on water levels and outflow from the Snake Plain aquifer.
2. Maintain and expand the state collection program and evaluation studies of streamflows where needed.
3. Monitor water use efficiency of existing and new water uses throughout the basin.
4. Complete a thorough analysis of existing permits and their impact on the aquifer and streams of the basin.
5. Report to the Idaho Water Resource Board annually (October 1 to September 30) the:
 - a) status of current water permits;
 - b) number of new permits issued, location, quantity of water permitted and impact of diversion and depletion.

In addition to these items, it may also be in the public interest to preserve or cancel permits previously granted for large scale public development. These permits should be reevaluated now and in five years when the State Water Plan is updated.

Availability of Funding

Financing new agricultural development to year 2020 could require as much as 1 billion to 1.2 billion dollars. Conservation programs could require as much as a 500 million dollar investment by 2020. It is expected that the bulk of monetary needs will be supplied by private investors if a reasonable agricultural market continues. Public financing will be needed for research, pilot projects, efficiency programs and for large multi-purpose projects.

Idaho has the option to capture a larger share of the agricultural market. If that decision is made, additional management alternatives and large projects would need to be considered. Alternatives to consider for higher acreage alternatives include:

1. Groundwater should receive first priority as a water source for new development as the direct impact upon river flow is much less.
2. The groundwater development priority includes an agricultural land lease program to be initiated within the boundary of the Idaho National Engineering Laboratory (INEL). These trial leases would be for ten years on fringe areas where grazing is presently allowed. The trial area should be limited to those better boundary lands located approximately in the northern half of the INEL. Criteria would not allow permanent buildings or building of any fences to hinder wildlife. Areas needed for wildlife migration would be left open and the leasee would provide and maintain certain wildlife cover and feed areas. Other conditions may be needed.
3. Groundwater wells would be constructed over portions of the Snake River Plain aquifer and pumps installed for use on a standby basis for low water runoff years.
4. Sale of contracts for existing reservoir-stored water should be allowed. If the transfer of these contracts held by the Bureau of Reclamation is allowed and encouraged, users of water will tend to become more efficient. Removing transfer restraints will speed movement into other uses including environmental uses.

Navigation

Commercial navigation, as it applies to the Snake River and Idaho, is primarily concerned with that on the Snake River in the vicinity of Lewiston. With completion of the Lower Granite Dam and Lock on the Snake River in 1975, an inland waterway extending 465 miles from the Pacific Ocean to Lewiston was completed. At the present time barges with about 1,400-ton capacity utilize this waterway but it is expected that in the future most barges will have capacity for about 2,400 tons. The present small plan dimensions of the Bonneville Dam Lock now makes use of the larger barges more time consuming and difficult. Port facilities are being constructed at Lewiston and at nearby areas in Washington. It is possible to construct navigational facilities further up the Clearwater and Snake rivers from Lewiston, but it is not considered probable that they would be warranted in the near future.

There is presently a minor amount of commercial navigation and an increasing amount of recreational navigation on the Snake River from Lewiston upstream to Hells Canyon Dam. The greatest problem affecting navigation is probably the variations in streamflow caused by upstream peaking operations during summer months. At the present time, the Federal Power Commission license for the Hells Canyon Complex requires a minimum release of 5,000 cubic feet per second (cfs) during periods of low flow or normal minimum plant operations provided that the stipulated minimum flow of 13,000 cfs at Lime Point (located about 15 miles downstream from the mouth of the Salmon River) is not violated more than 5 per cent of the time if needed for navigation. Although definitive studies of flow requirements for navigation in the Hells Canyon reach of the Snake River have not been made, it has been estimated that flows ranging from 5,000 cfs to 10,000 cfs, depending upon the type of boat, are required. Upstream consumptive water use will not be constrained to provide minimum flow for navigation below Hells Canyon Dam. With the recommended plan it is anticipated that flows less than what appears necessary for navigation could occur in extremely low runoff years.

There have been boating accidents and loss of life in the Snake River below Hells Canyon Dam, and an interest expressed to improve the river channel in the more dangerous reaches of the river. Such action would create safer navigation under conditions of low flow. Another suggestion for improvement of navigation in this segment of the river is the construction of a regulating reservoir to smooth out river fluctuations caused by power peaking operations.

Recently, the federal government has extended additional management and control of the state's water resources through the Federal Water Pollution Control Act Amendments of 1972 and a redefinition of the Refuse Act of 1899. Under provisions of these Acts, the Corps of Engineers has been given authority to regulate disposal of dredged or fill material in the waters of the United States. Principal concern of the state is the definition of waters that are determined to be navigable and the rules and regulations that the Corps and the Environmental Protection Agency will establish. In addition, the question of navigational servitude is untested and unknown in terms of impact on the state's water resources. Historically, in the eastern United States, courts have held that sufficient waters must be maintained in streams and appropriate facilities provided if a river is determined to be navigable. However, this question has not been determined in Idaho, and the most critical area for consideration is the Hells Canyon area of the Snake River.

As a consequence of admission to statehood under the equal footing with original states doctrine, Idaho gained title to the beds of all navigable waters which existed on July 3, 1890, subject to the laws and Constitution of the United States, and Indian rights of property recognized but not extinguished by treaty with the United States. This was further clarified by passage of the Submerged Lands Act of 1953, wherein Congress confirmed title to the beds and natural resources of all inland navigable waters to the state, subject only to the constitutional authority of the federal government

to use lands and waters for navigation, flood control, and power production. This servitude, as expressed by law, was not deemed to include "proprietary rights of ownership, or the rights of management, administration, leasing, use and development of the lands and natural resources" which are assigned to the states. Numerous court decisions have upheld this doctrine.

Given this legal precedent, the policy of the state is that the title to all bodies of water which were used, are presently being used, or were capable of being used for navigation remains with the state. This title includes the rights of management and administration as well as property and ownership. The State of Idaho should take action to determine the limits of federal administrative authority. Implementation of this recommendation should enable the state to do what it wishes with the beds and resources of navigable waters. It also should establish a basis for the payment of compensation to the state for property lost to federal purposes for uses other than those allowed by the U.S. Constitution.

Flood Damage Reduction

Some type of flooding occurs throughout the basins nearly every year with only the degree of damage varying from year to year. Flooding normally occurs because of spring snowmelt, many times with rain, winter rain on frozen ground, and summer storms. Many of the flood plain areas subject to flooding are urban and the potential for damage is high while other areas are essentially agricultural lands, or the flood frequency is less. Other facilities often damaged are highways and roads and occasionally portions of irrigation distribution systems. The principal areas affected by existing or potential flood damages are shown in Table 18.

Feasibility studies should be completed and corrective measures implemented to reduce potential flood damages.

The growing overall flood problems of the nation prompted Congress to enact the Flood Disaster Protection Act of 1973. Local units of government must zone and control identified flood prone areas in order to be eligible for most federal assistance programs including mortgage loan insurance. This program regulates construction of buildings and related facilities within areas subject to flooding from the 100-year flood. Along with zoning and control of flood plain areas is the opportunity to purchase federal flood plain insurance. Such insurance only protects existing facilities and would require that their replacement comply with zoning regulations the same as new facilities.

Greater understanding of the state's flood damage potential would result if, when property is located in an identified flood plain, that fact was recorded so it would be identified on the title report and title insurance. Also the buyer should sign an acknowledgement that he understands the area is located in a flood plain. A person owning or purchasing land may be unaware that such land is in a flood plain. The hazards of flood plain occupancy and the obligations that may be imposed by restrictions on construction on flood plains are pertinent information to property owners

1982 Idaho State Water Plan

EXHIBIT 2

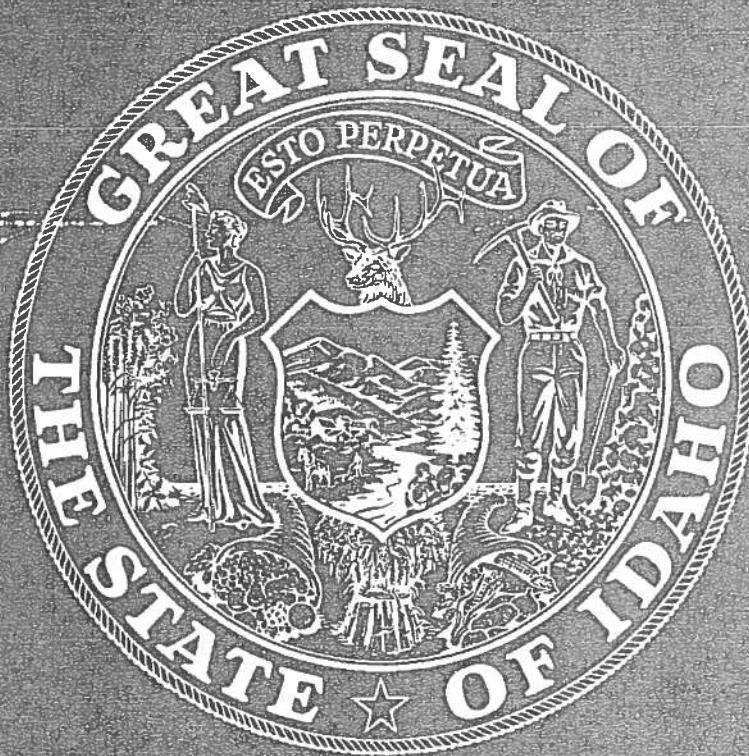
TO

AFFIDAVIT OF CLIVE J. STRONG IN SUPPORT OF
MOTION TO SET ASIDE AND AMEND PARTIAL
DECREES

SRBA SUBCASE NOS. 03-00006, 03-00007, and 03-00008

EXHIBIT 2

Idaho State Water Plan



Adopted by the
Idaho Water Resource Board

January 19, 1982

2. REHABILITATION FUND

The Rehabilitation Fund should receive annual appropriations. These monies would be used to evaluate and rehabilitate abandoned mines and by-product storage areas and other abandoned projects that adversely affect the state's water resources.

The Water Management Fund and Rehabilitation Fund would be administered by the Department of Water Resources as prescribed by the legislature and consistent with the State Water Plan.

3. ENERGY DEVELOPMENT AND STUDY FUND

The Energy Development and Study Fund should receive annual appropriations. These monies would be used to expand geothermal energy research and development, solar energy research and development, conservation studies, pumped storage studies, and assist other programs affecting the adequacy of electrical and other energy supplies. This fund should be administered by the designated energy agency with water resources components assigned to the Idaho Department of Water Resources.

Basin Policies

The available and unappropriated waters of the Snake River Basin are allocated to satisfy existing uses, meet needs for future growth and development; and protect the environment. The allocations recognize and protect existing water uses and rights. The water allocations are made by large regions to allow the widest possible discretion in application.

POLICY 32 Snake River Basin

Water Allocation Criteria

The greatest competition for water in the Snake River Basin exists along the main stem of the Snake River. Existing and potential uses include hydropower generation, irrigation, fish and wildlife, recreation, and protection of water quality. The amount of water required for the potential uses exceeds the remaining available supply.

The river flow is regulated by numerous dams, reservoirs, direct diversions, and return flows as it crosses the southern half of the state. Existing water rights are principally for irrigation and hydropower generation. Irrigation needs are normally met except during extreme low runoff years. Hydropower generation utilizes water remaining after irrigation diversions even though there are licensed water rights for hydro-generation at several points on the Snake River. Some of these rights are subordinated to upstream diversion and depletions and others are not. The largest unsubordinated right is at Swan Falls Dam (near the Murphy gage) with a flow right of 9450 cfs (includes 3300 cfs in claims). Substantial development has occurred above this point, thus reducing flows below the claimed right. Pending applications to divert water could reduce the flows to essentially zero during July, August and September of each year. The resulting impact would substantially reduce electrical energy generation at Swan Falls and at all other points downstream on the main stem Snake River. In the absence of protests from the public and water right holders, the Department of Water Resources has continued to issue permits to develop new water supplies for irrigation from Snake River.

Permits previously issued by the department, if fully developed, would reduce summertime flows in dry years to about 3300 cfs near Murphy. Sequences of consecutive years of flows of this magnitude would have occurred in the early 1930's and again in the late 1950's and early 1960's if present developments, plus the already issued permits, had been fully developed at that time. These flows were computed in a study of major outstanding permits from the Snake River in southwestern Idaho (Technical Studies Report No. 3) and a preliminary estimate of effects of full development of outstanding groundwater permits in the Upper Snake.

A flow of 3300 cfs at Swan Falls is about one-third of the flow necessary to meet the entitlement of hydro-generation of that power plant if the recorded water filings are valid. It is also less than the amount identified as needed for fish, wildlife and recreation purposes at Swan Falls or downstream. The potential uses of water in the main stem Snake River have been identified in sufficient detail to determine that remaining water supplies cannot fulfill all identified needs.

The Idaho Water Resource Board concluded, after considering all current and potential uses of water on the main stem Snake River, that depletion of flows below that currently available in the low flow months to maintain water for production of hydropower and other main stem water uses is not in the public interest.

Therefore, main stem Snake River flows will be protected against further appropriations and preserved to provide the following average daily flows at the following U.S. Geological Survey stream gaging stations:

Gaging Station	Protected Flow (Average Daily)
	0 cfs
Milner	3,300 cfs
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Weiser	

Studies indicate that sufficient water exists in excess of these flows to provide for additional uses if water conserving and storage facilities are constructed.

Water available in excess of the designated flows for development above an average annual flow basis are:

Gaging Station	Water Presently Available for Appropriation (Average Year)
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The above average daily flows will allow the flow requirements contained in the Federal Power Commission License issued for the Hells Canyon hydropower complex to be met without significantly affecting hydropower production. Article 43 of the license provides the management criteria,

"The project shall be operated in the interest of navigation to maintain 13,000 cfs flow into the Snake River at Lime Point (river mile 172) a minimum of 95 percent of the time, when determined by the Chief of Engineers to be necessary for navigation. Regulated flows of less than 13,000 cfs will be limited to the months of July, August, and September, during which time operation of the project would be in the best interest of power and navigation, as mutually agreed to by the License and the Corps of Engineers. The minimum flow during periods of low flow or normal minimum plant operations will be 5,000 cfs at Johnson's Bar, at which point the maximum variation in river stage will not exceed one foot per hour. These conditions will be subject to review from time to time as requested by either party."

The Board further finds that this requirement is still in the public interest and should be maintained without change.

Within the above management framework, each future use of water can be considered individually. Water allocations for forestry, flood damage reduction, environmental quality, urban lands, land measures, mining, and lake and reservoir management are included as components of other allocations.

Agriculture

Water is allocated for additional new and supplemental irrigation development. A minimum level of irrigation development of 850,000 acres by the year 2020 over that which existed in August 1975 is endorsed. The location of future development is expected to be: Upper Snake — 498,000 acres; Southwest Idaho — 292,000 acres and Lower Snake — 60,000 acres. In addition, 255,000 acres are expected to receive supplemental irrigation water. At least 1.7 million acre-feet of water will be consumptively used to meet the minimum level of irrigation development. A maximum level of irrigation development is not identified but will be determined as water supplies, economic conditions, environmental standards and protected instream water rights allow. The Water Resource Project Feasibility Planning Program is directed to assist in appropriate studies to help accomplish the identified agricultural development.

Municipal and Industrial

Water is allocated for municipal and industrial purposes. It is projected that the basin population will more than double by year 2020 and additional industrialization will occur. Water necessary to process agricultural, forest, minerals, aquaculture and other products are included in this allocation. The plan provides for 830,000 acre-feet of diversion beyond August 1975 levels to meet this growth. The diversion is distributed as follows: Upper Snake — 420,000 acre-feet; Southwest Idaho — 275,000 acre-feet; and Lower Snake — 135,000 acre-feet. The net depletion will be about 105,000 acre-feet.

Electric Energy

Water is allocated for electric energy. Future electric energy requirements will be largely supplied from thermal plants. The plan provides for 170,000 acre-feet beyond August 1975 levels for consumptive use in cooling thermal power plants. The depletion is distributed as follows: Upper Snake — 75,000 acre-feet; Southwest Idaho — 30,000 acre-feet. In addition, flows in the Snake River will be stabilized for the hydropower generating capability of the river.

Navigation

No specific allocation of water is made for commercial or recreational navigation. Commercial navigation enroute to Lewiston on the Columbia River and Lower Snake River can be accommodated with the flows leaving Idaho in Snake River at Lewiston. Above Lewiston, commercial and recreational navigation should be accommodated within the protected flows on Snake River and the instream flows on tributary streams, however, both commercial and recreational navigation are included as components of the multi-lake and reservoir management program.

Aquaculture

No specific allocation of water is made for aquaculture uses. Water necessary to process aquaculture products is included as a component of the municipal and industrial water allocation. Aquaculture is encouraged to continue to expand when and where water supplies are available and where such uses do not conflict with other public benefits. Future management and development of the Snake Plain aquifer may reduce the present flow of springs tributary to the Snake River. If that situation occurs, adequate water for aquaculture will be protected, however, aquaculture interests may need to construct different water diversion facilities than presently exist.

Recreation

No specific allocation of water is made for recreation. The instream flow program for fish and wildlife will provide water for recreation on tributary streams. Main stem Snake River recreation may be affected because of lower flows than presently exist particularly during summer months. Some existing reservoirs may experience greater seasonal fluctuations from increased use of stored water. The State Natural and Recreational River System and Greenway-Greenbelt System will aid and promote water-oriented recreation in the basin. Recreation is also a component of the multi-use lake and reservoir management program.

Indian Resource Use

No separate allocation of water is made for Indian resource use on the Indian reservations. Indian water needs are included as components of other water uses. Irrigation, municipal, industrial, electric energy, and the instream flow program include water for Indian uses. Identification of specific needs is required before water allocations can be made specifically to Indian water uses. Several policies in the plan are designed to assist the Indian tribes in obtaining necessary information and incorporating their needs into the State Water Plan.

Fish and Wildlife

No specific allocation of water on the main stem Snake River is made for fish and wildlife, however, the plan does provide for maintaining flows on selected tributary streams to the Snake River for fish and wildlife. Additional detailed study should be conducted on the principal streams before setting stream resource maintenance flows for fish and wildlife. Information provided by the Idaho Fish and Game Department in the report, "Stream Resource Maintenance Flow Studies," 1975 and 1976 will serve as a guide until detailed studies are complete. Completion of a State Fish and Game Plan will improve management decisions where fish and wildlife are involved. Flows in the Snake River will be less than identified as needed for fish and wildlife in some months of the year. However, significant habitat will be protected for fish and wildlife as a result of protected flows at Murphy and Weiser in the Snake River to meet other uses.

Water Quality and Pollution Control

No specific allocation of water is made for water quality and pollution control. As of this date no assessment has been completed which calls for or identifies flows necessary to maintain water quality. Other policies of the plan are based upon the assumption that the water quality goals established by the Congress in P.L. 92-500, The Federal Water Pollution Control Act Amendments of 1972, will be met in Idaho. The instream flow program is directed towards meeting fish, wildlife, and recreation needs, not to dilution of pollution.

Interstate Considerations

The Snake River Compact, enacted in 1949, establishes the allocation of water between Idaho and Wyoming. No other compacts exist with regard to the allocation of the Snake River flows. The State of Washington has previously expressed its desire to see a minimum flow of 22,000 cfs at the Idaho-Washington boundary on the Snake River. The plan does not provide any minimum flow at that point except that which would result under the provisions of the Federal Power Commission License for Hells Canyon Dam of 5000 cfs at Johnson's Bar. Flows at the Idaho-Washington border will be less than 22,000 cfs at times.

Administration of State Water Plan

The major policy action of the State Water Plan is the allocation of the available and unappropriated waters of the state to meet a selected level of future water use. The State Water Plan is the legal and administrative vehicle for reserving the future use of these waters to a selected level for each water use function. The allocation procedure is particularly critical in the Snake River Basin where studies have shown that future water uses will exceed supplies.

Periodic reviews at five-year intervals of the amount of water allocated to the various water use functions are to be part of the continuing planning process for updating the State Water Plan to meet current and projected needs. This periodic review will enable any apparent irregularities or discrepancies in the water allocated to any particular use to be identified and needed modifications made to the State Water Plan.

The allocation process as established by the State Water Plan, therefore, is specific for each water use function and will be administratively monitored and enforced. The allocation process is not specific as to where the water uses are to occur other than within the planning region. In this way, flexibility is maintained for the public to develop, use, and manage the state's available water resources to

The impact of future development cannot be fully described at this time. The large number and scattered location of existing permits will have a profound impact and could cause beneficial or adverse effects depending on the nature of development. Because the extent to which these permits may ultimately be developed is not known, impacts as a result of the State Water Plan will vary from area to area. The plan is based on development of water authorized by existing permits as the first stage of the allocations. The second stage of development will be based on approval of new permits when and where all economic, environmental, and social criteria can be met. The plan does not determine where specific agricultural development must occur nor set instream flows for fish and wildlife, but it does preserve options and provide opportunities throughout the basin. In adopting this State Water Plan there are several actions that should be taken to protect the public interest in water resources. The Department of Water Resources will include in their basic program of water inventories and data collection the following:

1. Expand the data collection program and evaluation studies on water levels and outflow from the Snake Plain aquifer.
2. Maintain and expand the state collection program and evaluation studies of streamflows where needed.
3. Monitor water use efficiency of existing and new water uses throughout the basin.
4. Complete a thorough analysis of existing permits and their impact on the aquifer and streams of the basin.
5. Report to the Idaho Water Resource Board annually (October 1 to September 30) the:
 - a) status of current water permits;
 - b) number of new permits issued, location, quantity of water permitted, and impact of diversion and depletion.

In addition to these items, it may also be in the public interest to preserve or cancel permits previously granted for large scale public development. These permits should be reevaluated now and in five years when the State Water Plan is updated.

POLICY 33 Panhandle Basins

The available and unappropriated waters of the Spokane, Pend Oreille-Clark Fork, and Kootenai river basins are allocated to satisfy existing and potential needs for economic development and environmental quality. This allocation recognizes and protects all existing and potential water uses and private and public rights.

Water Allocation Criteria

No special criteria are established for allocation and management of the water resources in the Panhandle Basins. Within this policy, each use of water can be considered individually. Water allocation for forestry, damage reduction, environmental quality, urban lands, land measures, mining, and lake and reservoir management are included as components of other allocations.

1986 Idaho State Water Plan

EXHIBIT 3

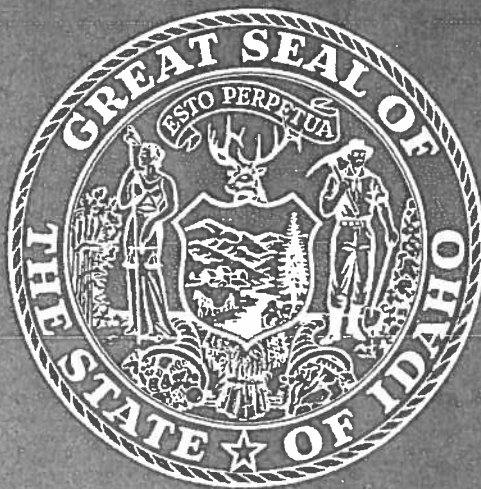
TO

AFFIDAVIT OF CLIVE J. STRONG IN SUPPORT OF
MOTION TO SET ASIDE AND AMEND PARTIAL
DECREES

SRBA SUBCASE NOS. 03-00006, 03-00007, and 03-00008

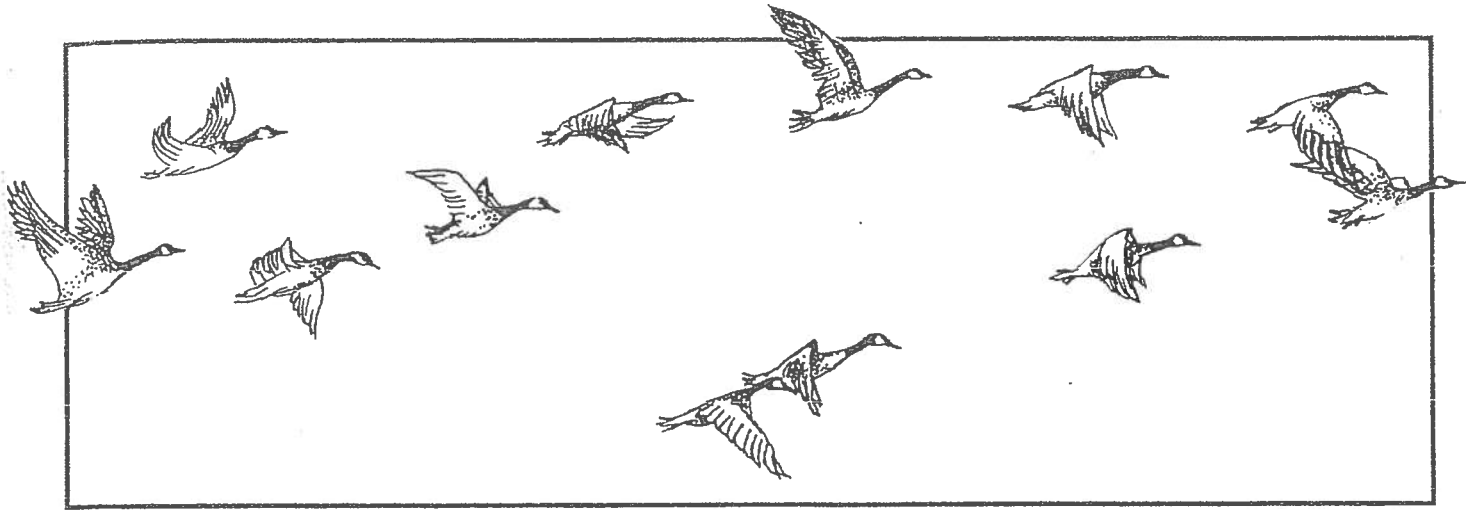
EXHIBIT 3

IDAHO STATE WATER PLAN



ADOPTED BY THE
IDAHO WATER RESOURCE BOARD

DECEMBER 12, 1986



River Basins Group

POLICY 5A - Snake River Basin

IT IS THE POLICY OF IDAHO THAT THE GROUND WATER AND SURFACE WATER OF THE BASIN BE MANAGED TO MEET OR EXCEED A MINIMUM AVERAGE DAILY FLOW OF ZERO MEASURED AT THE MILNER GAUGING STATION, 3,900 CFS FROM APRIL 1 TO OCTOBER 31 AND 5,600 CFS FROM NOVEMBER 1 TO MARCH 31 MEASURED AT THE MURPHY GAUGING STATION, AND 4,750 CFS MEASURED AT WEISER GAUGING STATION. A MINIMUM AVERAGE DAILY FLOW OF 5,000 CFS AT JOHNSON'S BAR SHALL BE MAINTAINED AND AN AVERAGE DAILY FLOW OF 13,000 CFS SHALL BE MAINTAINED AT LIME POINT (RIVER MILE 172) A MINIMUM OF 95 PERCENT OF THE TIME. LOWER FLOWS MAY BE PERMITTED AT LIME POINT ONLY DURING THE MONTHS OF JULY, AUGUST, AND SEPTEMBER.

The minimum flows established for the Snake River at the Murphy and Weiser gauging stations are management constraints; they further insure that minimum flow levels of Snake River water will be available for hydropower, fish, wildlife and recreational purposes. The establishment of a zero minimum flow at the Milner gauging station allows for existing uses to be continued and for some new uses above Milner.

It also means that river flows downstream from that point to Swan Falls Dam may consist almost entirely of ground-water discharge during portions of low-water years. The Snake River Plain aquifer which provides this water must therefore be managed as an integral part of the river system.

The minimum flows established for Johnson's Bar and Lime Point are contained in the original Federal Power Commission license for the Hells Canyon hydropower complex. By adopting these flows, the Idaho Water Resource Board recognizes the importance of minimum flows to downstream uses and makes their maintenance a matter of state water policy. Article 43 of the power license provides that:

"The project shall be operated in the interest of navigation to maintain 13,000 cfs flow in the Snake River at Lime Point (river mile 172) a minimum of 95 percent of the time, when determined by the Chief of Engineers to be necessary for navigation. Regulated flows of less than 13,000 cfs will be limited to the months of July, August, and September,

during which time operation of the project would be in the best interest of power and navigation as mutually agreed to by the Licensee and the Corps' of Engineers. The minimum flow during periods of low flow or normal minimum plant operations will be 5,000 cfs at Johnson's Bar"

Snake River flows above the hydropower right at any Idaho Power facility are considered unappropriated and therefore are not held in trust by the state. This distinction is further addressed in Policy 5B.

POLICY 5B - Snake River Trust Water

IT IS THE POLICY OF IDAHO THAT WATER HELD IN TRUST BY THE STATE PURSUANT TO IDAHO CODE 42-203B BE REALLOCATED TO NEW USES IN ACCORDANCE WITH THE CRITERIA ESTABLISHED BY IDAHO CODE 42-203A AND 42-203C.

The agreement between the state of Idaho and Idaho Power Company dated October 25, 1984 provides that Idaho Power's claimed water right of 8,400 cubic feet per second (cfs) at the Swan Falls Dam may be reduced to either 3,900 cfs or 5,600 cfs during set periods of the year. The claimed water right of 8,400 cfs is deemed appropriated and the amount above the minimum flow established in Policy 5A up to the 8,400 cfs is held in trust by the state. The agreement further provides that Idaho Power's claimed water rights at facilities upstream from Swan Falls shall be considered satisfied when the company receives the minimum flow specified in Policy 5A at the Murphy gauging station. The 8,400 cfs claim of the power company has not historically been available during summer months.

The 8,400 cfs claimed right is reduced by the agreement to that flow available after satisfying all applications or claims that demonstrate water was beneficially used prior to Oct. 1, 1984, even if such uses would violate the minimum flows

established in Policy 5A. Any remaining water above these minimum flows may be reallocated to new uses by the state providing such use satisfies existing Idaho law. The criteria in Idaho Code 42-203C supplement Policy 1B of the Water Plan which urges that conformance with the State Water Plan be considered evidence of the public interest. The Idaho Water Resource Board recognizes that the specific criteria for defining public interest established by Idaho Code 42-203C are to be used in addition to the criteria set forth in Policy 1B for the reallocation of hydropower rights. Exempted from the public interest criteria in Idaho Code 42-203C are permitted uses for which beneficial use prior to July 1, 1985 can be proved.

POLICY 5C - Snake River DCMI (Domestic, Commercial, Municipal and Industrial)

IT IS THE POLICY OF IDAHO THAT 150 CFS OF WATER FOR CONSUMPTIVE PURPOSES HELD IN TRUST BY THE STATE PURSUANT TO POLICY 5B BE REALLOCATED TO MEET FUTURE DCMI USES IN ACCORDANCE WITH STATE LAW.

While most DCMI uses are nonconsumptive or only partially consumptive, future growth in Idaho's population and commercial and industrial expansion will require an assured supply of water.

A continuous flow of 150 cfs provides approximately 108,600 acre-feet of water per year. This volume of water is assigned to consumptive uses within the basin for domestic, commercial, municipal, and other industrial purposes. Industrial purposes include processing, manufacturing, research and development, and cooling.

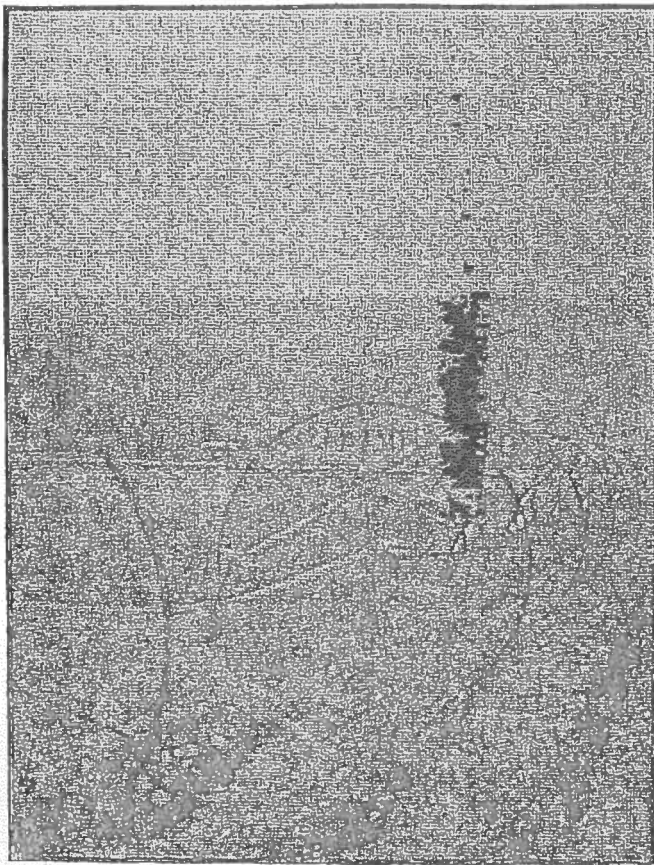
Adequate records should be kept and reviewed so that this reallocation can be modified as necessary. Increases in the DCMI allocation, if necessary, will reduce the amount of water available for agricultural uses. The allocation

will be reviewed as part of every Water Plan update.

POLICY 5D - *Snake River Agriculture*

IT IS THE POLICY OF IDAHO THAT APPROPRIATED WATER HELD IN TRUST BY THE STATE PURSUANT TO POLICY 5B, LESS THE AMOUNT OF WATER NECESSARY TO PROVIDE FOR PRESENT AND FUTURE DCMI USES AS SET FORTH IN POLICY 5C, SHALL BE AVAILABLE FOR REALLOCATION TO MEET NEW AND SUPPLEMENTAL IRRIGATION REQUIREMENTS WHICH CONFORM TO IDAHO CODE 42-203A, 203B, 203C, AND 203D.

This policy allows for new and supplemental agricultural development through the reallocation of water held in trust by the state. The 1982 State Water Plan allocated water for a minimum level of new irrigation development of 850,000 acres plus supplemental water for 225,000 acres



by the year 2020 over that which existed in 1975. This policy rescinds the 1982 allocations since there are no acres specified in that the type, location, and amount of use is unknown as is the effect of the evaluation called for in Policy 5B prior to reallocation.

During the eight-year period from 1975 to 1983, about 140,000 acres of new development occurred within the basin. While the amount of new acreage varied significantly from year to year, the average was approximately 17,500 acres. Data are not available to estimate the number of acres that received supplemental water during this period.

Idaho Code Section 42-203C limits the rate of new development in the basin above Murphy gauging station to 80,000 acres in any four year period. Therefore, the maximum development to the year 2020 above Murphy gauging station assuming no water supply constraint is 700,000 acres. Criteria placed on the reallocation of hydropower rights, limits on the rate of new development, plus the requirement that approval of new storage projects that divert water between November 1 and April 1 from the Snake River between Milner Dam and Murphy gauging station must mitigate the impact of diversions on hydropower generation (Policy 5I), will undoubtedly limit development to less than 700,000 acres.

POLICY 5E - *Snake River Hydropower*

IT IS THE POLICY OF IDAHO THAT HYDROPOWER USE BE RECOGNIZED AS A BENEFICIAL USE OF WATER, AND THAT DEPLETION OF FLOWS BELOW THE MINIMUM AVERAGE DAILY FLOWS SET FORTH IN POLICY 5A IS NOT IN THE PUBLIC INTEREST.

The 1982 State Water Plan allocated 170,000 acre-feet for consumptive use in cooling thermal power plants. By establishing a minimum daily

flow of 3,300 cfs at Murphy and 4,750 cfs at Weiser, stabilized flows were guaranteed for hydropower generation. The minimum daily flows for hydropower generation are now increased as stated in Policy 5A. In addition, this policy specifically recognizes hydropower generation as a beneficial use of water and acknowledges the public interest in maintaining the minimum river flow at key points. Any water depletion for thermal power generation would now come from block of water allocated to DCMI uses.

POLICY 5F - Snake River Navigation

IT IS THE POLICY OF IDAHO THAT WATER SUFFICIENT FOR COMMERCIAL AND RECREATIONAL NAVIGATION IS PROVIDED BY THE MINIMUM FLOWS ESTABLISHED FOR THE SNAKE RIVER.

Commercial navigation enroute to Lewiston via the Columbia River and Lower Snake River can be accommodated with the flows leaving Idaho in the Snake River at Lewiston. Above Lewiston, commercial and recreational navigation should be accommodated within the protected flows on the Snake River and tributary streams.

POLICY 5G - Snake River Aquaculture

IT IS THE POLICY OF IDAHO THAT WATER NECESSARY TO PROCESS AQUACULTURE PRODUCTS BE INCLUDED AS A COMPONENT OF DCMI AS PROVIDED IN POLICY 5C. THE MINIMUM FLOWS ESTABLISHED FOR THE MURPHY GAUGING STATION SHOULD PROVIDE AN ADEQUATE WATER SUPPLY FOR AQUACULTURE. IT MUST BE RECOGNIZED THAT WHILE EXISTING WATER RIGHTS ARE PROTECTED, IT MAY BE NECESSARY TO CONSTRUCT DIFFERENT DIVERSION FACILITIES THAN PRESENTLY EXIST.

Aquaculture can expand when and where water supplies are available and where such uses do not conflict with other beneficial uses. It is recognized, however, that future management and development of the Snake River Plain aquifer may reduce the present flow of springs tributary to the Snake River, necessitating changes in diversion facilities.

POLICY 5H - Snake River Fish, Wildlife, and Recreation

IT IS THE POLICY OF IDAHO THAT THE MINIMUM FLOWS ESTABLISHED UNDER POLICY 5A ARE SUFFICIENT AND NECESSARY TO MEET THE MINIMUM REQUIREMENTS FOR AQUATIC LIFE, FISH, AND WILDLIFE, AND TO PROVIDE WATER FOR RECREATION IN THE SNAKE RIVER BELOW MILNER DAM. STREAMFLOW DEPLETION BELOW THE MINIMUM FLOWS IS NOT IN THE PUBLIC INTEREST.

The policy reiterates the view that the minimum flows established in Policy 5A will protect fish, wildlife, aquatic life and recreation within the Snake River Basin at acceptable levels and that this is in the public interest. State law provides for the Water Resource Board to apply for a water right for unappropriated water for minimum flows necessary "for the protection of fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, transportation and navigation values, and water quality." The minimum stream flow legislation, where appropriate, can be used on the Snake River and tributary streams to enhance these values.

POLICY 51 - Snake River New Surface Storage

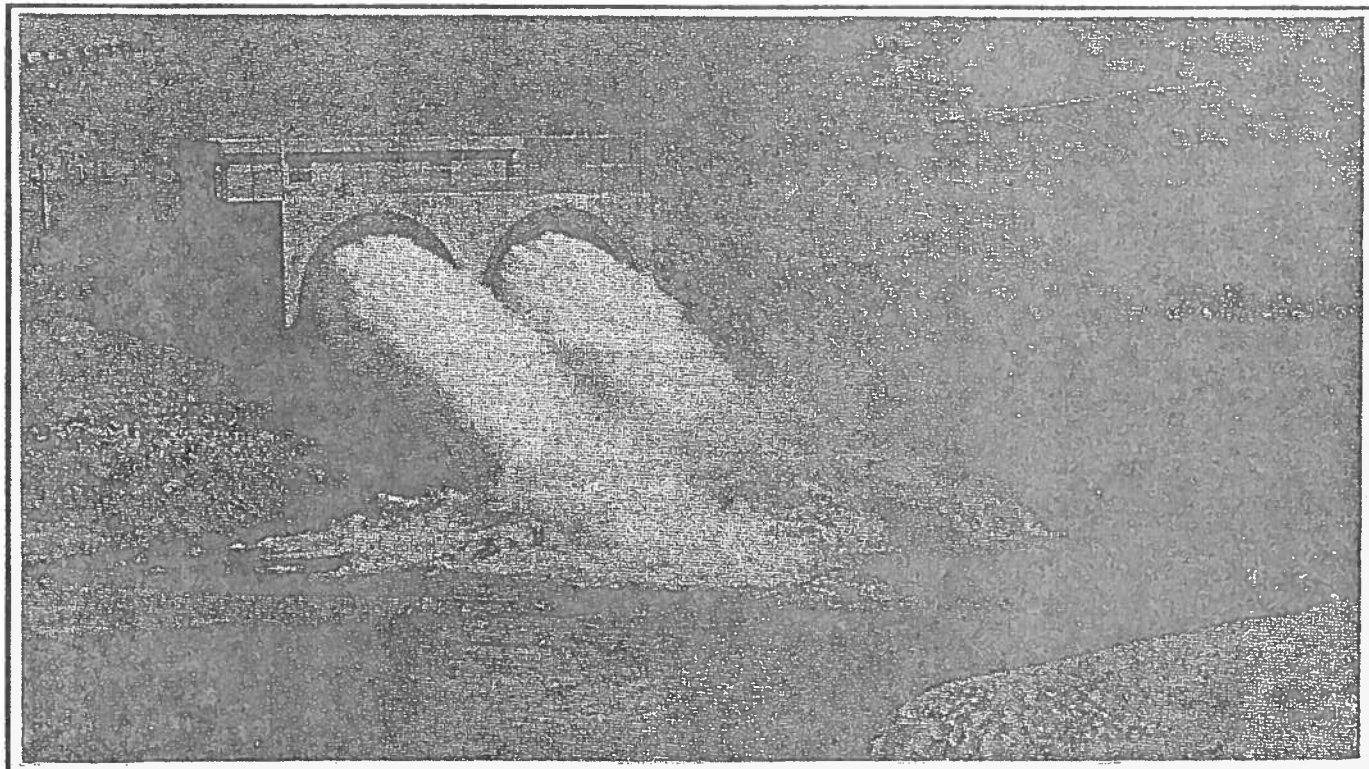
IT IS THE POLICY OF IDAHO THAT APPLICATIONS FOR LARGE SURFACE STORAGE PROJECTS UPSTREAM FROM THE MURPHY GAUGE BE APPROVED WHEN IT IS DETERMINED THAT THOSE PROJECTS ARE NEEDED TO MEET NEW USES AFTER CONSIDERATION OF THEN EXISTING PUBLIC INTEREST CRITERIA. APPROVAL OF NEW STORAGE PROJECTS THAT WOULD DIVERT WATER FROM THE MAIN-STEM OF THE SNAKE RIVER BETWEEN MILNER AND THE MURPHY GAUGING STATION DURING THE PERIOD NOVEMBER 1 TO MARCH 31 SHOULD BE COUPLED WITH PROVISIONS THAT MITIGATE THE IMPACT SUCH DEPLETIONS WOULD HAVE ON THE GENERATION OF HYDRO-POWER.

This policy addresses the approval of new surface storage in the basin, but does not apply to already approved projects. A study of all existing social, legal and economic constraints on allocation and use of water in existing storage facilities will be made to determine whether new storage projects are needed. An attempt will be made

to modify those constraints that are found to prevent reasonably full use of existing storage. Such study shall not delay applications for new storage projects. In addition, permits for these new projects may be issued during the study period, if they are found to be in the public interest. Public interest as used within this policy does not include the provisions of Section 42-203C, Idaho Code.

“Large surface storage projects” are those which have the potential for significantly impacting existing uses. Projects for which approval is required under Section 42-1737, Idaho Code, would be such projects. Smaller projects could also have significant impacts, but stock water ponds and waste water re-pumping ponds would not be included, for example.

New storage projects that would divert water from the Snake River between the Milner and Murphy gauging stations during the November 1 to April 1 period are subject to the requirement that the impact such depletions have on hydro-power generation is mitigated. Mitigate is defined as causing to become less harsh or hostile, and is used here rather than compensate which connotes equivalence. Methodology will be



developed by the Water Resource Board for use in calculating impacts on hydropower generation.

POLICY 5J - *Snake River Stored Water for Management*

IT IS THE POLICY OF IDAHO THAT RESERVOIR STORAGE BE ACQUIRED IN THE NAME OF THE IDAHO WATER RESOURCE BOARD TO PROVIDE MANAGEMENT FLEXIBILITY IN ASSURING THE MINIMUM FLOWS DESIGNATED FOR THE SNAKE RIVER.

The Idaho Department of Water Resources is expected to allocate the unappropriated waters and the power rights held in trust by the state in such a manner as to assure minimum flows at designated key points on the Snake River. The impacts of ground-water use within the basin on the timing of aquifer discharge to the rivers is such that at some time stored surface water may be necessary to maintain the designated minimum flows.

At this time there is unallocated reservoir storage within the basin which could be acquired by the state. These waters would provide flexibility for management decisions and provide assurance that the established minimum flows can be maintained. The state should act to acquire sufficient reservoir storage for this purpose. In the future no unallocated stored water will be available, and it may be impossible to acquire sufficient water to satisfy river demands. Until such time as these waters are needed for management purposes, they shall be credited to the Water Supply Bank and funds obtained from their lease or sale shall accrue to the Water Management Account.

POLICY 5K - *Water Quality of the Snake Plain Aquifer*

IT IS THE POLICY OF IDAHO THAT THE STATE SHOULD DEVELOP AND ADMINISTER A PROGRAM TO PROTECT THE QUALITY OF THE WATER IN THE SNAKE PLAIN AQUIFER.

The Snake Plain Aquifer, consisting of basalt and interflow sediments, is a major source of irrigation and drinking water for some 200,000 Idaho residents. The permeability of the aquifer is principally a function of the density of fractures within the basalt. Very little pollution attenuation occurs when water flows through fractures in basalt, and the soil cover over much of the Snake Plain Aquifer is thin to nonexistent. For these reasons, the Snake Plain Aquifer has been proposed for federal designation as a sole-source aquifer.

Because of the importance of this aquifer to the economy of Idaho, the state should take the lead in protecting the quality of water in the aquifer. As a first step, the Department of Health and Welfare has published a Snake Plain Management Strategy. Legislation should be adopted to protect the quality of the water in the aquifer.

POLICY 6A - *Bear River Basin*

IT IS THE POLICY OF IDAHO THAT WATER USE AND MANAGEMENT IN THE BEAR RIVER BASIN CONFORM TO THE ALLOCATIONS SET FORTH IN THE BEAR RIVER COMPACT (I.C. 42-3402).

The Bear River Compact has been in effect since 1958, and water allocations for the entire basin were adopted in 1978. The compact must be reviewed at intervals of less than twenty years and may be amended during the review process. The goal of Idaho's representatives on the com-

1992 Idaho State Water Plan

EXHIBIT 4

TO

AFFIDAVIT OF CLIVE J. STRONG IN SUPPORT OF
MOTION TO SET ASIDE AND AMEND PARTIAL
DECREES

SRBA SUBCASE NOS. 03-00006, 03-00007, and 03-00008

EXHIBIT 4

IDAHO STATE WATER PLAN



ADOPTED BY THE
IDAHO WATER RESOURCE BOARD

JANUARY 1992

Policies

• River Basins Group

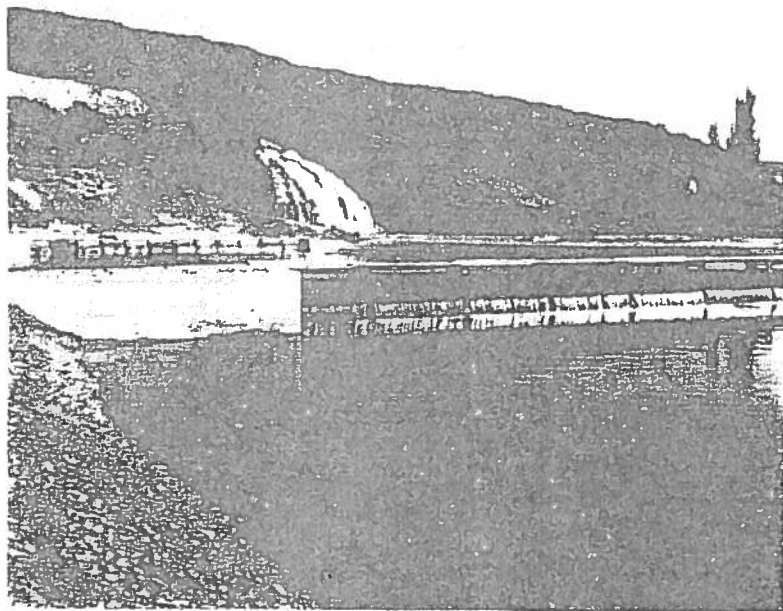
POLICY 5A - SNAKE RIVER BASIN

It is the policy of Idaho that the Swan Falls agreement between the state and Idaho Power Company establishes the framework for water management in the basin. Central to the agreement is the assumption that the Snake River is fully appropriated upstream from Swan Falls Dam except for trust water held by the state and occasional flood waters. The state recognizes that the exercise of water rights above Milner Dam has and may reduce flow at the dam to zero. Minimum average daily flows at the Murphy gauging station shall meet or exceed 3,900 cfs from April 1 to October 31 and 5,600 cfs from November 1 to March 31. The average daily flow measured at the Weiser gauge shall not be less than 4,750 cfs. A minimum average daily flow of 5,000 cfs at Johnson's Bar shall be maintained and an average daily flow of 13,000 cfs shall be maintained at Lime Point (river mile 172) a minimum of 95 percent of the time. Lower flows may be permitted at Lime Point during the months of July, August, and September,

during which time the operation of Idaho Power's Hells Canyon dams shall be in the best interest of power and navigation as determined by the Corps of Engineers and Idaho Power Company.

The minimum flows established for the Snake River at the Murphy and Weiser gauging stations are management and permitting constraints; they further insure that the state will be able to assure an adequate hydropower resource base and better protect other values recognized by the state, such as fish propagation, recreation, and aesthetic interests, all of which would be adversely impacted by an inadequate stream flow. The zero flow at Milner Dam is not a target or goal to be achieved, and may not necessarily be desirable. It is rather, a recognition of the current condition in which zero flow passes Milner Dam during certain periods of time. The state should seek to acquire water whenever it becomes available in order to mitigate the impacts of low flow below the dam.

River flows downstream from that point to Swan Falls Dam consist almost entirely of ground-water discharge during portions of low-water years. The Snake River Plain aquifer which provides this water must therefore be managed as an integral part of the river system.



Aquaculture facility along the Snake River near Buhl, Idaho.

The minimum flows established for Johnson's Bar and Lime Point are contained in the original Federal Power Commission license for the Hells Canyon hydropower complex. By adopting these flows, the Idaho Water Resource Board recognizes the importance of minimum flows to downstream uses and makes their maintenance a matter of state water policy. The Water Resource Board recognizes that the license requirements relate to the provision of water for navigation and power, and not to other instream uses. The Board realizes that the state has no authority to require releases of stored water by the power com-

pany, but believes the license conditions serve the public interest. When the Hells Canyon hydropower complex is relicensed, the Water Board will reevaluate the public interest. Article 43 of the power license provides that:

"The project shall be operated in the interest of navigation to maintain 13,000 cfs flow in the Snake River at Lime Point (river mile 172) a minimum of 95 percent of the time, when determined by the Chief of Engineers to be necessary for navigation. Regulated flows of less than 13,000 cfs will be limited to the months of July, August, and September, during which time operation of the project would be in the best interest of power and navigation as mutually agreed to by the Licensee and the Corps' of Engineers. The minimum flow during periods of low flow or normal minimum plant operations will be 5,000 cfs at Johnson's Bar..."

SNAKE RIVER flows above the hydropower right at any Idaho Power facility are considered unappropriated and therefore are not held in trust by the state. This distinction is further addressed in Policy 5B.

POLICY 5B - SNAKE RIVER TRUST WATER

It is the policy of Idaho that water held in trust by the state pursuant to Idaho Code 42-203B be reallocated to new uses in accordance with the criteria established by Idaho Code 42-203A and 42-203C.

The agreement between the state of Idaho and Idaho Power Company dated October 25, 1984 provides that Idaho Power's claimed water right of 8,400 cubic feet per second (cfs) at the Swan Falls Dam may be reduced to either 3,900 cfs or 5,600 cfs during set periods of the year. The claimed water right of 8,400 cfs is deemed appropriated and the amount above the minimum flow established in Policy 5A up to the 8,400 cfs is held in trust by the state. The trust water area is defined by Rule 1.5. in the Idaho Department of Water Resources' Rules and Regulations for Water Appropriation. The agreement

further provides that Idaho Power's claimed water rights at facilities upstream from Swan Falls shall be considered satisfied when the company receives the minimum flow specified in Policy 5A at the Murphy gauging station. The 8,400 cfs claim of the power company has not historically been available during summer months.

The 8,400 cfs claimed right at Swan Falls is reduced by the agreement to that flow available after satisfying all applications or claims that demonstrate water was beneficially used prior to Oct. 1, 1984, even if such uses would violate the minimum flows established in Policy 5A. Any remaining water above these minimum flows may be reallocated to new uses by the state providing such use satisfies existing Idaho law. The criteria in Idaho Code 42-203C supplement Policy 1B of the Water Plan which urges that conformance with the State Water Plan be considered evidence of the public interest. The Idaho Water Resource Board recognizes that the specific criteria for defining public interest established by Idaho Code 42-203C are to be used in addition to the criteria set forth in Policy 1B for the reallocation of hydropower rights. Exempted from the public interest criteria in Idaho Code 42-203C are permitted uses for which beneficial use prior to July 1, 1985 can be proved.

POLICY 5C - SNAKE RIVER DCM (Domestic, Commercial, Municipal, and Industrial)

It is the policy of Idaho that 150 cfs of the water held in trust by the state above Swan Falls Dam pursuant to Policy 5B be reallocated to meet future DCM consumptive uses in accordance with state law.

While most DCM uses are nonconsumptive or only partially consumptive, future growth in Idaho's population and commercial and industrial expansion will require an assured supply of water.

A continuous flow of 150 cfs provides approximately 108,600 acre-feet of water per year. This volume of water is assigned to consumptive uses within the basin for domestic, commercial, municipal, and other industrial purposes. Industrial purposes include processing, manufacturing, research and development, and cooling.

Policies

Adequate records should be kept and reviewed so that this reallocation can be modified as necessary. Increases in the DCMI allocation, if necessary, will reduce the amount of water available for agricultural uses. The allocation will be reviewed as part of every Water Plan update.

POLICY 5D - SNAKE RIVER AGRICULTURE
It is the policy of Idaho that appropriated water held in trust by the state pursuant to Policy 5B, less the amount of water necessary to provide for present and future DCMI uses as set forth in Policy 5C, shall be available for reallocation to meet new and supplemental irrigation requirements which conform to Idaho Code 42-203A, 203B, 203C, and 203D.

This policy allows for new and supplemental agricultural development through the reallocation of water held in trust by the state. The 1982 State Water Plan allocated water for a minimum level of new irrigation development of 850,000 acres plus supplemental water for 225,000 acres by the year 2020 over that which existed in 1975. This policy rescinds the 1982 allocations since there are no acres specified in that the type, location, and amount of use is unknown as is the effect of the evaluation called for in Policy 5B prior to reallocation.

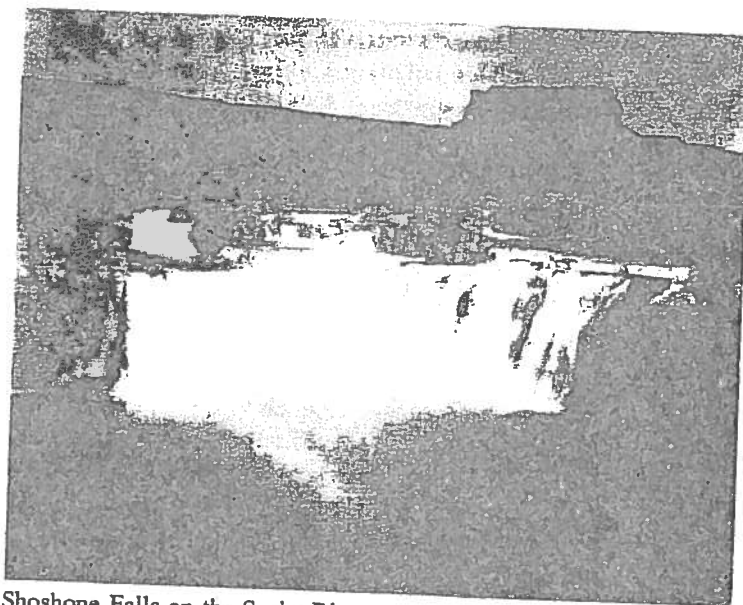
During the eight-year period from 1975 to 1983, about 140,000 acres of new development occurred within the basin. While the amount of new acreage varied significantly from year to year, the average was approximately 17,500 acres. Data are not available to estimate the number of acres that received supplemental water during this period.

Idaho Code Section 42-203C limits the rate of new development in the basin above Murphy gauging state to 80,000 acres in any four year period. Therefore, the maximum development to the year 2020 above Murphy gauging station assuming no water supply constraint is 700,000 acres. Criteria placed on the reallo-

cation of hydropower rights, limits on the rate of new development, plus the requirement that approval of new storage projects that divert water between November 1 and April 1 from the Snake River between Milner Dam and Murphy gauging station must mitigate the impact of diversions on hydropower generation (Policy 5I), will undoubtedly limit development to less than 700,000 acres.

POLICY 5E - SNAKE RIVER HYDROPOWER
It is the policy of Idaho that hydropower use be recognized as a beneficial use of water, and that depletion of flows below the minimum average daily flows set forth in Policy 5A is not in the public interest.

The 1982 State Water Plan allocated 170,000 acre-feet for consumptive use in cooling thermal power plants. By establishing a minimum daily flow of 3,300 cfs at Murphy and 4,750 cfs at Weiser, stabilized flows were guaranteed for hydropower generation. The minimum daily flows for hydropower generation are now increased as stated in Policy 5A. In addition, this policy specifically recognizes hydropower generation as a beneficial use of water and acknowledges the public interest in maintaining the minimum river flow at key points. Any water



Shoshone Falls on the Snake River.

depletion for thermal power generation would now come from the block of water allocated to DCMI uses.

POLICY 5F - SNAKE RIVER NAVIGATION

It is the policy of Idaho that water sufficient for commercial and recreational navigation is provided by the minimum flows established for the Snake River.

Commercial navigation en route to Lewiston via the Columbia River and Lower Snake River can be accommodated with the flows leaving Idaho in the Snake River at Lewiston. Above Lewiston, commercial and recreational navigation should be accommodated within the protected flows on the Snake River and tributary streams.

POLICY 5G - SNAKE RIVER AQUACULTURE

It is the policy of Idaho that water necessary to process aquaculture products be included as a component of DCMI as provided in Policy 5C. The minimum flows established for the Murphy gauging station should provide an adequate water supply for aquaculture. It must be recognized that while existing water rights are protected, it may be necessary to construct different diversion facilities than presently exist.

Aquaculture can expand when and where water supplies are available and where such uses do not conflict with other beneficial uses. It is recognized, however, that future management and development of the Snake River Plain Aquifer may reduce the present flow of springs tributary to the Snake River, necessitating changes in diversion facilities.

POLICY 5H - SNAKE RIVER NEW SURFACE STORAGE

It is the policy of Idaho that applications for large surface storage projects upstream from the Murphy gauge be approved when it is determined that those projects are needed to meet new uses after consideration of then existing public interest criteria. Approval of new storage projects that would divert water from the main stem of the Snake River between Milner and the Murphy gauging station during the period November 1 to

March 31 should be coupled with provisions that mitigate the impact such depletions would have on the generation of hydropower.

This policy addresses the approval of new surface storage in the basin, but does not apply to already approved projects. A study of all existing social, legal and economic constraints on allocation and use of water in existing storage facilities will be made to determine whether new storage projects are needed. An attempt will be made to modify those constraints that are found to prevent reasonably full use of existing storage. Such study shall not delay applications for new storage projects. In addition, permits for these new projects may be issued during the study period, if they are found to be in the public interest. Public interest as used within this policy does not include the provisions of Section 42-203C, Idaho Code.

"Large surface storage projects" are those which have the potential for significantly impacting existing uses. Projects for which approval is required under Section 42-1737, Idaho Code, would be such projects. Smaller projects could also have significant impacts, but stock water ponds and waste water re-pumping ponds would not be included, for example.

New storage projects that would divert water from the Snake River between the Milner and Murphy gauging stations during the November 1 to April 1 period are subject to the requirement that the impact such depletions have on hydropower generation is mitigated. Mitigate is defined as causing to become less harsh or hostile, and is used here rather than compensate which connotes equivalence. Methodology will be developed by the Water Resource Board for use in calculating impacts on hydropower generation.

POLICY 5I - SNAKE RIVER STORED WATER FOR MANAGEMENT

It is the policy of Idaho that reservoir storage be acquired in the name of the Idaho Water Resource Board to provide management flexibility in assuring the minimum flows designated for the Snake River.

Policies

The Idaho Department of Water Resources is expected to allocate the unappropriated waters and the power rights held in trust by the state in such a manner as to assure minimum flows at designated key points on the Snake River. The impacts of groundwater use within the basin on the timing of aquifer discharge to the rivers is such that at some time stored surface water may be necessary to maintain the designated minimum flows.

At this time there is little or no unallocated reservoir storage within the basin which could be acquired by the state. The state should act to acquire any available reservoir storage in order to provide flexibility for management decisions and provide assurance that the established minimum flows can be maintained. Until such time as these waters are needed for management purposes, they shall be credited to the Water Supply Bank and funds obtained from their lease or sale shall accrue to the Water Management Account. The Board should have priority in acquiring water from the Water Bank, if necessary, to meet the minimum flows established by the Swan Falls Agreement.

POLICY 5J - WATER QUALITY OF THE SNAKE RIVER PLAIN AQUIFER

It is the policy of Idaho that the state should develop and administer a program to protect the quality of the water in the Snake River Plain Aquifer.

The Snake River Plain Aquifer, consisting of basalt and interflow sediments, is a major source of irrigation and drinking water for some 200,000 Idaho residents. The permeability of the aquifer is principally a function of the density of fractures within the basalt. Very little pollution attenuation occurs when water flows through fractures in basalt, and the soil cover over much of the Snake Plain Aquifer is thin to nonexistent. For these reasons, the Eastern Snake Plain Aquifer was designated a sole-source aquifer by the Environmental Protection Agency in the fall of 1991.

Because of the importance of this aquifer to the economy of Idaho, the state should take an active role in protecting the quality of water in the aquifer. As a first step, the Department of Health and Welfare

has published a Snake Plain Management Strategy. The adoption of the Ground Water Quality Plan will provide additional protection mechanisms to preserve the quality of ground water in the Snake River Plain Aquifer. Legislation should be adopted to protect the quality of the water in the aquifer.

POLICY 5K - SNAKE RIVER COMPONENTS OF COMPREHENSIVE PLAN

It is the policy of Idaho to implement the provisions of the South Fork of the Boise River Subbasin and the Payette River Reaches components of the Comprehensive State Water Plan.

In 1991 the Idaho Legislature approved the Water Resource Board's comprehensive plans for the South Fork of the Boise River Basin and for portions of the Payette River. These plans contain state protected river designations and recommendations concerning other aspects of water use. As an approved plan, the positions and policies contained therein are the state's official position on water use in the affected areas.

POLICY 6A - BEAR RIVER BASIN

It is the policy of Idaho that water use and management in the Bear River Basin conform to the allocations set forth in the Bear River Compact (Idaho Code 42-3402).

The Bear River Compact has been in effect since 1958, and water allocations for the entire basin were adopted in 1978. The compact must be reviewed at intervals of less than twenty years and may be amended during the review process. The goal of Idaho's representatives on the commission should be to seek as much of the unconsumed flow entering the Great Salt Lake as possible for Idaho while negotiating in good faith with the other states.

POLICY 6B - BEAR LAKE

It is the policy of Idaho to protect and whenever possible improve the quality of the water in Bear Lake.

The Bear River Compact specifies how Bear Lake water shall be used for irrigation and hydro-power generation, but does not address the issue of

1996 Idaho State Water Plan

EXHIBIT 5

TO

AFFIDAVIT OF CLIVE J. STRONG IN SUPPORT OF
MOTION TO SET ASIDE AND AMEND PARTIAL
DECREES

SRBA SUBCASE NOS. 03-00006, 03-00007, and 03-00008

EXHIBIT 5

IDAHO STATE WATER PLAN



ADOPTED BY

THE
IDAHO
WATER RESOURCE
BOARD

DECEMBER 1996

River Basins Group

The River Basins Group contains resource management policies specific to the state's three major river basin networks: the Snake River Basin, the Bear River Basin in southeast Idaho, and the northern Panhandle river basins.

● Snake River Basin

5A - SWAN FALLS AGREEMENT

It is the policy of Idaho that the Swan Falls agreement between the state and Idaho Power Company establishes the framework for water management in the Snake River basin.

Comment: The Swan Falls Agreement was signed in 1985 by the State of Idaho and the Idaho Power Company. The Idaho Water Resource Board is committed to continued implementation of this agreement. Minimum flows in the Snake River are crucial to the Swan Falls Agreement. During portions of low water years, river flows downstream from Milner Dam to Swan Falls Dam consist almost entirely of ground water discharge. The Eastern Snake Plain aquifer which provides this water must therefore be managed conjunctively as an integral part of the river system. This agreement also calls for the adjudication of water rights in the Snake River Basin to enhance the state's water management capabilities.

5B - SNAKE RIVER MINIMUM FLOWS

It is the policy of Idaho that minimum average daily flows at the Murphy gaging station shall meet or exceed 3,900 cfs from April 1 to October 31 and 5,600 cfs from November 1 to March 31. The average daily flow measured at the Weiser gage shall not be less than 4,750 cfs. A minimum average daily flow of 5,000 cfs at Johnson's Bar shall be maintained and an average daily flow of 13,000 cfs shall be maintained at Lime Point (river mile 172) a minimum of 95 percent of the time. The exercise of

water rights above Milner Dam has and may reduce flow at the dam to zero.

Comment: In licensing the Milner hydropower project, the Federal Energy Regulatory Commission (FERC) specified "target flows" for the Snake River at Milner. The target flow must be satisfied only when water in excess of prior irrigation rights is available. Water for target flows may be acquired from storage or may be leased from the Upper Snake Rental Pool. The State should seek to acquire water whenever it becomes available in order to mitigate the impacts of low flow below the Dam.

The minimum flows established for the Snake River at the Murphy and Weiser gaging stations are management and permitting constraints; they further insure that the State will be able to assure an adequate hydropower resource base and better protect other values recognized by the State such as fish propagation, recreation, and aesthetic interests, all of which would be adversely impacted by an inadequate stream flow.

The minimum flows established for Johnson's Bar and Lime Point are contained in the original Federal Power Commission (now FERC) license for the Hells Canyon hydropower complex. By adopting these flows, the Idaho Water Resource Board recognizes the importance of minimum flows to downstream uses and makes their maintenance a matter of state water policy. Lower flows may be permitted at Lime Point during the months of July, August, and September, during which time the operation of the Hells Canyon dams shall be in the best interest of power and navigation as determined by the Corps of Engineers and Idaho Power Company as owner of the Hells Canyon power facilities.

The Idaho Water Resource Board recognizes that FERC license requirements relate primarily to the provision of water for navigation and power and not to other instream uses. The Board realizes that the state has no authority to require releases of stored water by the power company, but believes the license conditions serve the public interest. When the Hells Canyon hydropower complex is relicensed, the Water Board will reevaluate the public interest.

Snake River flows above the hydropower right at any Idaho Power facility are considered unappropriated and therefore are not held in trust by the state. This distinction is further addressed in Policy 5C.

5C - SNAKE RIVER TRUST WATER

It is the policy of Idaho that water held in trust by the state pursuant to Idaho Code 42-203B be reallocated to new uses in accordance with the criteria established by Idaho Code 42-203A and 42-203C.

Comment: The agreement between the State of Idaho and Idaho Power Company dated October 25, 1984 provides that Idaho Power's claimed water right of 8,400 cubic feet per second (cfs) at the Swan Falls Dam may be reduced to either 3,900 cfs or 5,600 cfs during set periods of the year. The claimed water right of 8,400 cfs is deemed appropriated and the amount above the minimum flow established in Policy 5B up to the 8,400 cfs is held in trust by the state. The trust water area is defined by Rule 30 in the Idaho Department of Water Resources' Rules for Water Appropriation (see also Fig.1).

The agreement further provides that Idaho Power's claimed water rights at facilities upstream from Swan Falls shall be considered satisfied when the company receives the minimum flow specified in Policy 5B at the Murphy gaging station. The 8,400 cfs claim of the power company has not historically been available during summer months.

The 8,400 cfs claimed right at Swan Falls is reduced by the agreement to that flow available after satisfying all applications or claims that demonstrate water was beneficially used prior to Oct. 1, 1984, even if such uses would violate the minimum flows established in Policy 5B. Any remaining water above these minimum flows may be reallocated to new uses by the state providing such use satisfies existing Idaho law.

However, due to continued spring flow decline in the Thousand Springs area since the late 1950s, water availability to satisfy additional beneficial uses is limited. A moratorium, as defined in Idaho Code 42-1806, on further water development has been in place since May 15, 1992.

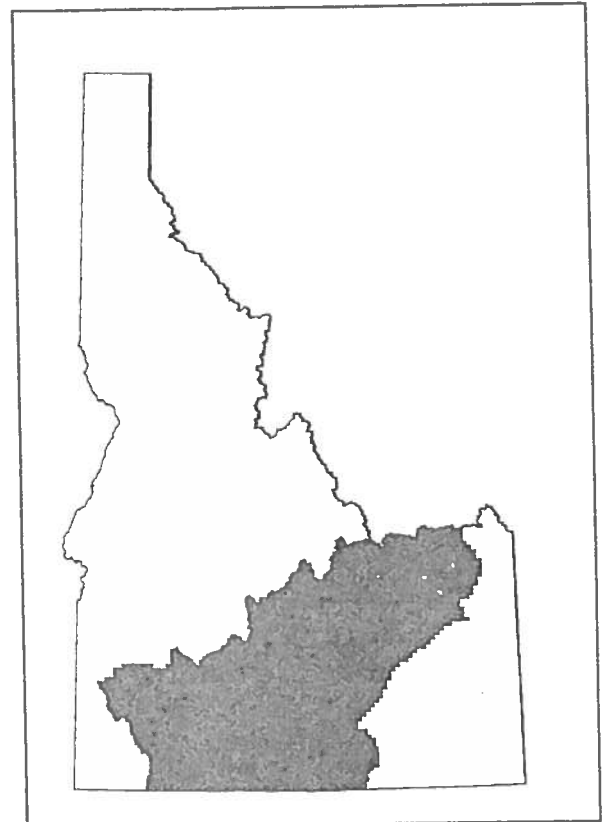


Figure 1. Snake River Basin Trust Water Area.

5D - SNAKE RIVER BASIN DCMI

It is the policy of Idaho that 150 cfs of the water held in trust by the state above Swan Falls Dam pursuant to Policy 5C be reallocated to meet future domestic, commercial, municipal, and industrial consumptive uses in accordance with state law.

Comment: While most DCMI (Domestic, Commercial, Municipal, and Industrial) water uses are negligibly consumptive, future growth in Idaho's population and commercial and industrial expansion will require an assured supply of water.

A continuous flow of 150 cfs provides approximately 108,600 acre-feet of water per year. This volume of water is assigned to consumptive uses within the basin for domestic, commercial, municipal, and other industrial purposes. Industrial purposes include processing, manufacturing, research and development, and cooling.

During the ten-year period from 1985 to 1995, about 120 cfs was developed for DCMI uses within the trust water area. Adequate records should be kept and reviewed so that this allocation can be modified as necessary. Increases in the DCMI allocation, if necessary, will reduce the amount of water available for agricultural uses. The allocation will be reviewed as part of every Water Plan update.

5E - SNAKE RIVER BASIN AGRICULTURE

It is the policy of Idaho that appropriated water held in trust by the state pursuant to Policy 5C, less the amount of water necessary to provide for present and future DCMI uses as set forth in Policy 5D, shall be available for reallocation to meet new and supplemental irrigation requirements which conform to Idaho Code 42-203A, 203B, 203C, and 203D.

Comment: During the ten-year period from 1985 to 1995, about 45,600 acres of new irrigation development occurred within the trust water area. Data are not available to estimate the number of acres that received supplemental water during this period.

Idaho Code Section 42-203C limits the rate of new development in the basin above the Murphy gaging station to 80,000 acres in any four-year period. Impact on existing water rights, mitigation for the impact of diversions on hydropower generation, and criteria placed on the reallocation of hydropower rights, however, limits the rate of new development.

5F - SNAKE RIVER BASIN HYDROPOWER

It is the policy of Idaho that hydropower use be recognized as a beneficial use of water, and that depletion of flows below the minimum average daily flows set forth in Policy 5B is not in the public interest.

Comment: This policy specifically recognizes hydropower generation as a beneficial use of water and acknowledges the public interest in maintaining the minimum river flow at key points.

By establishing minimum daily flows at Murphy and Weiser, stabilized flows are guaranteed for hydropower generation.

5G - SNAKE RIVER NAVIGATION

It is the policy of Idaho that water sufficient for commercial and recreational navigation is provided by the minimum flows established for the Snake River.

Comment: Commercial navigation en route to Lewiston via the Columbia River and Lower Snake River can be accommodated with the flows leaving Idaho in the Snake River at Lewiston. Above Lewiston, commercial and recreational navigation on the river should be accommodated within the protected flows on the Snake River and tributary streams.

5H - SNAKE RIVER BASIN SPRINGS

It is the policy of Idaho to seek to maintain spring flows in the American Falls and Thousand Springs reaches of the Snake River which will sustain beneficial uses of surface and ground water supplies in accordance with state law.

Comment: Spring discharge in the American Falls and Thousand Springs reaches of the Snake River are vital to the Snake River Basin and Idaho economy. The springs near American Falls provide an important part of Snake River flow appropriated by Magic Valley irrigators. In the Thousand Springs reach, spring flow is the only practical source of water for many of the state's aquaculture facilities.

During portions of low-water years, river flows downstream from Milner Dam to the Murphy gaging station consist almost entirely of ground-water discharge from the Thousand Springs reach. Maintaining these discharges should be the goal of water managers. Managed recharge of the aquifers and continued efforts to efficiently use ground water are two strategies for maintaining spring discharges in these reaches.

5I - SNAKE RIVER BASIN NEW STORAGE

It is the policy of Idaho that applications for large surface storage projects upstream from the Murphy gage be approved subject to the requirement that the use is in the public interest.

Comment: "Large surface storage projects" are those which have the potential for significantly impacting existing uses. Projects for which approval is required under Section 42-1737, Idaho Code, would be such projects. This policy addresses the approval of new surface storage in the basin, but does not apply to already approved projects. Approval of new storage projects that would divert water from the main stem of the Snake River between Milner and the Murphy gaging station during the period November 1 to March 31 should be coupled with provisions that mitigate the impact such depletions would have on the generation of hydropower.

5J - STORAGE ACQUISITION

It is the policy of Idaho that reservoir storage be acquired in the name of the Idaho Water Resource Board to provide management flexibility in assuring the minimum flows designated for the Snake River.

Comment: The Idaho Department of Water Resources is expected to allocate the unappropriated waters and the power rights held in trust by the state in such a manner as to assure minimum flows at designated key points on the Snake River. The impacts of ground water use within the basin on the timing of aquifer discharge to the rivers is such that at some time stored surface water may be necessary to maintain the designated minimum flows.

At this time there is little reservoir storage within the basin which could be acquired by the State. The State should act to acquire any available, feasible reservoir storage in order to provide flexibility for management decisions and provide assurance that the established minimum flows can be maintained. Until such time as these waters are needed for management purposes, they shall be credited to the Water Supply Bank and funds ob-

tained from their lease or sale shall accrue to the Water Management Account. The Board should have priority in acquiring water from the Water Bank, if necessary, to meet the minimum flows established by the Swan Falls Agreement.

Flood control space at Brownlee Reservoir should be considered for salmon flow augmentation. If the 500,000 acre-feet evacuated for flood control purposes downstream could be held and released for flow augmentation during downstream salmon migration, this could replace valuable water supplies taken from the upper Snake River Basin.

● Bear River Basin

6A - BEAR RIVER COMPACT

It is the policy of Idaho that water use and management in the Bear River Basin conform to the allocations set forth in the Bear River Compact [Idaho Code 42-3402].

Comment: The Bear River Compact has been in effect since 1958, and water allocations for the entire basin were adopted in 1978. The compact must be reviewed at intervals of not less than twenty years and may be amended during the review process.

The goal of Idaho's representatives on the commission should be to urge conjunctive management of ground and surface water resources within the Bear River Basin and to seek as much of the unconsumed flow entering the Great Salt Lake as possible for Idaho while negotiating in good faith with the other states.

6B - INTERSTATE WATER DELIVERY

It is the policy of Idaho that Idaho water users in the Lower Division of the Bear River Basin must be protected from inequitable water allocation in the event of a water emergency and the scheduling of interstate water deliveries.

1978 Idaho Session Laws 884-886

EXHIBIT 6

TO

AFFIDAVIT OF CLIVE J. STRONG IN SUPPORT OF
MOTION TO SET ASIDE AND AMEND PARTIAL
DECREES

SRBA SUBCASE NOS. 03-00006, 03-00007, and 03-00008

EXHIBIT 6

CHAPTER 345

(S.B. No. 1622)

AN ACT

RELATING TO DEVELOPMENT OF THE UNAPPROPRIATED WATERS OF IDAHO; AMENDING CHAPTER 17, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-1736A, IDAHO CODE, TO PROVIDE A STATEMENT OF POLICY RELATING TO WATER, TO PROVIDE FOR DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES, TO PROVIDE FOR DUTIES OF THE WATER RESOURCE BOARD, AND TO ESTABLISH FLOWS ON CERTAIN PORTIONS OF THE SNAKE RIVER; AMENDING CHAPTER 17, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-1736B, IDAHO CODE, TO PROVIDE FOR ESTABLISHING FLOWS ON OTHER RIVERS, TO PROVIDE FOR ESTABLISHING MAINTENANCE LEVELS ON LAKES AND RESERVOIRS, TO PROVIDE THAT FUTURE FILINGS, PERMITS AND DECREES WILL BE DETERMINED WITH RESPECT TO THE EFFECT ON MINIMUM FLOWS OR MAINTENANCE LEVELS, TO PROVIDE FOR LEGISLATIVE REVIEW OF PLAN AND DEVELOPMENT PROJECTS, AND TO PROVIDE ADDITIONAL DUTIES FOR THE WATER RESOURCE BOARD; REPEALING SECTION 42-225, IDAHO CODE, RELATING TO THE DUTIES OF THE DEPARTMENT OF WATER RESOURCES TO SURVEY STREAMS AND GROUND WATER AREAS; AMENDING CHAPTER 2, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-241, IDAHO CODE, TO PROVIDE A STATEMENT OF PURPOSE; AMENDING CHAPTER 2, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-242, IDAHO CODE, TO DEFINE TERMS; AMENDING SECTION 42-225a, IDAHO CODE, TO REDESIGNATE AS SECTION 42-243, IDAHO CODE, TO PROVIDE A FINAL DATE BY WHICH PERSONS USING OR CLAIMING RIGHTS TO THE USE OF WATER, OTHER THAN FOR DOMESTIC PURPOSES, MUST FILE A CLAIM OF SUCH RIGHT, AND TO PROVIDE AN EXCEPTION FOR ESTABLISHED CLAIMS; AMENDING SECTION 42-225b, IDAHO CODE, TO REDESIGNATE AS SECTION 42-244, IDAHO CODE, AND CHANGE THE FEE REQUIRED; AMENDING CHAPTER 2, TITLE 42, BY THE ADDITION OF A NEW SECTION 42-245, IDAHO CODE, TO PROVIDE THAT A FAILURE TO FILE A CLAIM SHALL BE DEEMED AS THE WAIVER OR RELINQUISHMENT OF ANY RIGHT, TITLE OR INTEREST IN THE RIGHT; AMENDING CHAPTER 2, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-246, IDAHO CODE, TO PROVIDE THAT THE FILING OF A CLAIM IS NOT AN ADJUDICATION OF A RIGHT; AMENDING CHAPTER 2, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-247, IDAHO CODE, TO PROVIDE FOR GIVING NOTICE OF THE PROVISIONS OF CHAPTER 2, TITLE 42, IDAHO CODE; AMENDING TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 15,

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TITLE 42, IDAHO CODE, PROVIDING FOR MINIMUM STREAM FLOWS AND MINIMUM LAKE LEVELS IN THE RIVERS, STREAMS, CREEKS, SPRINGS, AND LAKES IN THE STATE OF IDAHO FOR THE PROTECTION OF FISH AND WILDLIFE HABITAT, AQUATIC LIFE, RECREATION, AESTHETIC BEAUTY, TRANSPORTATION AND NAVIGATION VALUES, AND WATER QUALITY, DECLARING THAT SUCH MINIMUM FLOWS AND LEVELS ARE A BENEFICIAL USE OF SUCH WATER; PROVIDING DEFINITIONS; AUTHORIZING THE IDAHO WATER RESOURCE BOARD TO MAKE APPLICATION TO THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES TO APPROPRIATE A MINIMUM STREAM FLOW OF UNAPPROPRIATED WATERS, PRESCRIBING A FORM OF APPLICATION, REQUIRING DISTRIBUTION OF THE APPLICATION TO CERTAIN STATE DEPARTMENTS AND PUBLIC ENTITIES, PROVIDING NEWSPAPER PUBLICATION AND OTHER NOTICE OF THE APPLICATION, REQUIRING PUBLIC HEARINGS, PROVIDING FOR THE ISSUANCES AND ENFORCEMENT OF SUBPOENAS, SPECIFYING FINDINGS TO BE MADE BY THE DIRECTOR, PROVIDING FOR DISTRIBUTION OF THE DIRECTOR'S DECISION AND FOR JUDICIAL REVIEW; AUTHORIZING ANY PERSON, ASSOCIATION, MUNICIPALITY, COUNTY, STATE OR FEDERAL AGENCY TO PETITION THE BOARD TO FILE AN APPLICATION; PROVIDING A PRIORITY DATE FOR A MINIMUM STREAM FLOW APPROPRIATION AS THE DATE OF FILING THE APPLICATION AND FOR ADMINISTRATION OF THE WATER RIGHT BY THE DIRECTOR UNDER CHAPTER 6, TITLE 42, IDAHO CODE; AMENDING SECTION 42-1756, IDAHO CODE, TO PROVIDE NAME CHANGES, AND TO PROVIDE THE DOLLAR AMOUNT OF LOANS THAT MAY BE MADE FROM THE REVOLVING ACCOUNT WITHOUT LEGISLATIVE APPROVAL; AND PROVIDING FOR SEVERABILITY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 17, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-1736A, Idaho Code, and to read as follows:

42-1736A. WATER RESOURCE POLICY. It is legislative intent in the public interest that house concurrent resolution no. 48, second regular session, forty-fourth legislature, is hereby recognized as the guide for the state water plan of Idaho.

(1) As a matter of public policy for the development of the unappropriated waters in the state of Idaho, the legislature reaffirms its decision that all existing water rights shall be recognized by law and protected as provided by law. It is further legislative intent that the director of the department of water resources carry out his duties as prescribed by law and the water resource board, and as pre-

scribed by house concurrent resolution no. 48, second regular session, forty-fourth legislature; it is also legislative intent that the water resource board shall carry out its duties as prescribed by article XV of the constitution of the state of Idaho.

(2) In order to preserve the stream flows the following criteria shall be established as the beneficial use in the public interest as the minimum daily flow on the main stem of the Snake River:

<u>Gaging Station</u>	<u>Minimum Daily Flow</u>
Milner	0 cfs
Murphy	3,300 cfs
Weiser	4,750 cfs

(3) In order to retain the stream flows and hydro-base, the following criteria shall be established as the minimum daily flow on the main stem of the Snake River:

<u>Gaging Station</u>	<u>Minimum Daily Flow</u>
Johnson's Bar	5,000 cfs

(4) Only the water resource board may propose average daily flows on all other streams and rivers in the state, and after adoption by the legislature such average daily flows shall become the minimum daily flow of the particular stream or river.

(5) Only the water resource board may propose maintenance levels on all lakes and reservoirs controlled by the state, and after adoption by the legislature, such maintenance levels shall become the maintenance level of the particular lake or reservoir.

SECTION 2. That Chapter 17, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-1736B, Idaho Code, and to read as follows:

42-1736B. WATER RESOURCE POLICY ACTIONS. (1) All future filings, permits and decrees on the unappropriated waters of this state shall be determined with respect to the effect such filings, permits and decrees will have on the minimum daily flow of the affected stream or river, or on the maintenance level of the affected lake or reservoir.

(2) All water plans and development projects proposed by the water resource board shall be subject to review and approval of the legislature, except that those projects funded from the water resource board revolving development account of less than five hundred thousand dollars (\$500,000) need not have prior legislative approval.

(3) In further recognition of the authority granted by law to the water resource board by the provisions of section 42-1734, Idaho Code, and in further recognition of the right

**Idaho Water Resource Board's
"A Resolution"**

EXHIBIT 7

TO

**AFFIDAVIT OF CLIVE J. STRONG IN SUPPORT OF
MOTION TO SET ASIDE AND AMEND PARTIAL
DECREES**

SRBA SUBCASE NOS. 03-00006, 03-00007, and 03-00008

EXHIBIT 7

BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF)
POLICY 32 OF THE)
STATE WATER PLAN)
_____)

A RESOLUTION

WHEREAS, pursuant to Chapter 17, Title 42, Idaho Code, the Idaho Water Resource Board (Board) has the power and duty to adopt a comprehensive State Water Plan; and,

WHEREAS, portions of the Snake River Water Rights Agreement (Agreement) entered into by the Governor, the Attorney General, and the Idaho Power Company on October 25, 1984 are not in accord with the State Water Plan; and,

WHEREAS, the Board has conducted 12 formal hearings in affected areas of the state on proposed changes to Policy 32 of the State Water Plan;

NOW, THEREFORE, BE IT RESOLVED that, the Idaho Water Resource Board under its authority to establish water policy amends Policy 32 of the State Water Plan to read as follows:

Policy 32 - Snake River Basin

It is the policy of Idaho that the ground water and surface water of the basin be managed to meet or exceed a minimum average daily flow of zero measured at the Milner gaging station, 3900 cfs from April 1 to October 31 and 5600 cfs from November 1 to March 31 measured at the Murphy gaging station, and 4750 cfs measured at the Weiser gaging station. A minimum average daily flow of 5,000 cfs at Johnson's Bar shall be maintained and an average daily flow of 13,000 cfs shall be maintained at Lime Point (river mile 172) a minimum of 95 percent of the time. Lower flows may be permitted at Lime Point only during the months of July, August, and September.

Waters not held in trust by the State in accordance with Policy 32A shall be allocated according to the criteria established by Idaho Code 42-203A.

The minimum flows established for the Snake River at the Murphy and Weiser gaging stations are management constraints; they further insure that minimum flow levels of Snake River water will be available for hydropower, fish, wildlife, and recreational purposes. The establishment of a zero minimum flow at the Milner gaging station allows for existing uses to be continued and for some new uses above Milner. The zero flow established at Milner means that river flows downstream from that point to Swan Falls Dam may consist almost entirely of ground-water discharge during portions of low-water years. The Snake River Plain aquifer which provides this water must therefore be managed as an integral part of the river system.

The minimum flows established for Johnson's Bar and Lime Point are contained in the original Federal Power Commission license for the Hells Canyon hydropower complex. By adopting these flows, the Idaho Water Resource Board recognizes the importance of minimum flows to downstream uses and makes their maintenance a matter of state water policy. Article 43 of the power license provides that:

"The project shall be operated in the interest of navigation to maintain 13,000 cfs flow in the Snake River at Lime Point (river mile 172) a minimum of 95 percent of the time, when determined by the Chief of Engineers to be necessary for navigation. Regulated flows of less than 13,000 cfs will be limited to the months of July, August, and September, during which time operation of the project would be in the best interest of power and navigation, as mutually agreed to by the Licensee and the Corps of Engineers. The minimum flow during periods of low flow or normal minimum plant operations will be 5,000 cfs at Johnson's Bar"

Snake River flows above the hydropower right at any Idaho Power facility are considered unappropriated and therefore are not held in trust by the state. This distinction is further addressed in Policy 32A.

Policy 32A - Water Held in Trust by the State

It is the policy of Idaho that water held in trust by the state pursuant to Idaho Code 42-203B be reallocated to new uses in accordance with the criteria established by Idaho Code 42-203A and 42-203C.

The agreement between the state of Idaho and Idaho Power Company dated October 25, 1984 provides that Idaho Power's

claimed water right of 8400 cfs at the Swan Falls dam may be reduced to 3900 cfs. The claimed water right of 8400 cfs is deemed appropriated and the amount above the minimum flow established in Policy 32 up to the 8400 cfs is held in trust by the state. The agreement further provides that Idaho Power's claimed water rights at facilities upstream from Swan Falls shall be considered satisfied when the company receives the minimum flow specified in Policy 32 at the Murphy gaging station. The 8400 cfs claim of the power company has not historically been available during summer months.

The 8400 cfs claimed right is reduced by the agreement to that flow available after satisfying all applications or claims that demonstrate water was beneficially used prior to October 1, 1984 even if such uses would violate the minimum flows established in Policy 32. Any remaining water above these minimum flows may be reallocated to new uses by the state providing such use satisfies existing Idaho law plus criteria the Legislature is requested by the agreement to establish as Idaho Code 42-203C. These additional criteria supplement Policy 1 of the Water Plan which urges that conformance with the State Water Plan be considered evidence of the public interest. The Idaho Water Resource Board recognizes that the specific criteria for defining public interest established by Idaho Code 42-203C are to be used in addition to the criteria set forth in Policy 1 for the reallocation of of hydropower rights.

Policy 32B - Domestic, Commercial, Municipal and Industrial (DCMI)

It is the policy of Idaho that 150 cfs of water for consumptive purposes held in trust by the state pursuant to Policy 32A be reallocated to meet future DCMI uses in accordance with state law.

While most DCMI uses are nonconsumptive or only partially consumptive, future growth in Idaho's population and commercial and industrial expansion will require an assured supply of water.

A continuous flow of 150 cfs provides approximately 108,600 acre-feet of water per year. This volume of water is assigned to consumptive uses within the basin for domestic, commercial, municipal, and other industrial purposes. Industrial purposes include processing, manufacturing, research and development, and cooling.

Adequate records should be kept and reviewed so that this reallocation can be modified as necessary. Increases in the

DCMI allocation, if necessary, will reduce the amount of water available for agricultural uses. The allocation will be reviewed as part of every Water Plan update.

Policy 32C - Agriculture

It is the policy of Idaho that appropriated water held in trust by the state pursuant to Policy 32A, less the amount of water necessary to provide for present and future DCMI uses as set forth in Policy 32B, shall be available for reallocation to meet new and supplemental irrigation requirements which conform to Idaho Code 42-203A, 203B, 203C, and 203D.

The policy allows for new and supplemental agricultural development through the reallocation of water held in trust by the state. The 1982 State Water Plan allocated water for a minimum level of new irrigation development of 850,000 acres plus supplemental water for 225,000 acres by the year 2020 over that which existed in 1975. This policy rescinds the 1982 allocations since there are no acres specified in that the type, location, and amount of use is unknown as is the effect of the evaluation called for in Policy 32A.

During the 8 year period from 1975 to 1983, about 140,000 acres of new development occurred within the basin. While the amount of new acreage varied significantly from year to year, the average was approximately 17,500 acres. Data are not available to estimate the number of acres that received supplemental water during this period. Idaho Code Section 42-203C limits the rate of new development in the basin above Murphy gaging station to 80,000 acres in any four year period. Therefore, the maximum development to the year 2020 above Murphy gaging station assuming no water supply constraint is 700,000 acres. Criteria placed on the reallocation of hydropower rights, limits on the rate of new development, plus the requirement that approval of new storage projects that divert water between November 1 and April 1 from the Snake River between Milner Dam and Murphy gaging station must mitigate the impact of diversions on hydropower generation (Policy 32I), will undoubtedly limit development to less than 700,000 acres.

Policy 32D - Hydropower

It is the policy of Idaho that hydropower use be recognized as a beneficial use of water, and that depletion of flows below the minimum average daily flows set forth in Policy 32 is not in the public interest.

The 1982 State Water Plan allocated 170,000 acre-feet for consumptive use in cooling thermal power plants. By establishing a minimum daily flow of 3300 cfs at Murphy and 4750 cfs at Weiser, stabilized flows were guaranteed for hydropower generation. The minimum daily flows for hydropower generation are now increased as stated in Policy 32. In addition, this policy specifically recognizes hydropower generation as a beneficial use of water and acknowledges the public interest in maintaining the minimum river flow at key points. Any water depletion for thermal power generation would now come from the block of water allocated to DCMI uses.

Policy 32E - Navigation

It is the policy of Idaho that water sufficient for commercial and recreational navigation is provided by the minimum flows established for the Snake River.

Commercial navigation enroute to Lewiston via the Columbia River and Lower Snake River can be accommodated with the flows leaving Idaho in the Snake River at Lewiston. Above Lewiston, commercial and recreational navigation should be accommodated within the protected flows on the Snake River and tributary streams.

Policy 32F - Aquaculture

It is the policy of Idaho that water necessary to process aquaculture products be included as a component of DCMI as provided in Policy 32B. The minimum flows established for the Murphy gaging station should provide an adequate water supply for aquaculture. It must be recognized that while existing water rights are protected, it may be necessary to construct different diversion facilities than presently exist.

Aquaculture can expand when and where water supplies are available and where such uses do not conflict with other beneficial uses. It is recognized, however, that future management and development of the Snake River Plain aquifer may reduce the present flow of springs tributary to the Snake River, necessitating changes in diversion facilities.

Policy 32G - Fish, Wildlife, and Recreation

It is the policy of Idaho that the minimum flows established under Policy 32 are sufficient and necessary to meet the minimum requirements for aquatic life, fish, and wildlife, and to provide water for recreation in the Snake River below Milner Dam. Streamflow depletion below the minimum flows is not in the public interest.

The policy reiterates the view that the minimum flows established in Policy 32 will protect fish, wildlife, aquatic life and recreation within the Snake River Basin at acceptable levels and that this is in the public interest. State law provides for the Water Resource Board to apply for a water right for unappropriated water for minimum flows necessary "for the protection of fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, transportation and navigation values, and water quality." The minimum stream flow legislation, where appropriate, can be used on the Snake River and tributary streams to enhance these values. Tributary streams in the Snake River Basin which the Board has identified as key river segments needing protection are identified in Policy 7.

Policy 32H - Water Quality and Pollution Control

It is the policy of Idaho that the use of water to provide pollution dilution is not a beneficial use of water.

Existing state and federal water quality programs should be sufficient to protect the current high water quality associated with streams within the basin. Any allocation of water for minimum streamflow is directed towards meeting fish, wildlife, and recreational needs, not to the dilution of pollution.

Policy 32I - New Surface Storage

It is the policy of Idaho that applications for large surface storage projects upstream from the Murphy gage be approved when it is determined that those projects are needed to meet new uses after consideration of then existing public interest criteria. Approval of new storage projects that would divert water from the mainstem of the Snake River between Milner and the Murphy Gaging station during the period November 1 to March 31 should be coupled with provisions that mitigate the impact such depletions would have on the generation of hydropower.

This policy addresses the approval of new surface storage in the basin but does not apply to already approved projects. A study of all existing social, legal and economic constraints on allocation and use of water in existing storage facilities will be made to determine whether new storage projects are needed. An attempt will be made to modify those constraints that are found to prevent reasonably full use of existing storage. Such study shall not delay applications for new storage projects. In addition, permits for these new projects may be issued during the study period, if they are found to be in the public interest. Public interest as used within this policy does not include the provisions of § 42-203 (c) Idaho Code.

"Large surface storage projects" are those which have the potential for significantly impacting existing uses. Projects for which approval is required under § 42-1737, Idaho Code, would be such projects. Smaller projects could also have significant impacts, but stock water ponds, and waste water re-pumping ponds would not be included, for example.

New storage projects that would divert water from the Snake River between the Milner and Murphy gaging stations during the November 1 to April 1 period are subject to the requirement that the impact such depletions have on hydropower generation is mitigated. Mitigate is defined as causing to become less harsh or hostile, and is used here rather than compensate which connotes equivalence. Methodology will be developed by the Water Resource Board for use in calculating impacts on hydropower generation.

Policy 32J - Stored Water For Management Purposes

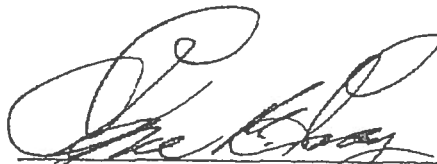
It is the policy of Idaho that reservoir storage be acquired in the name of the Idaho Water Resource Board to provide management flexibility in assuring the minimum flows designated for the Snake River.

The Department of Water Resources is expected to allocate the unappropriated waters and the power rights held in trust by the state in such a manner as to assure minimum flows at designated key points on the Snake River. The impacts of groundwater use within the basin on the timing of aquifer discharge to the river is such that at some time stored surface water may be necessary to maintain the designated minimum flows.

At this time there is unallocated reservoir storage within the basin which could be acquired by the state. These waters would provide flexibility for management decisions and provide assurance that the established minimum flows can be maintained.

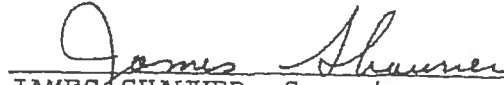
The state should act to acquire sufficient reservoir storage for this purpose. In the future no unallocated stored water will be available and it may be impossible to acquire sufficient water to satisfy river demands. Until such time as these waters are needed for management purposes, they shall be credited to the Water Supply Bank and funds obtained from their lease or sale shall accrue to the Water Management Account.

PASSED AND APPROVED this 1st of March, 1985.



GENE M. GRAY, Chairman

ATTEST:



JAMES SHAWVER, Secretary