

LAWRENCE G. WASDEN
Attorney General
CLIVE J. STRONG
Deputy Attorney General
CHIEF, NATURAL RESOURCES DIVISION

PHILLIP J. RASSIER (ISB#1760)
JOHN W. HOMAN (ISB#3927)
Deputy Attorneys General
P.O. Box 83720
Boise, Idaho 83720-0098
Telephone: (208) 287-4800
Facsimile: (208) 287-6700

Attorneys for Respondent

KEVIN J. BEATON (ISB#3080)
STOEL RIEVS LLP
101 S Capitol Boulevard, Suite 1900
Boise, ID 83702
Telephone: (208) 389-9000
Facsimile: (208) 389-9040

Attorney for Petitioner

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

RATHDRUM POWER LLC,

Petitioner,

vs.

**THE DEPARTMENT OF WATER
RESOURCES, an Executive Department of
the State Government of the State of Idaho,**

Respondent.

Case No.: CV 08-2845

**STIPULATED AGREEMENT
FOR REMAND**

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED } SS

2008 MAY -9 PM 2:18 ^{2:18 PM}

CLERK DISTRICT COURT

DEPUTY

This Stipulation is entered into by and between Petitioner, Rathdrum Power LLC (Rathdrum), and Respondent, Idaho Department of Water Resources (IDWR).

A. Rathdrum filed this action on April 9, 2008, requesting judicial review pursuant to I.C. § 67-5270 of the final order of IDWR approving Water Right License No. 95-8924 in the name of Rathdrum Power LLC.

B. IDWR issued a preliminary order approving Water Right License No. 95-8924, which became final on March 12, 2008 without a hearing being conducted before IDWR.

C. Rathdrum is aggrieved by certain conditions of approval contained in the approval of Water Right License No. 95-8924.

D. The parties desire to enter into the following agreement providing for the matter to be remanded to IDWR for the purpose of considering the objections raised by Rathdrum to certain conditions of approval contained in Water Right License No. 95-8924.

IN CONSIDERATION OF THE PROMISES STATE, THE PARTIES AGREE AS FOLLOWS:

1. The proceeding on appeal to the District Court shall be remanded to IDWR for consideration of the issues raised by Rathdrum in the Petition for Judicial Review, including if requested the conduct of a formal hearing before IDWR.

2. Following consideration of the matter on remand, IDWR shall enter a preliminary order addressing the issues raised by Rathdrum.

3. Upon implementation of this agreement through entry of an order by IDWR on remand, the parties shall move to dismiss the appeal before the District Court unless Rathdrum remains aggrieved and elects to proceed with this action for judicial review.

IN WITNESS WHEREOF, the parties have executed this agreement on the date following their respective signatures.

For Respondent

Phillip J. Rassier

PHILLIP J. RASSIER
Deputy Attorney General
Idaho Department of Water Resources

Date: 5-9-08

For Petitioner

Kevin J. Beaton

KEVIN J. BEATON
STOEL RIVES LLP

Date: 5-9-08