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SPECIAL INSTRUCTIONS: Attached for filing is **United States' Motion to Modify Schedule** in Subcase Nos. 51-02002, *et al.*, 51-12756, *et al.*, and 51-12604, *et al.* Two additional copies will be sent by FedEx mail to satisfy the copy requirements.

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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	)	Subcase Nos. 51-02002, <i>et al.</i> [Exhibit A]
	)	Subcase Nos. 51-12756, <i>et al.</i> [Exhibit B]
Case No. 39576	)	Subcase Nos. 51-12604, <i>et al.</i> [Exhibit C]
	)	
	)	UNITED STATES' MOTION TO MODIFY
	)	SCHEDULE PROVIDED IN ORDER
	)	GRANTING MOTION FOR EXTENSION
	)	OF TIME TO RESPOND

The United States' hereby requests a modification to the schedule provided by the Order Granting Motion for Extension of Time to Respond, dated February 13, 2006. The basis for this motion is threefold. First, for the sake of clarity and efficiency, the Tribes' objection to the Motion for Entry of Consent Decree should be fully briefed before the United States and other parties are required to respond. Second, the United States requires sufficient time to analyze the Tribes' fully briefed objection and prepare a response. Third, counsel for the United States has a scheduling conflict during the week of March 13-17 which would significantly impair the United States' ability

to draft a responsive filing by March 17, 2006, as the current schedule requires. The United States has consulted with counsel for the State of Idaho and the Shoshone-Paiute Tribes and is authorized to represent that the Tribes do not object to this Motion and the State is neutral as to this Motion.

A. The Tribes' Objection to the Motion for Entry of Consent Decree should be fully briefed before the United States and other parties are required to respond.

The Shoshone-Paiute Tribes' Objection to Entry of Consent Decree and Motion for Extension of Time to Respond (hereinafter "Tribes' Objection and Motion for Extension"), dated February 8, 2006, provides only preliminary grounds for the Tribes' objection to the Consent Decree. Indeed, the Tribe's Objection and Motion for Extension specifically states that it sets forth only "a summary of the grounds for their objections to entry of the consent decree" and confirms that "[t]hese grounds for objection would be expanded upon if an extension is granted." Tribe's Objection and Motion for Extension, p. 3. In light of the fact that the Tribes' were granted the extension of time, they should be allowed to fully brief the grounds for their objection prior to the United States and other parties responding to their objection. Moreover, judicial efficiency and legal clarity dictate that these issues be briefed only once. No other objections were filed by the February 10 deadline, therefore, the Tribal objection is the only objection that will be briefed and argued.

Under the schedule provided by the Order Granting Motion for Extension of Time to Respond, dated February 13, 2006, the United States and other parties would be required to file a reply brief to the Tribes' objections on February 27, the Tribes would finalize their objections on March 10, and the United States and other parties would again respond to the Tribal objections on March 17. Such a schedule is inefficient in that it potentially briefs the same issues twice and may give rise to confusion because the February 27 reply briefs would be filed without the benefit of the

full arguments from the Tribes in support of their objection. Instead, the United States requests that the schedule be modified as set out below so that the United States and other parties only respond to the arguments supporting the Tribal objection once.

B. The United States requires sufficient time to prepare a response to the Tribe's Objection to Entry of Consent Decree after it is fully briefed.

The Order Vacating Trial Scheduling Orders and Order Setting Schedule for Filing Motion for Entry of Partial Consent Decree, dated December 21, 2005, allowed more than two weeks for the United States and other parties to prepare and file a "reply" brief to any objections filed to the Motion for Entry of Consent Decree. That amount of time is the minimum required for the United States to sufficiently analyze the Tribes' arguments and draft a response, particularly in light of the time required for Department of Justice attorneys to consult with our client agency, the Department of the Interior.

C. Undersigned counsel for the United States are unavailable to draft a response brief from March 13-15 due to a pre-existing commitment to attend a required Department of Justice meeting.

The Indian Resources Section of the Environment and Natural Resources Division of the Justice Department meets once every two years for a vital planning and assessment session. This session was scheduled over six months ago and will take place on March 13-15. Ms. Willard and Mr. Monson are required to attend this meeting and will be unavailable to draft a response during the week currently included in the schedule.

For all of these reasons, the United States requests that the schedule be modified as follows:

March 10, 2006 - Deadline for Tribes to file final objections and brief in support thereof.

March 31, 2006 - Deadline for all other parties to file briefs in response to Tribal objections.

Mid-April, 2006 - Hearing in Twin Falls on a date that is convenient for the court.

The United States does not seek oral argument on this motion but is available if the Court would

like to schedule a hearing. In the event that the Court schedules a hearing on this Motion, the United States requests that the hearing be expedited.

Respectfully submitted this 14th day of February 2006.

Sue Ellen Wooldridge
Assistant Attorney General
Peter C. Monson
Assistant Chief, Indian Resources Section



Vanessa Boyd Willard
Indian Resources Section

Certificate of Service

I hereby certify that on February 14th, 2006, I caused to be served true and correct copies of the attached **UNITED STATES' MOTION TO MODIFY SCHEDULE PROVIDED IN ORDER GRANTING MOTION FOR EXTENSION OF TIME TO RESPOND** as follows:

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