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ATTORNEY GENERAL

1995 AUG -2 PM 4:29
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

Case No. 39576

) Subcase No: 36-04219

)
) ORDER RE: POSSIBLE
) SANCTIONS

On July 20, 1995, the Special Master entered an *Order Resetting Settlement Conference* (*Order*) in the above subcase. The title of the *Order* was in error and should have read: *Order Resetting Status Conference*. Nevertheless, the order portion of the document clearly stated that the court was resetting an earlier telephone Status Conference which attorney M.B. Hiller and his client, Smith Ranches, Inc., failed to attend.

The *Order* stated in relevant part: "IT IS FURTHER ORDERED that Mr. Hiller and his client, Smith Ranches, shall personally appear before this court at 9:00 a.m. on Wednesday, August 2, 1995." The certificate of mailing states that a copy of the *Order* was mailed to Mr. Hiller the same date as the *Order*.

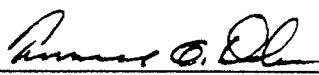
The court file indicates that Mr. Hiller is the attorney of record for Smith Ranches. On June 21, 1993, Mr. Hiller signed the Response to Objection as its attorney. The file also contains correspondence wherein Mr. Hiller explicitly states that he represents Smith Ranches concerning "Right No. 36-04219 - Desert." Further, Mr. Hiller has appeared before this court as attorney of record for Smith Ranches. There is no evidence that Mr. Hiller has withdrawn from the subcase.

The Status Conference convened as scheduled on August 2, 1995, in Twin Falls. Harold Smith, Harold Smith, Jr., and Naomi Bitten with Smith Ranches attended in person as did Brent King with IDWR. Daria Zane and William Ferry attended by telephone on behalf of the United States. Mr. Hiller failed to appear. No one from Mr. Hiller's office appeared in his place and

no contact was made with the court to explain his absence. Harold Smith said that he heard Mr. Hiller was in the hospital in Salt Lake City.

IT IS ORDERED that no later than 5:00 p.m., Friday, August 18, 1995, Mr. Hiller shall submit to this court in writing any reasons he may have why this court should not consider further steps to impose sanctions for his failure to appear in person at the Status Conference as ordered by this court.

DATED August 2, 1995.



TERRENCE A. DOLAN
Special Master, Reporting Area 3
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the **ORDER RE: POSSIBLE SANCTIONS** was mailed on August 2, 1995, with sufficient first-class postage to the following:

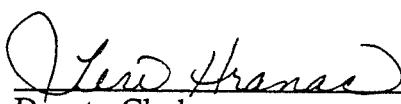
Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P. O. Box 44449
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M.B. Hiller
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The United States Dept. Of Justice
Environment & Natural Resource Division
550 W. Fort Street, Box 033
Boise, ID 83724

Director of IDWR
P.O. Box 83720
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Courtesy Copy:
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Deputy Clerk