



C.L. "BUTCH" OTTER
GOVERNOR

NEWS RELEASE

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STATE, IDAHO POWER SIGN PROPOSED SETTLEMENT OF SWAN FALLS LAWSUIT

(BOISE) – Governor C.L. "Butch" Otter, Attorney General Lawrence Wasden, and IDACORP and Idaho Power President and Chief Executive Officer LaMont Keen announced today that the 1984 Swan Falls water agreement was reaffirmed this week in a proposed legal settlement between the State of Idaho and Idaho Power Co.

In 1984, the Swan Falls agreement resolved a struggle between the State and Idaho Power over the company's water rights at its Swan Falls hydroelectric facility on the Snake River. The agreement provided that Idaho Power's water rights at its hydroelectric facilities between Milner Dam and Swan Falls – south of Boise – entitled the company to a minimum flow at Swan Falls of 3,900 cubic feet per second (cfs) during the irrigation season and 5,600 cfs during the non-irrigation season.

The 1984 agreement placed the portion of the company's water rights beyond those minimum flows in a trust established by the Idaho Legislature for the benefit of Idaho Power and the citizens of the state. Legislation establishing the trust granted the state the authority to allocate the trust water to future beneficial uses in accordance with State law. Idaho Power retained the right to use water in excess of the minimum flows at its facilities for hydroelectric generation until it was reallocated to other uses.

Idaho Power filed suit in the Snake River Basin Adjudication in 2007 as a result of disputes about the meaning and application of the Swan Falls agreement. The company asked that the court resolve issues associated with the ownership of Idaho Power's water rights and the application and effect of the trust provisions of the Swan Falls agreement. In addition, Idaho Power asked the court to determine whether the agreement subordinated the company's hydropower water rights to aquifer recharge.

The proposed settlement signed this week resolves the litigation by clarifying that the water rights held in trust by the State are subject to subordination to future upstream beneficial uses, including aquifer recharge. It also commits the State and Idaho Power to further discussions on important water management issues concerning the Swan Falls agreement and the management of water in the Snake River Basin.

In addition, the proposed settlement recognizes water management measures that enhance aquifer levels, springs and river flows – such as aquifer recharge projects – benefit both agricultural development and hydropower generation. The parties anticipate that the role of such water management measures will be developed in the implementation of the Comprehensive Aquifer Management Plan (CAMP) recently approved by the Idaho Water Resource Board. Idaho Power also is cooperating in the development and implementation of a recharge project below American Falls Reservoir.

“There are very few limits to what people of good will can accomplish when they sit down and reason together,” Governor Otter said. “Clearing up these issues sets the stage for continued cooperation and collaborative improvement of our water resources for the benefit of all Idahoans.”

“Today’s settlement provides the certainty needed by all water users while reaffirming the state’s sovereignty over its water.” Attorney General Wasden said. “It makes it possible for agricultural users and Idaho Power Company to focus on their business plans, rather than on protracted litigation in which there are always risks of an adverse outcome to all parties.”

“Water is an important resource to maintain our economic vitality and quality of life in the communities throughout our state, and it is a key piece of our company’s strategy to provide adequate energy supplies,” said IDACORP and Idaho Power’s Chief Executive Officer and President LaMont Keen. “Protecting this resource requires cooperation, and this settlement demonstrates Idaho Power and the State’s commitment to work together in the management of Idaho’s water resources for the benefit of all Idahoans. I thank the Governor for acting as an honest broker in this process and for keeping the parties at the table to achieve a negotiated solution.”

Certain aspects of the proposed settlement require changes to Idaho Code and approval by the Idaho Water Resource Board and the SRBA Court. The legislative process is expected to begin later this week.

The full settlement agreement is available to the public on the Idaho Department of Water Resources website at www.idwr.idaho.gov.

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