



STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL  
LAWRENCE G. WASDEN

February 23, 2005

**VIA ELECTRONIC FILING**

The Honorable Magalie R. Salas  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

**Re: Motion of the Idaho Public Utilities Commission to Intervene Out-of-Time,  
Idaho Power's New License Application for the Hells Canyon Hydroelectric Project,  
Docket No. P-1971-079**

Dear Secretary Salas:

The Idaho Public Utilities Commission hereby submits electronically its Motion for Leave to Intervene Out-of-Time in the above-captioned proceeding, Docket No. P-1971-079 (Hells Canyon Project). Copies of this transmittal letter and Motion are being sent to each person designated on the official service list in this docket. Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Donald L. Howell, II".

Donald L. Howell, II  
Deputy Attorney General  
Attorney for the Idaho Public Utilities Commission

Enclosures (Motion and Certificate of Service)

cc: Service List

Vid/L:Salas\_P-1971\_dh

**THE UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

**In the Matter of:** )  
**Idaho Power Company's** ) **DOCKET NO. P-1971-079**  
**New License Application for the** )  
**HELLS CANYON HYDROELECTRIC PROJECT** )  
)

**MOTION OF THE IDAHO PUBLIC UTILITIES COMMISSION  
TO INTERVENE OUT-OF-TIME**

Pursuant to Rules 212 and 214 of the Federal Energy Regulatory Commission's ("Commission") Rules of Procedure, 18 C.F.R. §§ 385.212 and 385.214, the Idaho Public Utilities Commission ("Idaho PUC") respectfully moves to intervene out-of-time in the above-captioned proceeding for the relicensing of Idaho Power Company's Hells Canyon Complex.

**I. COMMUNICATIONS AND SERVICE**

The Idaho PUC requests that all communications and papers relating to this proceeding be directed to:

Randy Lobb  
Administrator, Utilities Division  
Idaho Public Utilities Commission  
PO Box 83720  
472 W. Washington Street (83702-5983)  
Boise, ID 83720-0074  
Telephone: (208) 334-0350  
Fax: (208) 334-3762  
E-mail: [randy.lobb@puc.idaho.gov](mailto:randy.lobb@puc.idaho.gov)

The Idaho PUC requests that Mr. Lobb's name be added to the official service list for the above-captioned docket.

## II. INTEREST OF PETITIONER

The Idaho PUC is the state regulatory commission empowered pursuant to Idaho Code Title 61 to regulate all public utilities operating within the State of Idaho. In this capacity, the Idaho PUC is responsible for regulating Idaho Power Company. *Idaho Code* § 61-501. Idaho Power Company owns and operates 17 hydroelectric facilities on the Snake River and its tributaries within the State of Idaho and provides electric service to more than 400,000 customers within Idaho. The Hells Canyon Complex is Idaho Power's largest hydroelectric project contributing approximately 60% of its hydro generation and, thus, the outcome of this proceeding may significantly affect its ratepayers. The rates and charges of Idaho Power are fully subject to the Idaho PUC's regulatory jurisdiction. *Idaho Code* §§ 61-502, 61-508, 61-622. The Idaho PUC has a right of intervention pursuant to Commission Rule 214(a)(2) and has a definable interest in the outcome of this proceeding. 18 C.F.R. § 385.214(a)(2). The Idaho PUC's participation in this matter promotes the public interest.

## III. GOOD CAUSE FOR A WAIVER OF TIME LIMITATION

Public notice of Idaho Power Company's Application for a new license was issued on December 3, 2003, and the due date for Motions to Intervene was February 2, 2004.

In September 2004, various parties to the proceeding and other interested persons met to discuss the formation of a settlement working group ("SWG") to consider and resolve issues associated with interim operations and the issuance of a new license for the Hells Canyon Complex. The initial objective of the SWG was to address interim

operations and anadromous species listed under the Endangered Species Act in an effort to provide agreed-upon measures to the Commission by April 2005. On January 7, 2005, Idaho Power filed an Interim Agreement with the Commission regarding current operations.

The next objective of the SWG is to negotiate a comprehensive settlement agreement to support the relicensing of the Hells Canyon Complex. On February 1, 2005, Idaho Power requested that the Commission modify the relicensing schedule by delaying the issuance of the Notice of Ready for Environmental Analysis until September 2005. The request was supported by 21 of the parties. On February 8, 2005, the Office of Energy Projects extended the due date for filing recommendations and conditions until November 2005 to allow the parties to continue their settlement efforts.

The Idaho PUC intends to participate in the negotiations related to a comprehensive settlement agreement, which commenced on January 11, 2005. Because any settlement agreement would have to be filed with the Commission for review and approval, the Idaho PUC desires to become a party to the proceedings to ensure that its interests and those of Idaho ratepayers are represented before the Commission with regard to any proposed settlement. The Idaho PUC's participation in this proceeding will also facilitate development of a more complete record and thereby ensuring a more informed decision-making process, which is consistent with the public interest.

Waiver of the time limit established by the public notice for intervention will not result in any disruption to this proceeding. The Idaho PUC has been monitoring the relicensing proceedings to date. The Idaho PUC does not seek to introduce new evidence

at this time, and agrees to accept the record of this proceeding as developed prior to its intervention. Therefore, there will be no prejudice or additional burden upon parties from permitting the Idaho PUC's intervention. In addition, there will be no issue of undue delay because, pursuant to 18 C.F.R. § 380.10(a)(1)(i) the Commission will provide an additional opportunity for timely interventions in this proceeding following issuance of the draft Environmental Impact Statement ("EIS") for comment.

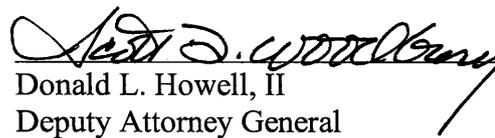
For the foregoing reasons, the Idaho PUC submits that good cause exists to waive the time limitation to Rule 214 and allow intervention out-of-time.

#### IV. CONCLUSION

Wherefore, the Idaho PUC respectfully requests that the Commission grant its Motion to Intervene Out-of-Time as a party with full rights to participate in all further proceedings.

RESPECTFULLY submitted this 23rd day of February 2005.

FOR THE IDAHO PUBLIC UTILITIES COMMISSION

*for*   
Donald L. Howell, II  
Deputy Attorney General

Idaho Public Utilities Commission  
PO Box 83720  
Boise, ID 83720-0074  
Idaho State Bar No. 3366  
Telephone No. (208) 334-0312  
FAX (208) 334-3762  
E-mail: [don.howell@puc.idaho.gov](mailto:don.howell@puc.idaho.gov)

Vid/N:FERC:P-1971-079\_dh\_Intervention

IDAHO PUC'S  
MOTION TO INTERVENE  
OUT-OF-TIME

## CERTIFICATE OF SERVICE

I hereby certify that the foregoing document has been served upon each person designated on the official service list compiled by the Secretary in this proceeding by electronic mailing (where available) and by first-class mail otherwise.

Judith Ellis  
Chairman  
Adams County Commissioners  
P.O. Box 48  
Council, ID 83612-0048

Daniel J. Rohlf  
Pacific Environmental Advocacy  
Center  
10015 SW Terwilliger Blvd  
Portland, OR 97219-7768

Todd D. True  
Earthjustice Legal Defense Fund  
Suite 203  
705 2nd Ave  
Seattle, WA 98104-1741

Baker, County Of  
County Court  
Baker, OR 97814

Chairman  
Blaine, County Of  
Board Of Commissioners  
206 1st Ave S Ste 300  
Hailey, ID 83333-8429

Mel Berg  
BLM  
2800 Cottage Way Ste W1834  
Sacramento, CA 95825-1886

Jim Clark  
BLM Lower Snake River Office  
3948 Development Ave.  
Boise, ID 83709

John Martin  
BLM Idaho State Office  
1387 S Vinnell Way, Ste. 931  
Boise, ID 83709-1657  
*BY E-MAIL ONLY*

Dorothy Mason  
BLM Relicensing Team Lead  
3165 10th St  
Baker City, OR 97814-1408  
*BY E-MAIL ONLY*

Mayor  
City Of Boise  
PO Box 500  
Boise, ID 83701-0500

Daniel Ousley, Attorney  
Hells Canyon Preservation  
Council Inc  
2124 Grelle Ave  
Lewiston, ID 83501-6141

Colleen Fagan  
Oregon Dept of Fish & Wildlife  
107 20<sup>th</sup> Street  
La Grande, OR 97850  
*BY E-MAIL ONLY*

Paul A. DeVito  
OR DEQ  
2146 N.E. Fourth St., Ste 104  
Bend, OR 97701  
*BY E-MAIL ONLY*

Robert D. Ling  
Ling, Nielsen & Robinson  
PO Box 396  
Rupert, ID 83350-0396

Chairman  
Jerome, County Of  
Jerome County Courthouse  
300 N Lincoln Ave Ste 301  
Jerome, ID 83338-2344

Chairman  
Lincoln, County Of  
PO Box A  
Shoshone, ID 83352-1501

County Judge  
Malheur, County Of  
County Court  
Vale, OR 97918

Chairman  
Minidoka, County Of  
Board Of Commissioners  
Minidoka County  
Rupert, ID 83350

Chairman  
Power County  
Brd Of County Commissioners  
American Falls, ID 83211

County Judge  
Wallowa, County Of  
County Court  
Enterprise, OR 97728

Connie Kelleher  
American Rivers  
4005 20<sup>th</sup> Avenue W Suite 221  
Seattle, WA 98199-1267  
*BY E-MAIL ONLY*

  
\_\_\_\_\_  
SECRETARY

Eric Hoffman  
Oregon State Office  
333 SW 1<sup>st</sup> Ave., Ste. 932  
Portland, OR 97208

Dean Adams  
Burns Paiute Tribe  
HC 71  
Burns, OR 97720-9803

Carl F. Merkle, Analyst  
Confederated Tribes Umatilla  
Indian  
73239 Confederated Way  
P.O. Box 638  
Pendleton, OR 97801-0638  
*BY E-MAIL ONLY*

Kurt Burkholder  
Assistant Attorney General  
Oregon Department of Justice  
1515 S.W. Fifth Ave., Ste 410  
Portland, OR 97201  
*BY E-MAIL ONLY*

Greg Haller  
Nez Perce Tribe  
PO Box 365  
Lapwai, ID 83504  
*BY E-MAIL ONLY*

Arthur L Seamans  
Executive Director  
NW Professional Power  
Vessel Assoc.  
2604 Seaport Drive  
Lewiston, ID 83501

Scott L. Campbell, Attorney  
Moffat, Thomas, Barrett, Rock  
& Fields  
101 S. Capitol Blvd., 10<sup>th</sup> Floor  
PO Box 829  
Boise, ID 83701-0829  
*BY E-MAIL ONLY*

Donald M. Clary, Partner  
Holland & Knight, LLP  
633 West 5<sup>th</sup> Street  
21<sup>st</sup> Floor  
Los Angeles, CA 90071

Regional Hydro Policy Specialist  
Bureau Of Indian Affairs  
911 NE 11<sup>th</sup> Avenue  
Portland, OR 97232-4128

Denise Turner Walsh, Staff Atty.  
Native American Program  
812 SW Washington Ave Ste 700  
Portland, OR 97205

Jennifer L Frozena  
Col. River Inter-Tribal Fish  
Comm.  
1849 C Street NW,  
Mailstop 6557  
Washington, DC 20240-0001  
*BY E-MAIL ONLY*

Jenna Borovansky  
Conservation Director  
Idaho Rivers United  
PO Box 633  
Boise, ID 83701-0633  
*BY E-MAIL ONLY*

David H. Hawk, Director  
Natural Energy Resources  
J.R. Simplot Company  
One Capital Center  
999 Main Street, Suite 1400  
Boise, ID 83702  
*BY E-MAIL ONLY*

Bill McNamee  
OR Public Utilities Commission  
550 Capital Street, N.E.  
Salem, OR 97310

Daniel Israel  
Shoshone Bannock Tribe  
3455 Table Mesa Dr., Apt.  
E149  
Boulder, CO 80305-5832

Harriet A. Hensley  
Deputy Attorney General  
ID Office Of The Atty. General  
700 W. Jefferson, Suite 210  
Boise, ID 83702  
*BY E-MAIL ONLY*

Bureau Of Reclamation  
PN 3200  
1150 N Curtis Rd., Ste. 100  
Boise, ID 83706-1234

Robert C. Lothrop  
Columbia River Inter-Tribal Fish  
Comm.  
729 NE Oregon St. Suite 200  
Portland, OR 97232

Walt Dortch  
Reg. Hydropower Team Leader  
Darrington Ranger District  
1405 Emens St.  
Darrington, WA 98241

Sara Eddie, Staff Attorney  
Advocates for the West  
P.O. Box 1612  
Boise, ID 83701  
*BY E-MAIL ONLY*

Ed Chaney, Director  
Northwest Resource  
Information Center  
2811 West State  
Eagle ID 83616  
*BY E-MAIL ONLY*

Forest Supervisor  
Payette National Forest  
PO Box 1026  
McCall, ID 83638-1026

Keith Kutchins  
Shoshone Bannock Tribe  
PO Box 306  
Fort Hall, ID 83203-0306

Jocelyn B. Somers  
US Department Of Agriculture  
1734 Federal Bldg.  
1220 SW 3<sup>rd</sup> Avenue  
Portland, OR 97204  
*BY E-MAIL ONLY*

Frank S. Wilson  
US Department Of The Interior  
Office of The Regional Solicitor  
500 NE Multnomah Street,  
Suite 607  
Portland, OR 97232-2036

Diana Thomas, Chairman  
Washington County  
Commissioners  
PO Box 670  
Weiser, ID 83672-0670

Mark Eames  
General Council NW  
NOAA  
7600 Sandpoint Way NE  
Seattle, WA 98115  
*BY E-MAIL ONLY*

Douglas Conde  
Deputy Attorney General  
Idaho DEQ  
1410 N Hilton St  
Boise, ID 83706-1255  
*BY E-MAIL ONLY*

Mary Lucachick  
Outdoor Rec Analyst, Wa  
ID Dept of Parks & Rec  
PO Box 83720  
Boise, ID 83720-0065  
*BY E-MAIL ONLY*

David Cummings  
Nez Perce Tribe  
PO Box 305  
Lapwai, ID 83540-0305  
*BY E-MAIL ONLY*

Darwin B Pugmire  
Idaho Power Company  
PO Box 70  
Boise ID 83707-0070  
*BY E-MAIL ONLY*

Tom Saldin  
Idaho Power Company  
PO Box 70  
Boise ID 83707-0070  
*BY E-MAIL ONLY*

Field Supervisor  
US Fish And Wildlife Service  
1387 S Vinnell Way, Suite 368  
Boise, ID 83709-1657

Steve Brutscher  
OR Parks & Recreation Dept.  
725 Summer Street, N.E.,  
Suite C  
Salem, OR 97301-1271

Ritchie Graves  
Fishery Biologist  
NOAA Fisheries  
525 NE Oregon St, Ste 500  
Portland, OR 97232  
*BY E-MAIL ONLY*

Steven Schuster  
Idaho Dept. of Lands  
954 W Jefferson St  
Boise, ID 83702-5436

Phillip J Rassier  
ID Dept of Water Resources  
1301 N Orchard St  
PO Box 83720  
Boise, ID 83720-3720  
*BY E-MAIL ONLY*

Phil Ward  
Director  
Oregon Water Resources Dept  
725 Summer St NE Suite A  
Salem, OR 97301-1271

James C Tucker  
Idaho Power Company  
PO Box 70  
Boise ID 83707-0070  
*BY E-MAIL ONLY*

Lee S Sherline  
Leighton & Sherline  
8211 Chivalry Rd  
Annandale, VA 22003-1337

Forest Supervisor  
Wallowa-Whitman National  
Forest  
P.O. Box 907  
Baker City, OR 97814-0907

R. Craig Kohanek  
OR Dept of Water Resources  
725 Summer Street NW, Ste A  
Salem, OR 97301-1271  
*BY E-MAIL ONLY*

Wayne Shuyler  
Oregon Marine Board  
435 Commercial Street, N.E.,  
Suite 400  
Salem, OR 97309-5065

Scott Grunder  
Idaho Dept of Fish and Game  
PO Box 25  
Boise, ID 83707-0025  
*BY E-MAIL ONLY*

Keith Kirkendall  
National Marine Fisheries Serv  
Hydro Division  
525 NE Oregon St Ste 500  
Portland, OR 97232-2778  
*BY E-MAIL ONLY*

Kristen Bonanno  
USDA - Forest Service  
333 SW 1st Ave  
Portland, OR 97204-3440  
*BY E-MAIL ONLY*

Nathan F Gardiner, Attorney  
Idaho Power Company  
PO Box 70  
Boise ID 83707-0070  
*BY E-MAIL ONLY*