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DEPARTMENT OF
WATER RESOURCES

Attorney for Farmers Union Ditch Company, Ltd.

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF ACCOUNTING)
FOR DISTRIBUTION OF WATER)
TO THE FEDERAL ON-STREAM)
RESERVOIRS IN WATER)
DISRICT 63)
_____)

FARMERS UNION DITCH COMPANY, LTD.
STATEMENT OF CONCERN AND
OBJECTION TO ACCOUNTING METHOD

Comes now, Farmers Union Ditch Company, Ltd. (hereinafter referred to as "Farmers")
by and through its attorney Jerry A. Kiser, and pursuant to the NOTICE OF CONTESTED
CASE AND FORMAL PROCEEDINGS, AND NOTICE OF STATUS CONFERENCE issued
by the Director of the Department of Water Resources on the 23rd day of October, 2013, hereby
submits this STATEMENT OF CONCERN AND OBJECTION TO ACCOUNTING METHOD.

1. Farmers is a mutual ditch company operating in the areas of west Boise, Eagle,
and Star, Idaho delivering irrigation water to its shareholders and other water users under the
Farmers canal system. These water users include shareholders of Farmers as well as other
companies and individuals holding water rights whose water is delivered through the Farmers
canal. Farmers has contracts with the United States of America for irrigation storage space in the

three in stream Boise river reservoirs, Anderson Ranch, Arrowrock and, Lucky Peak. Pursuant to the case of *U.S. v. Pioneer Irrigation District*, 144 Idaho 106, 157 P3d. 600 (2007) the Idaho Supreme Court determined that the landowners and irrigation entities holding water contracts with the United States of America for storage water in the Boise river reservoirs were beneficial owners of the storage water rights and required a remark recognizing this beneficial ownership be placed on the Decree issued by the Court in the Snake River Basin Adjudication Case No 39576 in the Fifth Judicial District Court in and for the County of twin Falls.

2. Farmers' understanding of the accounting procedures used by the Department to account for storage water in the Boise river reservoirs has been that waters released or which flow past the reservoirs for flood control are not counted as part of the storage fill amount in the reservoirs. Waters released or which flow past the reservoirs are not diverted for irrigation storage and are not released for irrigation from storage and are therefore not waters stored under the storage water rights owned by Farmers (but held in the name of the United States). Such a requirement is inconsistent with the elements of water rights which are diversion as well as application to a beneficial use. Until both of these elements are satisfied the water cannot be charged to the storage account.

3. Storage water rights provide for an annual quantity which can be diverted to storage and released from storage for irrigation from storage from each reservoir but does not require such storage quantity be based on the first flow of water down the river. Such a requirement effectively subordinates the priority of the storage water rights to all past and future water users for any water released or passed through the reservoirs for flood control purposes. Also, junior priority water rights have historically been subordinated to the storage water rights

by remarks on these junior water rights which allow diversion of the junior rights only when flood control releases are occurring.

4. Farmers believes its understanding of the accounting procedures as stated above has been recognized and used by the Department of Water Resources in the past and should be continued in the future. Only water physically diverted and stored in the reservoirs and released for irrigation purposes should be credited to the storage accounts, not waters passed through the reservoirs or released for flood control operations. If the Department follows the accounting procedure as Farmers believes has been the past practice and protects the right to physically fill its storage water right under its decreed priority and, existing and future junior water rights are subordinated to Farmers priority right to physically fill its storage right then Farmers does not object to the Departments use of this accounting method.

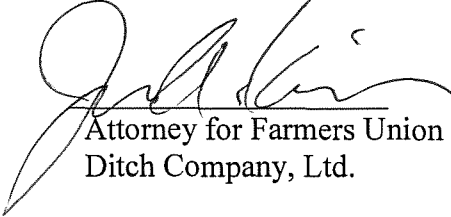
5. If other water users, the Department of Water Resources or anyone else does not agree with Farmers understanding and belief of the accounting method and past practice of the Department in accounting for storage water rights in the Basin 63 Farmers objects and has concerns that any other accounting method is used. Without knowing specifically what the position or perceived method of accounting for storage water fill in Basin 63 by others is, Farmers is not able to respond or comment and therefore reserves the right to comment on or object to accounting methods inconsistent with Farmers understanding of the accounting method historically used.

6. By submitting this statement Farmers reserves and does not waive any argument or position it may assert that the Department of Water Resources and/or the Director of the Department lacks jurisdiction to determine the issues raised by the NOTICE OF CONTESTED CASE AND FORMAL PROCEEDINGS, AND NOTICE OF STATUS CONFERENCE issued

October 23, 2013 or the authority of the Director to initiate a contested case under the present circumstances.

DATED this 4th day of December, 2013

JERRY A. KISER
ATTORNEY AT LAW



Attorney for Farmers Union
Ditch Company, Ltd.