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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
FEB 18 2011	
By _____	Clerk
_____	Deputy Clerk

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

) Subcase No: 27-11375
)
) SECOND SCHEDULING ORDER
) ON STATE'S MOTION FOR
) ACCOUNTING AND UNITED
) STATES' AND TRIBES' MOTION TO
) ENFORCE
)
) RE: FORT HALL INDIAN WATER
) RIGHTS CONSENT DECREE
)

I.

PROCEDURE

This matter came before the Court pursuant to a status and scheduling conference held February 17, 2011, on the State of Idaho's *Motion for An Accounting of All Water Rights Benefitting From the Subordination Provisions of the Fort Hall Consent Decree and Insertion of a Remark Memorializing that Benefit on Each Affected Water Right* ("Motion for Accounting") and the Shoshone-Bannock Tribes ("Tribes") and the United States as Trustee on behalf of the Tribes ("United States") joint *Motion for Enforcement of Fort Hall Indian Water Rights Consent Decree* ("Motion for Enforcement").¹

¹ The *Initial Scheduling Order Setting Forth Procedures on State's Motion for Accounting and United States' and Tribes' Joint Motion to Enforce* issued November 10, 2010, sets forth the procedural background in more detail.

II.
ORDER

Pursuant to the above-stated scheduling conference, THE FOLLOWING ARE HEREBY ORDERED:

A. Subcase number designation and certificate of mailing.

Until further order of the Court, all filings with respect to both the *Motion for Accounting* and the *Motion to Enforce* should continue to be filed under the above-captioned subcase number and service perfected on the parties listed on the attached certificate of mailing. Any party wishing to withdraw from the proceedings should file a notice of withdrawal with the Court and serve parties on the certificate of mailing.

B. Proceedings on the *Motion for Accounting*.

1. Deadline for Filing Responses to State's List of Protected Rights.

Previously parties were afforded the opportunity to object to their water right(s) not being included on the list of protected rights. Through the process it was explained that the list excluded small domestic and stockwater rights, albeit only objections to three stockwater rights being excluded from the list were filed. The issue was brought up regarding whether the list includes water rights with uses not contemplated by the Fort Hall Water User's Agreement. As a result, it was requested that the parties have the opportunity to file a response to the State's list. **Therefore, the deadline for filing responses to the content of State's list of rights is Friday, March 18, 2011.**

2. Notice of Status Conference on *Motion for Accounting*.

A status conference on the *Motion for Accounting* is set for **Friday, April 1, 2011 at 1:30 p.m. (Mountain Time)** at the Snake River Basin Adjudication District Court, 253 3rd Avenue North, Twin Falls, Idaho. Telephone participation will be available by dialing 1-215-446-0193 and entering 406128# when prompted. Video teleconferencing ("VTC") will also be available by appearing at the Idaho Department of Water Resources, Idaho Water Center, 322 E. Front St., Conference Rm. B, Boise, Idaho.

C. Proceedings on the *Motion to Enforce*.

1. Bifurcation of Proceedings.

The parties were in agreement that the proceedings should be bifurcated between those legal issues pertaining to entitlement and those issues pertaining to remedy. The Court therefore orders that the matter proceed in a bifurcated process. Resolution of the legal issues pertaining to entitlement will be treated as a partial summary judgment. Thereafter the Court will hold a scheduling conference as to remaining issues as well as discuss court ordered mediation.

2. Deadlines with respect to the *Motion to Enforce*.

a. **Friday, March 4, 2011.** Deadline for United States and Tribes to file a statement identifying those specific legal issues sought to be decided by the Court at this stage of the bifurcated proceedings as well as anything additional in support.

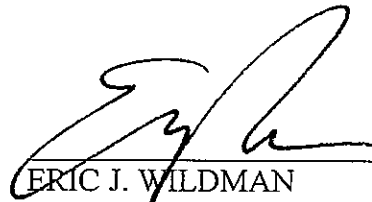
b. **Monday, April 4, 2011.** Deadline for Filing Responsive Briefing and Affidavits.

c. **Friday April 29, 2011.** Deadline for United States and Tribes to File Reply Briefing.

3. Notice of oral argument on *Motion to Enforce*.

Oral argument the issues presented to the Court on the *Motion to Enforce* is set for **Thursday, May 5, 2011, at 1:30 p.m. (Mountain Time)** at the Snake River Basin Adjudication District Court, 253 3rd Avenue North, Twin Falls, Idaho. Telephone participation will be available by dialing 1-215-446-0193 and entering 406128# when prompted. Video teleconferencing ("VTC") will also be available by appearing at the Idaho Department of Water Resources, Idaho Water Center, 322 E. Front St., Conference Rm. B, Boise, Idaho.

Dated February 18, 2011


ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I hereby certify that true and correct copies of the **SECOND SCHEDULING ORDER ON STATE'S *MOTION FOR ACCOUNTING* AND UNITED STATES' AND TRIBES' *MOTION TO ENFORCE*** were mailed on February 18, 2011, by first-class mail to the following:

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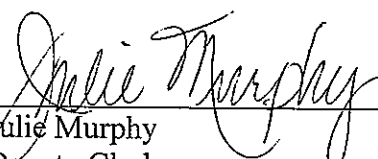
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