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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

In Re SRBA

Case No. 39576

) ORDER REQUIRING AMENDED
) ABSTRACT FOR FEDERAL CLAIMS;
) and ORDER SETTING SUBCASE
) DEADLINES
)
) For Water Rights: 27-11982 and 27-
) 11983 (formerly 27-11594) and 27-11984
) and 27-11985 (formerly 27-11595)
)

I. PROCEDURE

A. The above-captioned subcases were originally assigned to Special Master Cushman pursuant to an *Order of Reference*. Following Special Master Cushman's retirement, this Court rescinded the *Order of Reference* and determined that the presiding judge would proceed in the same manner as a special master in accordance with *SRBA Administrative Order 1*.

B. The subject water rights were claimed as dual-based claims pursuant to state law and also as a federal reserved water right pursuant to Public Water Reserve 107.

C. In conjunction with an evidentiary hearing held before Special Master Cushman pursuant to I.C. § 42-1411A(12), the claimant, the United States, filed an affidavit alleging the claim could be subject to two separate federal reservations. In addition to PWR107, it was asserted the claims could also be reserved pursuant to Executive Order 5389 dated July 7, 1930, because they also qualified as "medicinal springs".

D. Although the record is not entirely clear, the minute entry reflects that the Special Master discussed splitting the claims. No further action was taken prior to the rescission of the *Order of Reference*. A hearing was held on the matter before this Court on September 21, 2004, wherein it was concluded that the Court would order the rights split and proceed in a fashion similar to that which was ordered for 33-10694, which is similarly situated.

ORDER REQUIRING AMENDED
ABSTRACT FOR FEDERAL CLAIMS; and ORDER SETTING SUBCASE DEADLINES

D. On September 22, 2004, the United States , Bureau of Land Management filed *Amended Notices of Claim* splitting claims 27-11594 and 27-11595. Claim 27-11594 was split into 27-11982 designating the PWR 107 claim and 27-11983 designating the Executive Order 5389 claim. Claim 27-11595 was split into 27-11984 designating the PWR 107 claim and 27-11985 designating the Executive Order 5389 claim.

II. ORDER

Because splitting the claims into two separate claims differs from how the rights were originally claimed and abstracted/reported by IDWR, the amended claims need to be re-reported to provide notice to parties to the adjudication.

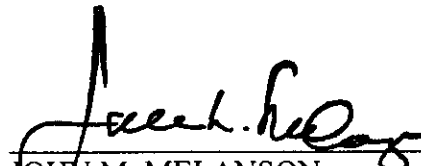
THEREFORE, the following shall apply:

1. Notice of the amended claims shall appear in the September 2004 docket sheet.
2. In accordance with *AOI* 4.(1), IDWR shall file a supplemental report/abstract for each right claimed by the United States, no later than **October 15, 2004**. Notice of the abstract shall appear in the October 2004 docket sheet.
3. Deadline for filing *Objections* shall be no later than **November 15, 2004**.
4. Deadline for filing *Responses to Objections* shall be no later than **November 30, 2004**.
5. A hearing on the *Objections and Responses* in this matter is set for **Tuesday, December 21, 2004, at 1:30 p.m.** at the Snake River Basin Adjudication District Court located at 253 3rd Avenue North, Twin Falls, Idaho. Telephone participation is available by dialing 918-583-3445 and when prompted entering the access code 406128.

If no *Objections* are filed, the Court will proceed on the *Affidavits* filed pursuant to I.C. § 42-1411A(12).

IT IS SO ORDERED

DATED September 24, 2004.


JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER REQUIRING AMENDED ABSTRACT FOR FEDERAL CLAIMS; AND ORDER SETTING SUBCASE DEADLINES was mailed on September 24, 2004, with sufficient first-class postage to the following:

UNITED STATES OF AMERICA

Represented by:

US DEPARTMENT OF JUSTICE

ENVIRONMENT & NATL' RESOURCES

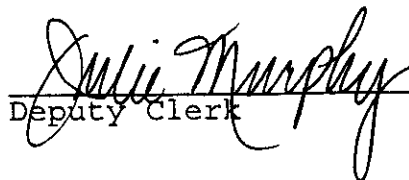
550 WEST FORT STREET, MSC 033

BOISE, ID 83724

DIRECTOR OF IDWR

PO BOX 83720

BOISE, ID 83720-0098

A handwritten signature in dark ink, appearing to read "Julie Murphy", is written over a horizontal line. The signature is fluid and cursive.