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Department of Water Resources

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DISTRICT COURT-SRBA
TWIN FALLS CO. IDAHO
FILED

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

Case No. 39576

Subcases 47-16433, et al.
(see Exhibit A, 26 subcases)

AMENDED ORDER PARTIALLY
STAYING SUBCASES

Director's Report and Notice of Filing

The *Director's Report for Domestic and Stockwater, Reporting Area 12 (IDWR Basin 47)* (*Director's Report*) was filed on August 14, 1998. The accompanying *Notice of Filing Director's Report for Reporting Area 12 (IDWR Basin 47), Small Domestic and Stock Water Rights* (*Notice of Filing*) stated that the *Director's Report* included "small" domestic or stock water rights up to 13,000 gallons per day.¹ The *Notice of Filing* then said: "An additional Director's Report for irrigation and all other state law based claims in your reporting area will be filed with the court at a later date."

The *Notice of Filing* said only the addressee's water right claim was described in the mailing; the addressee had to look elsewhere to review other claims:

IDWR is providing individual reports like this one to all claimants of **small** domestic and stock water rights in your area. A complete copy of the Director's Report, listing all of these **small** domestic and stock water rights claimed under both state and federal law, is available at the SRBA courthouse in Twin Falls and the locations listed on the third page of this notice.²

...

The description of your right which is enclosed is only the Director's recommendation to the SRBA Court on your right.

...

The complete Director's Report contains recommendations to the SRBA Court on your water right and all other **small** domestic and stock water rights in your area.

[Emphasis added.]

¹ Some have termed these claims "*de minimis*."

² The locations listed on the third page included five (5) IDWR offices around the state, plus the Cassia County Courthouse (Burley) and the Owyhee County Courthouse (Murphy).

Finally, the *Notice of Filing* gave instructions for taking a water right claim to court:

What do I do if I disagree with a recommendation or a federal water right claim?

If you disagree with any element of the recommendation for your water right or anyone else's water right and want to be heard in court, file an objection with the SRBA Court.

...

Your objection must be received by the SRBA Court on or before **February 12, 1999**.

[Emphasis in the original.]

Bifurcation of Stock Water Claims

Norman M. Semanko, counsel for late objectors to United States claims, provided a helpful explanation of how domestic and stock water claims in Basins 45 and 47 came to be bifurcated--where "small" claims were reported in the August 14, 1998 *Director's Report* while "all other state law based claims" will be reported later:³

The way the basin 45 and a number of the basin 47 stock water claims were prepared by the private parties was they looked at it as an allotment. They didn't look at it merely as a source. They looked at all the sources within the allotment; and they attempted with as few claims as possible to claim all the waters in the allotment, the grazing allotment that they thought they had used and relied upon.

So their claims are much more comprehensive, the private claims that is, than the United States claims. You'll see claims for 5 cfs or 2 cfs, certainly more than the de minimis amount.

On the other hand, with the United States claims, to the extent I can fairly characterize those, they have been filed as de minimis claims. They are not for the larger amounts of water. They may cover the same sources as the private claimants claim; but they're broken out much more specifically by source. And so you have the smaller amounts on each specific source.

And as I think you'll hear from the folks involved in filing the late objections later, it was fully expected by the private parties that the private claims and the United States claims, to the extent they conflicted, would be reported together, considered together, and resolved together. That has not happened.

And I think the best characterization I've heard of it to date, and I'm glad Mr. Tuthill is on the phone, was at our meeting last week where Mr. Tuthill said: When we

³ IDWR's latest forecast is that the "irrigation and other" director's report for Basin 47 will be filed sometime in December, 2001.

bifurcated the adjudication and Judge Hurlbutt agreed to doing that, we recognized that there were going to be potentially some problems with doing that; and that when we got those problems we would figure out a way to resolve them, recognizing that the speed that we gained by resolving the majority of the domestic and stock water claims made it worth going through that little bit of pain.

Well, we're in that little bit of pain right now. These private folks, unbeknownst to them, the United States claims have gone forward. They've been reported. Some of them perhaps have even been decreed.

The private claims in the meantime have-- I don't want to say languished, but they haven't been reported yet. And the reason is obvious to those that have been involved in the adjudication. Those are not de minimis claims. The United States' are de minimis claims. But they are directly competing claims.

Reporter's Transcript, subcase 45-02769, et al., June 7, 1999, pp. 16-18, U.S. Memorandum, Exhibit I. (*Reporter's Transcript*).

Motions to File Late Objections

The deadline for filing objections to the *Director's Report* for small domestic and stock water claims in Basin 47 was February 12, 1999.

I. Scott Bedke Motion to File Late Objection and Amended Motion to File Late Objections

On April 28, 1999, Scott Bedke filed a *Motion to File Late Objection* in fifteen (15) stock water claims filed by the United States of America, Department of Agriculture, Forest Service, in Basin 47.⁴ The *Motion* was filed 75 days after the filing deadline.

Scott Bedke stated that the water rights should not exist: "These claims are in our grazing allotment. Our cattle put this water to beneficial use and the water should be decreed to the owners of the livestock as per Idaho Code 42-114."

Scott Bedke alleged the following in support of his *Motion*:

I only recently became aware that the U.S. had filed claims to water that I had claimed. I have been following the status of my claims through the Internet, and was not aware of the govt. conflicting claims due to the fact that all claims are listed by subcase rather than legal description. I am filing my objection now so that the govt. claims will not show up as unobjected and be partially decreed as a matter of course.

⁴ The fifteen (15) subcases originally objected to by Scott Bedke are, in numerical order: 47-16433, 47-16441, 47-16444, 47-16445, 47-16446, 47-16447, 47-16448, 47-16459, 47-16460, 47-16461, 47-16463, 47-16464, 47-16465, 47-16466 and 47-16470.

On June 4, 1999, Scott Bedke filed his *Amended Motion to File Late Objections* seeking to add to his *Motion* eleven (11) more subcases claimed by the United States,⁵ bringing the total number of subcases to twenty-six (26). He repeated the same objection stated in the earlier fifteen (15) subcases. The *Amended Motion* was filed 112 days late.⁶

II. Bruce and Jared Bedke *Motions to File a Late Objection*

On June 4, 1999, Bruce Bedke and his son, Jared, each filed a *Motion to File a Late Objection* listing the same twenty-six (26) United States claims to which Scott Bedke sought to file late objections. Bruce and Jared Bedke repeated Scott Bedke's objections verbatim and likewise the basis for his *Motion*. Bruce and Jared Bedke filed their *Motions* 112 days late.

III. Gary and Michael Poulton *Motions to File Late Objections in Basin 47*

On June 7, 1999, Gary Poulton and his son, Michael, each filed a *Motion to File Late Objections in Basin 47* essentially identical to the *Motions* filed by Scott, Bruce and Jared Bedke. Gary and Michael Poulton filed their *Motions* 115 days after the deadline.⁷

Hearing

A hearing on Scott Bedke's and the Poultons' *Motions* was held on July 1, 1999, at the SRBA Courthouse in Twin Falls, Idaho. For the benefit of the parties, the hearing also included consideration of virtually identical *Motions* filed by Bruce and Jared Bedke. Randall J. Bramer

⁵ The eleven (11) additional subcases in Scott Bedke's *Amended Motion* are: 47-16434, 47-16435, 47-16437, 47-16438, 47-16440, 47-16442, 47-16443, 47-16449, 47-16458, 47-16471 and 47-16474.

⁶ Scott Bedke also filed a *Motion to File Late Objections* in sixty (60) subcases in Basin 45 on July 13, 1998 (45-02769, *et al.*). In those *Objections*, Mr. Bedke alleged: "The USFS/BLM should not be allowed to use a priority date that predates the organization of the Forest Service (1898 Organic Act) and the BLM (1931 Taylor Grazing Act). They are not the successors in interest of these grazing allotments. The USFS/BLM do not own the livestock and therefore can not put the water to beneficial use as per Idaho water law." On July 21, 1998, then-Presiding Judge Daniel C. Hurlbutt, Jr., entered his *Order Granting Motion to File Late Objections*. There was no hearing on Mr. Bedke's *Motion*.

⁷ Bruce Bedke and Gary Poulton were each mailed IDWR's *Notice of Filing*, plus individual recommendations for their domestic and stock water claims on August 13, 1998. See Donald V. Shaff's *Affidavit of Service* filed with the SRBA Court on August 31, 1998. U.S. *Memorandum* Exhibit G. There is no evidence that Scott and Jared Bedke or Michael Poulton were mailed similar documents.

appeared for the United States; Norman M. Semanko appeared for Gary and Michael Poulton⁸; Scott, Bruce and Jared Bedke appeared *pro se*; and Nicholas B. Spencer appeared for IDWR.

Besides arguing the *Motions to File Late Objections*, Mr. Semanko repeated his suggestions from earlier proceedings that contested United States claims be stayed and recommitted to IDWR to be re-reported:

I think we're struggling with what is the best way to resolve this procedurally. And I have two in mind. One is to recommit the federal claims to be re-reported with the private claims. And the second one would be to stay all of the United States claims until we sort this out and figure out where the truly contested claims are, and resolve the matter that way.

Reporter's Transcript, p. 30.

During earlier proceedings, Mr. Bramer, counsel for the United States, spelled out its general opposition to a stay and remand:

And I do not oppose late objections or late claims where there is good cause for those being filed. I do, however, oppose throwing out the court procedures and starting from scratch simply because people come in and make the mere allegation it was really convoluted and complex.

Reporter's Transcript, p. 51.

Memoranda

The United States lodged its *Memorandum in Opposition to Motions to File Late Objections* (U.S. *Memorandum*) on June 29, 1999. The United States urged denial of all the Bedke and Poulton *Motions* because the *Motions* were filed late, the movants failed to show good cause for late filing and granting of the *Motions* would impede the proper and efficient administration of the adjudication process.

Counsel for Scott Bedke and Gary and Michael Poulton lodged a *Response to Memorandum in Opposition to Motions to File Late Objections* on July 9, 1999. Bruce and Jared Bedke did not file memoranda. Counsel argued that IDWR's bifurcated process of reporting stockwater claims in Basins 45 and 47 was confusing, his clients showed good cause for their late filings and they demonstrated a meritorious position.

⁸ Attorney Norman M. Semanko filed *Notices of Appearance* for Gary and Michael Poulton on July 1, 1999. Mr. Semanko filed a *Notice of Appearance* for Scott Bedke on July 2, 1999, the day after the hearing on Scott Bedke's and the Poultons' *Motions*. The *Notices of Appearance* filed for Gary Poulton and Scott Bedke include the twenty-six (26) subcases presently before the Special Master, plus five (5) subcases not included in the present *Motions* (47-14923A, 47-14923B, 47-14923C, 47-14923D and 47-14923E).

Standards for Late Objections

The parties will later read in the "Discussion" section of this *Order* that further proceedings on the *Motions to File Late Objections* will be stayed. However, it may be useful to know the standards by which such motions are judged. The *Motions* will be resolved at a future hearing.

SRBA Administrative Order 1, Rules of Procedure (AO-1), does not provide guidance for review of motions to file late objections; AO-1 only refers to late claims. Motions to file late claims are to be reviewed under the criteria of I.R.C.P. Rule 55 (c), "Setting aside default judgment."⁹ However, the customary practice in the SRBA Court has been to apply the same criteria to both late claims and late objections.

Idaho courts follow a dual-track system to determine when a party is entitled to relief from default. A party trying to set aside a clerk's entry of default need only show "good cause" under I.R.C.P. Rule 55 (c). If a final judgment by default has been entered, then a party must, in addition, satisfy the requirements of I.R.C.P. Rule 60 (b). That is, the party must show (1) mistake, inadvertence, surprise or excusable neglect; (2) newly discovered evidence; (3) fraud, misrepresentation or other misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied, released or discharged or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or (6) any other reason justifying relief from operation of the judgment. Motions alleging mistake, inadvertence, surprise, excusable neglect, newly discovered evidence, fraud or any other reason justifying relief from operation of the judgment must be filed "not more than six (6) months after the judgment, order, or proceeding was entered or taken."

The language in Rule 55 (c) and Rule 60 (b) suggests a different standard to set aside an entry of default versus a default judgment. The Idaho Court of Appeals recognized that the Rule 55 (c) "good cause" standard may be more lenient than the Rule 60 (b) standard. *McFarland v. Curtis*, 123 Idaho 931, 854 P.2d 274 (App. 1993).

A motion to set aside a default judgment presents the trial court with a factual determination. *Reeves v. Wisenor*, 102 Idaho 271, 629 P.2d 667 (1981). In determining whether to set aside a default judgment, a standard of liberality must be applied rather than one of strictness and the party moving to vacate default judgment must be given the benefit of any genuine doubt. *Johnson v.*

⁹ AO-1, 4, d, (2), (d), page 7.

Pioneer Title Co. of Ada County, 104 Idaho 727, 662 P.2d 1171 (App. 1983). A motion to set aside a default judgment is addressed to the sound discretion of the trial court whose decision will not be reversed in the absence of abuse of that discretion.; however, it would be an abuse of discretion for the trial court to grant such a motion without an adequate legal basis for doing so. *Newbold v. Arvidson*, 105 Idaho 663, 672 P.2d 231 (1983).

In either case, Idaho courts have applied additional requirements to set aside a default. First, a party must show that he or she has acted in good faith and exercised due diligence in the prosecution and protection of his or her rights, such as an ordinarily prudent person would exercise under similar conditions. *Council Improvement Co. v. Draper*, 16 Idaho 541, 102 P. 7 (1909) and *Kovachy v. DeLeusomme*, 122 Idaho 973, 842 P.2d 309 (App. 1992).

Second, a party must show a meritorious defense to set aside a default:

Mere mistake, inadvertence, surprise or excusable neglect without disclosure of meritorious defense or meritorious defense without disclosure of mistake, inadvertence, surprise or excusable neglect will not suffice. . . . The facts constituting the defense, whether disclosed by answer, affidavit or both, must also be detailed and must be sufficient, when established, to constitute a defense to the action on its merits. The conclusion of the party or his attorney . . . is not sufficient. Whether the pleaded facts are sufficient to constitute a defense is also one for the trial court.

Thomas v. Stevens, 78 Idaho 266, 271, 300 P.2d 811, 813 (1956).

A party who seeks to set aside a default has the burden of supplying detailed facts of the proposed defense. *Smith Electric, Inc. v. Crandlemire*, 100 Idaho 172, 595 P.2d 321 (1979). At a hearing on the motion, a party need not produce documents to prove a defense. It is sufficient if the movant *pleads* with particularity facts which, *if proven*, would constitute a meritorious defense. *State v. One 1990 Geo Metro*, 126 Idaho 675, 889 P.2d 109 (App. 1995). The policy of requiring a showing of a meritorious defense is founded on the doctrine that it would be an idle exercise for a court to set aside a default if, in fact, there is no real justiciable controversy. *Reeves v. Wisenor*, 102 Idaho 271, 629 P.2d 667 (1981).

Mistake or inadvertence sufficient to warrant setting aside a default judgment must be one of fact and not of law. Inadvertence or neglect must be excusable, or in other words, it must be conduct that might be expected of a reasonably prudent person. The law cannot excuse willful

ignorance but imposes an obligation on such a person to seek out assistance of legal counsel. *Newbold v. Arvidson*, 105 Idaho 663, 672 P.2d 231 (1983).

A party's claim of excusable neglect is determined by examining what might be expected of a reasonably prudent person under similar circumstances. *Johnson v. Pioneer Title Co. of Ada County*, 104 Idaho 727, 662 P.2d 1171 (App. 1983). Courts must consider each case in light of its unique facts. *Baldwin v. Baldwin*, 114 Idaho 525, 757 P.2d 1244 (App. 1988). A party's ignorance of laws or rules of procedure generally will not amount to excusable neglect such as may justify relief from judgment. *Washington Fed. Sav. v. Transamerica*, 124 Idaho 913, 865 P.2d 1004 (App. 1993). Besides exercising due diligence in prosecution of his or her rights, a party alleging excusable neglect must not have exhibited indifference or unreasonable delay. *Olson v. Kirkham*, 111 Idaho 34, 720 P.2d 217 (App. 1986).

So, in Idaho, to set aside a default, and thus a late objection in the SRBA Court, a party must state a reason, act in good faith, exercise due diligence and plead a meritorious defense. The case law suggests that these requirements together constitute "good cause" under I.R.C.P. Rule 55 (c).

IDWR Perspective

Before the hearing on the Bedke and Poulton *Motions to File Late Objections*, the parties met to discuss settlement. One idea discussed by the parties was staying the contested United States stock water claims until the Bedke and Poulton claims are reported. In these twenty-six (26) subcases, that would mean staying the United States claims until December, 2001, when the Basin 47 *Director's Report* for "irrigation and other" claims is expected to be filed.

IDWR Adjudication Bureau Chief David R. Tuthill, Jr., thought a stay might be a good idea--maybe even a remand to IDWR.

[W]e anticipated as we bifurcated this process that there would be some problem areas that could arise. And I can say that in the bifurcation process in most basins it's worked quite well. We have found here in basin 45 and perhaps basin 47 that there's a concern.

...

Because from our perspective, I had mentioned to [Scott Bedke] that it would be very appropriate to look at both the Forest Service rights and his claims in one forum.

So from my standpoint from the git-go in this situation where we've reported some of the claims, the Forest Service claims, and where other claims that might be overlapping and influencing those in some way have not been reported, from my

standpoint it's been very appropriate to stay the action in the earlier ones waiting for the others to catch up.

Now, Mr. Semanko suggested another alternative today that, on the remand, that from my standpoint sounds like a reasonable alternative.

...

So from my standpoint, from the department's perspective, either a stay for the Forest Service, action on the Forest Service claims or a remand or some kind back to the department would be fine and very appropriate to allow a review of both of the rights at once. And when I say "a review," it's a review by the parties of both of the rights at once as they go through the objection period. So we would have no problem with that, Your Honor.

Reporter's Transcript, pp. 44-45.

Discussion

In its *Memorandum*, the United States wrote: "The Notice [*Notice of Filing*] specifically informed Movants that the complete Director's Report contained recommendations for both the claimant and 'all other recommended domestic and stock water right(s) in your area'." U.S. *Memorandum*, pp. 3-4. However, the *Notice of Filing* actually reads: "The complete Director's Report contains recommendations to the SRBA Court on your water right and all other **small** domestic and stock water rights in your area." [Emphasis added].

In the *Notice of Filing*, IDWR obviously intended to advise domestic and stock water claimants that it was only reporting **small** domestic and stock water claims in Basin 47. It did not intend to say it was reporting **all** domestic and stock water claims in the basin, as the United States suggested.

However, IDWR Director Karl J. Dreher's cover letter, dated August 7, 1998, enclosed with the *Notice of Filing*, clouded the matter. The first paragraph of the Director's letter reads:

Please find enclosed the Idaho Department of Water Resources recommendations for your domestic and/or stockwater water right(s) in basin 47 (the area of Salmon Falls Creek and the South Hills to the Snake River). We have also enclosed instructions for reviewing (1) your recommended water right(s), and (2) other recommended domestic and stockwater right(s) in your area. Water rights for irrigation and other purposes in basin 47 will be recommended in a later process.

U.S. *Memorandum*, Exhibit H.¹⁰

¹⁰ For some unknown reason, the Director's cover letter was not filed with the SRBA Court.

There was no hint that domestic and stock water claims were being reported separately depending on size and complexity-- bifurcation. The letter did not say IDWR's recommendations were only for small domestic and stock water claims. And the letter did not say that all remaining domestic and stock water claims would be reported later in a separate director's report.¹¹ All the letter said was that water rights for "irrigation and other purposes" will be recommended in a later process.¹²

The suggestion that stock water claims might fit within the categories "irrigation and other purposes" is not convincing. Who would reasonably interpret "irrigation and other purposes" to include stock water claims when IDWR's first set of recommendations was entitled: "Director's Report for Domestic and Stockwater?"

From the Bedkes' and the Poultons' standpoint, the net result of IDWR's choice of reporting domestic and stock water claims in Basins 45 and 47 depending on size and complexity (bifurcation) has been denial of due process. Michael Bedke stated their frustration with the process quite clearly: "I mean I can't quote laws and everything else; but I'm just saying we flat got screwed on the deal." *Reporter's Transcript*, p. 88.

In 1992, the Idaho Supreme Court examined the SRBA and held that the McCarran Amendment allows Idaho to collect filing fees from the United States for claims filed in the SRBA. The United States Supreme Court reversed on the issue of filing fees,¹³ but the Idaho Supreme Court characterization of the case as an interpleader action remains valid:

A general water adjudication brought by the state is analogous to an interpleader action. . . . The position of the director of the Department of Water Resources is analogous to the "stakeholder" in an interpleader action. The director is really a disinterested party. **The only interest the director has is to see that all rights are accurately adjudicated.** The director does not oppose a claim, trying to subvert a

¹¹ Some have euphemistically called domestic and stock water claims that exceed 13,000 gallons per day "*de maximus*," as opposed to "*de minimis*." By definition, domestic use cannot exceed 13,000 gallons per day or .04 cfs and 2,500 gallons per day. I.C. § 42-111, (1). Stock watering cannot exceed 13,000 gallons per day. I.C. § 42-1401A, (11).

¹² Even the title of the document, *Director's Report for Domestic and Stockwater, Reporting Area 12 (IDWR Basin 47)*, lacks the word "small." One must look inside the *Report* to find any reference to small domestic and stock water claims.

¹³ *U.S. v. Idaho, ex. rel. Dir., Dept. of Water Res.*, 508 U.S. 1, 113 S.Ct. 1893, 123 L.Ed.2d 563 (1993).

valid claim. Nor does the director stand to gain if a claim is invalidated. [Emphasis added].

Idaho Dept. Of Water Resources v. U.S., 122 Idaho 116, 122-123, 832 P.2d 289, 295-296 (1992); also see *In Re SRBA Case No. 39576*, 128 Idaho 246, 257, 912 P.2d 614, 625 (1995).

During proceedings in the current twenty-six (26) subcases-- plus other subcases with nearly identical issues and many of the same parties-- it became clear that late objections are not the critical issue. Whether the various motions to file late objections were timely and whether good cause has been shown need not be decided now. The fundamental issue is whether the bifurcated process of reporting domestic and stock water claims in Basin 47 was fair to the claimant (Forest Service), the late objectors (Bedkes and Poultons) and the SRBA Court. It was not.

The decision to report small domestic and stock claims first and then report the remaining claims later was made for good reason. That way, the majority of domestic and stock water claims, the *de minimis* claims, could be reported much earlier-- approximately three years earlier in Basin 47. While IDWR Adjudication Bureau Chief Tuthill thought the bifurcation process worked well in most basins, he acknowledged there was a concern in Basin 47. Where Forest Service claims might overlap with other claims, Mr. Tuthill thought it was appropriate to stay action on the earlier Forest Service claims and wait for the remaining claims "to catch up."

Because the SRBA is analogous to an interpleader action (I.R.C.P. Rule 22), all interested parties and their claims must be reviewed together-- especially where the claims are or may be in conflict. Only in that way can IDWR and the SRBA Court ensure that all claims are accurately adjudicated. Otherwise, the small domestic and stock water claimant is burdened with defending the claim, the larger and more complex claimant (maybe of the same water) bears the expense of objecting and the SRBA Court is left to sort through an incomplete record.

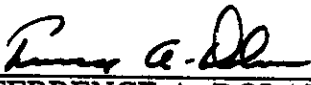
The only sure relief from this "little bit of pain" caused by the bifurcation process in Basin 47 is to stay the twenty-six (26) contested *de minimis* stock water claims filed by the United States until the remaining stock water claims are reported by IDWR. Whether the United States claims must be further investigated and re-reported by IDWR will be left to the discretion of the Director. In the meantime, there is no reason to proceed further with the Bedke and Poulton *Motions to File Late Objections*. They will be stayed as well.

The stay is partial in that all further proceedings are stayed *except* settlement negotiations. The parties may be closer to an agreement than they realize. Some private stock water claimants on

federal allotments have suggested that they are not so troubled by who owns the stock water rights. They are more concerned that stock water rights on the allotments (some also include wildlife use) continue unchanged. If that is true, the parties may be able to find a way to settle their differences. The parties are strongly encouraged to continue their dialogue toward settlement.

THEREFORE, IT IS ORDERED that further proceedings, *except* settlement negotiations, in the twenty-six (26) subcases are **stayed** until the remaining stock water claims in Basin 47 are reported by IDWR.¹⁴

DATED August 9, 1999.


TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

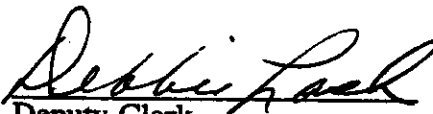
I certify that a true and correct copy of the ORDER PARTIALLY STAYING SUBCASES was mailed August 9, 1999, with sufficient first-class postage prepaid as follows:

Director of IDWR
Box 83720
Boise, ID 83720-0098

United States Department of Justice
Environment and Natural Resources Div.
550 West Fort Street, MSC 033
Boise, Idaho 83724

Norman M Semanko
Box 1906
Twin Falls, Idaho 83303-1906

Bruce and Jared Bedke
42 E Basin Rd
Oakley, Idaho 83346


Deputy Clerk

¹⁴ IDWR is encouraged to file a *Supplemental Director's Report for Domestic and Stockwater*, or similarly titled document, to report the remaining domestic and stock water claims in Basins 45 and 47. In that way, there may be less confusion than reporting the domestic and stock water claims under the categories "irrigation and other."

EXHIBIT A

Subcase Nos:

47-16433
47-16434
47-16435
47-16437
47-16438
47-16440
47-16441
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(Subcase list: POULTON)
8/06/99