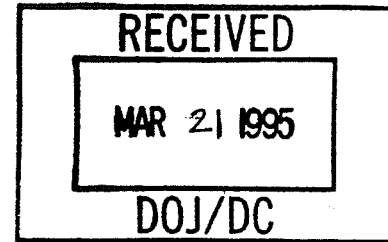


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ATTORNEY GENERAL



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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. 34-00469
	)	34-00471
	)	
Case No. 39576	)	UNITED STATES' MOTION TO
	)	STAY SUBCASES AND VACATE
	)	ORDER REQUIRING AMENDED
	)	STANDARD FORM 5

Descriptive Summary

This is the United States' motion to stay the above referenced subcases and vacate the order requiring an amended Standard Form No. 5 to be filed with the court by February 14, 1995.

Motion

The United States hereby moves to stay subcases 34-00469 and -00471 for a period of eight months and vacate the order requiring an amended Standard Form No. 5 by February 14, 1995. In support of its motion the United States states the following.

I. Background

The United States, on behalf of the Bureau of Land Management, filed timely objections to these subcases on February 26, 1993. The basis for the United States' objections was an unauthorized place of use on the public lands as recommended in the Director's Report. This unauthorized use is further identified as 5.0 acres of irrigated land listed in the Director's report under "POU" as T07N R23E Sec. 06, Lot 5 (SWNW) 5.0.

The United States and the claimant for this water right, Aslett Ranch, had entered into an agreement to resolve this objection. A Standard Form No. 5 was submitted to the court reflecting this agreement on January 5, 1995. The proposed resolution involved the deletion of the above referenced 5 acre POU and a proportionate reduction of the diversion rate and total annual diversion amount of water.

The Court, Special Master Bilyeu presiding, held a telephonic conference concerning these subcases on January 13, 1995. The court and the parties to the conference discussed the elements of the water right of the Standard Form No. 5 submitted

to the Court and the sufficiency of that document. It was agreed by the parties that a revised Standard Form No. 5 would be submitted for the court's consideration. The court issued an order on January 19, 1995, requiring that a revised Standard Form No. 5 for these subcases be filed no later than February 14, 1995.

Following this telephonic conference, the United States contacted the claimant to execute the revised Standard Form No. 5 pursuant to the previously agreed upon resolution. At this time, extenuating and unusual circumstances involving these water right claims were brought to the attention of the Justice Department attorneys. The five acre parcel of land in question is involved in a land trade presently being negotiated between the BLM, the claimant and the Nature Conservancy, a non-profit conservation group. This land trade involves an exchange of the disputed 5.0 acres of land, presently owned by the United States, to the claimant, Aslett Ranch, in cooperation with the Nature Conservancy.

The lands to be transferred to the BLM are in the Thousand Springs area of Custer County. This area contains unspoiled riparian habitat recognized as ideal feeding and nesting grounds for migratory and indigenous species of birds. The BLM intends to protect these lands from future degradation and preserve the natural environment.

The land exchange and ownership transfer is in the final stages of negotiation. The disposal of public lands,

however, is a complex and time-consuming procedure. By statutory and regulatory law, the BLM must conduct an environmental analysis and provide for public notice and review. This procedure is expected to be completed by the end of the current fiscal year, the last day of September, 1995. Upon completion of the exchange, ownership of the five acre parcel of land that is the basis of this dispute will be transferred to the claimant.

II. Argument

The United States respectfully requests that this subcase be stayed allowing the parties and the Nature Conservancy adequate time to complete their proposed land exchange and transfer. A stay of this matter is simply the easiest and least complicated means of resolving this subcase. The transfer of the five acre parcel of land currently owned by the United States to the claimant will moot the U.S. objection that claimant is irrigating the land without proper authority and, therefore, does not have a valid basis for the water right. Once the transfer is complete the United States need only withdraw its objection to resolve this matter.

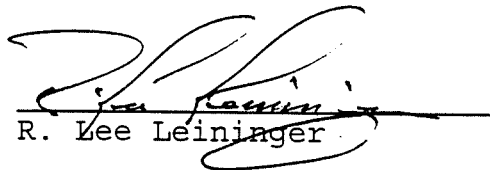
Understandably, the claimant does not wish to forego a claim to the water for the land that he is currently irrigating and will, as expected, shortly own. While other means of resolving this unusual dispute were considered including administrative transfer of the water right or filing of a late claim after the land exchange, it was recognized that a

postponement of this subcase would be the simplest solution and in the best interests of all the parties.

WHEREFORE, for the foregoing reasons the United States respectfully requests that subcase numbers 34-00469 and 34-00471 be stayed for a period of eight months until October 1, 1995. The parties will then submit a Standard Form No. 5 withdrawing the United States objection or, in the event the land exchange does not go forward, pursue the previous agreement and submit a Standard Form No. 5 reflecting that agreement.

Respectfully submitted,

DATED : 2/14/95

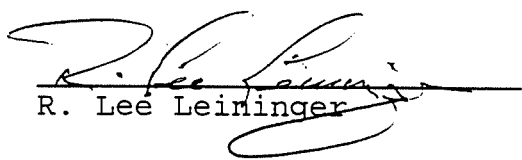

R. Lee Leininger

CERTIFICATE OF SERVICE

I certify that on the 14th day of February, 1995, I served a true and correct copy of the United States' Motion to Stay Subcases and Vacate Order Requiring Amended Standard Form No. 5 in Subcases No. 34-00469 and 34-00471 upon the following individuals:

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