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OCT 10 2014
DEPARTMENT OF
WATER RESOURCES

**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 Nos.: Attachment A**
)
) **SURFACE WATER COALITION'S**
) **PROPOSED TRIAL SCHEDULE /**
) **MOTION FOR SETTLEMENT**
) **CONFERENCE & COURT**
) **ORDERED MEDIATION**
)

COME NOW, American Falls Reservoir District, American Falls Reservoir District #2,
A&B Irrigation District, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation
District, North Side Canal Company and Twin Falls Canal Company (collectively "Surface
Water Coalition" or "Coalition"), by and through their undersigned attorneys of record, and
hereby submit this *Proposed Trial Schedule / Motion for Settlement Conference & Court
Ordered Mediation* pursuant to the Court's September 9, 2014 *Order re: Scheduling Proposals*.¹

¹ Counsel for the Coalition submitted a proposed schedule to counsel for the other parties but was unable to reach a stipulation on the same.

Proposed Trial Schedule

The Coalition proposes the following trial schedule that incorporates sufficient time for the Court to hear and rule on the two remaining motions to file late claims, and assuming they are granted, time for IDWR to issue Director's Reports and complete the objection and response periods.

The United States Bureau of Reclamation filed a motion to file late claim for Ririe Reservoir (25-14413) and the North Fork Reservoir Company filed a motion to file late claim for Henry's Lake (21-13193). These reservoirs are operated in coordination with the remaining reservoirs in the Upper Snake River above Milner Dam (Walcott, American Falls, Palisades, Island Park, and Jackson Lake).² As such, the pending late claims for Ririe and Henry's Lake, if granted, should be consolidated and proceed on the same trial schedule as the above-captioned subcases. *See e.g. Stipulation* at 4-6 (Subcases 01-219 et al.) (Sept. 25, 2012) ("Consistent with the temporary upstream, annual, and permanent storage exchange provisions in the Palisades Contracts, and historic administration of water rights in Water District 01, the Parties hereby stipulate to, and the Department concurs with, the elements of water right . . . [Lake Walcott, American Falls, Palisades, Jackson Lake, Island Park, and Ririe Reservoirs]"). Hearing all of these subcases together will promote judicial economy and make it more efficient for the parties who are participating in all of these subcases. The Coalition would expect that many of the same witnesses for IDWR, WD1, and Reclamation, would be called to testify in all of these subcases. Having these witnesses appear once, rather than in multiple trials set for different times, would save the parties and the Court considerable time and expense.

² The Coalition is only filing this proposed schedule in the subcases concerning reservoirs in Water District 1, and is not a party to or filing any proposed schedules in the subcases in Basin 37 (37-22806) and Basin 63 (63-33732 et al).

Accordingly, taking into consideration the schedule for the proposed late claims, and the motion for a settlement conference and court ordered mediation set forth below, the Coalition proposes the following trial schedule for the Court's consideration:

<u>Action</u>	<u>Date</u>
Hearing on Motions for Late Claims ³	November 18, 2014
Director's Report deadline (assuming motions granted)	December 31, 2014
Court Ordered Mediation Period	October 13 – January 16, 2015
Objection Deadline	January 21, 2014
Mediator's Report to Court	January 30, 2015
Response Deadline	February 4, 2015
IDWR 706 Report deadline (all subcases)	February 13, 2015
Deadline to file Dispositive Motions	May 29, 2015
Hearing on Dispositive Motions	June 30, 2015 (Tue.)
Discovery Cut-off, all discovery complete	August 7, 2015
Pre-Trial Conference	August 24, 2015
Trial (5 days)	August 31 – September 4, 2015

Motion for Settlement Conference / Court Ordered Mediation

The Coalition respectfully requests the Court to order a settlement conference pursuant to Rule 12 (AO1) and mediation pursuant to I.R.C.P. 16(k). A formal mediator appointed by the Court would assist the parties in reaching a mutually acceptable agreement. *See* I.R.C.P. 16(k)(1). Further, although the proposed mediation schedule is accelerated (i.e. the next three months), it coincides with the proposed schedule on the outstanding motions to file late claims for Ririe and Henry's Lake, assuming the motions are granted.

³ The Court has already scheduled this hearing on the motions for late claims in subcases 25-14413 and 21-13193.

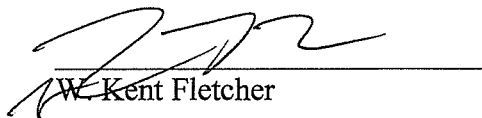
Moreover, the SRBA Court has a long history of successfully mediated cases (i.e. Nez Perce Water Rights Settlement, Wild & Scenic Rivers Act water rights). While the parties have been in negotiations for several months they have not had the benefit of a professional mediator to aid in identifying the issues, reducing misunderstandings, clarifying priorities, and exploring areas of compromise and agreement. Giving the parties three months to pursue a mediated settlement with a professional mediator is preferred by the Coalition and would give the remaining two motions to file late claims time to be heard and run through the objection and response period.

Finally, the three-month mediation period would give the parties and the Director time to resolve the outstanding contested case that will address “how water is counted or credited toward the fill of water rights for the federal on-stream reservoirs in Water District 01.” *See Notice at 6 (In the Matter of Accounting for Distribution of Water to the Federal On-Stream Reservoirs in Water District 1)* (Oct. 24, 2013). At the status conference held on Monday October 6th the Director scheduled an administrative hearing for January 14-16, and 20, 2015.

For the foregoing reasons the Coalition respectfully requests the Court to grant the proposed trial schedule and motion for settlement conference and court ordered mediation. No oral argument is requested.

DATED this 8th day of October, 2014.

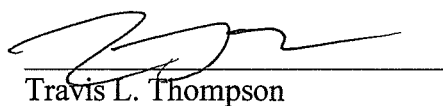
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NSCC, and TFCC*

CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of October, 2014, I served a true and correct copy of the foregoing **SURFACE WATER COALITION'S PROPOSED TRIAL SCHEDULE / MOTION FOR SETTLEMENT CONFERENCE & COURT ORDERED MEDIATION** on the person(s) listed below, by U.S. Mail, and electronic mail if available:

Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

U.S. Bureau of Reclamation
Regional Director, PN Region
1150 N. Curtis Rd., Ste. 100
Boise, ID 83706-1234

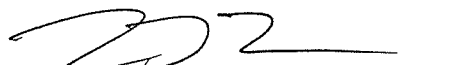
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ATTACHMENT A

01-10614
01-10615
01-10616
01-10617
01-10618
01-10619
01-10620
01-10621
01-10622
01-10623
21-13161