

**UNITED STATES DISTRICT COURT
DISTRICT OF IDAHO**

THE ASSOCIATED PRESS, a New York corporation; IDAHO STATESMAN PUBLISHING, LLC, a Delaware limited liability company d/b/a The Idaho Statesman; LEE ENTERPRISES, INCORPORATED, a Delaware corporation d/b/a The Times-News; THE IDAHO PRESS CLUB, INC., an Idaho corporation; PIONEER NEWSPAPERS, INC., a Nevada corporation d/b/a Idaho Press-Tribune, Idaho State Journal, Standard Journal, Teton Valley News, The New-Examiner, The Preston Citizen, and Messenger Index; TPC HOLDINGS, INC., an Idaho corporation, d/b/a Lewiston Tribune and Moscow-Pullman Daily News; BAR BAR INC., an Idaho corporation d/b/a Boise Weekly; COWLES PUBLISHING COMPANY, a Washington corporation, d/b/a The Spokesman Review; and IDAHOANS FOR OPENNESS IN GOVERNMENT, INC., an Idaho non-profit corporation,

Plaintiffs,

vs.

CL. (BUTCH) OTTER, in his official capacity as the Governor of the State of Idaho; ROBIN SANDY, HOWARD G. "J.R." VAN TASSEL, and JAY L. NIELSEN in their official capacity as the Idaho Board of Correction; BRENT D. REINKE, in his official capacity as the Director of the Idaho Department of Correction; and KEVIN KEMPF in his official capacity as Division Chief of Operations of the Idaho

Civil No. 1:12-cv-00255-EJL

ORDER

Department of Correction,
Defendants.

Based on the remand by the Ninth Circuit in its opinions and mandate issued on June 8, 2012, (Dkts. 23 and 25), and amended on June 9, 2012, (Dkt. 26), the Court hereby **VACATES** its previous Order denying the motion for preliminary injunction (Dkt. 19) and now **GRANTS** the Plaintiffs' Motion for Preliminary Injunction (Dkt. 2). The Defendants and the Idaho Department of Corrections are hereby ordered to modify their procedures to allow the witnesses to the execution of a condemned inmate to observe the entire execution "from the moment [the inmate] enters the execution chamber through, to and including, the time [the inmate] is declared dead." *California First Amendment Coalition v. Woodford*, 299 F. 3d 868, 886 (9th Cir. 2002). This preliminary injunction order applies to the scheduled execution of Mr. Leavitt set for June 12, 2012.

The parties are directed to submit a joint litigation plan to the Court on or before June 22, 2012 in order for the Court to address the remaining issues in this case.

SO ORDERED.



DATED: **June 11, 2012**

A handwritten signature in black ink, appearing to read "Edward J. Lodge".

Honorable Edward J. Lodge
U. S. District Judge