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ORDER APPROVING SETTLEMENT, AND
FINDINGS, CONCLUSIONS AND JUDGMENT - 1

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1 The Joint Motion and Stipulation and its exhibits are
2 adopted as the Findings of Fact and Conclusions of Law of the Court.
3 A copy of the Joint Motion and Stipulation is attached hereto.

4 2. All claims that the plaintiffs, The Washington Water Power
5 Company and the State Defendants have or may have against each other
6 in this matter are dismissed with prejudice.

7 3. The Settlement Agreement, Release, Easement, and Rights
8 between the State of Idaho, Templins and WWP (hereafter "Settlement
9 Agreement") attached to the Joint Motion and Stipulation is hereby
10 approved.

11 4. The Court concludes that title should be and therefore is
12 quieted in Templin's Resort and Conference Center, Inc. as against The
13 Washington Water Power Company and the State Defendants to ~~as much of~~
14 the land described in Exhibit No. 2 attached to the Joint Motion and
15 Stipulation. The State of Idaho shall not impose a charge or fee for
16 occupying or using the submerged land described in said Exhibit No. 2.

17 5. The Court concludes that title should be and therefore is
18 quieted in Robert Templin and Mary Templin, husband and wife, as
19 against The Washington Water Power Company and the State Defendants
20 to the lands described in Exhibit No. 3 to the Joint Motion and
21 Stipulation. The State of Idaho shall not impose a charge or fee for
22 occupying or using the submerged land described in said Exhibit No. 3.

23 6. The Court concludes that title should be and therefore is
24 quieted in the State of Idaho to the property not quieted to the
25 Templins in paragraphs 4 and 5 above and which property constitutes
26 the bed and shore lying below the natural ordinary high water mark in
27 the property described within the patent issued by the United States
28 to Frederick Post dated July 5, 1894 which is recorded in the records
29 of the Kootenai County Recorder in Book 2 of Deeds at pages 623-627

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37 ORDER APPROVING SETTLEMENT, AND
FINDINGS, CONCLUSIONS AND JUDGMENT - 2

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(hereinafter the "Post Patent"), and which may be recorded in Volume 20 at pages 433-436 of the records of the recorder for the U.S. General Land Office for Coeur d'Alene, Idaho.

7. The Court concludes that title to an easement should be and therefore is quieted in The Washington Water Power Company as against Tomplin's Resort and Conference Center, Inc. and Robert Templin and Mary Templin, husband and wife, over the lands described in the Exhibit No. 2 and Exhibit No. 3 attached to the Joint Motion and Stipulation that may be affected by operating the Post Falls Development owned by WWP so as to control the water surface elevation of Lake Coeur d'Alene at and below an elevation of 2,128 feet above mean sea level (msl) as measured by reference to the elevations of the United States Geological Survey (USGS) water gage for Lake Coeur d'Alene: USGS Coeur d'Alene Lake water gage elevation minus 3.05 feet equal current datum of the National Oceanic and Atmospheric Administration (NOAA) of the U.S. Department of Commerce. NOAA was formerly the U.S. Coast and Geodetic Survey. Such easement shall be valid during construction, reconstruction, maintenance and operation of the Post Falls Development and the production of electrical energy and power from flowing and stored waters when WWP regulates and maintains and controls the water surface elevation of the Spokane River and Coeur d'Alene Lake at and below elevation 2,128 feet above msl.

8. The Court concludes that a perpetual easement should be and therefore is quieted in The Washington Water Power Company as against the State Defendants and the plaintiffs to that part of the bed and shore of the Spokane River lying below the natural or ordinary high water mark within the area described in the Post Patent lying west of the Line of Navigation (described as the west boundary of the east

ORDER APPROVING SETTLEMENT, AND
FINDINGS, CONCLUSIONS AND JUDGMENT - 3

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half of the east half of the southwest quarter of Section 3,
Township 30 north, range 3 west Boise meridian; in Kootenai County),
together with water rights and other rights appurtenant thereto for
the purpose of constructing, reconstructing, operating and maintaining
the Post Falls Development (including, without limit, dams,
powerhouse, turbines and generators, all electrical facilities,
reservoir on the Spokane River and waters tributary thereto, which
reservoir results from holding the elevation of Lake Coeur d'Alene at
and below 1,128 feet above mean sea level as measured by the Lake
Coeur d'Alene USGS water gage; and all other equipment and facilities
used in connection with the Post Falls Development) in accordance with
the laws of the United States and the State of Idaho. WWP may, but
shall have no duty as a condition of this easement, regulate or
restrict public access to the bed of the Spokane River in the area
described in the Post Patent lying west of the Line of Navigation as
may be needed to protect the public health, safety and welfare. The
State of Idaho has not and shall not impose any charge or fee with
respect to WWP's construction, reconstruction, operation or
maintenance of WWP's Post Falls Development as described in the
Settlement Agreement and as described in the application to the
Federal Energy Regulatory Commission to amend the license for
Project No. 2343 to include the Post Falls Development and as
described in FERC Order for Project No. 2343 (see 16 FERC,
par. 62098). The application to amend the license included exhibits
which were submitted to and/or approved by the FERC.

ORDER APPROVING SETTLEMENT, AND
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3. The plaintiffs, The Washington Water Power Company, and the State defendants shall not recover either costs or attorneys' fees from one another.

DATED this 10th day of March, 1989.

Richard D. Magnuson
RICHARD D. MAGNUSON
DISTRICT JUDGE

STATE OF IDAHO } ss
County of Kootenai
I, Shirley A. Davis, Clerk of the District Court of the First Judicial District of the State of Idaho, in and for the County of Kootenai, do hereby certify that the foregoing instrument is a true and correct copy of the original thereof as the same is on file in this office. Witness my hand and seal of said Court on the 10th day of March, 1989.
SHIRLEY A. DAVIS, CLERK OF THE DISTRICT COURT
By *Shirley A. Davis*

ORDER APPROVING SETTLEMENT, AND FINDINGS, CONCLUSIONS AND JUDGMENT - 3

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Attorneys for Power

IN

TEMPLIN'S CENTER, IN and MARY T

v.

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Attorneys for The Washington Water
Power Company

IN THE FIRST JUDICIAL DISTRICT OF THE STATE OF IDAHO
IN AND FOR THE COUNTY OF KOOTENAI

TEMPLIN'S RESORT AND CONFERENCE,
CENTER, INC.; and ROBERT TEMPLIN
and MARY TEMPLIN, husband and wife,

Plaintiffs,

v.

LOUISIANA-PACIFIC CORPORATION;
WASHINGTON WATER POWER COMPANY;
STANLEY P. HAMILTON; LANCE E.
NIELSEN; THE DEPARTMENT OF LANDS
OF THE STATE OF IDAHO; THE BOARD
OF LAND COMMISSIONERS OF THE STATE
OF IDAHO; and THE STATE OF IDAHO,

Defendants.

No. 66937

JOINT MOTION AND
STIPULATION FOR
APPROVAL OF SETTLEMENT
AND JUDGMENT TO
QUIET TITLE

COMES NOW the plaintiffs (sometimes collectively referred to as
the "Templins"), through their attorney, Raymond C. Givens, The
Washington Water Power Company ("WWP"), through its attorneys,
Patrick E. Miller and Jerry K. Boyd, and State Defendants (Stanley P.
Hamilton, Lance E. Nielsen, the Department of Lands of the State of
Idaho, the Board of Land Commissioners of the State of Idaho, and the
State of Idaho), through their attorney, Patrick Kola, Deputy Attorney

JOINT MOTION AND STIPULATION - 1

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General, and jointly move this Court for its Order Approving Settlement and Judgment of Dismissal and Quieting Title. These parties make the following stipulation and representations:

STIPULATION

1. The Settlement Agreement, Release, Easement, and Rights between the State of Idaho, Tomplin and WWP (hereafter "Settlement Agreement") attached as Exhibit No. 1 is by this reference made a part hereof as though set out in full.

2. These parties certify that they have agreed to said Settlement Agreement as set forth in Exhibit No. 1 attached hereto.

3. These parties represent to the Court that said Settlement Agreement is a fair resolution of the dispute between the parties and is in the public interest and request that the Court approve said Settlement Agreement;

4. Attached hereto and made a part hereof as though set out in full is Exhibit No. 2, which is a more specific description of the lands to be quieted in Tomplin Resort and Conference Center, Inc. The lands described in the attached Exhibit No. 2 correspond with and are consistent with the lands described in Tract 1 in Exhibit A to the Settlement Agreement which is attached as Exhibit No. 1 hereto. The waterward boundary shown in Exhibit No. 2 corresponds with elevation 2124.0 feet above sea on the USGS Coeur d'Alene Lake water gage.

5. Attached hereto and made a part hereof as though set out in full is Exhibit No. 3, which is a more specific description of lands to be quieted in Robert Tomplin and Mary Tomplin, husband and wife. The lands described in attached Exhibit No. 3 correspond with and are consistent with the lands described as Tract 2 and the "Tomplin Home" in Exhibit A to the Settlement Agreement. The waterward boundary shown in Exhibit No. 3 corresponds with elevation 2124.0 feet above sea on the USGS Coeur d'Alene Lake water gage.

JOINT MOTION AND STIPULATION - 2

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6. These parties move the Court for its order, judgment and decree quieting title in Templin Resort and Conference Center, Inc. to that property described in the attached Exhibit No. 2. The State of Idaho shall not impose any charge or fee for occupying and using the submerged land described in attached Exhibit No. 2.

7. These parties move the Court for its order, judgment and decree quieting title in Robert Templin and Mary Templin, husband and wife, and to that property described in Exhibit No. 3 attached hereto. The State of Idaho shall not impose any charge or fee for occupying or using the submerged land described in attached Exhibit No. 3.

8. These parties move the Court for its order, judgment and decree quieting title in the State of Idaho to the land or property not quieted in the Templins under paragraphs 6 and 7 above constituting the bed and shore of the Spokane River lying below the natural or ordinary high water mark of the Spokane River within the property described in the patent issued by the United States to Frederick Post dated September 5, 1894, which patent may be recorded in the records of the recorder for U.S. General Land Office for Coeur d'Alene, Idaho in Volume 20 at pages 433-436 and which patent is recorded in the records of the Kootenai County Recorder at Book L of Deeds at pages 623-627 (hereafter referred to as the "Post Patent").

9. These parties move the Court for its order, judgment and decree quieting title in The Washington Water Power Company to a perpetual easement for The Washington Water Power Company and its successors and assigns to use and occupy the lands described in attached Exhibit No. 1 and Exhibit No. 1 for the purpose of producing electric energy from flowing and stored waters and regulating and maintaining and controlling the water surface elevation of the Spokane River so as to regulate, maintain and control the water surface elevation of Coeur d'Alene Lake at and below an elevation of

JOINT MOTION AND STIPULATION - 3

PAINE, HANBLEY, COPPIN, BROOKS & MILLER
ATTORNEYS AT LAW
SPOKANE, WASHINGTON 99201 Phone 325-0100

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2,128 feet above mean sea level as measured by the USGS water gage at Lake Coeur d'Alene.

10. The parties hereto move the Court for its order, Judgment and Decree to quiet title in The Washington Water Power Company to a perpetual easement and right to occupy and use the lands in the area described in the Post Patent lying west of the Line of Navigability (described as the west boundary of the east half of the east half of the southwest quarter of Section 3 in township 30 North, Range 5 West, Boise Meridian, in Kootenai County, Idaho), lying below the natural or ordinary high water mark under natural conditions together with the water rights and other rights appurtenant thereto for the purpose of constructing, reconstructing, operating and maintaining the Post Falls Development (including, without limit, dams, powerhouses, turbines and generators, all electrical facilities, reservoir on the Spokane River and waters tributary thereto, which reservoir results from holding the elevation of Lake Coeur d'Alene at and below 2,128 feet above mean sea level as measured by the Lake Coeur d'Alene USGS water gage, and all other equipment and facilities used in connection with the Post Falls Development) in accordance with the laws of the United States and the State of Idaho. As a condition of said easement, WWP may, but shall have no duty as a condition of said easement, regulate or restrict public access to the bed of the Spokane River in the area described in the Post Patent lying west of the Line of Navigation as may be needed to protect the public health, safety and welfare.

11. These parties move the Court for its Order, Judgment and Decree approving the Settlement Agreement entered into by these parties and attached as Exhibit 1 and to adopt such Settlement Agreement as Findings of Fact and Conclusions of Law.

12. These parties move the Court for its Order, Judgment and Decree dismissing the above-entitled action with prejudice to all

JOINT MOTION AND STIPULATION - 4

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Spokane, Idaho
Attorneys for the Plaintiff

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The Washington Water Power Company
Spokane, Washington
Attorneys for the Defendant

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parties and awarding no costs and no attorneys fees to any party, with each party bearing their own costs and attorneys fees.

DATED: January 5, 1989

PAINE, HANBLEY, COFFIN, BROOKS
& MILLER

By: Jerly M. Boyd

By: Patrick E. Miller

Patrick E. Miller
Attorneys for The Washington Water
Power Company

RAYMOND C. GIVENS

DATED: January 13, 1989

Raymond C. Givens
Raymond C. Givens
Attorney for Robert Templin and Mary
Templin, husband and wife, and
Templin's Resort and Conference
Center, Inc.

JIM JONES, Attorney General
PATRICK KOLE, deputy Attorney General

DATED: February 22, 1989

Patrick Kole
Patrick Kole
Attorneys for the State of Idaho; the
Board of Land Commissioners of the
State of Idaho; the Department of
Lands of the State of Idaho;
Stanley P. Hamilton; and Lance E.
Nielsen

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JOINT MOTION AND STIPULATION - 1

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