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**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF LICENSING)
WATER RIGHT PERMIT NO. 01-7011) **IDAHO WATER RESOURCE**
IN THE NAME OF TWIN FALLS CANAL) **BOARD'S MOTION FOR**
COMPANY AND NORTH SIDE CANAL) **SUMMARY JUDGMENT**
COMPANY)

The Idaho Water Resource Board, by and through its counsel of record, and pursuant to the "Order Approving Stipulation To Vacate And Re-set Hearing And Corresponding Stipulated Schedule" entered in this matter on December 10, 2009, hereby moves for summary judgment affirming the Director's "Final Order" of October 20, 2008, with respect to inclusion of the following subordination provision in the license for water right no. 01-7011:

The diversion and use of water for hydropower purposes under this water right shall be subordinate to all subsequent upstream beneficial depletionary uses, other than hydropower, within the Snake River Basin of the state of Idaho that are initiated later in time than the priority of this water right and shall not give rise to any right or claim against any junior-priority rights for the depletionary or consumptive beneficial use of water,

other than hydropower, within the Snake River Basin of the state of Idaho initiated later in time than the priority of water right no. 01-7011.

The grounds for this motion are discussed in the supporting memorandum, filed herewith. The Idaho Water Resource Board requests oral argument on this motion.

Respectfully submitted this 11th day of February 2010.

LAWRENCE G. WASDEN
Attorney General

STEVEN L. OLSEN
Chief, Civil Litigation Division


MICHAEL S. GILMORE FOR
Deputy Attorneys General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of February 2010, I caused a true and correct copy of the foregoing IDAHO WATER RESOURCE BOARD'S MOTION FOR SUMMARY JUDGMENT to be filed with the Department of Water Resources and served on the following parties by the indicated methods:

<p>John Rosholt Travis Thompson Barker Rosholt 113 Main Ave., W. Ste 303 Twin Falls, ID 83301-6167</p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Certified Mail <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile: _____ <input checked="" type="checkbox"/> E-mail: jar@idahowaters.com tlt@idahowaters.com</p>
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<p>Randall C. Budge Candice M. McHugh Racine Olson Nye Budge & Bailey, Chartered PO Box 1391 Pocatello, Idaho 83204-1391</p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Certified Mail <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile: _____ <input checked="" type="checkbox"/> E-mail: rcb@racinelaw.net cmm@racinelaw.net</p>
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<p>Craig B. Evans, Chairman Bingham Group Water District PO Box 1268 Blackfoot, ID 83221</p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Certified Mail <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile: _____ <input checked="" type="checkbox"/> E-mail: binghamgroundwtr@cableone.net</p>

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