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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho
FEB - 2 2012
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) Subcase No: 27-11375
)
Case No. 39576)
)
) ORDER SETTING STATUS AND
) SCHEDULING CONFERENCE
)
)
)
)
)

On June 3, 2011, the Court entered a *Memorandum Decision* on the *Motion for Enforcement of Fort Hall Indian Water Rights Consent Decree* filed in the above-captioned matter. Among other things, the *Memorandum Decision* contained instructions on future proceedings in the above-captioned matter. Paragraph 1 of the instructions provided as follows:

At this stage it has yet to be determined whether the 45,000 afy estimate has been exceeded. Once the *Motion for Accounting* is finalized the Court will schedule an evidentiary hearing to determine by what quantity, if any, the 45,000 afy estimate is exceeded by non-Indian water users based on the partial decrees issued in the SRBA.

On January 31, 2012, the United States, the Shoshone-Bannock Tribes and the State of Idaho filed a *Joint Status Report Re: Motion for Accounting*. In that *Report*, the parties agreed that *de minimus* domestic and stock water rights diverting from the Blackfoot River prior to January 1, 1990 are entitled to the protections of Paragraph 27-11375x.d of the *Fort Hall Consent Decree*. The parties further agreed that domestic and stock use rights will not be counted toward the 45,000 acre-feet per year from the Blackfoot River. The *Report* resolved one of the last remaining issues pertaining to the *Motion for Accounting*. The only issue remaining pertaining to the *Motion for Accounting*, as identified by the parties at a status conference on the *Motion for Accounting* on August 2, 2011, is the form of the subordination remark to be placed in the *Partial Decrees* of each of the natural flow water rights benefitting from the subordination protection of Paragraph 27-11375.x.d. of the *Fort Hall Consent Decree*.

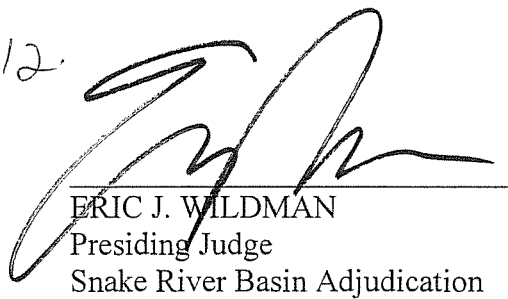
Since the *Motion for Accounting* is substantially complete, the Court will set a status and scheduling conference to determine (1) how to proceed with respect to the evidentiary hearing to determine what quantity, if any, the 45,000 afy estimate is exceeded, and (2) how to proceed with respect to determining the form of the subordination remark to be placed in the *Partial Decrees* of each of the natural flow water rights benefitting from the subordination protection of Paragraph 27-11375.x.d. of the *Fort Hall Consent Decree*.

THEREFORE THE FOLLOWING ARE HEREBY ORDERED.

1. A status and scheduling conference is set for **February 21, 2012, at 3:00 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.

2. At the status and scheduling conference the parties should be prepared to discuss an orderly process for undertaking the evidentiary hearing discussed above. The Court proposes issuing a scheduling order setting the hearing date of the evidentiary hearing, discovery deadlines, if necessary, as well as a briefing schedule. The parties should also be prepared to discuss the form of the subordination remark to be placed in the *Partial Decrees* of each of the natural flow water rights benefitting from the subordination protection of Paragraph 27-11375.x.d. of the *Fort Hall Consent Decree*.

Dated February 21, 2012.


ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER SETTING STATUS AND SCHEDULING CONFERENCE was mailed on February 02, 2012, with sufficient first-class postage to the following:

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ORDER

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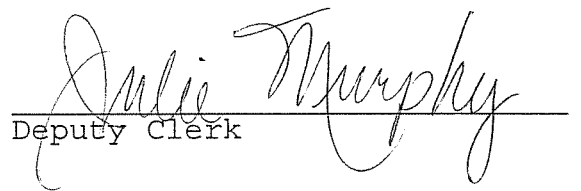
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A handwritten signature in cursive script, reading "Julie Murphy", is written over a horizontal line. The signature is in dark ink and is positioned to the right of the printed text "Deputy Clerk".