



U.S. Department of Justice

Environment and Natural Resources Division

DG:DAJ

90-6-2-63C

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March 4, 2004

via FedEx Mail

Diana R. Delaney, Chief Deputy Clerk
Snake River Basin Adjudication
DISTRICT COURT
253 Third Ave., North
Twin Falls, Idaho 83303-2707

Re: SRBA Case No. 39576
Subcase Nos. 65-00023, 65-02004, 65-02080, and 65-10491

Dear Ms. Delaney:

Enclosed for filing are the original and three copies of the following document in the above mentioned subcases:

1. **UNITED STATES' MOTION TO WITHDRAW FROM SUBCASES**

Thank you for your time and attention in this matter.

Sincerely,

David A. Jarvis
Paralegal

Enclosures

THOMAS L. SANSONETTI
Assistant Attorney General
Environmental and Natural Resources Division

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Attorneys for the United States of America

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA	)	Subcase Nos. 65-00023, 65-02004,
	)	and 65-02080, and 65-10491
Case No. 39576	)	
	)	UNITED STATES' MOTION TO
	)	WITHDRAW FROM SUBCASES
_____	)	

The United States, on behalf of the Department of Interior, files this Motion to Withdraw from SRBA Subcase Nos. 65-00023, 65-02004, 65-02080, and 65-10491.

On September 18, 2001, IDWR issued the Director's Reports for Irrigation and Other in Reporting Area 15, Basin 65, Part III. The report included the IDWR recommendations for Emmett Irrigation District ("EID") Claims 65-00023, 65-02004, 65-02080, and 65-10491. The recommendations contained remarks that limited the combined diversion rate of these four water rights and an additional EID water right, Subcase No. 65-07832, to 523.12 cfs.

On January 17, 2002, the United States, on behalf of the Bureau of Reclamation

("Reclamation"), filed Objections to the Directors Report recommendation remarks concerning the combined diversion rate for Subcase Nos. 65-00023, 65-02004, 65-02080, and 65-10491.^{1/} The basis for the United States' Objection was the 1955 Contract between Reclamation and EID which allows EID to divert a portion of its water rights into Reclamation's Black Canyon Irrigation District canal on the south side of Black Canyon Dam specified that the diversion into the south side canal was "not to exceed 120 cubic feet per second". Contract between United States Bureau of Reclamation and Emmett Irrigation District dated October 4, 1955. The United States objected because the combined diversion rate recommended by IDWR is well in excess of this contract restriction.

Subsequent to filing its Objection to the Directors Report recommendation, Reclamation held discussions with both Emmett Irrigation District and the Black Canyon Irrigation District. These discussions culminated in a memorandum of understanding between the two districts on February 4, 2003, which resolved the diversion rate as an operational matter rather than a water rights issue. The memorandum of understanding additionally relieved the concerns Reclamation had regarding the Directors Report recommendation.

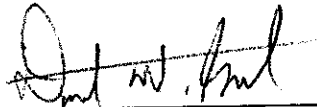
The concerns of the Bureau of Reclamation having been adequately addressed by mutual agreement among affected parties, the United States therefore petitions this Court for permission to withdraw from Subcase Nos. 65-00023, 65-02004, 65-02080, and 65-10491.

^{1/} The United States did not object to the recommended combined diversion rate for Subcase No. 65-07832 because Reclamation was only concerned with that portion of the combined diversion that would be diverted into the Black Canyon Irrigation District canal on the south side of Black Canyon Dam. Although EID water rights 65-00023, 65-02004, 65-02080, and 65-10491 divert into both the south side canal and EID's canal on the north side, EID's water right 65-07832 diverts only into the north side canal.

DATED this 3rd Day of March, 2004.

Respectfully submitted,

THOMAS L. SANSONETTI
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Environmental and Natural Resources Division



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the UNITED STATES' **MOTION TO WITHDRAW FROM SUBCASES** was mailed by U.S. mail this 4th day of March, 2004 to all individuals listed below.

By FedEx Mail:

DISTRICT COURT
253 Third Ave., North
Twin Falls, ID 83301
208-736-2121

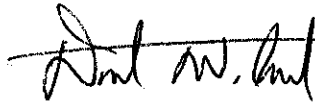
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