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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	)	Subcase Nos. 36-00134A and
	)	36-00135B
Case No. 39576	)	
	)	
	)	MOTION FOR
	)	SCHEDULING CONFERENCE
	)	

DESCRIPTIVE SUMMARY

This is a motion requesting that a scheduling conference in the above captioned subcases be held at the SRBA Courthouse in Twin Falls, Idaho, on Tuesday, May 16, 1995, at 3:30 p.m., or at some other time convenient to the Special Master and the parties.

MOTION

The Idaho Department of Water Resources, by and through its undersigned counsel of record, moves this Court, pursuant to Rule 16(a), Idaho Rules of Civil Procedure, for the entry of an order setting a scheduling conference in the above-captioned subcases.

IDWR moves the Court for a scheduling conference for the following reasons:

1. On April 28, 1995, Mr. William Taylor filed a Motion to Participate in these two subcases. This motion raises important issues of first impression regarding the bases upon which parties who previously had not filed objections to particular water rights may be granted leave subsequently to participate in subcases involving those rights. The Court should set time frames within which to address those issues.

2. Legal counsel for the Candys has indicated that they may file a motion for leave to file amended claims that more accurately describe the actual water uses under these two rights. The parties therefore need to address the timing of such a motion and its implications for scheduling pretrial motion practice and trial.

3. As was initially contemplated by legal counsel for the IDWR and the United States, and communicated to the Special Master during the initial telephone status conference with the Special Master regarding the use of these two subcases as a "test case," IDWR presently is determining whether it will file a motion to consolidate other subcases to the present subcases for purpose of addressing issues of fact and law, the resolution of which will

materially advance the likelihood of settling the other objections filed on behalf of individual members of the Hagerman Water Right Owners, Inc. IDWR will have decided by the date of the scheduling conference whether it will file such a motion. Should it do so, the Court and the parties will need to address at the scheduling conference the length of time it may take for the motion to be decided, the need for additional discovery, and similar matters. (IDWR does not know whether the United States also is still considering the utility of filing a motion to consolidate additional subcases.)

4. Per its understanding that the purpose of using these two subcases as a "test case" is to attempt to resolve as many legal issues as possible through summary judgment or other pretrial motion practice, and to submit such motions on stipulated facts whenever possible, IDWR intends to file such pretrial motions. The timing of such motion practice should be addressed through a scheduling conference.

5. The parties to these two subcases have begun exploration of the possibility of reaching settlement. The establishment of a litigation framework and time line for resolving all pretrial matters may increase the likelihood of settlement.

6. The Candys have, through counsel, expressed an intention to seek an early trial date. Accordingly, it would be helpful to all parties to set time frames for all necessary pretrial activities in order to set a firm trial date for as soon as is practically possible.

THEREFORE, IDWR respectfully moves this Court for the entry of an order setting these two subcases for a scheduling conference to be held on May 16, 1995, at 3:30 p.m. at the SRBA District Courthouse in Twin Falls, or at such other time as may be convenient to the Special Master and the parties.

Dated this 1st day of May, 1995.


NICHOLAS B. SPENCER
Deputy Attorney General
Idaho Department of Water Resources

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of May, 1995, I served true and correct copies of the foregoing MOTION FOR SCHEDULING CONFERENCE on the following persons by mailing in the U.S. Mail, first class, with the correct postage affixed thereto.

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