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Department of Water Resources
Eastern Region

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Attorneys for Snake River Valley Irrigation District

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR
PERMIT NO. 01-10626 IN THE NAME OF
SNAKE RIVER VALLEY IRRIGATION
DISTRICT

**STIPULATION FOR
WITHDRAWAL OF PROTESTS**

THIS STIPULATION FOR WITHDRAWAL OF PROTESTS (this "Stipulation") is made and entered into as of the 12th day of JUNE, 2014, by and between the **Snake River Valley Irrigation District** (hereinafter, "SRVID"), and the Idaho Power Company (hereinafter, "IPCO"). Peoples and IPCO may hereinafter collectively be referred to as the "Parties."

RECITALS:

- A. Application for Permit No. 01-10626 (hereinafter, simply "01-10626") seeks a water right from the Idaho Department of Water Resources ("IDWR") for 585 cfs with a

priority date of June 19, 2013 for ground water recharge purposes primarily in Bingham County, Idaho.

- B. On September 24, 2012, after 01-10626 was advertised pursuant to Idaho law, it was protested on various grounds by the Surface Water Coalition (hereinafter, the “SWC”), the United States Department of the Interior, Bureau of Land Management (hereinafter, “BLM”), the Idaho Department of Fish and Game (hereinafter, “IDFG”), and IPCO.
- C. SRVID desires to conduct managed ground water recharge both within the SRVID Canal and at off-canal sites with recharge water delivered through the Peoples Canal. In both instances, it is proposed that the ground water recharge will be measured and monitored on a continuous basis. A map of the proposed recharge place of use primarily within the SRVID Canal is attached hereto as **Exhibit 1**.
- D. Idaho Code § 42-234 vests IDWR with the authority to grant permits and licenses for ground water recharge subject to later control from the director:
 - (4) The director of the department of water resources may regulate the amount of water which may be diverted for recharge purposes and may reduce such amount, even though there is sufficient water to supply the entire amount originally authorized by permit or license. To facilitate necessary financing of an aquifer recharge project, the director may fix a term of years in the permit or license during which the amount of water authorized to be diverted shall not be reduced by the director under the provisions of this subsection.
 - (5) To ensure that other water rights are not injured by the operations of an aquifer recharge project, the director of the department of water resources shall have the authority to approve, disapprove or require alterations in the methods employed to achieve ground water recharge. In the event that the director determines that the methods of operation are adversely affecting existing water rights or are creating conditions adverse to the beneficial use of water under existing water rights, the director shall order the cessation of operations until such alterations as may be ordered by the director have been accomplished or such adverse effects otherwise have been corrected.

Idaho Code § 42-234(4)-(5).

- E. Idaho Code § 42-1737(a) requires the approval of ground water recharge projects by the Idaho Water Resource Board for project proposals that seek “the diversion of natural flow water appropriated pursuant to section 42-234, Idaho Code, for a managed recharge project in excess of ten thousand (10,000) acre-feet on an average annual basis . . .”
- F. In lieu of participating in administrative hearings concerning 01-10625, as provided for

under Idaho law, the Parties hereby agree as set forth below, the result of which is withdrawal of the Protestants' protests and issuance of a permit for development of 01-10625.

AGREEMENTS:

1. **Conditions To Be Included On Permit for 01-10626.** IDWR shall include the following conditions, in addition to any others that may be included by IDWR or otherwise agreed to with the other protestants (provided they do not conflict with the following conditions) in the final order issuing Permit No. 01-10626:
 - a. "This right is subject to all applicable provisions of Idaho Code § 42-234."
 - b. "The diversion of water under this right shall not exceed ten thousand (10,000) acre-feet on an average annual basis."
2. **Issuance of Proposed Order and Subsequent Withdrawal of Protests.** The Parties shall instruct IDWR to issue a proposed order including the conditions set forth in Paragraph 1 as set forth herein. The Parties shall have fourteen (14) days thereafter to object to the language in the proposed order by filing notice of such objection with IDWR if the conditions set forth in Paragraph 1 are not included. If no objections are received within the fourteen (14) day time period, the protests of IPCO shall be deemed withdrawn, and IDWR shall thereafter issue a final order approving 01-10626 consistent with this Agreement. Peoples may submit a copy of this executed Stipulation to IDWR and notify IDWR of this procedure and withdrawal of protests. If IDWR does not include the conditions agreed to in Paragraph 1, this stipulation shall be deemed null and void and the Parties will retain their respective rights in this contested case, unless the Parties otherwise agree to IDWR's conditions.
3. **Reservation of Rights.** The Parties agree and acknowledge that this Stipulation only resolves the protests to 01-10626, and that the Protestants reserve all rights to protest other applications for ground water recharge permits, transfers, and any other proceedings that may be initiated in the future. The Parties shall not use this Stipulation in any other administrative or judicial proceedings for any purpose, other than an action to enforce its terms as provided in paragraph 7 below.
4. **Reliance Upon Statements/Integration and Merger.** The Parties hereto specifically acknowledge that they were represented by counsel in this matter, and agree that other than as is set forth herein, they have executed this Stipulation without relying upon any statements or representations written or oral, as to any statement of law or fact made by any other party or attorney. The Parties to this Stipulation have read and understand the Stipulation, and warrant and represent that this Agreement is executed voluntarily and without duress or undue influence on the part of or on behalf of any party. This Agreement represents the sole entire and integrated Stipulation by and between the parties hereto, and supersedes any and all prior understandings or agreements whether

written or oral except as specifically provided herein.

5. **Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of each Parties' officers, directors, shareholders, heirs, successors and assigns, and shall be specifically enforceable.
6. **Waiver and Modification.** No provision of this Agreement may be waived, modified, or amended except by written agreement executed by all of the Parties hereto.
7. **Enforcement and Interpretation.** This Stipulation is a valid and binding obligation of the parties, and their successors or assigns. It shall be admissible and enforceable according to its terms, and venue in any subsequent action shall rest within the State of Idaho. This Stipulation is subject to interpretation in accordance with the laws of the State of Idaho.
8. **Counterparts.** This Stipulation may be executed in counterparts, each of which is deemed an original but all of which constitute one and the same instrument. The signature pages may be detached from each counterpart and combined into one instrument.

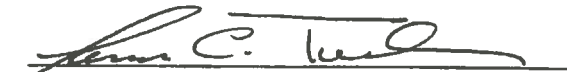
SNAKE RIVER VALLEY IRRIGATION DISTRICT



By: Jerry R. Rigby, of the firm Rigby, Andrus &
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Attorneys for Snake River Valley Irrigation District

IDAHO POWER COMPANY



By: James C. Tucker

EXHIBIT 1

Proposed Place of Use

