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DEPARTMENT OF
WATER RESOURCES

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

2005 AUG 9 PM 12 00

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	) Subcases 45-12477, <i>et al.</i>
	) (see list of 30 subcases attached)
Case No. 39576	) (US/BLM)
	)
	) ORDER VACATING ORDER TO
	) STAY;
	) ORDER GRANTING BEDKE
	) MOTION
	) TO PARTICIPATE; and ORDER
	) GRANTING
	) PICKETT RANCH MOTION TO
	) WITHDRAW

An I.C. § 42-1411A hearing on the above 30 federal law based claims (PWR 107) filed by the United States of America, Bureau of Land Management and a hearing on a *Motion to Participate* filed by Bruce and Jarde Bedke was held in Twin Falls on July 7, 2005. R. Lee Leininger appeared by telephone for the United States, along with Fredric W. Price; Bruce and Jared Bedke appeared *pro se*; Travis L. Thompson appeared for Pickett Ranch & Sheep Company; and Nicholas B. Spencer appeared by telephone for IDWR.

The parties agreed to vacate the July 2, 2001 *Order Staying Subcases* entered in a total of 495 subcases in Basin 45 and 47. For all practical purposes, that blanket *Order* is no longer relevant since the claims have developed along different litigation paths and the *Order* has become an impediment to orderly case management.

Bruce Bedke filed his motion to file late objections in the above 30 subcases on April 7, 1999. On June 18, 1999, Jared Bedke filed a *Late Objection Revised Subcase List* expanding his father's list of subcases to which they sought to object. On July 6, 1999, Bruce Bedke filed his own *Basin 45 Late Objection Revised Subcase List*. The

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ORDER VACATING ORDER TO STAY;
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Bedkes filed their *Motion to Participate* on June 15, 2005, arguing that 1) the above 30 subcases remain subject to the *Order Staying Subcases*, and 2) their motions to file late objections are pending. While the Special Master understood the Bedkes wanted to object to the United States' state law based claims and not its federal law based claims, the Bedkes said that they want to argue both the legal¹ and factual bases of PWR 107.

In court, counsel for Pickett Ranch moved to withdraw its June 23, 1999 *Motion for Leave to File Late Objections* filed in six of the above subcases (45-12541, 45-12543, 45-12545, 45-12658, 45-12728 and 45-12730) based on the August 29, 2002 *Stipulation* signed by certain private parties, including Pickett Ranch, and the United States.

THEREFORE, IT IS ORDERED that:

1. The *Order Staying Subcases*, entered July 2, 2001, in 495 subcases in Basins 45 and 47 is **vacated**;
2. The Bedkes' *Motion to Participate* in the above 30 subcases is **granted**; and
3. Pickett Ranch and Sheep Company's motion to withdraw its June 23, 1999 *Motion for Leave to File Late Objections* in subcases 45-12541, 45-12543, 45-12545, 45-12658, 45-12728 and 45-12730 is **granted**.

DATED August 9, 2005.



TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

¹ Counsel for the United States pointed out that on April 6, 1998, the Idaho Supreme Court held that PWR 107 is a valid basis for a federal reserved water right for the limited purpose of stockwatering and the United States has the right to administer such water rights on the public lands managed under the Taylor Grazing Act:

The purpose of PWR 107 was to prevent the monopolization by private individuals of springs and waterholes on public lands needed for stockwatering. Without the reserved water right for such springs and waterholes the purpose of PWR 107 would be entirely defeated because Taylor Grazing permittees would not have water needed for stockwatering purposes. Furthermore, the administration of the reserved water rights for consumption by grazing animals on land managed by the federal government may simplify the SRBA proceeding because the priority date for all of the Taylor Grazing rights would be the same date, April 17, 1926, which is the date of withdrawal pursuant to PWR 107.

U.S. v. State, 131 Idaho 468, 472, 959 P.2d 449, 453 (1998).

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ORDER VACATING ORDER TO STAY;
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EXHIBIT A

Subcase Nos:

45-12477
45-12479
45-12481
45-12483
45-12497
45-12541
45-12543
45-12545
45-12658
45-12693
45-12695
45-12699
45-12701
45-12703
45-12705
45-12707
45-12709
45-12711
45-12713
45-12715
45-12726
45-12728
45-12730
45-12784
45-12785
45-12789
45-12791
45-12798
45-12817
45-12818

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ***ORDER VACATING ORDER TO STAY; ORDER GRANTING BEDKE MOTION TO PARTICIPATE; AND ORDER GRANTING PICKETT RANCH MOTION TO WITHDRAW*** was mailed on August 9, 2005, with sufficient first-class postage to the following:

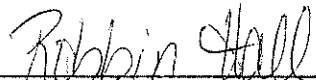
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