

Idaho Power Company Challenges Validity of Swan Falls Agreement and State's Past Actions Implementing and Upholding the Agreement in SRBA Court

Idaho Power Company filed suit against the State of Idaho in the Snake River Basin Adjudication Court on May 10th challenging the validity of the Swan Falls Agreement and the State's past actions implementing and upholding the Agreement.

The company alleges that continuing decline of ground water levels in the Eastern Snake Plain Aquifer and the resulting decline in the Snake River flows negatively impacts its ability to fully use its hydropower water rights to the detriment of its ratepayers. Significant among the numerous issues addressed in its legal filing are the Company's requests that the Court require that

Idaho Department of Water Resources hold ground water users responsible for multiple year impacts to the Eastern Snake Plain Aquifer instead of single season impacts.

The Department acknowledges that the Snake River System has been over-appropriated even before the Swan Falls Agreement was signed.

The Court determine that Idaho Power's hydropower water rights are not subordinate to the State's recharge proposal.

Citing current hydrologic data as an indication that the full extent from the impacts of that over-appropriation were not yet apparent when the Swan Falls Agreement was signed in 1984, the Company questions the existence of any "trust water" that was supposed to be available for upstream development as a result of the Agreement, the state's ability to insure that the Swan Falls Daily Minimum Flows of 3900 cfs in the summer at the Murphy Gauge are met, and challenges an Attorney General's opinion that Idaho Power's hydropower water rights could be subordinate to recharge . If the State has failed to meet any of these conditions, then Idaho Power alleges that the Swan Falls Agreement may have been breached at least in part and should be re-examined.