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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 No. 34-10674
)
Case No. 39576) **REPORT ON STATUS OF SUBCASE**
)

DESCRIPTIVE SUMMARY

This document is a report on the status of the subcase no. 34-10674 claimed by Ben Howard and Sons and objected to by Wiley Smith.

REPORT

This subcase was set for a settlement conference on February 1, 1995 at 8:00 a.m in Arco, Idaho. Attorneys for the Idaho Department of Water Resources (IDWR) and the objector, Wiley Smith were present. No one appeared on behalf of the claimant, Ben Howard and Sons. At this conference it was agreed that Lynne Krogh, for IDWR, would send a Standard Form 5 (SF5) to Mr. Howard and Mr. Smith for their consideration.

On March 6, 1995, Ms. Krogh sent a letter and a SF5 to Mr. Howard at P.O. Box 502, Challis Idaho, 83226 explaining how the issue was described to IDWR by Mr. Wiley Smith. The letter

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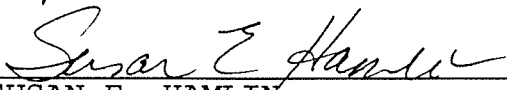
requested that Mr. Howard review the offer for settlement and if it was acceptable to return the SF5 to IDWR by March 30. To this date, IDWR has received no response from Ben Howard and Sons.

A status conference is set for September 28, 1995 in Arco Idaho. On September 27, I, Susan Hamlin, an attorney for IDWR, attempt to telephone Mr. Howard with the phone number listed on the claim, to find out if he intended to participate in the status conference set for the next day. That number has been disconnected. I also called the operator to locate any number for Ben Howard or Ben Howard and Sons in Idaho and found none. It is my understand that Mr. Howard can only be reached by mail.

As this subcase appears to involve an issue of a private contract between the claimant and the objector, IDWR offers no opinion on the rights and obligation of the parties to the agreement attached to the objection. IDWR does suggest that it may be appropriate to set this subcase for trial as no settlement has been reached between the parties. A one day trial date is suggested for next January or February if that is conducive for the parties and the court.

IDWR is available to be of assistance to the court or the parties to facilitate further settlement at any time.

DATED this 21 day of September, 1995.



SUSAN E. HAMLIN
Deputy Attorney General
Idaho Department of Water Resources

CERTIFICATE OF MAILING

I hereby certify that on the 27 day of Sept, 1995, I served a true and correct copy of the foregoing document on the following persons by mailing in the U.S. mail, first class postage affixed thereto.

1. Original to :

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue
P.O. Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

Ben Howard and Sons
P.O. Box 502
Challis, ID 83226

Ben Howard and Sons
Box 111
Whitebird, ID 83554

Wiley Smith
Star Route
Mackay, ID 83251



SUSAN E. HAMLIN
Deputy Attorney General
Idaho Department of Water Resources