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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

DEC 19 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

) (Motion to Enforce)

Case No. 39576

)

) ORDER SETTING PROCEDURE ON

) PROPOSED SETTLEMENT RE: EQUITABLE

) ADJUSTMENT

)

)

)

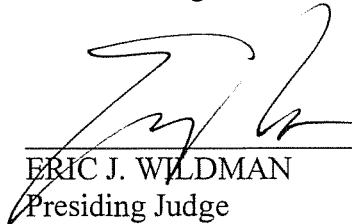
The parties to this matter previously represented to the Court that once they conducted an inventory of non-Indian water use from the Blackfoot River, recognizing that such use varies from year-to-year, the parties would be in a position to attempt to negotiate an "equitable adjustment to the Tribal water rights" pursuant to paragraph x.d. of water right 27-11375 in the *Fort Hall Consent Decree*.¹ It has been represented to the Court that a settlement to that effect has only been reached by the signatories to *The 1990 Fort Hall Indian Water Rights Agreement*, to wit: the State of Idaho, the United States, the Shoshone-Bannock Tribes, and the Committee of Nine (collectively, "Signatory Parties"). In a *Joint Status Report Re: Equitable Adjustment Proposal* filed on December 17, 2012, the Signatory Parties expressed their intent to submit the proposed settlement to the Court for the Court's approval and requested that the Court order that any water users who oppose the settlement to do so pursuant to a show cause hearing. At a hearing held in the above-captioned matter on December 18, 2012, several parties to the *Motion to Enforce* opposed proceeding in the fashion proposed by the Signatory Parties, and also expressed their opposition to the proposed settlement.

¹ The term "*Fort Hall Consent Decree*" refers to the *Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use of Water in the Upper Snake River Basin* entered in Twin Falls County Case No. 39576 on August 2, 1995.

BASED ON THE FOREGOING, THE FOLLOWING ARE HEREBY ORDERED:

1. Deadline and Procedure for Filing Proposed Settlement: Proponents of the proposed settlement reached by the Signatory Parties shall file and serve on the parties to the *Motion to Enforce a Joint Motion* requesting the Court to accept the proposed settlement agreement, along with a copy of the proposed settlement agreement **on or before January 31, 2013**. The *Joint Motion* shall address the legal authority of the Court to accept the proposed settlement agreement over the objections of parties to the *Motion to Enforce* having affected water rights, including whether those parties have standing to contest the proposed settlement, and/or any proposed modifications to *The 1990 Fort Hall Indian Water Rights Agreement*.
2. Responses to Proposed Settlement: Any party to the *Motion to Enforce* opposing the *Joint Motion* shall file responses to the *Joint Motion* and state the legal basis for the same **on or before February 14, 2013**.
3. Reply: Proponents of the *Joint Motion* shall their replies in support, if any, **on or before February 21, 2013**.
4. Oral Argument: Oral argument on the *Joint Motion* is set for **February 22, 2013, 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. **However, no cell phones or speaker phones will be permitted as they interfere with our sound system making the proceeding difficult to accurately record.** Video teleconferencing ("VTC") will also be available by appearing at either (1) the Idaho Department of Water Resources, Idaho Water Center, 322 E. Front St., Conference Rm. B, Boise, Idaho, or (2) the Idaho Department of Water Resources, Eastern Regional Office, 900 N. Skyline Drive, Ste. A, Idaho Falls, Idaho.
5. The Signatory Parties' request that this Court proceed in this matter pursuant to an order to show cause and corresponding show cause hearing **is denied**.

DATED: Dec. 19, 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 PROCEDURE ON PROPOSED SETTLEMENT RE: EQUITABLE ADJUSTMENT was mailed on December 19, 2012, with sufficient first-class postage to the following:

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ORDER

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