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DEPARTMENT OF
WATER RESOURCES

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Attorneys for New York Irrigation District

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

**IN THE MATTER OF ACCOUNTING
FOR DISTRIBUTION OF WATER IN
DISTRICT 63 FROM THE UNITED
STATES GOVERNMENT ON-
STREAM RESERVOIRS**

**NEW YORK IRRIGATION
DISTRICT'S STATEMENT OF
ISSUES**

The New York Irrigation District was served with a Notice of a Contested Case and Notice of a Status Conference from the Director of the Idaho Department of Water Resources inviting statements of concerns and objections to and statements in support of how the manner in which the Idaho Department of Water Resources counts Basin 63 water to fill United States government reservoirs. Concurrent with the Notice of Status Conference, the Director served upon District 63 water users Notices for a contested case in Basin 01.

**INITIAL STATEMENTS OF CONCERN
AND OBJECTIONS TO THE FOREGOING**

1. Procedure being followed by the Director of the Idaho Department of Water Resources, in all probability, will not bind an indispensable party to wit, the United States of America.
 - (a) No matter how denoted, the procedure of the Department in this instance is Rule Making and will not qualify under the McCarran Amendment which is essential to bind the United States Government;
 - (b) The "contested case" is an attempt to give legal status to a procedure heretofore adopted by the Idaho Department of Water Resources.
2. The accounting system currently employed by the Idaho Department of Water Resources has never had the benefit of complying with the Administrative Procedures Act in the State of Idaho on "rule making". The Department cannot avoid compliance with the Administrative Procedures Act by denoting their attempt to formalize and give legal status to a procedure "contested case".

DATED THIS 4th day of December, 2013.

MCDEVITT & MILLER LLP

BY 
Chas F. McDevitt
Attorneys for New York Irrigation District

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of December 2013, I caused to be served, via the method(s) indicated below, true and correct copies of the foregoing document, upon:

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