

2008 AUG -5 AM 10:34

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	)	Subcases 27-10028 and 27-12013
	)	(Gardners)
Case No. 39576	)	
	)	2nd MODERATED SETTLEMENT
_____	)	CONFERENCE REPORT

A second moderated settlement conference in two of the 255 Basin 27 “volume” or “equitable adjustment” subcases was held on July 30, 2008, at the Idaho Water Center, Boise, Idaho. The conference began at 10:15 a.m. and ended after 1:00 p.m. – almost three hours non-stop this time. Attached is the conference sign-in sheet. Claimant Leon J. Gardner participated by telephone briefly and Brett Bovee, consultant to the Tribes, participated by telephone the entire conference.

The parties’ experts met informally the week before the conference and agreed on the amount of water needed in the upper and middle parts of the Blackfoot River Basin – 56,500 AFY based on a 5 year average of actual usage. However, the United States raised its concerns of accounting for possible future uses of water in those basins – on CRP and set aside lands. IDWR Director David R. Tuthill, Jr., gave an ARC View presentation on his concerns with accounting for return flows in high meadows above the Blackfoot Reservoir.

The State and the Tribes suggested now was the time for the parties to begin drafting mechanisms to “re-open” any equitable adjustment to Tribal water rights plus administration (monitoring and measuring). The United States agreed and now the issue is whether the adjustment will be done based on one number or annually.

The parties agreed the next steps in negotiations are: 1) integration of return flows (depletion) with the current MIKE Basin Model and 2) examination of the results by the United States' / Tribes' technical teams by the end of the irrigation season (October 31st).

IDWR announced it would soon send out proposals to the parties concerning how best to notify the claimants of errors in how certain uses of water were originally recommended.¹ It will also propose how best to submit its amended recommendations to the SRBA Court.

DATED August 5, 2008.


TERRENCE A. DOLAN
Settlement Moderator
Snake River Basin Adjudication

¹ Those categories of uses included: 1) instream stockwater with irrigation, 2) irrigation with stockwater and 3) stockwater only.

MANDATORY SETTLEMENT CONFERENCE

July 30, 2008, 10:00 a.m.

Idaho Water Center, Boise, ID

Terrence A. Dolan, Settlement Moderator

SIGN-IN SHEET

<u>NAME</u>	<u>ATTORNEY?</u>	<u>PARTY / INTEREST</u>
Travis Thompson	(C of C counsel)	State of Idaho
David Shaw	N	State of Idaho
David J. Barber	Deputy AG	IDWR
Ray Williams		
Ron Billstein		DOUL HXM / U.S.
Peter Monson	U.S. Dept. of Justice	United States (BIA)
Gerald Henrikson	No <u>USDOJ-BIA</u> →	
Gavick Baxter	Deputy AG	IDWR
Andrea Cartney	" "	" "
Ernest Carlson		IPWR
James Cefalo	SBT Water Resources	~~IDWR / WD 27~~ Shoshone-Bannock Tribes
ELISE TETON	SBT Paralegal Water Resources	Shoshone-Bannock Tribes
Gail Martin		
Jeanette Wolfkey	Yes, Special Counsel	Shoshone-Bannock Tribes
Dave Tutthill		IDWR
Brett Bree (phone)		Tribes' consultant
Leah Gardner (phone, briefly)		

CERTIFICATE OF MAILING

I certify that a true and correct copy of the 2ND MODERATED SETTLEMENT CONFERENCE REPORT was mailed on August 05, 2008, with sufficient first-class postage to the following:

SHOSHONE-BANNOCK TRIBES

Represented by:
JEANETTE WOLFLEY
SPECIAL COUNSEL
SHOSHONE-BANNOCK TRIBE
202 N ARTHUR
POCATELLO, ID 83202
Phone: 208-232-1922

STATE OF IDAHO

Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449

UNITED STATES OF AMERICA

Represented by:
UNITED STATES DEPT OF JUSTICE
ENVIRONMENT & NATURAL RESOURCE
550 WEST FORT STREET, MSC 033
BOISE, ID 83724
Phone: 208-387-0835

UNITED STATES OF AMERICA

Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

DIRECTOR OF IDWR

PO BOX 83720
BOISE, ID 83720-0098

BONNIE P GARDNER

LEON J GARDNER
469 E 400 N
BLACKFOOT, ID 83221
Phone: 208-785-1688