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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. 36-00012, 36-00030,
	)	36-00043A, 36-00084, 36-00104A,
CASE NO. 39576	)	and 36-00104B
	)	
_____	)	UNITED STATES' MOTION TO CONSOLIDATE
		SUBCASES

DESCRIPTIVE SUMMARY

This document is the United States' Motion to Consolidate subcase nos. 36-00012, 36-00030, 36-00043A, 36-00084, 36-00104A, and 36-00104B.

MOTION TO CONSOLIDATE

The United States moves the District Court, in accordance with SRBA Administrative Order 1, Rules of Procedure, Section 9, for an Order consolidating subcase nos. 36-00012, 36-00030, 36-00043A, 36-00084, 36-00104A, and 36-00104B. The grounds for this motion are

as follows:

1. Under SRBA Administrative Order 1 (AO#1), Section 9, any matter at issue, including entire subcases, may be consolidated with other matters at issue in the adjudication. AO#1 further specifies, "A motion to consolidate subcases is appropriate in situations where common issues of law or fact present themselves in more than one subcase and resolution and reconciliation of those issues can be most expeditiously and effectively achieved through presentation to the Presiding Judge or a special master in consolidated hearings."

2. Common issues of law and fact present themselves with respect to the subcases which are the subject of this motion, and resolution and reconciliation of these issues can be most expeditiously and effectively achieved through presentation in consolidated hearings.

3. The subcases at issue all concern water rights claimed by irrigators in the Hagerman Valley from Len Lewis Spring via the Brailsford Ditch. These irrigators comprise the Brailsford Ditch Company, and are collectively referred to as the Brailsford Ditch users. Their respective water right claim numbers are Flying Triangle, Inc. (owned and operated by William Brailsford) (36-00030), Fred L. and V. John Mavencamp (36-00104A), Ronnie D. and Sharlene Smith (36-00104B), Nevada Omohundro (36-00043A), Shelby and Joan Wise (36-00084), and the State of Idaho Department of Fish and Game (36-00012). The Brailsford Ditch users' water rights from Len Lewis Spring, which were previously adjudicated in

the New International Mortgage Bank v. Idaho Power Co. decree in 1932, are subject to determination in the SRBA in the subcases which are encompassed by this motion.

4. The United States filed objections to each of the claims at issue in these subcases on the grounds that the irrigation season recommended by IDWR for these claims is erroneous since it does not reflect the historic period of use.

5. Four of these six subcases have recently been set for settlement conference on July 11, 1995 (36-00030, 36-00043A, 36-00084, and 36-00104B). Settlement discussions and proposals would likely involve all of the Brailsford Ditch Users, including those with water rights being determined in the four subcases which have been set for July 11, 1995 settlement conference, as well as those claiming water rights in subcases which have not yet been set for settlement conference (36-00012, 36-00104A).

6. These subcases involve claims to water from the same source, by irrigators in the same geographic area, who are served by a common ditch, and who together comprise a ditch company. The objections filed by the United States in each of these subcases are based on the same or similar grounds, namely, that the recommended period of use does not reflect actual historic use made by the holders of these water rights.

7. Under these circumstances, common issues of law and fact present themselves with respect to the subcases which are the subject of this motion, and resolution and reconciliation of these issues can be most expeditiously and effectively achieved through

presentation in consolidated hearings.

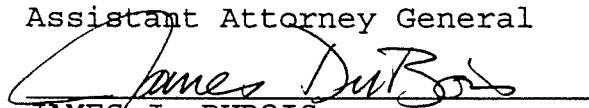
CONCLUSION

For all of the foregoing reasons, the United States respectfully requests that the District Court enter an order consolidating subcase nos. 36-00012, 36-00030, 36-00043A, 36-00084, 36-00104A, and 36-00104B.

DATED this 23rd day of June, 1995.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that on this 23rd day of June, 1995, I served a true and correct copy of the foregoing United States' Consolidated Motions for Preliminary Injunction and Interim Administration, United States' Motion for Expedited Hearing and Order Setting Expedited Hearing by overnight delivery via Federal Express upon:

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