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Department of Water Resources

Names of Parties Filing Document:

UNITED STATES OF AMERICA

YOUNG & YOUNG
PARTNERSHIP

Attorneys' Names and Addresses:

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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

) Subcase Numbers: 36-02653C, 36-02653D,
) 36-07041, and 36-11340
)

) **STIPULATION TO RESOLVE UNITED**
) **STATES' OBJECTIONS AND JOINT**
) **MOTION TO DISMISS OBJECTIONS**
)
)

The United States of America and Young & Young Partnership (hereinafter "Claimant") agree and stipulate to resolve United States Department of the Interior, Bureau of Land Management (hereinafter "BLM") objections to the above-captioned water right claims as follows:

PAGE 1 - **STIPULATION TO RESOLVE UNITED STATES' OBJECTIONS AND JOINT MOTION
TO DISMISS OBJECTIONS; SUBCASE NUMBERS: 36-02653C, 36-02653D,
36-07041, and 36-11340**

STIPULATION

1. The United States and the Claimant agree and stipulate that the Director's Reports and Amended Director's Reports which have been issued pursuant to the following Notices of Completed Administrative Proceedings, pursuant to completed administrative transfer number 66087, may proceed toward partial decree as recommended: 36-02058B, 36-02058C, 36-02058D, 36-02075B, 36-02075D, 36-02075E, 36-02075F, 36-02191, 36-02193, 36-02233D, 36-02233G, 36-02410B, 36-02410C, 36-02410D, 36-02454B, 36-02530A, 36-02530B, 36-02591, 36-02619, 36-02620, 36-02653B, 36-02653N, 36-02653P, 36-02653Q, 36-04006, 36-07007B, 36-07021A, 36-07021C, 36-07041, 36-07042, 36-07391, 36-07580B, 36-07580C, 36-07580D, 36-07795A, 36-07795B, 36-08068B, 36-08068D, 36-08068E, 36-08068F, 36-08069N, 36-08069P, 36-08069Q, 36-08251E, 36-08274A, 36-08274B, 36-08275B, 36-08404, 36-08775, 36-08776, 36-08777, 36-08778, 36-11290, 36-11340, 36-15366B, 36-15366C, 36-15366D, 36-15456A, and 36-15456B.

2. The United States and Claimant agree that the land encompassed by the following places of use, described in the Amended Director's Report recommendations for the water right claim numbers listed in paragraph 1, is federal public land¹ managed by the BLM:

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¹In this document, the term "public lands" means "any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership" 43 U.S.C. § 1702(e).

PLACES OF USE ON BLM

T06S	R24E	S30	SWSE	15.0 ac
		S31	Lot 1 (NENW)	8.0 ac
			Lot 5 (SWNW)	29.0 ac
			Lot 6 (SENW)	15.0 ac
			SESE	29.0 ac
T07S	R24E	S04	Lot 3 (NENW)	20.0 ac
			Lot 4 (NWNW)	<u>20.0 ac</u>
				136.0 ac

3. Claimant agrees to file an application for a Land Use Authorization with the BLM for irrigated agricultural use of the federal public lands described above within 60 days of the date this stipulation is filed with the Snake River Basin Adjudication Court. The Claimant recognizes and agrees that the BLM's approval or denial of the Land Use Authorization is discretionary, and the Land Use Authorization may or may not be approved by the BLM's authorized officer.

4. If BLM, in its sole discretion, issues a Land Use Authorization for the federal public lands described in paragraph 2, then the Claimant agrees to change ownership to the federal public land places of use to the United States, according to the terms of the Land Use Authorization. This provision provides sufficient authority to the United States to file a Change of Ownership form with the Idaho Department of Water Resources to affect the change in title of water rights that describe federal public land.

5. If an application for Land Use Authorization is denied, or a Land Use Authorization is issued, then subsequently expires and is not renewed, or is terminated according to its terms, then the Claimant agrees and stipulates to initiate a transfer pursuant to I.C. 42 §222 to move acres describing federal public land to privately owned lands. The application for transfer shall be filed within 60 days of

the date the application for Land Use Authorization is denied, or the date any issued Land Use Authorization expires or is terminated according to its terms.

6. The United States agrees and stipulates to cooperate in the transfer described in paragraph 5. The Claimant shall not assume title to any places of use which describe federal public land as a result of such transfer.

7. All costs incurred in seeking a transfer application and change of ownership shall be borne by the Claimant.

8. Claimant agrees and stipulates that the United States shall be released and held harmless from any loss, injury, or damage should the application for Land Use Authorization be denied, or if a Land Use Authorization is issued and subsequently expires, is not renewed, or is terminated according to its terms, or if the Idaho Department of Water Resources does not allow transfer of all acres describing federal public land to privately owned lands and any portion of the water rights are forfeited.

9. The parties agree that nothing in this stipulation forecloses future administrative or judicial action by the United States in the relief of, or as a consequence of, the unauthorized use of the lands identified in paragraph 2 above, including, but not limited to, actions for past rent, rehabilitation of used land, or trespass.

10. The parties agree that nothing in this stipulation shall prevent the BLM from administering the use of federal public land and its associated water rights in accordance with applicable law, including taking such administrative actions as modifying, or terminating BLM-issued Land Use Authorizations, and prosecution of unauthorized use.

11. This stipulation has been reached through good faith negotiations for the purpose of resolving legal disputes, including pending litigation. The parties agree that no offers and/or compromises made in the course thereof shall be construed as admissions against interest. This stipulation does not create a precedent for settlement of any other disputes or objections.

12. This stipulation was entered into and executed voluntarily by all the parties in good faith, and without any fraud, misunderstanding, overreaching, misrepresentation, duress, or undue influence.

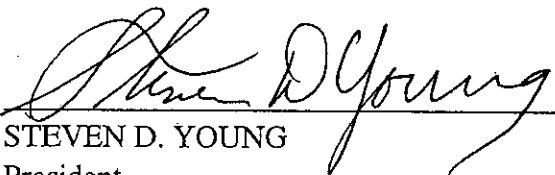
13. The parties agree to bear their own costs and attorney fees.

MOTION

The parties respectfully move this Court for an Order dismissing the BLM's objections, without prejudice. In support of this motion, the parties incorporate by this reference the above-recited Stipulation. The Stipulation resolves BLM's objections in the above-captioned subcases. A proposed Order is filed herewith.

CLAIMANT:

YOUNG & YOUNG PARTNERSHIP


STEVEN D. YOUNG
President

DATED: Aug. 19, 2002

OBJECTOR:

UNITED STATES OF AMERICA


LARRY A. BROWN FWP
Of Attorneys for the United States

DATED: Jan. 24, 2003

CERTIFICATE OF SERVICE

I certify that on Jan. 24, 2003 I served a true and correct copy of the foregoing **STIPULATION TO RESOLVE OBJECTIONS AND JOINT MOTION TO DISMISS OBJECTIONS; SUBCASE NUMBERS: 36-02653C, 36-02653D, 36-07041, and 36-11340, and PROPOSED ORDER** upon the following individuals by placing the document in the United States Mail in Washington D.C., postage paid, and addressed as follows:

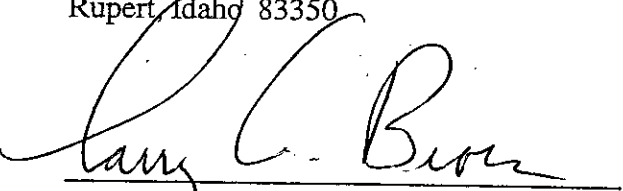
U.S. Department of Justice
General Litigation Section
Environment and Natural Resources Division
550 West Fort Street, MSC 033
Boise, ID 83724

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83720-0098

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

Steven D. Young, President
Young & Young Partnership
300A E. 1600 N.
Rupert, Idaho 83350

Bruce Hunsaker
P.O. Box 707
Rupert, Idaho 83350


Larry A. Brown

**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

) Subcase Numbers: 36-02653C, 36-02653D,
) 36-07041, and 36-11340
)

) **ORDER GRANTING MOTION TO**
) **DISMISS OBJECTIONS**
)

The United States of America and Young & Young Partnership (hereinafter "Claimant") filed a Stipulation to Resolve United States' Objection and Joint Motion to Dismiss Objections in the above-captioned subcases. The stipulation states:

The United States and the Claimant agree and stipulate that the Director's Reports and Amended Director's Reports which have been issued pursuant to the following Notices of Completed Administrative Proceedings may proceed toward partial decree as recommended: 36-02058B, 36-02058C, 36-02058D, 36-02075B, 36-02075D, 36-02075E, 36-02075F, 36-02191, 36-02193, 36-02233D, 36-02233G, 36-02410B, 36-02410C, 36-02410D, 36-02454B, 36-02530A, 36-02530B, 36-02591, 36-02619, 36-02620, 36-02653B, 36-02653N, 36-02653P, 36-02653Q, 36-04006, 36-07007B, 36-07021A, 36-07021C, 36-07041, 36-07042, 36-07391, 36-07580B, 36-07580C, 36-07580D, 36-07795A, 36-07795B, 36-08068B, 36-08068D, 36-08068E, 36-08068F, 36-08069N, 36-08069P, 36-08069Q, 36-08251E, 36-08274A, 36-08274B, 36-08275B, 36-08404, 36-08775, 36-08776, 36-08777, 36-08778, 36-11290, 36-11340, 36-15366B, 36-15366C, 36-15366D, 36-15456A, and 36-15456B.

The Motion states:

The parties respectfully move this Court for an Order dismissing the BLM's objections, without prejudice. In support of this motion, the parties incorporate by this reference the above-recited Stipulation. The Stipulation resolves BLM's objections in the above-captioned subcases.

//

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The Stipulation to Resolve the United States' Objections is incorporated herein by this reference. Based upon the stipulation of the parties, and the record herein, and the court being fully informed, it is

ORDERED that the BLM's objections in the above-captioned subcases are dismissed, without prejudice.

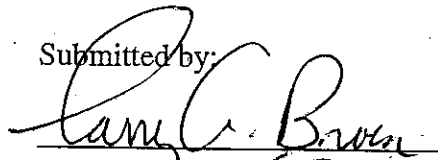
Based upon the NCAPs filed in the above-captioned subcases, the stipulation of the parties, and the record herein, and the court being fully informed, it is

FURTHER ORDERED that the Director's Reports and Amended Director's Reports which have been issued pursuant to the NCAPs may proceed towards partial decree.

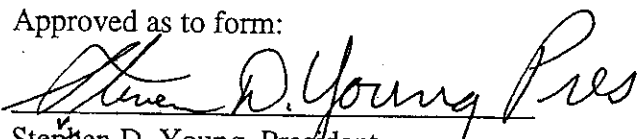
DATED this _____ day of August, 2002.

Terrence A. Dolan, Special Master
Snake River Basin Adjudication

Submitted by:


Larry A. Brown *FWP*
Of Attorneys for the United States

Approved as to form:


S.D.Y. Stephen D. Young, President
Young & Young Partnership *of Idaho*
S.D.Y.

CERTIFICATE OF SERVICE

I certify that on _____, 2002, I served a true and correct copy of the foregoing **ORDER GRANTING MOTION TO DISMISS OBJECTIONS; SUBCASE NUMBERS: 36-02653C, 36-02653D, 36-07041, and 36-11340** upon the following individuals by placing the document in the United States Mail in Twin Falls, Idaho, postage paid, and addressed as follows:

U.S. Department of Justice
General Litigation Section
Environment and Natural Resources Division
550 West Fort Street, MSC 033
Boise, ID 83724

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83720-0098

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Steven D. Young, President
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300A E. 1600 N.
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Bruce Hunsaker
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Deputy Clerk