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DEPARTMENT OF
WATER RESOURCES

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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	)	SETTLEMENT CONFERENCE
	)	REPORT
	)	
	)	SUBCASE NOS.: 27-12002 AND 27-12003

A three hour mandatory settlement conference was convened at the Idaho Department of Water Resources Water Center in Boise, Idaho, on October 9, 2007, 1:30 p.m. Attached is a list of those who attended either in person or by telephone conference. The key issue was whether the SRBA Court should partially decree the above surface water claims, plus all other similar diversions from the Blackfoot River and its tributaries, with annual diversion volumes. Two other related issues concerned quantity for stockwater use and period of use.

The parties first reviewed portions of SRBA Presiding Judge Daniel C. Hurlbutt's August 2, 1995 *Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use of Water in the Upper Snake River Basin*, particularly its subordination provision. Then, Carter Borden with HDI gave his power point presentation entitled, "Blackfoot River Mike Basin Model." That was followed by discussions of the value of the model to resolve the parties' objections and its limitations to determine basin-wide diversion volumes generally. All parties readily agreed to further search their own databases to supplement and adjust the model to increase its utility. Toward that end, the "technical people" agreed to immediately begin holding meetings amongst themselves.

The general consensus of the parties was that the two issues other than annual diversion volumes can be settled "in a couple days." In that case, the agreements would be presented as stipulations.

On the issue of annual diversion volumes, all agreed on one thing: the above two subcases should proceed together with all other Basin 27 subcases where the identical issue has been raised.

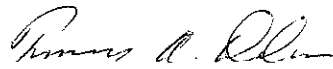
This would be more equitable for the claimants who must bear the expenses and a more efficient use of the Court's resources. Further, the parties agreed that a summary judgment hearing for all the subcases on February 27, 2008, would allow the parties to improve the Mike Basin Model and perhaps settle the matter with its use.

The parties identified the following subcases as presenting the same issue of annual diversion volume currently set for trials or a summary judgment hearing in the near future:

<u>Subcases</u>	<u>Trial / S/J Hrng</u>
27-12002 (Hunsaker Ranching, Inc.)	11/14/07 (trial)
27-12003 (Preston R. Allen & Sons Partnership)	11/14/07 "
27-29D (Taney)	11/15/07 "
27-12121 (Banfuss)	11/16/07 "
27-2078 (Jorgensen Farms Ltd Partnership)	11/16/07 "
27-2069 (Lake)	11/16/07 "
27-10028 (Gardner)	12/19/07 "
27-00001A, et al.	2/27/08 (s/j hrng)
27-00023B, et al.	2/27/08 "

In the opinion of the Settlement Moderator, these and similar subcases will likely settle as a group because the parties all agree on the goal of following the letter and spirit of Judge Hurlbutt's *Partial Final Consent Decree*. To do that, non-Indian annual diversions from the Blackfoot River and its tributaries must be determined with reasonable accuracy and then administered in an equitable and sensitive manner. The only question is how best to accomplish those ends which will necessarily involve a "technical" resolution. An updated and improved Mike Basin Model may provide the parties with a solution.

DATED: October 12, 2007.



TERRENCE A. DOLAN
Settlement Moderator
Snake River Basin Adjudication

MANDATORY SETTLEMENT CONFERENCE
Tuesday, October 9, 2007, 1:30 p.m.
IDWR Water Center, Boise, ID
Settlement Moderator – Terrence A. Dolan

27-12002

Claimant

Hunsaker Ranching, Inc. / Keith Hunsaker
No representative or attorney appeared¹

Objectors

US / BIA

Peter C. Monson
Gerald Henrikson – BIA, Portland, OR
Ron Billstein – HKM, Inc., Billings, MT

Shoshone-Bannock Tribes
Jeanette Wolfley
Elese Teto – Tribal Water Engineer
Gail Martin – Tribal Paralegal
Brett Bovee – Tribal Water Consultant

Respondents

Hunsaker Ranching, Inc.

State of Idaho
David J. Barber
David Shaw

27-12003

Claimant

Preston R. Allen & Sons Partnership
Jerry R. Rigby (teleconference)
Kent Allen (teleconference)

Objectors

US / BIA

Shoshone-Bannock Tribes

Kent P. Allen

¹ Counsel for IDWR suggested that the reason no one appeared for Hunsaker Ranching, Inc., was because the parties circulated a settlement document that would resolve outstanding objections to its claim.

Respondent
State of Idaho

IDWR

David R. Tuthill, Jr.
Garrick L. Baxter
Andrea L. Courtney
Ernie Carlsen (teleconference)
Ryan Madsen (teleconference)
Carter Borden – HDI
Nick Scheidt
Ray Williams

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SETTLEMENT CONFERENCE REPORT was mailed on October 12, 2007, with sufficient first-class postage to the following:

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Deputy Clerk