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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

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**ORDER GRANTING MOTION TO
VACATE TRIAL SCHEDULE AND
SETTING SUBCASE DEADLINES**

**SUBCASE NOS.: 27-29D, 27-2069,
27-2075, 27-12002, 27-12003 and 27-12121**

I. PROCEDURAL BACKGROUND

A Joint Motion to Vacate Trial Schedule was filed on April 18, 2008. A hearing was held on the *Motion* on July 9, 2008.

II. FINDINGS

The movants discussed how these subcases relate to the 300 volumetric *Objections* filed by the Shoshone-Bannock Tribes. The parties noted that significant progress has been made on the negotiations which may resolve the volumetric objections in Basin 27. Specifically, the governmental parties represented that they are diligently gathering water diversion data for the entire Blackfoot River Basin. The data is currently being analyzed so the parties can finalize an agreement on an equitable adjustment pursuant to the 1990 *Fort Hall Indian Water Rights Agreement* and related *Partial Final Consent Decree*. The Court agreed to: (1) extend the deadline for the next Case Management Progress Report by the governmental entities and (2) to vacate the current trial schedule. The court notes that the trial setting and deadlines were extended because the parties assured the court that detailed settlement proposals will be discussed at the July 30, 2008 settlement conference and that a written settlement model will be prepared and circulated by November 2008.

The parties acknowledged that 2008 may not be a typical water year and that the parties may not agree on how to extrapolate the data collected this year. However, the parties also acknowledged that no single year would be totally representative of water usage. The parties also conceded that

they have other sources of information on which to base an agreement, including interviewing water users about historic water use patterns.

The governmental parties agreed to negotiate on a frequent basis and to share information by encouraging their technical representatives to communicate regularly. The governmental parties agreed to work on refining how they will calculate an "Equitable Adjustment" and will consider whether such an adjustment should be a one-time adjustment or a periodic adjustment. The governmental parties will present an update on their negotiations, and will present a written Settlement Model, and will make a formal recommendation on how to finalize these cases at the November 21, 2008 Status Conference. If a Settlement Model cannot be reached, the parties should come to the November Status Conference prepared to set trial dates for early 2009.

There was no opposition to the *Motion*. Therefore, the *Motion to Vacate Trial Schedule* is **granted**. The court also vacated and reset the deadline for governmental parties to submit a case management report.

IT IS ORDERED that the following deadlines shall govern further proceedings:

VACATED **July 30, 2008** **Case Management Report Due**

VACATED **November 5, 2008** **10:00 am** **Pretrial Conference**

VACATED **November 12-14, 2008** **Trial**

August 29, 2008 **5:00 pm** Deadline for Governmental parties to submit
a Case Management Report to the SRBA Court

November 21, 2008 **10:00 am** Status Conference
Location: Snake River Basin Adjudication
253 3rd Ave. North
Twin Falls, Idaho 83301

Parties may participate by phone for the Status Conference by dialing 1-225-383-1099 and when prompted enter participant code 926509. Any questions regarding telephone participation, please contact the Clerk's office at (208)736-3011.

DATED: July 18, 2008.


BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTION TO VACATE TRIAL SCHEDULE AND SETTING SUBCASE DEADLINES was mailed on July 18, 2008, with sufficient first-class postage to the following:

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