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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. 34-02512
Case No. 39576	)	
	)	UNITED STATES' RESPONSE TO STATE
_____	)	OF IDAHO'S MOTION TO FILE LATE
	)	RESPONSE

DESCRIPTIVE SUMMARY

This is the United States' response to the State of Idaho's Motion to File Late Response.

I. BACKGROUND

The State of Idaho's Motion (hereinafter the State) was filed in response to the Court's order of July 28, 1995. That order was intended to allow parties that had opted to rely on

On the other hand, the state suggests a basinwide hearing is necessary.

Because it is uncertain how these are to be coordinated, it is not possible to evaluate precisely what procedure the state is advocating for handling the issues relating to general provisions.¹ Until it is clear what the state's proposal is, it is not possible to address the sufficiency of such proposal.

2. The decision on the Motion for Basinwide Issue No. 5 could make this motion moot.

Should the Court grant the state's Motion to Designate Basinwide No. 5, under AO-1, the state or others can move to designate subcases that should be consolidated and tried within the context of the basinwide issue. In fact, the state in its motion avers that it believes objections to general provisions should be addressed in a basinwide hearing. Thus, it is anticipated that the State or others would make such a motion to consolidate these subcases to be handled under a Basinwide issue.

If this were to occur, the present motion would be moot. As a result, it makes sense to stay any decision on this

¹ There seems little disagreement as to the procedures for reviewing the general provisions once the mechanism for doing so has been established. For each of the general provisions, the Court must determine if the particular provision is in fact general as defined by I.C. 42-1411(3), that it applies to all rights. If so, the Court must determine if it is necessary.

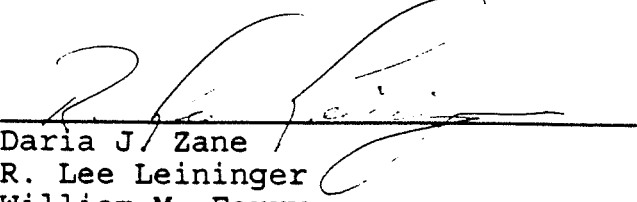
If it is determined that the provision is not in fact general, then it must be determined to which rights the provision applies and if it is really an element of those rights, including the element identified in 42-1411(2)(k), the catch-all element that relates to matters, necessary to define, clarify or administer the right.

motion until the Court has made a decision on Basinwide No. 5.
This would be in the interest of judicial economy.

II. CONCLUSION

WHEREFORE, for the foregoing reasons, the United States respectfully requests that claimant's motion be denied or alternatively that a decision on this matter be stayed pending the decision with the Motion to Designate Basinwide No. 5.

Respectfully submitted this 13th day of October, 1995.



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I certify that on Oct. 13, 1995, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

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