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

|                       |   |                                                           |
|-----------------------|---|-----------------------------------------------------------|
| <b>In Re SRBA</b>     | ) | <b>Sub-case Nos.: 51-02002 et al. (Riddle Ranches)</b>    |
|                       | ) | <b>&amp; 51-12761, et al. (US/Shoshone-Paiute Tribes)</b> |
|                       | ) | <b>(See Attachments A &amp; B)</b>                        |
| <b>Case No. 39576</b> | ) |                                                           |
|                       | ) | <b>UNITED STATES' AND SHOSHONE-PAIUTE</b>                 |
|                       | ) | <b>TRIBES' JOINT RESPONSE TO THREE</b>                    |
|                       | ) | <b>ORDERS RE: US/SHOSHONE-PAIUTE</b>                      |
|                       | ) | <b>TRIBES CONSUMPTIVE USE CLAIMS</b>                      |
|                       | ) |                                                           |

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The United States and the Shoshone-Paiute Tribes of the Duck Valley Indian Reservation  
(hereinafter collectively referred to as "Claimants"), respectfully submit this response to the  
following three orders recently entered by the Court:

1. "Order to Amend Claimant Record," dated May 4, 2004;
2. "Order Re: US/Shoshone-Paiute Tribes Consumptive Use Claims," dated May 4, 2004; and
3. "2<sup>nd</sup> Order Re: US/Shoshone-Paiute Tribes Consumptive Use Claims," dated May 5, 2004.

UNITED STATES' AND SHOSHONE -PAIUTE  
TRIBES' JOINT RESPONSE TO THREE ORDERS  
RE: US/SHOSHONE-PAIUTE TRIBES  
CONSUMPTIVE USE CLAIMS

1. Order to Amend Claimant Record.

The Claimants concur with the Court's action amending the Court's IWATRS electronic database to show the correct claimant of federal reserved water right claim 55-13817 as the United States of America as trustee for the Shoshone-Paiute Tribes.

2. [1<sup>st</sup>] Order Re: US/Shoshone-Paiute Tribes Consumptive Use Claims.

In this Order, the Court identified 280 consumptive use claims, all located in Basin 55, which the court records indicate are "at issue" but which were not set for trial on January 13, 2005. The Court further directed that, "unless a party submits in writing to the Court no later than Friday, May 21, 2004, good cause why the 280 consumptive use claims should not be tried along with the above Riddle Ranches and Shoshone-Paiute Tribes claims, the 280 claims will be heard at trial on January 13, 2005."

As a general matter, the Claimants do not object to the Court's proposal to try the 280 consumptive use claims filed for the benefit of the Shoshone-Paiute Tribes with the other non-consumptive use claims filed for the benefit of the Tribes. As the Court correctly stated, the Claimants agree that, "it was clear from that [April 1, 1996] **Order** that Judge Hurlbutt, and presumably the parties, intended that the non-consumptive use claims for the Duck Valley Indian Reservation would be litigated with the Duck Valley Indian Reservation consumptive use claims." Indeed, it may well make sense to consolidate all of the claims filed for the benefit of the Shoshone-Paiute Tribes for both trial and pre-trial proceedings.

However, the Claimants do not believe that such a trial should also include claims for the Riddle Ranches or any other non-tribal, non-federal, claims. Aside from being neighbors who

have objected to each other's water right claims, the Riddle Ranches rights have little in common, legally or factually, with the federal reserved water rights claimed by the Tribes and the United States. We submit that the objections to the Riddle Ranches water rights claims should be tried separately and should not be consolidated with the tribal claims. To be sure, those claims have been grouped together by the Court for the purpose of reporting on settlement activities and for that purpose it made sense to consider the two sets of claims together. However, while the parties continue to discuss settlement options which may yet resolve all of the objections between the Tribes and Riddle Ranches, the two sets of claims should not be consolidated for trial.

3. 2<sup>nd</sup> Order Re: U.S./Shoshone-Paiute Tribes Consumptive Use Claims.

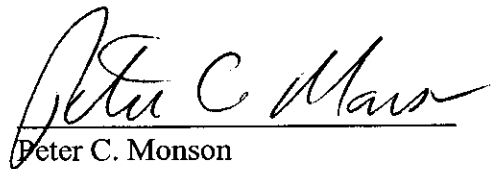
In this Order, the Court identified an additional 76 consumptive use claims, all located in Basin 51, which Court records indicate are at issue, much like the 280 claims in Basin 55 which were just discussed. We believe that these should also be tried together with the other consumptive and non-consumptive federal reserved water right claims filed by the United States for the benefit of the Shoshone-Paiute Tribes. We also submit that these claims should be tried separately from those filed by Riddle Ranches.

We note further that the list of claims provided by the Court in connection with this Order omits one claim: **No. 51-12603**. Also omitted are two claim numbers (**51-12899 and 55-13822**) which were assigned by Special Master Haemmerle to correspond with the first four pages of the claim (i.e., the claim form to which the appendices are attached). We wanted to bring this matter to the Court's attention so that the Court could decide whether to add these two claim numbers to

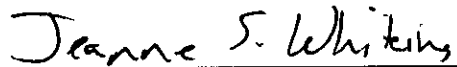
the list of claims to be heard at trial on January 13, 2005.

Finally, our records indicate that the only consolidation of the claims on behalf of the Shoshone-Paiute Tribes was of seven claims for nonconsumptive use consolidated under 51-12756. *See* Second Amended Case Management Order: Federal and Tribal Non-consumptive (Instream Flow) Claims (April 25, 1996). Since that consolidation, one of the instream flow claims was withdrawn (No. 51-12761) and four additional instream flow claims were added through amendments in 1998. In addition, four consumptive use claims were reported to the SRBA Court in 1998 (Nos. 51-12847, 51-12848, 55-13668, 55-13669). We believe that consolidation of all of the claims for the benefit of the Shoshone-Paiute Tribes – both consumptive and non-consumptive, in both basins 51 and 55 – makes sense for purposes of trying those claims, separate, however, from the trial of objections to the Riddle Ranches claims.

Respectfully submitted this 20<sup>th</sup> day of May 2004.



Peter C. Monson  
Attorney for the United States of America



Jeanne S. Whiteing *By power email auth.*  
Attorney for the Shoshone-Paiute Tribes

CERTIFICATE OF MAILING

I hereby certify that on this 20<sup>th</sup> day of May 2004, I caused to be served true and correct copies of the foregoing UNITED STATES' AND SHOSHONE-PAIUTE TRIBES' JOINT RESPONSE TO THREE ORDER RE: US/SHOSHONE-PAIUTE TRIBES CONSUMPTIVE USE CLAIMS by first-class mail upon the following:

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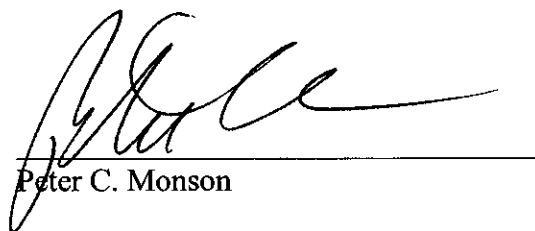
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UNITED STATES' AND SHOSHONE -PAIUTE  
TRIBES' JOINT RESPONSE TO THREE ORDERS  
RE: US/SHOSHONE-PAIUTE TRIBES  
CONSUMPTIVE USE CLAIMS

## ATTACHMENT A

### SUBCASE NUMBERS

51-02002  
51-10293  
55-02009  
55-02016  
55-02032  
55-02035  
55-02039  
55-02063  
55-02064  
55-02076  
55-02080  
55-02129  
55-02131  
55-02169  
55-02174  
55-02175  
55-02181  
55-02210  
55-02211  
55-02435  
55-07002  
55-07009  
55-13479  
55-13480

## **ATTACHMENT B**

### **SUBCASE NUMBERS**

51-12756  
51-12761  
55-13476  
55-13477  
55-13485  
55-13486  
55-13487

UNITED STATES' AND SHOSHONE -PAIUTE  
TRIBES' JOINT RESPONSE TO THREE ORDERS  
RE: US/SHOSHONE-PAIUTE TRIBES  
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