

James C. Tucker, ISB No. 2038
IDAHO POWER COMPANY
1221 West Idaho Street
Boise, ID 83702-5627
Telephone: (208) 388-2112
Facsimile: (208) 433-2807
Attorneys for Idaho Power Company

RECEIVED
JAN 23 2013
DEPARTMENT OF
WATER RESOURCES

**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

Case No. 39576

)
) Subcase No. 01-2064 (American Fall Reservoir)
)
) **IDAHO POWER COMPANY'S MOTION TO**
) **ALTER OR AMEND SPECIAL MASTER**
) **REPORT AND RECOMMENDATION**
)

COMES NOW, Idaho Power Company ("Company"), by and through its counsel of record, and submits this motion to alter or amend the Special Master Report and Recommendation, entered in Subcase # 01-2064 (American Falls Reservoir) on January 9, 2013 (the "Recommendation").

The Recommendation references the September 25, 2012 *Stipulation* entered into by the parties, except for the City of Pocatello, to this Subcase, together with the concurrence of the Idaho Department of Water Resources (IDWR), and that the parties to that *Stipulation* agreed that "certain remarks and elements" were to be included in the partial decrees for the water rights subject to that *Stipulation*. The Recommendation further acknowledged that while the *Stipulation* resolved many of the issues associated with the water right elements and remarks for the referenced water rights that certain issues were excepted from the *Stipulation* and not resolved.

The Recommendation then recites that trial on all remaining "non-refill" issues, "including purpose of use, place of use and ownership of storage water in Palisades

Reservoir...was held on December 10, 2012”, and that at the beginning of the trial, the parties agreed to withdraw the objections filed in the referenced subcases, including Subcase # 01-2064. The Recommendation concludes that the USDI/BOR is entitled to partial decrees, and recommends partial decrees, in the referenced subcases, including Subcase # 01-2064. The Company files this motion to alter or amend to clarify that the issue of how the Company’s ownership interest in water right # 01-2064 should be referenced and preserved in the partial decree has not yet been resolved and was not litigated in the trial on December 10, 2012.

**THE COMPANY’S OWNERSHIP INTEREST IN WATER RIGHT # 01-2064
HAS NOT BEEN RESOLVED**

The September 25, 2012 *Stipulation* includes a remark on the issue of Ownership that the parties stipulated should be included in various partial decrees. That Ownership remark contains a footnote that provides, inter alia:

The Idaho Power Company has not yet resolved its objection concerning the precise wording of the Ownership remark for 1-2064 (American Falls Reservoir).¹

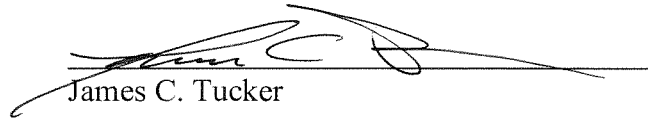
At the beginning of the trial on December 10, 2012, counsel for the United States, the Company and IDWR advised the Court that they had reached tentative agreement on language to be inserted in the Ownership remark for # 01-2064 that would resolve the Company’s objection to the ownership issue. Counsel for the parties further advised the Court that the proposed language was awaiting final approval by the United States and that upon approval the parties would submit the language to the Court for inclusion in the Ownership remark to be included in the partial decree for water right # 01-2064. Based upon that representation, the Court did not proceed to trial on the issue of the Company’s ownership in water right # 01-2064.

¹ September 25, 2012, *Stipulation*, In Re SRBA, Case No. 39576, Subcase Nos. 01-022064, 01-10042 (American Falls Reservoir), pg. 4, footnote 4.

CONCLUSION

Based on the foregoing, the Idaho Power Company requests that this Court amend the Recommendation to reflect that the Ownership issue as it pertains to the Company's interests in Water Right # 01-2064 has not yet been resolved and that the partial decree for # 01-2064 may be subsequently amended, as necessary, to reflect the resolution of that issue. Counsel for the United States (David Gehlert) and IDWR (Chris Bromley) have advised the Company that they concur with this filing.

DATED this 22nd day of January, 2013.


James C. Tucker

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of January, 2013, I served a true and correct copy of the foregoing document, **IDAHO POWER COMPANY'S MOTION TO ALTER OR AMEND SPECIAL MASTER'S REPORT AND RECOMMENDATION**, upon the following persons via United States mail with sufficient first-class postage prepaid to the following:

IDWR Document Depository
PO Box 83720
Boise, Idaho 83720-0098

UNITED STATES OF AMERICA/U.S. BUREAU OF RECLAMATION
United States Dept. of Justice
Environmental & Nat'l Resources Division
550 West Fort Street, MSC 033
Boise, Idaho 83724

ABERDEEN-AMERICAN FALLS GROUND WATER DISTRICT,
BINGHAM GROUND WATER DISTRICT, JEFFERSON-CLARK
GROUND WATER DISTRICT, MADISON GROUND WATER DISTRICT,
MAGIC VALLEY GROUND WATER DISTRICT and NORTH SNAKE
GROUND WATER DISTRICT, ABERDEEN SPRINGFIELD CANAL CO.
Randall C. Budge
Candice M. McHugh
Racine Olson Nye Budge & Bailey Chtd.
201 East Center Street
Pocatello, Idaho 83201

STATE OF IDAHO
Clive J. Strong
Michael C. Orr
Natural Resources Division
Office of the Attorney General
P.O. Box 44449
Boise, Idaho 83711-4449

MINIDOKA IRRIGATION DISTRICT
W. Kent Fletcher
Fletcher Law Office
P.O. Box 248
Burley, Idaho 83318-0248

AMERICAN FALLS RESERVOIR DISTRICT NO. 2

C. Thomas Arkoosh
Arkoosh Eiguren LLC
P. O. Box 2900
Boise, Idaho 83701

FREMONT MADISON IRRIGATION DISTRICT

AMERICAN FALLS SPACEHOLDERS

BLACKFOOT IRRIGATION CO

UNITED CANAL CO

Jerry R. Rigby
PO Box 250
Rexburg, Idaho 83440-0250

PIONEER IRRIGATION DISTRICT

Scott L. Campbell
Andy Waldera
Moffatt, Thomas, Barrett, Rock & Fields, Chartered
P.O. Box 829
Boise, Idaho 83701-0829

CITY OF POCA TELLO

Josephine P. Beeman
Beeman & Associates, P.C.
409 W. Jefferson St.
Boise, Idaho 83702

A&B IRRIGATION DISTRICT, BURLEY IRRIGATION DISTRICT,
MILNER IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY,
TWIN FALLS CANAL COMPANY

Travis L. Thompson
Barker, Rosholt & Simpson
113 Main Avenue West, Suite 303
Twin Falls, Idaho 83301

BLACK CANYON IRRIGATION DISTRICT

NEW YORK IRRIGATION DISTRICT

Charles McDevitt
P.O. Box 2564
Boise, Idaho 83701-2564

BOISE PROJECT BOARD OF CONTROL

Shelley M. Davis
1010 W. Jefferson St Ste 102
P.O. Box 2139
Boise, Idaho 83701-2139

AMERICAN FALLS RESERVOIR

Craig D. Hobdey
Hobdey Law Office, PLLC
P.O. Box 176
Gooding, Idaho 83330

A&B IRRIGATION DISTRICT

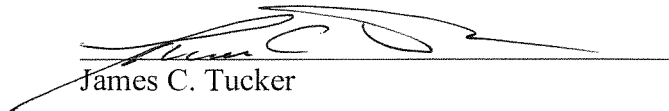
John K. Simpson
Barker Rosholt & Simpson LLP
1010 W. Jefferson St., Suite 102
Boise, Idaho 83702

A&B IRRIGATION DISTRICT

Paul L. Arrington
195 River Vista Pl., Suite 204
Twin Falls, Idaho 83301

A&B IRRIGATION DISTRICT
BURLEY IRRIGATION DISTRICT
FALLS IRRIGATION DISTRICT

Roger D. Ling
P.O. Box 623
Rupert, Idaho 83350



James C. Tucker