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MAR 06 1997

Department of Water Resources
Eastern Region

Law Offices

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March 5, 1997

Idaho Department of Water Resources
900 N. Skyline
Idaho Falls, ID 83402

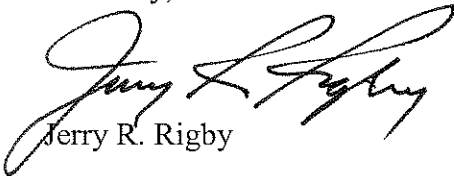
Re: Progressive Irrigation District and New Sweden Irrigation District

Dear Sir:

Enclosed for filing is a Notice of Protest to Application for Permit and Notice of Claim for both Progressive Irrigation District and New Sweden Irrigation District. Also enclosed is a check for \$50 covering the \$25 fee for each district.

Should you have any questions, please call.

Sincerely,


Jerry R. Rigby

JRR:rc

Enclosure

NOTICE OF PROTEST TO APPLICATION FOR PERMIT AND NOTICE OF CLAIM

RE: IDAHO POWER COMPANY, one (1) Application for Permit and four (4) Notice of Claims for power purposes at American Falls dam and one (1) Notice of Claim for power purposes at Bliss Power Plant. The water rights subject to this protest are as follows:

WATER RIGHT: 01-07128: Application for Permit -7,850 cfs for power purposes @ American Falls. SOURCE: Snake River.

WATER CLAIM: A01-02017: Notice of Claim - 1,400 cfs for power purposes @ American Falls. SOURCE: Snake River.

WATER CLAIM: A01-10382: Notice of Claim - 6,000 cfs for power purposes @ American Falls. SOURCE: Snake River.

WATER CLAIM: A01-10383: Notice of Claim - 2,000 cfs for power purposes @ American Falls. SOURCE: Snake River.

WATER CLAIM: A01-10384: Notice of Claim - 136 cfs for power purposes @ American Falls. SOURCE: Snake River.

WATER CLAIM: A02-10135: Notice of Claim - 3,500 cfs for power purposes @ Bliss Power Plant. SOURCE: Snake River.

COMES NOW, the undersigned, to hereby protest the granting of the above referenced applications and claims by IDAHO POWER COMPANY, upon the following grounds:

1. IDAHO POWER COMPANY lacks legal authority to make these applications and claims for the following reasons:

A. The Director does not have the authority, under State law, to approve the permit which in effect would allow an out-of-state diversion of Idaho's water without legislative approval.

B. To grant IDAHO POWER COMPANY's application would be in violation of the present existing moratorium on all consumptive applications.

2. Granting IDAHO POWER COMPANY's application and claims would violate State Policy and the "Zero flow at Milner" established by the Idaho Water Resource Board, the standard upon which water allocation and distribution within Water District No. 1 has been based. Water users are committed to the proposition that no agreements or rights should be made or granted which will either result in a recognition, for purposes of delivery, any water rights established at or below Milner Dam nor any water rights located above Milner dam that would cause water to be released past Milner Dam.

3. The approval of this Application for Permit by IDAHO POWER COMPANY, would interfere with the efforts of the State as funded by the Idaho Legislature, to manage and recharge the Snake River Aquifer.

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4. IDAHO POWER COMPANY's application and claims attempt to expand its water right and remove subordination agreed to by IDAHO POWER COMPANY in the Swan Falls Agreement with the State of Idaho.

5. The inevitable withdrawal of the water from the system should said application and claims be granted will negatively effect the water rights of this protestant and cause injury to its valid and established water rights.

6. The inevitable withdrawal of the water from the system should said application and claims be granted will materially affect the recharge of the Snake River aquifer eliminating water management options currently available to the State and water users.

7. Such other grounds as shall be asserted at the appropriate time before Department hearings to be held on IDAHO POWER COMPANY's application and claims.

DATED This 4th day of March, 1997.

"PROTESTANT"

New Sweden Irr Dist.

BY Gaul P. Berggren Director