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Attorneys for Rathdrum Power LLC

BEFORE THE DEPARTMENT OF WATER RESOURCES OF  
THE STATE OF IDAHO

IN THE MATTER OF LICENSE NO. 95-  
8924 IN THE NAME OF RATHDRUM  
POWER LLC

LICENSE NO. 95-8924

AFFIDAVIT OF TOMMY ARNETT IN  
SUPPORT OF PETITION FOR  
RECONSIDERATION OF PRELIMINARY  
ORDER OR IN THE ALTERNATIVE  
PETITION TO AMEND FINAL ORDER

STATE OF IDAHO )

)

County of \_\_\_\_\_ )

TOMMY ARNETT, being first duly sworn, deposes and states:

1. I have been the manager of the Rathdrum Power LLC natural gas fired power plant (Plant) in Rathdrum, Idaho from 2000 to the present.

2. Water is principally used at the Plant for cooling and boiler make-up. The amount of water necessary to operate the Plant is dependent upon a variety of factors including weather and regional demands for electricity. The Plant can operate up to twenty four (24) hours per day and up to eight thousand (8000) hours per year.

3. From 2002 through 2007 the Plant has used the following amounts of water each year:

|      |                         |
|------|-------------------------|
| 2002 | Estimated 500 Acre Feet |
| 2003 | 466.9 Acre Feet         |
| 2004 | 902.2 Acre Feet         |
| 2005 | 801.5 Acre Feet         |
| 2006 | 470.4 Acre Feet         |
| 2007 | 820.5 Acre Feet         |

4. Because of power needs throughout the northwest region and demands placed upon Rathdrum by its utility power purchaser pursuant to contract, the Plant will likely be required to use larger volumes of water in 2008 and into the future than the maximum amount of water used in 2004. Based on the capacity of the Plant and varied weather conditions, it is estimated that Rathdrum could use up to 2100 acre feet of water in any given calendar year (full capacity).

5. Because Rathdrum's water right (Water Right No. 95-08924) was based solely on a diversion rate of 4.49 cfs, I always assumed the Plant would have sufficient water to operate at full capacity no matter the weather conditions or the energy demands made by its utility purchaser pursuant to contract.

6. When the IDWR water rights examiner visited the Plant in 2006, he was accompanied by the Plant's compliance supervisor. The water rights examiner requested one year of water use data (2005) but did not reveal the basis for his request. Had I known that the 2005 data would be used as the sole basis for an annual diversion volume limit, I would have insured that IDWR had a full understanding of the Plant's water use under a variety of operating scenarios from 2002 through 2007 as well as a full understanding of the full capacity of the Plant as is more particularly set forth in this Affidavit.

7. When Rathdrum received the Preliminary Order (License) from IDWR dated February 27, 2008 we were surprised to learn that a maximum annual volume limit of 757.7 AF was placed on the License. Because of the complexity of the Plant and because we did not fully appreciate the significance of the annual limit, it took Rathdrum some time to calculate water use over the past five (5) years and to realize that the 757.7 AF limit will have a significant effect on Plant operations.

8. Because of contractual obligations between Rathdrum and its utility purchaser for delivery of electricity and based upon past and projected water use at the Plant, the annual limit in the License will substantially affect Plant operations and make it impossible to operate the Plant under prior operating scenarios as well as under full capacity. The annual limit in the Preliminary Order will cause significant harm to Rathdrum. If the Department does not withdraw the Preliminary Order with the annual limit, Rathdrum will be forced to file a judicial appeal for which I believe the filing date is April 9, 2008.

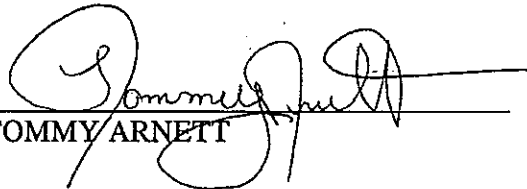
Dated this \_\_\_\_\_ day of April, 2008

\_\_\_\_\_  
TOMMY ARNETT

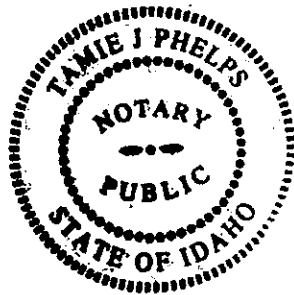
SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of April, 2008.

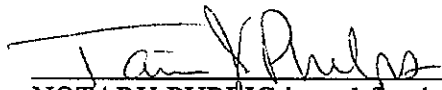
\_\_\_\_\_  
NOTARY PUBLIC in and for the  
State of Idaho, residing at \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

Dated this 7 day of April, 2008

  
TOMMY ARNETT

SUBSCRIBED AND SWORN to before me this 7<sup>th</sup> day of April, 2008.



  
NOTARY PUBLIC in and for the  
State of Idaho, residing at Boise, Idaho  
My Commission Expires: 3-7-11

SCANNED  
APR 29 2008

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 7<sup>th</sup> day of April, 2008, I served a true and correct copy of the foregoing **Affidavit in Support of Petition for Amendment of Existing Order License** in the above-entitled matter as follows:

Idaho Department of Water Resources  
Northern Region  
7600 N. Mineral Drive, Suite 100  
Coeur d'Alene, ID 83815

☒ Via Facsimile  
☐ Via U.S. Mail Service  
☐ Via Overnight Delivery Service  
☐ Via Hand-Delivery

Idaho Department of Water Resources  
322 E. Front St  
PO Box 83720  
Boise, Idaho 83720-0098

☐ Via Facsimile  
☐ Via U.S. Mail Service  
☐ Via Overnight Delivery Service  
☒ Via Hand-Delivery



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