



Department of Water Resources

### STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL ALAN G. LANCE

November 20, 2001

RE: Motion for Order of Interim Administration in the Eastern Snake Plain Aquifer

Dear Water User:

In response to the drought, the Director of the Idaho Department of Water Resources issued orders creating the American Falls and Thousand Springs Ground Water Management Areas for the purpose of administering certain ground water rights. In reaction to these orders, representatives of ground water and surface water users signed stipulated agreements that provide a frame work for the administration of hydrologically connected water rights for the next two irrigation seasons.

The Director intends to create water districts to implement these stipulated agreements and to provide for long-term administration of the hydrologically connected surface and ground water rights. The Office of the Attorney General has agreed to initiate this process through the Snake River Basin Adjudication Court. Part of this process requires notification of potentially impacted water users. Therefore, this mailing is being sent to all recorded users of water (except those whose use is solely for domestic and/or stockwater purposes) in the affected portions of Basins 35, 36, 41 and 43.

Enclosed are the following documents: (1) Motion for Order of Interim Administration and Motion for Expedited Hearing and Notice of Hearing; (2) Brief in Support of Motion for Order of Interim Administration; (3) Affidavit of Tim Luke, Section Manager for the IDWR Water Distribution Section; (4) the SRBA District Court Order and Notice of Hearings; and (5) an area map showing the affected portions of the Eastern Snake Plain Aquifer.

An informational meeting to address any questions on this topic is scheduled for Monday, December 3 at 7:00 pm at Declo High School, 550 E. Main, Declo, Idaho. Director Karl Dreher will host the meeting. By working cooperatively, we look toward establishing mechanisms that will ensure orderly and fair delivery of water within the Eastern Snake Plain Aquifer.

Sincerely,

CLIVE J. STRONG

Deputy Attorney General

Chief, Natural Resources Division

Enclosures

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Department of Water Resources

ALAN G. LANCE

Attorney General

### **CLIVE J. STRONG**

Chief, Natural Resources Division Deputy Attorney General Office of the Attorney General P.O. Box 44449 Boise, Idaho 83711-4449 Telephone: (208) 334-4124

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ISB # 2207

# IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

)	Subcase No. 92-00021
)	MOTION FOR ORDER OF
)	INTERIM ADMINISTRATION AND
)	MOTION FOR ORDER EXPEDITING
)	HEARING
)	
	) ) ) )

### **DESCRIPTIVE SUMMARY**

This document is the State's motion requesting the Snake River Basin Adjudication ("SRBA") District Court to authorize the Director of the Idaho Department of Water Resources ("Director") to implement interim administration of water rights in all or parts of Basins 35, 36, 41 and 43 in accordance with the most current Director's Reports for Basins 35, 36, 41 and 43, or in accordance with partial decrees that have superseded the Director's Reports. This document further requests the District Court to provide an expedited hearing for this motion with a hearing set for January 8, 2002.

MOTION FOR ORDER OF INTERIM ADMINISTRATION AND MOTION FOR ORDER EXPEDITING HEARING, Page 1

#### MOTION FOR INTERIM ADMINISTRATION

The State of Idaho moves this Court for an order of interim administration of water rights<sup>1</sup> in all or parts of Basins 35, 36, 41 and 43 of the Snake River Basin pursuant to Idaho Code § 42-1417, in accordance with the most current Director's Reports for Basins 35, 36, 41 and 43 filed with the Court, or in accordance with partial decrees that have superseded the Director's Reports. The grounds for this motion are as follows:

- 1. Idaho Code § 42-1417 provides that the SRBA district court may, by order, permit the distribution of water pursuant to chapter 6, title 42, Idaho Code, through water districts in accordance with the Director's Reports and the partial decrees for water rights acquired under state law or established under federal law. Section 42-1417 provides that the district court may enter the order after notice and hearing, if the SRBA district court determines that interim administration of water rights is reasonably necessary to protect senior water rights.
- 2. Interim administration of water rights in Basins 35, 36, 41 and 43 is reasonably necessary because the available water supply is currently not adequate to satisfy some senior priority water rights and is projected, in the future, to be insufficient, at times, to satisfy these water rights.
- 3. In accordance with Idaho Code § 42-1417(2)(b), notice of this motion is being provided to all affected claimants in Basins 35, 36, 41 and 43 by mailed notice.

<sup>1</sup> The State of Idaho's motion for interim administration does not seek administration of domestic and stockwater rights as defined under Idaho Code §§ 42-111 and 42-1401A(11).

### MOTION FOR ORDER TO EXPEDITE HEARING

The State of Idaho further moves the court for an order to expedite the hearing for consideration of the MOTION FOR ORDER OF INTERIM ADMINISTRATION. The grounds for this motion are as follows:

- 1. SRBA ADMINISTRATIVE ORDER 1 ("AO1") governs notice of documents filed in the SRBA. Under AO1, this MOTION FOR ORDER OF INTERIM ADMINISTRATION will first appear on the docket sheet issued December, 2001, and, thus, this motion would come on for hearing in February 2002, if heard without an expedited hearing schedule.
- AO1 also provides that the court may order an expedited hearing. This motion requests the
  court to shorten the time for the hearing date on the State's MOTION FOR ORDER OF
  INTERIM ADMINISTRATION to January 8, 2002.
- 3. As the BRIEF IN SUPPORT OF MOTION FOR ORDER OF INTERIM ADMINISTRATION demonstrates, the need for interim administration of the water rights is pressing and immediate. Expedited consideration of this motion, with a hearing set for January 8, 2002, will provide sufficient time for interested parties to respond.

THEREFORE, the State respectfully moves this Court for an order shortening time for consideration of this matter and for an order permitting interim administration of water rights in all or parts of Basins 35, 36, 41 and 43 in accordance with the most current Director's Reports for these Basins, or in accordance with partial decrees that have superseded the Director's Reports. The Affidavit of Timothy J. Luke and a brief in support of these motions are submitted herewith. Oral argument on this motion is requested.

DATED this \_/9 day of November 2001.

ALAN G. LANCE

Attorney General

CLIVE J. STRONG

Deputy Attorney General

Chief, Natural Resources Division

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Department of Water Resources

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ISB # 2207

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	Subcase No. 92-00021
	)	BRIEF IN SUPPORT OF MOTION FOR
Case No. 39576	)	ORDER OF INTERIM ADMINISTRATION
	)	
	)	

#### DESCRIPTIVE SUMMARY

This document is the State of Idaho's brief in support of its Motion for Order of Interim Administration, which seeks authorization for distribution of water rights pursuant to chapter 6, title 42, Idaho Code, in all or parts of Basins 35, 36, 41 and 43 in accordance with the most current Director's Report for Basins 35, 36, 41 and 43,<sup>1</sup> or in accordance with partial decrees that have superseded the Director's Reports.

<sup>&</sup>lt;sup>1</sup> The Director's Report for Basin 35 was filed with the SRBA district court in three parts: Part I was filed on June 6, 1998, Part II on September 15, 1998, and Part III on January 29, 1999. The Director's Report for Basin 36 was filed on November 2, 1992. The Director's Report for Basin 41 was filed on November 2, 1999, and the Director's Report for Basin 43 was filed on September 28, 2001.

### **BRIEF**

## I. INTERIM ADMINISTRATION OF WATER RIGHTS IN PORTIONS OF THE SNAKE PLAIN AQUIFER IS REASONABLY NECESSARY TO PROTECT SENIOR WATER RIGHTS.

### A. Introduction

On August 3, 2001, the Director established the American Falls Ground Water Management Area and the Thousand Springs Ground Water Management Area, pursuant to Idaho Code § 42-233b, due in part to the drought conditions being experienced across the Snake River Plain. After the Director stated his intent to curtail diversions under those water rights for ground water within the Ground Water Management Areas causing the significant depletions to hydraulically connected surface water sources, affected ground water right holders entered into written stipulated agreements with certain senior priority surface water right holders. The senior surface right holders agreed not to exercise their senior priorities against the junior ground water right holders in exchange for commitments by the ground water right holders to provide replacement water during the term of the stipulated agreements equal to what would have resulted from curtailment of ground water diversions. In addition, the signatories to these agreements agreed not to oppose a motion by the State seeking an order from the SRBA District Court permitting interim administration of water rights within portions of the Eastern Snake Plain Aquifer (ESPA) in accordance with the provisions of Idaho Code § 42-1417. The purpose

<sup>&</sup>lt;sup>2</sup> The stipulated agreements recognize that interim administration will extend to all or portions of Basins 25, 27, 29, 35, 36, 37, 41, 43 and 45. Because Director's Reports have not been filed with the SRBA District Court for Basins 25, 27, 29, 37 and 45, the State of Idaho is limiting its current motion for interim administration to Basins 35, 36, 41 and 43. As Director's Reports are filed for Basins 25, 27, 29, 37 and 45, the State of Idaho will file motions for interim administration for water rights within those basins, as appropriate.

While the stipulated agreements are for a two-year period, the parties understand that the water districts to be formed are being established on a permanent basis and will be used to administer the affected water rights in accordance with the prior appropriation doctrine as established by state law.

for seeking interim administration is to permit immediate administration of water rights<sup>3</sup> in the affected areas pursuant to chapter 6, title 42, Idaho Code, and to enable the Director and participating water right holders to take further steps toward long-term administration of the resource.

B. There Is An Insufficient Water Supply Available to Satisfy Senior Surface Water Rights Supplied By Springs In The American Falls and Thousand Springs Reaches of the Snake River.

The ESPA underlies much of the Eastern Snake River Plain. Natural discharge from the ESPA occurs primarily proximate to American Falls Reservoir, and through the Thousand Springs. The spring discharges have fluctuated significantly over time. The major factor in this fluctuation in spring discharges is irrigated agriculture.

Because of the hydrogeology of the ESPA, the impacts of changes in aquifer recharge and pumping are often not apparent in aquifer discharge and river flows for periods of years, or decades in some cases. This delayed and dispersed effect makes administration of the water rights from the hydraulically connected ground water and surface water sources extremely complex. Resolving this legal relationship was one of the main reasons for commencement of the SRBA. "In fact, the Snake River Basin Adjudication was filed in 1987 pursuant to I.C. § 42-1406A, in large part to resolve the legal relationship between the rights of ground water pumpers on the Snake River Plain and the rights of Idaho Power at its Swan Falls Dam." 1994 Interim Legislative Committee on the Snake River Basin Adjudication at 36. Upon completion of the SRBA, water districts will be created pursuant to chapter 6, title 42, Idaho Code, to, among other functions, protect senior water rights from injury caused by junior water rights diverting from hydraulically connected sources within the Snake River Basin in Idaho. The legislature

<sup>&</sup>lt;sup>3</sup> The State of Idaho's motion for interim administration does not seek administration of domestic and stockwater rights as defined under Idaho Code §§ 42-111 and 42-1401A(11).

recognized, however, that there might be a need for earlier interim administration of water rights during the pendency of the general adjudication and, therefore, authorized the SRBA district court to "permit" the Director to distribute "water pursuant to chapter 6, title 42, Idaho Code" in accordance with applicable partial decree(s) and/or with Director's Report(s) upon a finding that such administration is reasonably necessary to protect senior water rights. Idaho Code § 42-1417.

Recent events demonstrate the immediate need for water districts within portions of the ESPA in order to protect senior water rights. As a result of the drought over the past two years, the water supplies available for use under senior priority surface water rights relying on spring sources in the American Falls and Thousand Springs areas have diminished and are expected to continue to diminish in the coming year. As a result, the Director designated Ground Water Management Areas encompassing portions of the ESPA along the American Falls and Thousand Springs reaches of the Snake River.

Water flows from the American Falls and Thousand Springs reaches of the Snake River are insufficient, at times, to supply some senior surface water rights. See Attachment A, Affidavit of Timothy J. Luke In Support of Motion for Order of interim Administration, at 3. Simulations using the Department's calibrated computer model of the ESPA show that ground water depletions from the ESPA for irrigation and other consumptive purposes, which occur in relatively close proximity to the spring sources in the American Falls and Thousand Springs areas, cause significant reductions in spring flows tributary to the Snake River within six (6) months or less from the time the withdrawals occur. Thus, interim administration of water rights in all or portions of Basins 35, 36, 41 and 43 is reasonably necessary because the available water supply is currently not adequate to satisfy some senior priority water rights and is projected, in the future, to be insufficient, at times, to satisfy these water rights.

## C. Creation Of Water Districts In All Or Parts Of Basins 35, 36, 41 And 43 Is Reasonably Necessary to Protect Senior Surface Water Rights.

"Administration of water rights" is the distribution of water to water users in accordance with the prior appropriation doctrine as set forth in Idaho law. Chapter 6, title 42, Idaho Code, sets forth the provisions of law that govern such administration in Idaho. Chapter 6 assigns to the Director the responsibility for supervising the distribution of water from all natural water sources. Chapter 6 provides that the Director will exercise this duty through the creation and function of water districts.

As Tim Luke, Section Manager for the Water Distribution Section for IDWR, states in his affidavit, the existing water districts in Basins 35, 36, 41 and 43 include only part of the rights from surface sources and none of the rights from ground water sources. See Attachment A, Affidavit of Timothy J. Luke In Support of Motion for Order of interim Administration, at 3. While IDWR has created water measurement districts in these areas, the measurement districts' authority is limited to measurement and reporting of diversions and does not include authority for the administration of water rights, or the enforcement of water right conditions. Id. at 3. The formation of water districts will allow water to be distributed in accordance with the prior appropriation doctrine as established by Idaho law.

The creation of water districts is an important step in the administration of water rights. Water districts provide mechanisms for administration, regulation, and enforcement of water rights. *Id.* They also provide a means for incorporating regular measurement and reporting of diversions, including ground water diversions. *Id.* In addition, water districts provide for local and timely response to general calls for water distribution and provide a system whereby a local watermaster can provide timely assistance and expertise to water users and respond to their complaints. *Id.* Furthermore, water districts provide for improved management of water rights

records, specifically maintaining current ownership information. *Id.* Creation of water districts provides an equitable funding mechanism for these services. *Id.* The water users will fund the costs of the watermasters as provided for by Idaho Code §§ 42-605A and 42-612.

Because of the shortage of water to satisfy senior water rights in Basins 35, 36, 41 and 43, when water rights from the springs are considered and because all of the water rights in these basins are partially decreed in the SRBA or recommended in Director's Reports, it is appropriate that water districts be established to administer the water rights within Basins 35, 36, 41 and 43. Establishment of water districts also will enable the Director and participating water right holders to take further steps toward long-term administration of the resource.

The watermaster duties in the new water districts will be to (1) curtail illegal diversions (i.e., any diversion without a water right or in excess of the elements or conditions of a water right); (2) measure and report the diversions under water rights; (3) enforce the provisions of the stipulated agreements; and (4) curtail out-of-priority diversions determined by the Director to be causing injury to senior water rights that are not covered by a stipulated agreement or a mitigation plan approved by the Director.

## II. THE DIRECTOR'S REPORTS AND PARTIAL DECREES PROVIDE AN ADEQUATE LIST OF WATER RIGHTS FOR PURPOSES OF INTERIM ADMINISTRATION.

Chapter 6 recognizes that distribution of water requires an accurate listing of water rights. Idaho Code § 42-604, providing for the creation of water districts, applies only to "streams or water supplies" whose priorities of appropriation have been adjudicated by courts having jurisdiction thereof. The Idaho Supreme Court has recognized the importance of an accurate list containing the description of the water rights to be administered. In *Nettleton v. Higginson*, 98 Idaho 87, 558 P.2d 1048 (1977), the Idaho Supreme Court stated: "Only by having a specific list reciting the names of water users, with their dates of priority, amounts, and points of diversion

BRIEF IN SUPPORT OF MOTION FOR INTERIM ADMINISTRATION - Page 6

can a system be administered." *Id.* at 91, 558 P.2d at 1052, quoting *DeRousse v. Higginson*, 95 Idaho 173, 505 P.2d 321 (1973).

Before the court can issue the order of interim administration, the court must find that the individual partial decrees that supersede the Director's Report for individual recommendations and the latest filing of Director's Reports where partial decrees have not been issued are an adequate listing of the owners of and the elements of the water rights for the purposes of interim administration of a water source. Idaho Code § 42-1417 contemplates that the Director's Reports constitute an adequate listing, since all the claims have been investigated by state officials and reported to the court. The statute assures procedural due process by requiring notice to the claimants and by allowing the court to modify the Director's Report for purposes of The statute also contemplates that the partial decrees provide an interim administration. adequate listing of water rights for purposes of interim administration because these rights have not only been investigated by state officials, but have also withstood the scrutiny of court review. Thus, the Director's Reports and the partial decrees meet the need for administration pending the completion of the adjudication. Upon entry of an order for interim administration, the creation of water districts and the distribution of water thereunder will occur in accordance with the normal administrative mechanism created by chapter 6, title 42, Idaho Code.

### III. NOTICE IS BEING PROVIDED TO EACH CLAIMANT THAT WILL BE SUBJECT TO THE INTERIM ADMINISTRATION ORDER.

Idaho Code § 42-1417 requires that notice be given to "each claimant of water from the water system or portion thereof that could reasonably be determined to be adversely affected by entry of the order . . ." The State of Idaho is mailing notice of this motion to all claimants who will be subject to interim administration if this motion is granted. Therefore, the notice provisions of Idaho Code § 42-1417 are satisfied.

#### CONCLUSION

Interim administration, as requested in the State's motion, is reasonably necessary to prevent injury to senior water rights in Basins 35, 36, 41 and 43 as required by Idaho Code § 42-1417. The Director's Reports for Basins 35, 36, 41 and 43 and the partial decrees that supersede the Director's recommendations are based on examination of the claims and the water system as required by Idaho Code § 42-1411. As such, the Director's Reports and the partial decrees constitute an adequate listing of water rights for purposes of administration of water rights pending entry of a final decree of the water rights. Therefore, the State requests that the Court enter an order permitting the administration of water rights pursuant to chapter 6, title 42, Idaho Code, in Basins 35, 36, 41 and 43 in accordance with the definition of water rights listed in the Director's Reports and, where superseded, in accordance with the partial decrees.

DATED this  $\frac{19}{19}$  day of November 2001.

ALAN G. LANCE Attorney General

CLIVE I STRONG

Deputy Attorney General Chief, Natural Resources Division

BRIEF IN SUPPORT OF MOTION FOR INTERIM ADMINISTRATION - Page 8

### ALAN G. LANCE

Attorney General

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Department of Water Resources

**CLIVE J. STRONG** 

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ADMINISTRATION, PAGE 1

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ISB # 2207

## IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA			)	Subcase No. 92-00021
Case No. 39576		***************************************	) ) ) -)	AFFIDAVIT OF TIMOTHY J. LUKE IN SUPPORT OF MOTION FOR ORDER OF INTERIM ADMINISTRATION
STATE OF IDAHO	)	SS.		
County of Ada	)	33.		

Timothy J. Luke, being first duly sworn upon oath deposes and states as follows:

- My name is Timothy J. Luke. I am the Section Manager for the Water Distribution Section for the Idaho Department of Water Resources (IDWR). My work address is Idaho Department of Water Resources, 1301 North Orchard, Boise, Idaho 83706. I reside in Boise, Idaho.
- 2. My education background includes a Bachelor of Arts degree in Geography from West Virginia University in 1982 and a Master of Science degree in Geography and Natural Resource Management from the University of Idaho in 1992. My education/training since college has included, but is not limited to, participation in seminars and courses AFFIDAVIT OF TIMOTHY J. LUKE IN SUPPORT OF MOTION FOR ORDER OF INTERIM

related to water management such as Ground Water and Surface Water Relationships,
Hydraulics, Water Management Workshop, Field Hydrogeology, Irrigation System
Design and several water law workshops.

- 3. I worked from September 1988 to August 1991 for IDWR as a Senior Water Rights

  Agent. My duties included, but were not limited to the review, analysis, recommendation
  and processing of water right transfers, and the review and processing of applications to
  reallocate water held in trust under the Swan Falls agreement.
- 4. From September 1991 to February 1992, I worked for IDWR as a Hydrologist-in-Training, in the Water Permits Section. My duties included, but were not limited to water district assistance, field inventory and measurement of diversions, and water right analysis.
- 5. I worked from March 1992 to February 1997 for IDWR as a Hydrologist in the Water Permits and Water Distribution Sections. My duties included, but were not limited to, assisting in the implementation of the water measurement program, field inventory and measurement of diversions, water district assistance, water right analysis, reduction and analysis of hydrologic data and preparation of reports, and investigation of water distribution complaints and water right disputes.
- 6. From March 1997 to the present, I have served as the Section Manager for the Water Distribution Section. My primary responsibilities are the implementation and management of the water measurement program, provide assistance to water districts, periodic training of watermasters, and assistance or resolution of water distribution/water right disputes.
- I have personal knowledge of the water supply conditions and water rights in Basins 35,
   36, 41 and 43 through my work with IDWR's Water Distribution Section.

AFFIDAVIT OF TIMOTHY J. LUKE IN SUPPORT OF MOTION FOR ORDER OF INTERIM ADMINISTRATION, PAGE 2  $\,$ 

- 8. The general reasons for the creation or enlargement of a water district are:
  - Provide a mechanism for administration, regulation and enforcement of water rights;
  - Provide a means for regular measurement and reporting of diversions, including ground water diversions.
  - Provide a more local and immediate response to general calls for water delivery;
  - Provide for improved management of water rights and keeping water rights current with respect to ownership and water use;
  - Provide a system whereby local watermasters or deputy watermasters can provide for local and timely response to general calls for water distribution; and
  - Water district administration and regulation can be accomplished by assessing water users directly through the districts.
- 9. The specific reasons for creation or enlargement of water districts in Basins 35, 36, 41 and 43 are:
  - Existing water districts in these basins are limited to surface water sources and do not include ground water sources. Additionally, some surface water sources in these basins are not included in any water district.
  - All of the water rights claimed in Basins 35, 36, 41 and 43 have been reported or partially decreed in the SRBA as required under I.C. § 42-1417.
  - IDWR has already created Water Measurement Districts in these areas, but the Measurement Districts' authority is limited to measurement and reporting of water use and does not include authority to regulate water rights, including enforcement of water right conditions.
  - The establishment of water districts will provide the watermasters with the ability to administer water rights in accordance with the prior appropriation doctrine as established by Idaho law.
  - The available water supply is currently not adequate to satisfy some senior priority water rights and is projected, in the future, to be insufficient, at times, to satisfy these water rights.

### FURTHER YOUR AFFIANT SAYETH NAUGHT.

ГІМОТНҮ Ј. LÜKI

SUBSCRIBED AND SWORN to before me this 19th day of November, 2001.



Notary Public for Idaho Residing at: Boise, Idaho

My commission expires: 12/5/06

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### IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	Subcase 92-00021
	)	(Interim Administration)
Case No. 39576	)	
	)	ORDER SETTING HEARINGS ON STATE
	)	OF IDAHO'S MOTION FOR ORDER OF
	)	INTERIM ADMINISTRATION AND
	)	MOTION FOR ORDER EXPEDITING
		HEARING; I.C. § 42-1417, AOI 6f(2)

On November 19, 2001, the State of Idaho filed a *Motion for Order of Interim Administration*, pursuant to I.C. § 42-1417, seeking administration of water rights located in all or portions of Administrative Basins 35, 36, 41, and 43, in accordance with the Director's Reports for those water rights or in accordance with the partial decrees that have superseded the Director's Reports. A *Motion for Order Expediting Hearing*, pursuant to AO1 6f(2), also accompanied the *Motion*.

Because of the unusually large number of parties requiring service of these *Motions*, and in an effort to accomplish service in a single-round by including a copy of this *Order* with the service of the *Motions*, the State of Idaho filed these *Motions* with the Court prior to serving copies on other parties. The Court in exercising its discretion finds this to be a reasonable manner of proceeding provided compliance with the service requirements set forth below. I.R.C.P. 5(d)(1).

THEREFORE; THE FOLLOWING ARE HEREBY ORDERED:

1) Service of the *Motions* and this *Order* by the State of Idaho: In serving copies of the *Motion for Order of Interim Administration* and *Motion for Order Expediting Hearing*, and any supporting briefing and affidavits on all affected parties, the State of Idaho shall forthwith

<sup>&</sup>lt;sup>1</sup> The State of Idaho's *Motion* excludes small domestic and stockwater rights.

comply with service requirements of I.C. § 42-1417(2)(b)(service requirements for interim administration) and AOI 6f(2)(expedited hearings); and file a certificate of service of the same with the Court. A copy of this Order shall be served with the copies of the Motions.

- Hearing on Motion for Order Expediting Hearing: The Motion for Order Expediting Hearing shall be heard on December 18, 2001, at 1:30 p.m. at the SRBA Court, 253 3<sup>rd</sup>

  Avenue North, Twin Falls, Idaho. Any party objecting to the Motion for Order of Interim Administration proceeding on an expedited basis will have the opportunity to state objections and present argument at said hearing.
- 3) Hearing on Motion for Order of Interim Administration: The Motion for Order of Interim Administration shall be heard January 8, 2002, at 1:30 p.m. at the SRBA Court, 253 3<sup>rd</sup> Avenue North, Twin Falls, Idaho. Absent further notice to the contrary following the hearing on the Motion for Order Expediting Hearing, parties shall expect the matter to be heard on the scheduled date.
- Objections and/or Briefing in Opposition: Any party seeking to file an objection to the State of Idaho's *Motion for Order of Interim Administration* or lodge any briefing in opposition shall file/lodge the same with the Court no later than 5:00 p.m., December 18, 2001. Copies shall be served on the State of Idaho, the Idaho Department of Water Resources, and the United States Department of Justice. *See AOI* § 6e(2)(a)-(c). In accordance with I.R.C.P. 5(c), which establishes alternative service requirements in actions involving large numbers of defendants, service of copies on other parties will not be required at this time, as the State of Idaho's representation in responding at the hearing to any pre-filed objections will be deemed sufficient to represent the interests of other parties also supporting the State of Idaho's *Motion*. Following the hearing on the merits, if deemed necessary, the Court will determine whether to allow any post-hearing briefing or responses by participating parties.
- 5) Subcase number designation for *Motions*: For purposes of identifying documents in the above-captioned matter documents shall be filed/lodged under the subcase number designation 92-00021.

DATED: NOVEMBER 26, 2001.

ROGER S. BURDICK

Presiding Judge

Snake River Basin Adjudication

### **CERTIFICATE OF MAILING**

I certify that a true and correct copy of the ORDER SETTING HEARINGS ON STATE OF IDAHO'S MOTION FOR ORDER OF INTERIM ADMINISTRATION AND MOTION FOR ORDER EXPEDITING HEARING; I.C. § 42-1417, AOI 6f(2) was mailed on November 19, 2001, with sufficient first-class postage to the following:

IDWR Document Depository PO Box 83720 Boise, ID 83720-0098

United States Department of Justice Environment & Nat'l Resources Div 550 W Fort Street, MSC 033 Boise, ID 83724

Chief, Natural Resources Division Office of Attorney General PO Box 44449 Boise, ID 83711-4449

Deputy Clerk

