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Department of Water Resources

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UNITED STATES OF AMERICA

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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 SRBA

Case No. 39576

) Subcase No. 34-13355
) 34-13408 34-13409
)

) MOTION TO VACATE
) SETTLEMENT CONFERENCES
) AND TO SET SCHEDULING
) CONFERENCE
)

Descriptive Summary

This is the United States' motion to vacate the settlement conference scheduled for subcase nos. 34-13355, 34-13408, and 34-13409 on September 13, 1995, and to set a scheduling conference for these subcases.

Motion to Vacate
Settlement Conference
Subcase No. 34-13355, et. al.

Motion

The United States hereby moves to vacate the settlement conference scheduled for these subcases on September 13, 1995 at 3:00 p.m. in Arco, Idaho. In support of its motion the United States states the following:

1. Mr. Herb Whitworth ("objector") filed an objection to these claims to stockwatering rights by the United States through the Bureau of Land Management as listed in the Director's Report.
2. On June 8, 1995, an attorney with the Department of Justice and a representative of the BLM met with the objector in Mackay, Idaho for the purpose of informal settlement negotiations of objections filed against BLM claims. The settlement discussions lasted approximately two hours.
3. On August 1, 1995, the objector met again with Department of Justice and BLM personnel following a scheduling conference in Arco, Idaho. The parties again discussed issues relevant to all objections filed by objector against BLM stockwatering claims and the potential for resolution of the these issues.
4. Objector was contacted by the United States on September 5, 1995 to discuss possible settlement of the subcases scheduled for settlement conference on September 13 and to determine whether new issues have arisen that merit further discussion. The objector and the United States agreed that the

scheduled settlement conference involves subcases with the same legal and factual matters in dispute as those previously discussed among the parties. The parties further agree that no new issues have arisen or are likely to arise beyond what has already been discussed in the two previous settlement discussions.

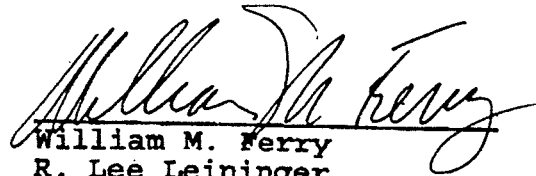
5. The United States has sent to the objector for his consideration a Standard Form No. 5 to resolve the objection pursuant to terms discussed in the prior settlement discussions.

6. The parties agree that further settlement negotiations are not warranted and agree that the scheduled settlement conference would not be fruitful.

7. The parties request that the Court vacate the settlement conference and proceed with the setting of a scheduling conference for these subcases. The resources of the parties and the Court will be conserved by the vacating of an unnecessary settlement conference. In addition, the setting of a scheduling conference will permit the parties additional time to consider, and potentially execute and submit the Standard Form 5 in the objector possession.

WHEREFORE, for the foregoing reasons the United States respectfully requests that the Court vacate the settlement conference scheduled for these subcases and set the subcases for a scheduling conference.

Respectfully submitted,


William M. Ferry
R. Lee Leininger
Attorneys, USDOJ

CERTIFICATE OF SERVICE

I certify that on the 11th day of September, 1995, I served a true and correct copy of the United States' Motion to Vacate Settlement Conference upon the following individuals:

Susan Hamlin
Deputy Attorney General
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Mr. Herb Whitworth
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