RECEIVED
APR 12 2004
Department of Water Resources

Instrument # 354793
Elmore County, Idaho
12:38pm Mar.11,2004
For: USDA FOREST SERVICE
No. of Pages: 7 Fee: $21.00
GAIL L. BEST, Recorder
Deputy: DLE

Names of Parties Serving Document:

UNITED STATES OF AMERICA

DANSKIN CATTLE LLC

Attorneys' Names and Addresses:

THOMAS L. SANSONETTI
United States Department of Justice
Assistant Attorney General
Environment and Natural Resources Division

DAVID L. NEGRI
United States Department of Justice
Environment and Natural Resources Division
General Litigation Section
550 West Fort Street, MSC 033
Boise, Idaho 83724
(208) 331-5943
Fax: (208) 387-0842
ISB No. 6697

DANA L. HOFSTETTER
Hofstetter Law Office, LLC
608 West Franklin Street
Boise, Idaho 83702
(208) 424-7800
Fax: (208) 424-8774
ISB No. 3867

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 Numbers: 63-05069B, 63-31290B
	)	
	)	
Case No. 39576	)	**STIPULATION TO RESOLVE SUBCASES**
	)	
	)	
_____	)	

The United States of America ("United States") and Danskin Cattle LLC ("Danskin") (collectively "Parties"), by and through their respective counsel, hereby stipulate and agree as

follows as to water right numbers 63-05069B and 63-31290B (hereinafter, individually, "Water Right" or, collectively, "Water Rights"):

1. WITHDRAWAL OF OBJECTIONS. The United States has filed objections to Danskin's water right claims in subcase numbers 63-05069 and 63-31290. In Standard Form 5's filed with the SRBA Court contemporaneously with this Stipulation, subcase numbers 63-05069 and 63-31290 have been split into "A" and "B" subcases. In reliance on the provisions of this Stipulation, the Parties agree and stipulate that the elements of each Water Right should be decreed as described in the contemporaneously- filed Standard Form 5's, and the United States withdraws its objections in subcase numbers 63-05069 and 63-31290.

2. UNITED STATES' REGULATORY AUTHORITY. In these proceedings, the United States has compromised factual or legal disputes regarding claimed water rights. Notwithstanding any interest in water rights Danskin may acquire under this Stipulation, Danskin agrees that the United States has the authority to manage federal lands consistent with federal laws, regulations, and policy, including the discretionary authority to limit, modify, revoke, or terminate Danskin's special use permits or any other permit in accordance with applicable law. Nothing in this Stipulation shall be construed to limit federal land management authority or to impede its exercise.

3. UNITED STATES' PERMITTING ACTION. Danskin agrees that the imposition of terms and conditions by any federal authority on any special use or other permit, or any action by any federal authority to limit, modify, revoke, or terminate any special use or other permit, and any consequent limitation or elimination of the ability of Danskin or any successor thereto to divert, store, or use water, shall not be construed to be a taking, in whole or in part, of Water

Right nos. 63-05069B and 63-31290B. This Stipulation shall have no effect on the validity of any takings claim with regard to 63-05069A, 63-31290A, or any other water rights.

4. STIPULATION NOT TO BE USED AGAINST THE PARTIES. The Parties agree that this Stipulation has been entered into based upon good faith negotiations for the purpose of resolving legal disputes, including pending litigation, by compromise and settlement and that nothing in this Stipulation, or any offers or compromises made in the course of negotiating this Stipulation, shall be construed as admissions against interest or tendered or used as evidence to show the validity or invalidity of any water right claims made by the Parties, or as an admission or concession of wrongdoing or liability, or shall be used in any manner by any party in the SRBA in any future proceedings in the SRBA, in any appellate proceedings concerning the SRBA, or in any other proceeding, other than those seeking approval of this Stipulation by the SRBA Court, for interpretation or enforcement of this Stipulation, or for a purpose contemplated by Idaho Rule of Evidence 408.

5. RESERVATIONS. The Parties agree that this Stipulation has been entered into based upon good faith negotiations for the purpose of resolving legal disputes, including pending litigation, by compromise and settlement and that nothing herein shall be construed as precedent in any other proceeding or context. Nothing in this Stipulation shall be construed to deprive any federal official of authority to revise, amend, or promulgate regulations. Nothing in this Stipulation shall be construed to commit any federal official to expend funds not appropriated by Congress.

6. VOLUNTARY EXECUTION. This Stipulation was entered into and executed voluntarily by the Parties in good faith, and without any fraud, misunderstanding, overreaching, misrepresentation, duress, or undue influence.

7. BINDING EFFECT. This Stipulation shall be binding on any and all successors, assigns, heirs, executors, and administrators of each of the Parties.

8. FEES AND COSTS. Each Party shall bear its own fees and costs.

State of Idaho)
) ss.
County of Ada)

DAVID L. NEGRI, duly sworn, upon oath, deposes and says:

That I am the party filing this Stipulation, and/or that I am the attorney for the party, and that I have read this Stipulation, know its contents and believe that the statements are true to the best of my knowledge.

Dated 3/10/04

David Negri

David L. Negri
United States Department of Justice
Environment and Natural Resources Division
General Litigation Section
550 West Fort Street, MSC 033
Boise, Idaho 83724
(208) 331-5943

Counsel for the United States of America

Subscribed and sworn before me on: Mar 10 2004

(name of notary)

Notary Public for: Idaho
Residing at: KUNA IDAHO
Commission expires: 11-17-2004

GAYLA J. GOUGH NOTARY PUBLIC STATE OF IDAHO

(seal)

State of Idaho)
) ss.
County of Ada)

DANA L. HOFSTETTER, duly sworn, upon oath, deposes and says:

That I am the party filing this Stipulation, and/or that I am the attorney for the party, and that I have read this Stipulation, know its contents and believe that the statements are true to the best of my knowledge.

Dated 3/10/04

Dana L. Hofstetter
Hofstetter Law Office, LLC
608 West Franklin Street
Boise, ID 83702
(208) 424-7800

Counsel for Danskin Cattle LLC

Subscribed and sworn before me on: Mar 10, 2004

(name of notary)

GAYLA J. GOUGH NOTARY PUBLIC STATE OF IDAHO (SEAL)

Notary Public for: Idaho
Residing at: Kuna Idaho
Commission expires: 11-17-2004

State of Idaho)
) ss.
County of Elmore)

ROBERT C. BAKER, duly sworn, upon oath, deposes and says:

That I am the party filing this Stipulation, and/or that I am the attorney for the party, and that I have read this Stipulation, know its contents and believe that the statements are true to the best of my knowledge.

Dated 3/4/04

Robert C. Baker
Managing Member
Danskin Cattle LLC
P.O. Box 488
Mountain Home, ID 83647

Subscribed and sworn before me on: March 4, 2004

Lora M Bernstein
(name of notary)

Notary Public for: Idaho
Residing at: Boise
Commission expires: 4-24-2004

LORA M. BERNSTEIN NOTARY PUBLIC STATE OF IDAHO

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 9, 2004, I served a true and correct copy of the foregoing **STIPULATION TO RESOLVE SUBCASES**, postage pre-paid where applicable, upon the following:

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

David Negri
United States Department of Justice
Environment and Natural Resources Division
General Litigation Section
550 West Fort Street, MSC 033
Boise, Idaho 83724

Nicholas Spencer *(Via Hand Delivery)*
Idaho Department of Water Resources
1301 North Orchard Street
Boise, Idaho 83706

Jan Shurte *(Via Hand* Delivery*)*
Western Region
Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705

Dana L. Hofstetter