

BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF A MEMORANDUM)
OF AGREEMENT REGARDING THE)
IMPLEMENTATION OF MANAGED)
RECHARGE UNDER THE EASTERN) A RESOLUTION
SNAKE PLAIN AQUIFER MANAGEMENT)
PLAN AND STATE LAW)
_____)

WHEREAS, on March 25, 2009 Governor C.L. "Butch" Otter, Idaho Power Company President J. Lamont Keen and Attorney General Lawrence G. Wasden signed the Framework Reaffirming the Swan Falls Settlement; and

WHEREAS, the Framework Reaffirming the Swan Falls Settlement establishes that the parties will jointly, expeditiously and in good faith support execution of a Memorandum of Agreement between the Idaho Water Resource Board ("Board"), the Governor and Idaho Power Company, which is attached to the Framework Reaffirming the Swan Falls Settlement as Exhibit 2; and

Whereas, the Memorandum acknowledges that the Board adopted the Eastern Snake Plain Aquifer Comprehensive Aquifer Management Plan (ESPA CAMP) and that the ESPA CAMP establishes a long-term hydrologic target for managed recharge from 150,000 to 250,000 acre-feet on an average annual basis; and

Whereas, the Memorandum acknowledges that managed recharge would be implemented in phases under ESPA CAMP and further recognizes that the Board has discretion on how to implement the components of ESPA CAMP, but provides the Board will seek legislative approval if it seeks to increase the ESPA CAMP Phase I managed recharge target of 100,000 acre-feet on an average annual basis by more than 75,000 acre-feet prior to January 1, 2019;

Whereas, the proposed Memorandum of Agreement between the Board, the Governor and Idaho Power Company sets forth an understanding between the parties regarding certain protocols for implementation of managed recharge under ESPA CAMP; and

Whereas, the Memorandum acknowledges that through the 1984 Swan Falls Settlement the State and the Company have a shared interest in ensuring that the Swan Falls minimum flows are maintained and recognizes that it is in their mutual interest to work cooperatively to explore and develop a managed recharge program that achieves to the extent possible benefits for all uses including hydropower; and

Whereas, the Memorandum of Agreement memorializes Idaho Power Company's right to participate in the public process before the Board for evaluating and approving managed recharge as provided by state law and present information relative to any issues associated with a

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managed recharged proposal; and

Whereas, the Memorandum of Agreement recognizes that the implementation of managed recharge is governed by state law as it currently exists or as subsequently amended; and

Whereas, the Memorandum of Agreement provides that the Board will cooperate with and inform the Public Utilities Commission of any direct effects the Board determines may arise from implementation of managed recharge on hydropower generation capacity; and

Whereas, nothing in the Memorandum is intended to divest or interfere with the Public Utilities Commission authority to independently evaluate the effects of managed recharge on hydropower generation capacity or the appropriateness of any request by Idaho Power Company to address any such effects; and


Whereas, the Memorandum does not require the Board to take any affirmative position on whether a specific request by the Idaho Power Company seeking relief for the alleged effects of managed recharge is appropriate or necessary or on how any resulting rate impact should be allocated; and

Whereas, the State and Idaho Power Company recognize it is in their mutual interest to work cooperatively to explore and develop managed recharge for the Snake River Basin above Swan Falls Dam; and


NOW, THEREFORE BE IT RESOLVED, the Board approves the Memorandum of Agreement attached hereto and authorizes the Chairman to execute the same.

DATED this 30th day of April, 2009.

ATTEST:



BOB GRAHAM, Secretary



TERRY T. UHLING, Chairman