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Department of Water Resources

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DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

FILED

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

Case No. 39576

) Subcase No: 57-02459
)
)
)
)

ORDER GRANTING MOTION TO
DISMISS

Pursuant to I.R.C.P. Rule 41(a)(1), the United States, on behalf of the Bureau of Land Management (BLM), filed a *Stipulation of to Dismiss Notice of Claim and Recommendation of Director's Report and Objection Thereto (Stipulation)* in subcase number 57-02459 seeking to withdraw the objection and to dismiss the claim filed by the United States. The Court will recommend to the Presiding Judge that the BLM's claim under subcase number 57-02459 be dismissed.

I. PROCEDURAL BACKGROUND

BLM claimed stock water and wildlife storage rights in claim numbers 57-02459. BLM filed an objection to the director's report on March 1, 1993. IDWR filed a response to the objection. The response was deemed a Supplemental Director's Report (I.C. § 42-1412(2)) when IDWR was legislatively removed as a party to this litigation pursuant to I.C. §§ 42-1401A(4) and 42-1401B(3). *See also, State of Idaho v. United States*, No. 21869, 1995 WL 596859 (Idaho Sept. 1, 1995). Furthermore, as a result of legislation removing IDWR as a party, "[t]he Director's Report is no longer a pleading, and IDWR and the Director are no longer a party." *In Re SRBA Case No. 39576, Order Granting in Part, and Denying in Part, Joint Motions for Amendment of Administrative Order 1 (Order)*, July 28, 1995.

II. ANALYSIS

Objection in subcase number 57-02459 is **dismissed**.

BLM filed a *Stipulation* in subcase number 57-02459 under I.R.C.P. Rule 41(a)(1). Under Rule 41(a)(1), a party is allowed to voluntarily dismiss without further order of the court as follows:

(i) by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever occurs first, or (ii) by filing a stipulation of dismissal signed by all parties who have appeared in the action.

III. CONCLUSION

The *Objection* filed to BLM claim number 57-02459 is **dismissed**. The Special Master will recommend to the Presiding Judge that claim number 57-02459 not be confirmed in any partial or final decree.

IT IS SO ORDERED.

DATED April 16, 1996.



FRITZ X. HAEMMERLE
Special Master, Reporting Area 2
Snake River Basin Adjudication

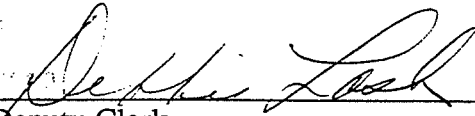
CERTIFICATE OF MAILING

I certify that a true and correct copy of the **ORDER GRANTING MOTION TO DISMISS** was mailed on April 16, 1996, with sufficient first-class postage to the following:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P. O. Box 44449
Boise, ID 83711-4449

Director of IDWR
P.O. Box 83720
Boise, ID 83720-0098

The U.S. Department of Justice
Environment and Natural Resources
550 West Fort Street, MSC 033
Boise, ID 83724



Deputy Clerk