



**IDAHO  
POWER**

An IDACORP Company

IDAHO POWER COMPANY  
P.O. BOX 70  
BOISE, IDAHO 83707

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**JAMES C. TUCKER**  
Senior Attorney

March 10, 2004

Mr. Karl J. Dreher  
Director  
Idaho Department of Water Resources  
1301 North Orchard Street  
P.O. Box 83720  
Boise, Idaho 83720-0098

Re: Proposed Recharge – Shoshone, ID/Little Wood River

Dear Karl:

Idaho Power Company (Company) has received informal notice of a proposed recharge event that is to take place over the next several weeks with natural flow water diverted from the Little Wood River, which is tributary to the Malad and Snake Rivers. The Company understands that the recharge proposal generally consists of the following:

- The North Snake Ground Water District (NSGWD) proposes to conduct recharge as part of a mitigation plan for the Eastern Snake Plain Aquifer. To facilitate this effort, NSGWD has requested that the Idaho Water Resource Board (IWRB) place a portion of WR# 37-07842 (permit held by the IWRB with a priority date of 8/25/80) in the IWRB Water Bank (WB).
- NSGWD further proposes to contract with the American Falls Reservoir District #2 (AFRD#2) to have AFRD#2 lease a quantity of water from the WB under the IWRB water right, divert the water from the Little Wood River and convey it through the AFRD#2 canal system for delivery to a recharge site NW of Shoshone, Idaho.

The Company further understands that the exact date when this recharge activity is to begin is uncertain, although it is anticipated that it will begin as soon as possible and will continue until the AFRD#2 facilities are needed for irrigation deliveries, which will be sometime in early April 2004. The specific quantity or amount of water that will be diverted to recharge from the Little Wood River is also uncertain. The Company has been advised that the IWRB is scheduled to consider the NSGWD request that WR #37-07842, or a portion thereof, be placed in the WB during a special meeting at 9:00 a.m. on March 10, 2004 at your offices in Boise.

Based upon the information currently available to the Company, the Company has concluded that the proposed recharge will injure the Company's water rights downstream from the recharge point of diversion on the Little Wood River. This conclusion is based upon the following:

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*Telephone (208) 388-2112, Fax (208) 388-6935*

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- AFRD#2, as the applicant to lease water for recharge purposes, will propose to lease and divert water from the Little Wood River pursuant to WR permit #37-07842. That permit has a priority of 8/25/1980 and is secondary to all prior water rights including "rights held by any privately owned electrical generating company to appropriate waters in the reach of the Snake River downstream from the Milner diversion for purposes of hydroelectric power generation".
- The Company holds water rights for power generation at the following hydroelectric projects on the Snake River downstream from Milner and the recharge point of diversion on the Little Wood River, including the following:
  - Upper Malad – WR # 37-2471 in the amount of 900 cfs, priority date of 5/14/1946.
  - Lower Malad – WR # 37-2128 in the amount of 700 cfs, priority date 11/25/1908; WR # 37-2472, in the amount of 650 cfs, priority date 5/14/1946.
  - Bliss – WR # 02-2064 in the amount of 12,000 cfs, priority date 9/4/1947; WR # 02-2065 in the amount of 3,000 cfs, priority date of 12/11/1947.
  - C. J. Strike – WR # 02-02080 in the amount of 15,420 cfs, priority date 6/21/1950.
  - Swan Falls – WR # 02-00100 in the amount of 2150 cfs, priority date 1/17/1900; WR # 02-02032 in the amount of 4000 cfs, priority date 7/29/1919; WR # 02-04000 in the amount of 1840 cfs, priority date 1/17/1900; WR # 02-04001 in the amount of 1460 cfs, priority date 4/17/1900 - [collective amount 8400 cfs – see: IPC v. State, 104 ID 575, 578]; WR # 02-07379 in the amount of 6550, priority date 3/31/1982.
- Currently, the flows in the Malad and the Snake Rivers are not sufficient to satisfy any of the foregoing water rights.
- Projections for Snake River flows through April 2004 indicate that the flows will not be sufficient to satisfy the water rights for the Bliss, C.J. Strike or Swan Falls projects.

Based upon the foregoing information, the Company must advise IDWR that it intends to protest any such proposed lease from the WB because the diversion of water for recharge purposes will injure the Company's water rights for power purposes at hydroelectric projects downstream from the proposed recharge diversion point on the Little Wood River. To insure that the Company's water rights are not injured by a WB lease for recharge purposes, the Company demands that the Director of IDWR undertake the analysis necessary to determine whether any application to lease water from the WB for recharge purposes will cause injury to senior water rights and that such a determination not be deferred until a petition is filed pursuant to I. C. § 42-1766 (See: WB Rule 30.01). Based upon the information currently available and the expected short duration of the proposed recharge event, approving a lease application and deferring an injury determination until later is unjustified and provides an inadequate and untimely remedy to senior water rights that may be injured by the proposed recharge.

The Company will be pleased to discuss these matters further with you at your convenience.

Very truly yours,



James C. Tucker

cc: IWRB; NSGWD; AFRD#2.