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FILED  
TWIN FALLS CO., IDAHO

**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     | ) | <b>ORDER DENYING MOTION TO</b>                 |
|                | ) | <b>ALTER OR AMEND and</b>                      |
| Case No. 39576 | ) | <b>RECOMMENDATION THAT</b>                     |
|                | ) | <b>LITIGATION BE STAYED PENDING</b>            |
|                | ) | <b>CHALLENGE IN SUBCASE 25-13635 <i>et</i></b> |
|                | ) | <b><i>al.</i></b>                              |
|                | ) |                                                |
|                | ) | <b>FOR WATER RIGHTS: 78-10996,</b>             |
|                | ) | <b>78-11080, 78-12022, 78-10968, 78-10972</b>  |

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On June 28, 2004, the United States filed a *Motion to Alter or Amend and to Stay Litigation* in the above-captioned subcases. This Special Master filed a *Special Master's Report and Recommendation* in the above subcases on May 24, 2004. In the *Report*, this Special Master denied the United States, Department of Interior, Bureau of Land Management's claims to water based upon the federal reservation of Public Water Reserve (PWR) No. 107. As grounds for the current motion before the Special Master, the United States incorporated its *Amended Motion to Alter or Amend* filed in subcases 25-13635, 25-13637, 25-13653, 65-19960, 65-19962 on May 2, 2003.

This Special Master previously ruled that a pending homestead application defeated a reservation under PWR 107 in subcases 25-13635, 25-13637, 25-13653, 65-19960, 65-19962. This Special Master denied the United State's *Motion to Alter or Amend* in subcases 25-13635, *et al*, on May 24, 2004. The United States has filed a *Challenge Notice* in subcases 25-13635, *et al*, and that case is currently before Presiding Judge Melanson to resolve the legal issue of the effect of a pending homestead application on PWR 107.

The United States has asserted, and this Special Master agrees, that the legal issue in

question in the above-captioned subcases is identical to that in subcases 25-13635, *et al.* A pending decision by the Court in subcases 25-13635, *et al.*, will be applicable in the above subcases.

THEREFORE IT IS ORDERED that the *Motion to Alter or Amend* in the above captioned subcases is **denied** and it is recommended that the *Motion for Stay* be **granted** pending the Court's decision in subcases 25-13635, *et al.*

DATED: June 29, 2004.



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THOMAS R CUSHMAN  
Special Master  
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER DENYING MOTION TO ALTER OR AMEND AND RECOMMENDATION TO STAY PENDING CHALLENGE IN SUBCASE 25-13635 ET AL was mailed on June 29, 2004, with sufficient first-class postage to the following:

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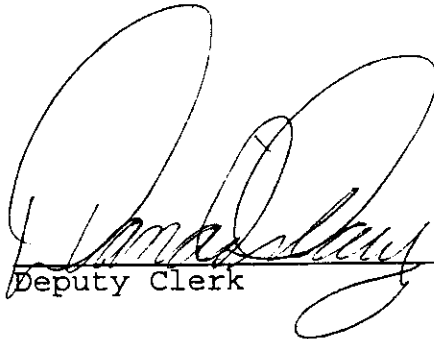
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ORDER

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