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DEPARTMENT OF
WATER RESOURCES

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DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED *[Signature]*

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	)	ORDER RESCINDING ORDER OF
	)	REFERENCE
Case No. 39576	)	and
	)	ORDER SETTING STATUS AND
	)	SCHEDULING CONFERENCE
_____	)	FOR WATER RIGHTS: See Exhibit A

I.

Order Rescinding Order of Reference

- A. The above-captioned subcases were referred to Special Master Thomas R. Cushman pursuant to the *Order of Reference* for Basin 63, Part I, Irrigation and Other Rights. Special Master Thomas R. Cushman retired on June 30, 2004. Therefore, the Court finds it appropriate to rescind the Order of Reference to Thomas R. Cushman in the above subcases.
- B. The Court, with Judge John M. Melanson presiding, will proceed in the above subcases in the same fashion as specified in *Administrative Order 1* for proceedings by Special Masters, unless specified otherwise.
- C. If the Court finds it necessary, the above subcases may be referred to another Special Master at a later date.

II.

Procedural Background

The above-captioned subcases were claimed by private claimants pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained a recommendation for these water rights.

Objections were filed to the above rights by the United States, Department of Interior, Bureau of Reclamation (United States) and/or the Boise Project Board of Control (Board of Control) regarding the season of use, period of year element recommended for each of the water rights. In

general, the United States and the Board of Control contend that any seasonal use beyond April 1st and November 1st will cause injury to downstream reservoir storage rights. The sources for the subject rights are tributary to reservoirs in the Boise Project. The Idaho Department of Water Resources filed a *Case Management Report* on March 10, 2003 in the above captioned subcases. Five of the above cases, 63-3422B, 63-4797, 63-8624, 63-31173 and 63-31174 had additional objectors and objections, but those objections have been resolved either by stipulation, *Amended Director's Reports*, or withdrawal. Therefore, all of the above-captioned subcases appear to be on the same procedural footing, with only one objection outstanding; to wit, season of use.

The Court finds that a timely resolution of these objections is necessary, as no other issues remain in the above-captioned subcases. The Court finds that in the absence of a settlement of the season of use issue, trials need to be held to resolve the objections. Although IDWR recommended substantively the same irrigation season of use for the above-captioned rights, the season of use for each right may have to be decided case by case (if the rights are not part of delivery entity etc.) to give the Objectors the opportunity to rebut the *prima facie* weight given to the Director's Recommendation.

III.

Order

Therefore, IT IS ORDERED, that a **status conference and trial scheduling conference** be set for the above-captioned subcases at **1:30 p.m. on August 17, 2004 at the Washington County Courthouse, 256 E. Court, Weiser, Idaho**. Telephone participation will be available by calling 1-918-583-3445 and entering 406128 when prompted.

Participants should be prepared to discuss whether the issue can be decided as a consolidated group, in subgroups or whether each case needs to proceed on an individual basis. Participants should also be prepared to discuss pretrial scheduling dates and trial dates in accordance with I.R.C.P. 16.

DATED: July 6th, 2004



JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

EXHIBIT A

Subcase Nos:

63-00019A	63-07984B
63-00019B	63-08624
63-00097	63-10279
63-00148B	63-15093
63-00317B	63-15094
63-00318A	63-15101
63-00318C	63-15206
63-00320A	63-15373
63-00378	63-15395
63-02026	63-15409
63-02037	63-15427
63-02171	63-15677
63-02252	63-15684
63-02472	63-30310
63-03125	63-31074
63-03422A	63-31077
63-03422B	63-31124
63-03447B	63-31173
63-03447C	63-31174
63-03447D	63-31289
63-03540	63-31317
63-04071	63-31319
63-04548	63-31320
63-04629A	63-31328
63-04629C	63-31335
63-04636	63-31336
63-04731	63-31380
63-04797	63-31397
63-04810	63-31454
63-05057	
63-05101	
63-05102	
63-05108	
63-05161B	
63-05161C	
63-05167	
63-05192	
63-05235	
63-05250	
63-05251	
63-05332	
63-05334	
63-05408	
63-07037	
63-07115	
63-07119	
63-07207	
63-07529	
63-07613D	
63-07984A	

(Subcase list: B63SEASON)

7/06/04

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER SETTING HEARING AND DEADLINES was mailed on July 6, 2004, with sufficient first-class postage to the following:

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Blue Jay Creek Water & Rd Users Inc
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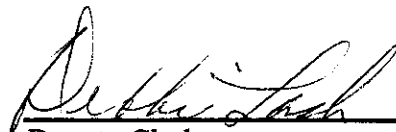
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Deputy Clerk