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Attorney for IDWR

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. 34-10873 |
|                | ) |                      |
|                | ) | SETTLEMENT STATEMENT |
| Case No. 39576 | ) |                      |
|                | ) |                      |
|                | ) |                      |

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#### DESCRIPTIVE SUMMARY

The Director of the Idaho Department of Water Resources (IDWR) submits this Settlement Statement in the above-referenced subcase pursuant to Administrative Order (A.O.) 9 and Order Setting Mandatory Settlement Conference.

#### DISCUSSION

This subcase involves a recommendation of a large storage right to the Big Lost River Irrigation District (BLRID) for use on lands within the district. Numerous objections have been filed to this recommendation. IDWR filed detailed responses to each of these objections. Rather than reiterate the responses in

their entirety, IDWR incorporates herein the responses as part of its settlement statement and will attempt to summarize below what it believes is the crux of each objection and how that objection may be resolved.

1. Objection by United States

The United States objects to 34-10873 because it claims that part of the place of use encroaches on federal land. This is purely a factual issue. As with similar objections, the United States needs to provide information to IDWR and the parties to support its contention. Usually, this exchange of information results in a timely resolution of the objection.

2. Objections by Young Harvey Walker and Arthur W. Quist.

Young Harvey Walker objected to this water right being recommended at all. As the basis for his objection, he refers to a Memorandum Decision issued by the District Court of the Seventh Judicial District. This decision was subsequently reversed by the Idaho Supreme Court. Walker v. Big Lost River Irrig. Dist. 124 Idaho 78 (1993). Arthur Quist also objects to this right being recommended at all.

In substance, both objectors seeks to have the description of the place of use amended to include their respective places of use. They also seek to have the portion of the water right that is appurtenant to their respective lands decreed in their names, not in BLRID's name. IDWR does not have any factual information that would assist the court or parties in resolving these objections. It appears these objections present legal questions

for the court to resolve.

3. Objection of Jay V. Jensen

This objection is similar to Walker's and Quist's in that Jay Jensen is also claiming that his lands should be included in the legal description of the place of use for this water right. As indicated above, whether the legal description of the place of use for the irrigation district's water right can include lands outside the irrigation district's boundaries is a legal question for the court to resolve.

CERTIFICATION/PERSON WITH SETTLEMENT AUTHORITY

Pursuant to A.O.9, the following information is provided:

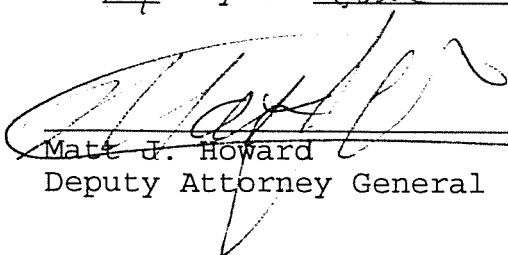
1. Identity of Person Attending Conference with Settlement Authority.

Matt J. Howard, counsel for IDWR, will attend the settlement conference with written settlement authority.

2. Initial Disclosures Certification.

Although A.O.9 does not require IDWR submit initial disclosures, IDWR will provide the parties with a list of information, similar to initial disclosures, that will identify agency personnel with knowledge of this subcase and the location of information IDWR has regarding this subcase.

Respectfully submitted this 24 day of June, 1996.

  
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Matt J. Howard  
Deputy Attorney General