

ATTACHMENT B

7. Total quantity claimed

1. Avista's Storage Upon Submerged Land Within the Coeur d'Alene Indian Reservation

In 2001, the United States Supreme Court ruled that the lands underlying Coeur d'Alene Lake and its tributaries within the current boundaries of the Coeur d'Alene Indian Reservation ("Reservation") are owned by the United States as Trustee for the Coeur d'Alene Tribe ("Tribe") (See, Idaho v. United States, et al., 533 U.S. 262 (2001)). As a result of that decision, Avista Corporation ("Avista") entered into negotiations with the Tribe for, among other things, permission to store water on the submerged lands within the Reservation for electrical power generation purposes. Settlement was reached on December 16, 2008 and a Master Settlement Agreement was signed (See, **Exhibit B-1**). As part of that Agreement, the Tribe issued Avista a **Water Storage/Use Permit** (See, **Exhibit C-8**). On December 18, 2008, the United States District Court for the District of Idaho incorporated the Master Settlement Agreement, **Water Storage/Use Permit** and other agreements into a Judgment (See, **Exhibit C-9**).

2. Avista's Water Rights Acquired Under State and Federal Law

Given the 2001 Supreme Court decision, and the **Water Storage/Use Permit** obtained from the Tribe, Avista will also file a **Notice of Claim to a Water Right Acquired Under Federal Law** for its storage of water upon the submerged lands within the Reservation.

3. Geographic Scope of Avista's Water Rights Claim Acquired Under State Law

This **Notice of Claim to a Water Right Acquired Under State Law** by Avista pertains to its acquired water right to store water in a reservoir composed of St. Joe, St. Maries, Coeur d'Alene and Spokane Rivers, and Coeur d'Alene Lake and all connected and tributary waters over which a water right under State law can be acquired ("Reservoir").

If the Court determines that State water law applies to that portion of Coeur d'Alene Lake and its tributaries within the current boundaries of the Reservation, this **Notice of Claim to a Water Right Acquired Under State Law** also covers the storage of water within the Reservation.

4. Total Quantity Claimed

The stated quantity of water claimed for storage under this **Notice of Claim to a Water Right Acquired Under State Law** is 60,600 acre feet ("af") or, if larger, that volume calculated to be the difference between storage in the Reservoir at Coeur d'Alene Lake elevation of 2126.5 feet and 2128.0 feet above mean sea level as measured by the USGS gage at Coeur d'Alene, Idaho. The acre feet listed above, and throughout this **Notice of**

Claim to a Water Right Acquired Under State Law, includes the volume of water Avista stores upon the submerged lands of the Reservation and for which it has a **Water Storage/Use Permit** from the Tribe. If the Court determines that Federal law and not State water law applies to the water Avista stores upon the submerged lands of the Reservation, the quantity of water claimed for storage pursuant to this **Notice of Claim to a Water Right Acquired Under State Law** is that volume calculated to be in the area Avista uses for storage, outside of the Reservation, when Coeur d'Alene Lake is at an elevation of 2128.0 feet above mean sea level as measured by the USGS gage at Coeur d'Alene Idaho instead of elevation 2126.5 feet.