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DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

**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 SETTING HEARING

**FOR WATER RIGHTS: 33-10694,
33-14862, 33-14863.**

I.

Procedural Background.

Water Right 33-10694 was claimed by the United States, Department of Interior, Bureau of Land Management (BLM) as a dual-based right, meaning it was claimed based on state law and as a federal-reserved water right. A 42-1411A(12) hearing was held on December 11, 2003 before Special Master Thomas Cushman. Affidavits were filed by the claimant in connection with the hearing. At the hearing, counsel for the United States stated the right should be split into two Federal Reserve water rights, one pursuant to Public Water Reserve 107, and the other pursuant to Executive Order 5389, which withdrew "medicinal springs." Special Master Thomas Cushman granted the claim for the splitting of the one right into two rights from the bench, finding that the claims were valid. Special Master Cushman requested that the Idaho Department of Water Resources split the claims and report the elements of each claim.

Special Master Cushman has retired and the *Order of Reference* rescinded.

Status Conferences were held on July 20, 2004 and August 17, 2004 in subcase 33-10694 before the Court. A *Supplemental Director's Report* was filed on September 16, 2004, splitting 33-10694 into rights 33-14862 and 33-14863. No objections were filed to the *Supplemental Director's Report*. A hearing was held on November 16, 2004. At the hearing, Counsel for the United States, Mr. Lee Leininger, stated that the affidavit filed in subcase 33-10694 was incomplete. Mr. Leininger

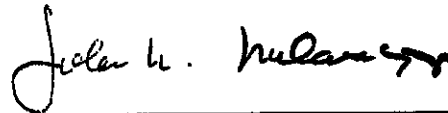
stated that he was attempting to have BLM staff supplement the affidavit, and that after the affidavit was supplemented, a second 1411A(12) hearing could be held.

II.

Status Conference.

Therefore, IT IS ORDERED, that that a Status Conference be set for 1:30 p.m. on December 21, 2004 at the Snake River Basin Adjudication Courthouse, 253 3rd Avenue North, Twin Falls, Idaho. Telephone participation will be available by calling 1-918-583-3445 and entering 406128 when prompted. The purpose of the Status Conference will be to hold a second hearing in accordance with 42-1411A(12) to determine whether water rights 33-14862 and 33-14863 are valid federal reserve water rights. IT IS FURTHER ORDERED that such supplemental affidavits shall be filed no later than December 14, 2004. If the affidavits are not filed by that date, the status conference for the above subcases shall be continued to the next regularly scheduled status conference.

DATED: November 18, 2004



JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER SETTING HEARING was mailed on November 17, 2004, with sufficient first-class postage to the following:

STATE OF IDAHO

Represented by:
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UNITED STATES OF AMERICA

UNITES STATES OF AMERICA

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