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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA
TWIN FALLS CO. IDAHO
FILED

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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

)
) Consolidated Subcase 03-10022
) (Nez Perce Instream Flow Claims);
)
) Consolidated Subcase 67-13701
) (Nez Perce Springs or Fountains Claims);
)
) Subcases 71-10886 *et. al*
) (State Minimum Stream Flow Claims);
)
) Consolidated Subcase 92-80
) (Nez Perce Multiple-Use Claims).
)
) NOTICE OF HEARING ON CLERICAL
) ISSUES PERTAINING TO CONSENT
) DECREE
)

I.

PURPOSE OF HEARING

The *Order Approving Consent Decree* was issued January 30, 2007. After docketing the large number of actions taken with respect to all of the water rights covered by the *Consent Decree*, the Court identified some discrepancies in the register of actions for certain claims. The purpose of the hearing is to explain the errors, notify the parties of the Courts proposed intended action to correct the discrepancies, and to give the parties the opportunity to be heard on the Court's proposed action.

II.
DISCREPANCIES AND PROPOSED ACTION

1. Water right claim 83-11938 is listed on Exhibit A as an instream flow claim to be disallowed. The Court's register of actions only identifies 83-11938 as being an unrelated private claim. The Court proposes striking 83-11938 from Attachment 3A since the only register of actions under that claim number is to an unrelated private claim. No *Partial Decree* was issued for the claim on behalf of the Tribe.
2. Attachment 3B lists claim number 79-13735 as a spring or fountain claim located on private or state owned land to be dismissed. The Court's register of actions does not have a record of that claim number. The Court proposes striking 79-13735 from Attachment 3B.
3. Water rights 79-12230 and 79-12231 are included in the Court generated list containing the springs or fountain claims that were decreed. However, the correct claim numbers should be 78-12230 and 78-12231 to correctly reflect the *Partial Decrees* issued for the two claims. This is a clerical error in the Court generated list only. The Court proposes amending the two water right numbers to 78-12230 and 78-12231.
4. Attachment 3C lists the springs or fountains claims filed by the Nez Perce Tribe on its own behalf, which were decreed disallowed. The list contains water rights 69-11479, 78-12076 and 82-12057 as claims to be decreed disallowed. However, the Court has no register of action or other record for these claim numbers. The Court proposes striking these claims from the list.
5. Claim number 79-13828 is listed on Attachment 3C as a claim to be disallowed. However, claim number 79-13828 was also decreed as a springs or fountain right for which a *Partial Decree* was issued. The Court proposes striking 79-13828 from Exhibit 3C.

6. The Court's register of action lists 79-12397, 79-13535, 79-13435, 82-11245, 82-11661, 84-11074, 84-11094, 84-12081, 85-13831 and 85-15285 as being consolidated with the springs and fountains claims. These claims were not addressed in the *Consent Decree*. The Court proposes closing out these claim numbers in its register of actions.
7. According to the Court's register of actions, the following claims are instream flow claims that were not included in Attachment 3A to the *Consent Decree*. The Court entered a disallowed notation for each of the rights because all instream flow claims filed under consolidated subcase 03-10022 were disallowed pursuant to the *Consent Decree*. However, because the claim numbers were omitted from Attachment 3A, there has been no order entered disallowing the claims. The Court proposes adding the claim numbers to Attachment 3A. These include: claim numbers: 85-12419, 85-12420, 85-12422, 85-12424, 85-12426, 85-12428, 85-12430, 85-12432, 85-12434, 85-12436, 85-12440, 85-12442, 85-12444, 85-12446, 85-12448, 85-12450 and 86-10862.

III. NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that a hearing is set on this matter on **April 17, 2007 at 2:00 p.m.** at the **Snake River Basin Adjudication Courthouse** located at 253 3rd Avenue North in Twin Falls, Idaho. Telephone participation will be available by calling 1-918-583-3445 and entering 406128 when prompted. Participation in this hearing is not mandatory. However, if no party appears in opposition to the Court's proposed course of action the Court will take the proposed action as described herein.

Dated: March 9, 2007



JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the NOTICE OF HEARING ON CLERICAL ISSUES PERTAINING TO CONSENT DECREE was mailed on March 09, 2007, with sufficient first-class postage to the following:

ALBERT P. BARKER
JOHN K. SIMPSON
BARKER ROSHOLT & SIMPSON LLP
1010 W JEFFERSON, STE 102
PO BOX 2139
BOISE, ID 83701-2139

TRAVIS L THOMPSON
BARKER, ROSHOLT & SIMPSON LLP
113 MAIN AVE W, STE 303
TWIN FALLS, ID 83301-6167

JOSEPHINE P. BEEMAN
BEEMAN & ASSOCIATES, P.C.
409 WEST JEFFERSON STREET
BOISE, ID 83702

WILLIS D & BETTY G DEVENY
BOX 1160
RIGGINS, ID 83549

JAMES W GIVENS
BOX 875
LEWISTON, ID 83501

UNITED STATES DEPT OF JUSTICE
ENVIRONMENT & NATURAL RESOURCE
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

W. KENT FLETCHER
FLETCHER LAW OFFICE
PO BOX 248
BURLEY, ID 83318

JEFFREY C. FEREDAY
MICHAEL C. CREAMER
GIVENS PURSLEY LLP
601 W BANNOCK ST
PO BOX 2720
BOISE, ID 83701-2720

MARK L JACKSON
HC 11 BOX 32
KAMIAH, ID 83536

CLAUDE SIMMONS
HC 11 BOX 59B7
KAMIAH, ID 83536

DAVID W. & MELODIE L. BAKER
HC 68 BOX 304
CLAYTON, ID 83227

JERRY HOAGLAND
HC 79 BOX 44
MELBA, ID 83641

JAMES C. TUCKER
IDAHO POWER CO
PO BOX 70
BOISE, ID 83707

NORMAN M. SEMANKO
IDAHO WATER USERS ASSOCIATION
1010 W JEFFERSON ST, STE 101
BOISE, ID 83702

TERRY T. UHLING
JR SIMPLOT COMPANY
999 MAIN ST, 13TH FL
PO BOX 27
BOISE, ID 83707

ROGER D LING
LING, ROBINSON & WALKER
615 H ST
PO BOX 396
RUPERT, ID 83350-0396

CHARLES F MC DEVITT
MC DEVITT & MILLER
420 W BANNOCK ST
PO BOX 2564
BOISE, ID 83701

MICHAEL MIRANDE
MILLER BATEMAN LLP
1426 ALASKAN WAY, STE 301
SEATTLE, WA 98101

(Certificate of mailing continued)

ANGELA SCHAER KAUFMANN
SCOTT L. CAMPBELL
MOFFATT, THOMAS, BARRETT, ROCK
& FIELDS
101 S CAPITOL BLVD, 10TH FLOOR
PO BOX 829
BOISE, ID 83701-0829

BRUCE M. SMITH
MOORE SMITH BUXTON & TURCKE
950 W BANNOCK STE 520
BOISE, ID 83702

DON B. MILLER
STEVEN C. MOORE
NATIVE AMERICAN RIGHTS FUND
1506 BROADWAY
BOULDER, CO 80302

JOHN R. KORMANIK
NATURAL RESOURCES
STATE OF IDAHO AG'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449

K. HEIDI GUDGELL
NEZ PERCE TRIBAL EXEC COMM
100 AGENCY ROAD
PO BOX 305
LAPWAI, ID 83540

CHIEF, NATURAL RESOURCES DIV.
OFFICE OF THE ATTORNEY GENERAL
STATE OF IDAHO
PO BOX 44449
BOISE, ID 83711-4449

DAVID HENSLEY
OFFICE OF THE GOVERNOR
PO BOX 83720
BOISE, ID 83720-0034

JOHN E. BURNS
PO BOX 264
CARMEN, ID 83462

DIRECTOR OF IDWR
IDWR DOCUMENT DEPOSITORY
PO BOX 83720
BOISE, ID 83720-0098

JERRY R. RIGBY
RAY W. RIGBY
RIGBY, THATCHER, ANDRUS, RIGBY
KAM & MOELLER, CHTD
25 N 2ND E
PO BOX 250
REXBURG, ID 83440-0250

CHARLES L. HONSINGER
DANIEL V. STEENSON
RINGERT, CLARK CHTD.
455 S THIRD ST
PO BOX 2773
BOISE, ID 83701-2773

WILLIAM F. BACON
SHOSHONE-BANNOCK TRIBES
PO BOX 306
FORT HALL, ID 83203

BRANDELLE WHITWORTH
SHOSHONE-BANNOCK TRIBES
TRIBAL COUNSEL OFFICE
PO BOX 306
FORT HALL, ID 83203

NEZ PERCE TRIBE
USA, TRUSTEE
911 N.E. 11TH AVENUE
PORTLAND, OR 97232

CLAYTON M. BADLEY
1220 EAST 10TH NORTH
MOUNTAIN HOME, ID 83647

STEVEN W. STRACK
210 STATEHOUSE
PO BOX 83720
BOISE, ID 83720-0010

NOTICE

(Certificate of mailing continued)

MARDELL J EDWARDS
239 GRANGEVILLE SALMON RD
GRANGEVILLE, ID 83530

LOST VALLEY RESERVOIR CO
2671 WEST FORK RD
FRUITVALE, ID 83620

LITTLE WEISER IRRIGATION DIST
3453 HIGHWAY 95
CAMBRIDGE, ID 83610

JOHN MARK NUTTMAN
411 E CONQUIST RD
ALLYN, WA 98524

DANA L. HOFSTETTER
608 WEST FRANKLIN STREET
BOISE, ID 83702