

This is the United States' Motion to Vacate Settlement Conference. In support of this motion, the United States states that:

1. On January 13, 1995, counsel for the United States received a signed Standard Form No. 5 from claimant Mr. Pence. A settlement conference has been set for January 19, 1995, at 10:00 a.m. The submission of this Standard Form No. 5 would alleviate the need for such conference since there are no issues remaining among the parties.

2. The Idaho Department of Water Resources reviewed the Standard Form No. 5 signed by claimant and counsel for the United States. IDWR identified only a few minor changes it desired to make. The changes involve moving what is contained in Item No. 9 at present identified as annual consumptive volume to Item No. 3, annual diversion rate since the amount listed is actually the diversion rate, not the consumptive volume. These changes do not affect the substance of the agreement.

3. On that same date, the Special Master advised the parties of certain further information she requested in Standard Form No. 5s submitted to the Court.

4. Counsel for the United States attempted to contact Mr. Pence to see whether the modifications were acceptable to him so that the matter could be finally settled with the filing of a revised Standard Form No. 5.

5. On calling the number in Idaho for the Pences, counsel for the United States was given a forwarding number in Oregon. That number is 503/685-5241. On calling that number counsel for the United States was advised that Mr. Pence is a truck driver who is on the road most of the time.

6. Counsel for the United States has not been able to reach Mr. or Mrs. Pence despite calls on Friday and Monday evenings. However, to expedite resolving this matter, counsel for the United States will be sending the revised Standard Form No. 5 to the Pences today for their review.

7. Because all the parties appear to have reached an agreement as to this water right in substance, the settlement conference is not necessary. In addition, it would appear to be a great hardship to require Mr. Pence to travel to such conference.

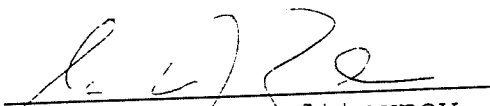
8. The parties should be able to execute and submit the revised Standard Form No. 5 on or before February 10, 1995.

9. Upon notification of the Court's action, counsel for the United States would be willing to try to verbally contact Mr. Pence.

10. The Idaho Department of Water Resources has no objection to the granting of this motion.

WHEREFORE, for the foregoing reasons, the United States requests that the settlement conference scheduled in this matter be vacated.

Respectfully Submitted,


Daria J. Zane, Attorney
General Litigation Section
Env. & Nat. Resources Div.
U.S. Department of Justice

Dated: January 17, 1995

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 No. 34-07106

Case No. 39576

)
)
) ORDER VACATING
) SETTLEMENT CONFERENCE
)
)
)

This matter is before the Court on the United States'
Motion to Vacate Settlement Conference scheduled for January 19,
1995, at 10:00 a.m. in Arco, Idaho. Upon consideration of this
matter, it is this _____ day of January, 1995,

ORDERED, that the motion should be and hereby is GRANTED.
The settlement conference is hereby VACATED. The parties shall
have until February 10, 1995, to submit a revised Standard Form No.
5, in accordance with the Court's recent guidance.

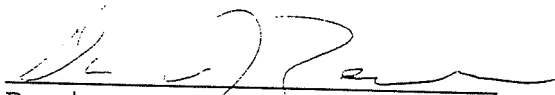
BRIGETTE BILYEU
Special Master

CERTIFICATE OF SERVICE

I certify that on the 17th day of January, 1995, I served a true and correct copy of the Motion to Vacate Settlement Conference in Subcase No. 34-07106 upon the following individuals:

Daniel Steckel/A. Lynne Krogh
Deputy Attorney General
State of Idaho
1301 N. Orchard St.
Boise, Idaho 83702
BY FAX:208/327-7866

Thomas Dean Pence
Star Route
Mackay, Idaho 83251
(forwarding address not
available as of this date)



Daria J. Zane, Attorney
Department of Justice
General Litigation Section
Environment & Natural
Resources Division
P.O. Box 663
Washington, D.C. 20044-0663
(202) 272-8351