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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re the General Adjudication
of Rights to the Use of Water
from the Snake River Basin
Water System

Case No. 39576

RECEIVED

JAN 28 1994

Department of Water Resources
Adjudication Bureau

The State of Idaho, ex rel.
R. Keith Higginson in his
official capacity as director
of the Idaho Department of
Water Resources,

Subcase No. 34-02474B

STIPULATION AND ORDER
TO RESOLVE OBJECTION

Petitioner,

v.

The United States;
the State of Idaho;
and all claimants to the use
of water from the Snake River
Basin Water System,

Respondents.

DESCRIPTIVE SUMMARY

This is a stipulation and order to resolve the United States' objection to water right number 34-02474B.

STIPULATION

To resolve the dispute over the above-captioned water right, the claimants, Wayne G. and Betty L. Schwartz, the objector, the United States of America, and the Idaho Department of Water Resources (IDWR), stipulate and agree as follows:

1. The places of use as recommended in the Director's Report are incorrect. The following place of use should be deleted:
T.5N, R.26E, Section 6, NWSE (20.0) acres.

2. In connection with the deletion of this place of use, the amount of water recommended shall be reduced proportionately

with the reduction of acreage. The amount of water shall be reduced from 11.42 to 11.2.

3. The water right is accurately described in Exhibit 1, a revised page of the Director's report containing the changes described above showing specific changes made to the Director's original recommendation in an underline/overstrike format.

4. All decrees, whether partial or final, should describe the water right as modified and described in Exhibit 1.

5. Upon entry of partial and final decrees for Water Right No. 34-02474B, describing the right as shown in Exhibit 1, including the modification indicated thereon, the objection of the United States shall be deemed withdrawn.

6. Because there are no remaining objections to this water right, a partial decree may be entered for it pursuant to I.C. 42-1412(8).

7. All parties agree to bear their own costs and attorneys' fees in connection with this matter.

8. This stipulation is entered into and executed voluntarily by all parties in good faith, and without any fraud,

misunderstanding, overreaching, misrepresentation, duress, or undue influence, whatsoever.

Respectfully submitted,

CLAIMANTS

Dated: *January 5, 1994*

Wayne G. Schwartz

Betty L. Schwartz
Betty L. Schwartz
3526 Antelope Road
Moore, Idaho 83255

UNITED STATES OF AMERICA
on behalf of the BLM

Dated: *Jan 5, 1994*

By:

[Signature]
Daria J. Zane
Attorney
General Litigation Section
Environment & Natural Resources Division
U.S. Department of Justice
P.O. Box 663
Washington, D.C. 20044
(202) 272-8351

Dated: *Jan 5, 1994*

Leroy Cook
~~Lloyd Ferguson~~ LEROY COOK
~~District Manager~~ BIG BUTTE AREA MANAGER
Idaho Falls District Office
Bureau of Land Management
940 Lincoln Road
Idaho Falls, Idaho 83401
(208) 524-7500

IDAHO DEPARTMENT OF WATER RESOURCES

Dated: *Jan 5, 1994*

By:

A. Lynne Krogh
A. Lynne Krogh-Hampe
Deputy Attorney General
Department of Water Resources
Statehouse
Boise, Idaho 83720-9000
(208) 327-7920

Stipulation to Resolve Objection

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
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ORDER
TO RESOLVE OBJECTION

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The United States;
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and all claimants to the use
of water from the Snake River
Basin Water System,

Respondents.

ORDER

This matter having come before the Court upon stipulation of
counsel, and good cause having been shown,

IT IS HEREBY ORDERED that the Court shall enter a partial decree
for water right 34-02474B as described in the attached Exhibit 1. The
United States' objection shall be deemed withdrawn upon entry of the
partial decree. Because no other objections have been raised to this
water right, the hearing for entry of this partial decree is scheduled
for _____, 199__, at the Snake River
Basin Adjudication Courthouse, 253 Third Avenue North, Twin Falls,
Idaho.

DATED and signed this _____ day of _____

DANIEL C. HURLBUTT JR.
District Judge

AJ5856NP

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: JAN-03-1994
PAGE: A-1

RIGHT
NUMBER

NAME & ADDRESS

PRIORITY
DATE

PURPOSE OF USE

PERIOD OF USE
FROM TO

MAXIMUM
QUANTITY

BASIS OF CLAIM

SOURCE: ANTELOPE CREEK, SOUTH FORK TRIBUTARY: BIG LOST RIVER

34-02474B

WAYNE & J SCHWARTZ
BETTY L SCHWARTZ
P/O BOX 903
MOORE ID 83225

04/04/1966 IRRIGATION

05-01 10-15
07/78

11.2 CFS LICENSE
1142 cfs

WAYNE G SCHWARTZ
BETTY L SCHWARTZ
PO BOX 903
MOORE ID 83225

TOTAL QUANTITY:

11.2 CFS
1142 cfs

POINT OF DIVERSION:

T05N R25E S01

SWSESW

PLACE OF USE: IRRIGATION

T05N R25E S01
R26E S06

NESE 39.0
NESW 40.0
SESE 20.0

Lot 6 (NWSW) 34.0
Lot 7 (SWSW) 34.0

SWSE 40.0
SESE 39.0
SESW 40.0

SWSE 40.0

S07 Lot 1 (NENE) 18.0
S06 MSE 20.0

Lot 2 (NWE) 43.0
Lot 3 (NENW) 41.0

Lot 4 (NWNW) 39.0

504.0 ACRES TOTAL
1142 ACRES TOTAL

REMARKS: USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL

COMBINED DIVERSION RATE OF 11.20 CFS, A TOTAL COMBINED ANNUAL

DIVERSION VOLUME OF 1960 AF, A TOTAL COMBINED ANNUAL CONSUMPTIVE

USE VOLUME OF 1260 AF, AND TO THE IRRIGATION OF A COMBINED TOTAL

OF 504 ACRES IN A SINGLE IRRIGATION SEASON.

COMBINED DIVERSION RATE OF 11.64 CFS, A TOTAL COMBINED ANNUAL

DIVERSION VOLUME OF 2037 AF, A TOTAL COMBINED ANNUAL CONSUMPTIVE

USE VOLUME OF 1310 AF, AND TO THE IRRIGATION OF A COMBINED TOTAL

OF 324 ACRES IN A SINGLE IRRIGATION SEASON.

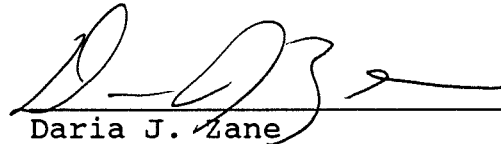
COMBINED RIGHT NOS: 34-10615 AND 34-10617.

CERTIFICATE OF MAILING

I hereby certify that the foregoing stipulation of withdrawal and proposed order have been served this 13th day of January, 1994, upon the following individuals:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P. O. Box 44449
Boise, Idaho 83711-4449

Betty L. Schwartz
3526 Antelope Road
PO Box 903
Moore, Idaho 83255


Daria J. Zane