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9
10 Attorney for Objector, Idaho Power Company
11

12 IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
13 STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

14 In Re the General Adjudication of)
15 Rights to the Use of Water from the)
16 Snake River Basin Water System)

STANDARD FORM 5
AMENDED MAY 14, 1995

SUBCASE NO. 57-07148

STIPULATED ELEMENTS OF A
WATER RIGHT

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The State of Idaho, ex rel. R. Keith
Higginson in his official capacity as
Director of the Idaho Department of
Water Resources,

Petitioner,

vs.

The United States; the State of Idaho;
and all Claimants to the Use of Water
from the Snake River Basin Water
System,

Respondents.

1 **THIS FORM MAY ONLY BE USED IF ALL PARTIES HAVE STIPULATED TO ALL**
2 **ELEMENTS OF ONE WATERRIGHT AND MAY BE SUBMITTED AT ANY TIME**
3 **FOLLOWING THE CLOSE OF THE STATUTORY RESPONSE PERIOD.**

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

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

13 **Instructions For Use**

14 A copy of this water right as recommended in the director's report shall be submitted
15 with this form. A statement shall accompany each element of a water right.

16 Elements where there has been no objection should be listed exactly as they appear in
17 the director's report. The statement as to an uncontested element shall state "as
18 recommended in the director's report."

19 Contested elements that are the result of an objection filed with the court shall be
20 accompanied by a statement fully describing all facts, documents, expert opinions and law
21 which support the element of the water right (attach additional pages if necessary).

22 **ELEMENTS**

23 1. The name and address of the claimant is:

24 **STATE OF IDAHO**
25 **DEPARTMENT OF TRANSPORTATION**
26 **DIVISION OF HIGHWAYS**
27 **P. O. BOX 7129**
28 **BOISE, ID 83720**

Required Statement:

AS RECOMMENDED IN THE DIRECTOR'S REPORT.

2. The source of water is:

GROUNDWATER

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Required Statement:

AS RECOMMENDED IN THE DIRECTOR'S REPORT.

3. The quantity of water used is:

0.11 C/F/S

Required Statement:

AS RECOMMENDED IN THE DIRECTOR'S REPORT.

4. The priority date is:

08-04-1976

Required Statement:

AS RECOMMENDED IN THE DIRECTOR'S REPORT.]

5. The legal description of the **point(s) of diversion** is; if the claim is for an instream flow, then a legal description of the beginning and ending points of the claimed instream flow:

T.03N R.04W S.34 LOT 05 (SESW)

Required Statement:

AS RECOMMENDED IN THE DIRECTOR'S REPORT.

6. The purpose of use is:

IRRIGATION

Required Statement:

AS RECOMMENDED IN THE DIRECTOR'S REPORT.

7. The period of year when the water is to be used:

3/15-11/15

Required Statement:

AS RECOMMENDED IN THE DIRECTOR'S REPORT.

1 8. The legal description of the **place of use** or of the reservation is:

2 **T.03N R.04W S.34 LOT 5 (SESW) 0.2 ACRES TOTAL**

3 Required Statement:

4 **AS RECOMMENDED IN THE DIRECTOR'S REPORT.**

5 9. The **annual volume of consumptive use** is:

6 **0.7 AFY**

7 Required Statement:

8 **AS RECOMMENDED IN THE DIRECTOR'S REPORT.**

9 10. Other matters necessary to define this water right:

10 **N/A**

11 These matters are necessary because:

12 **N/A**

13 These matters do not fall within the nine elements listed above because:

14 **N/A**

15 **Review by IDWR**

16 To speed up entry of a decree, the parties are encouraged to talk to the Idaho
17 Department of Water Resources about their proposed settlement and have IDWR
18 indicate its concurrence by signing the Standard Form 5.

19 Where all parties have signed, a Standard Form 5 may be filed with the court without the
20 concurrence of IDWR. However, the parties must certify that they have served IDWR
21 with a copy of Standard Form 5 and that they have made a good faith attempt to resolve
22 the matter with IDWR.

23 Within 14 days of filing a Standard Form 5 not containing an IDWR concurrence, IDWR
24 shall file a statement of its position with the court.

25 If IDWR has not concurred by signing below, signing parties certify that they have served
26 a copy of this document on the Idaho Department of Water Resources and have made
27 a good faith attempt to obtain IDWR's concurrence, but have failed.

Signature and Address of Parties and their Attorney of Record (attach additional page if necessary)

I have read this form and know its contents and that the statements are true to the best of my knowledge and belief.

Name: **State of Idaho**
Dept. of Transportation
Address: **Division of Highways**
P.O. Box 7129
City/State/Zip: **Boise, Idaho 83720**

Name: **Idaho Power Company**
Address: **P. O. Box 70**
City/State/Zip: **Boise, Idaho 83702**

Attorney of Record:

Attorney of Record: **James C. Tucker**

Party's Signature

Date

Party's Signature

Date

Mary V. York 7-23-96
Attorney's Signature Date

James C. Tucker 8/3/96
Attorney's Signature Date

IDWR Concurrence:

Charles L. Honsinger 08/02/96
Signature Date

INSTRUCTIONS FOR MAILING

You must mail the form, including all attachments, to the Clerk of the SRBA Court and to the parties identified in the Certificate of Mailing. FAX filings will not be accepted by the SRBA Clerk of the Court.

You must sign the Certificate of Mailing to show that you followed these steps.

CERTIFICATE OF MAILING

I hereby certify that on the 9th day of August, 1996,
I mailed the original and copies of this form, including all attachments, to the following
persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

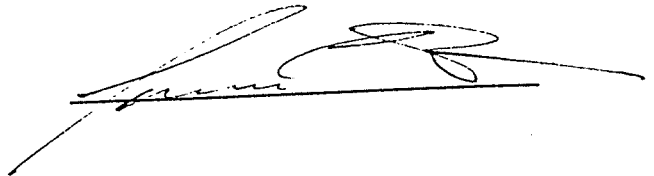
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

2. Copy to:

Idaho Department of Water Resources
Adjudication Bureau
P O Box 83720
Boise, ID 83720-0098

3. Copy to :

State of Idaho
Department of Transportation
Division of Highways
P. O. Box 7129
Boise, Idaho 83720



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12 Rights to the Use of Water from the)
13 Snake River Basin Water System)
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SUBCASE NO. 57-07148

STIPULATION

18 The State of Idaho, ex rel. R. Keith)
19 Higginson in his official capacity as)
20 Director of the Idaho Department of)
21 Water Resources,)

22 Petitioner,)

23 vs.)

24 The United States; the State of Idaho;)
25 and all Claimants to the Use of Water)
26 from the Snake River Basin Water)
27 System,)

28 Respondents.)

STIPULATION-1

1 COME NOW, Idaho Power Company, State of Idaho Department of
2 Transportation, and the Idaho Department of Water Resources, and stipulate and agree
3 as follows:

4 1. The parties have executed a Standard Form 5 (Exhibit "A") in the above-
5 referenced subcase, stipulating to the elements of the water right as set forth therein.

6 2. Idaho Power Company filed objections to General Provision 4, as it relates to the
7 subject water right. By *Memorandum Decision and Order Re: Basin-Wide Issue No. 5*, No.
8 91-00005, dated April 26, 1996 (*B-W #5 Order*), the SRBA Court ordered that the
9 aforesaid General Provisions "*shall not be decreed in the SRBA*", and struck the general
10 provisions from the Directors Reports, *B-W #5 Order*, pg. 25.

11 3. On June 14, 1996, the State of Idaho, together with other interested parties to the
12 SRBA, filed petitions with the Supreme Court of the State of Idaho seeking permission
13 to appeal, pursuant to I.A.R. 12, the *B-W #5 Order*. As of the date of the execution of
14 this Stipulation, the Supreme Court has not acted on the petitions.

15 4. The parties have no objection to this Subcase proceeding, subject to the condition
16 that should the Supreme Court grant the State and others the right to file a permissive
17 appeal of the *B-W #5 Order*, and subsequently reverse the ruling of the SRBA Court with
18 regard to the General Provisions that are the subject of Idaho Power Company's
19 objection, that the Court will re-instate the objection and allow the same to be litigated
20 either in the context of this Subcase or as a basin-wide issue, as determined by the Court.

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26 DATED this ____ day of _____, 1996.