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DISTRICT COURT-SRBA
TWIN FALLS, 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)

SIXTH AMENDED CASE

MANAGEMENT ORDER:

Case No. 39576)

Federal and Tribal Non-Consumptive

(Instream Flow) Claims

IT IS ORDERED that the following procedures shall govern the litigation of objections to the non-consumptive (instream flow) claims filed by the United States and Indian tribes.

I. SCOPE

This order governs the litigation of objections of all claims for federal and tribal non-consumptive uses reported in the Director's Report dated March 31, 1994, and the Supplemental Director's Report dated April 17, 1995. It is anticipated that additional case management orders will be issued in the future as necessary to govern remaining issues.

II. CONSOLIDATION

A. FOREST SERVICE CLAIMS:

1. Wild and Scenic Rivers Claims.

All subcases arising under Claim Numbers 75-13316, 77-11941, 77-13844, 78-10568, 78-11961, 81-10472, 81-10513 and 81-10625, filed by the United States on behalf of

the Department of Agriculture, Forest Service, in connection with Wild and Scenic Rivers are consolidated in a single subcase, 75-13316.

2. MUSYA Claims.

All subcases arising under Claim Numbers 63-25239, 65-19559, 71-10444, 77-11791, 77-11828, 78-10669, 79-10764, 81-10501, 81-10623, 82-10523, 82-10953, 82-10967, 82-10972, 83-10806, 84-10884, 65-19472, 65-19505, 81-10679, 82-10955, 65-19487, 71-10364, 71-10368, 71-10370, 71-10372, 72-11015, 77-10665, 78-10564, 63-25279, 63-25347, 63-25430, 71-10416, 72-11183, 72-11218, 75-13504, 77-10986, 82-10950 and 83-10807, filed by the United States on behalf of the Department of Agriculture, Forest Service, in connection with the Multiple Use and Sustained Yield Act are consolidated into a single subcase, 63-25239.

3. Organic Act Claims.

All subcases arising under Claim Numbers 63-25243, 65-19565, 71-10434, 77-11792, 77-11837, 78-10670, 79-10755, 81-10492, 81-10622, 82-10946, 82-10949, 82-10954, 82-10976, 83-10805 and 84-10893, filed by the United States on behalf of the Department of Agriculture, Forest Service, in connection with the Forest Service Organic Administration Act are consolidated into a single subcase, 63-25243.

4. Wilderness Claims.

All subcases arising under Claim Numbers 75-13605, 75-13606, 77-12774, 77-12775, 77-12776, 81-11191 and 82-11120, filed by the United States on behalf of the Department of Agriculture, Forest Service, in connection with the federal wilderness reservations are consolidated into a single subcase, 75-13605.

5. Sawtooth NRA Claims.

All subcases arising under Claim Numbers 65-20766, 71-10761 and 72-16272, filed by the United States on behalf of the Department of Agriculture, Forest Service, in connection with the Sawtooth National Recreation Area are consolidated into a single subcase, 65-20766.

6. Hells Canyon NRA Claim.

The subcase arising under Claim Number 79-13597, filed by the United States on behalf of the Department of Agriculture, Forest Service, in connection with the Hells Canyon National Recreation Area is a single subcase and does not require consolidation.

B. DEER FLAT REFUGE CLAIMS:

All subcases arising under Claim Numbers 02-10063, 02-10064, 03-10020 and 03-10021, filed by the United States on behalf of the Fish and Wildlife Service for the Deer Flat National Wildlife refuge are consolidated into a single subcase, 02-10063.

C. TRIBAL INSTREAM FLOW CLAIMS:

1. Nez Perce Claims.

All instream flow claims filed by the United States as trustee for the benefit of the Nez Perce Tribe and all claims filed by the Nez Perce Tribe on its own behalf. Lead subcase is 03-10022.

2. Fort Hall Claims.

All instream flows below Hells Canyon Dam filed by the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation. Lead subcase is 03-10080.

3. Northwestern Band Claims.

All instream flow claims filed by the Northwestern Band of Shoshone Nation. Lead subcase is 03-10098.

4. Duck Valley Claims.

All instream flow claims filed by the United States as trustee for the benefit of the Shoshone-Paiute Tribes of the Duck Valley Indian Reservation. Lead subcase is 51-12756.

III. SCHEDULE

A. FOREST SERVICE CLAIMS:

All pretrial litigation activities (including discovery and motion) shall be governed by this case management order, the terms of the *Stipulation and Motion Governing Discovery Concerning United States' Claims Filed on Behalf of the U.S.D.A. Forest Service*, filed March 25, 1996 (FS Stipulation), and the terms of the *Stipulation and Motion Governing Discovery Concerning United States' Claims Filed on Behalf of the U.S. Fish and Wildlife Service*, filed April 16, 1996 (FWS Stipulation). The schedule of dates set forth in this case management order represents an amendment to the schedule of dates set forth in the FS Stipulation and in the FWS Stipulation.

The United States, the State of Idaho, and all parties to each subcase shall comply with the following schedule:

1. Wild and Scenic River Claims.

Initial disclosure:	Pursuant to FS Stipulation
Initial disclosure to be completed by:	September 1, 1996
Continued scheduling conference:	January 21, 1997
Discovery stay extended until:	January 21, 1997

2. MUSYA Claims:

Initial disclosure:	Pursuant to FS Stipulation
Initial disclosure to be completed by:	September 1, 1996
Continued scheduling conference:	January 21, 1997

Discovery stay extended until: January 21, 1997

Supplemental disclosure of all data and documents related to claims to be completed by: December 17, 1996

3. Organic Act Claims:

Initial disclosure: Pursuant to FS Stipulation

Initial disclosure to be completed by: September 1, 1996

Continued scheduling conference: January 21, 1997

Discovery stay extended until: January 21, 1997

Supplemental disclosure of all data and documents related to claims to be completed by: December 17, 1996

4. Wilderness Claims:

Initial disclosure: Pursuant to FS Stipulation

Initial disclosure to be completed by: May 31, 1996

Completion of depositions: November 27, 1996

All written discovery to be served by: November 27, 1996

Deadline for filing dispositive motions including supporting memoranda and materials: December 23, 1996

Continued scheduling conference: January 21, 1997

5. Sawtooth NRA Claims:

Initial disclosure: Pursuant to FS Stipulation

Initial disclosure to be completed by: May 31, 1996

Completion of depositions:	December 20, 1996
All written discovery to be served by:	December 20, 1996
Continued scheduling conference:	January 21, 1997

6. Hells Canyon NRA Claim:

Initial disclosure:	Pursuant to FS Stipulation
Initial disclosure to be completed by:	May 31, 1996
Completion of depositions:	December 20, 1996
All written discovery to be completed by:	December 20, 1996
Deadline for filing dispositive motions, including supporting memoranda and materials:	January 23, 1997
Continued scheduling conference:	January 21, 1997

B. DEER FLAT REFUGE CLAIMS:

Initial disclosure:	Pursuant to FS Stipulation
Initial disclosure to be completed by:	May 31, 1996
Continued scheduling conference:	January 21, 1997

C. TRIBAL INSTREAM FLOW CLAIMS:

1. Nez Perce Claims.

To continue negotiating toward a resolution of consumptive and non-consumptive claims both on and off-reservation and consistent with the stipulation of the parties, all litigation activity, including discovery and motion practice, on the Nez Perce Claims is STAYED until February 18, 1997. Informal exchange of documents shall proceed as provided for in the Nez

SIXTH AMENDED CASE MANAGEMENT ORDER:

Federal and Tribal Non-Consumptive (Instream Flow) Claims - Page 6

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Perce Memorandum of Agreement dated December 14, 1995. In addition, the following provisions shall apply:

(a) The parties are to report to the court at each regularly scheduled monthly Status Conference about progress made in the negotiations, and

(b) A continued scheduling conference will be held February 18, 1997, to review progress made during negotiations and to set the schedule for the case.

2. Fort Hall Claims.

To continue negotiating toward a resolution of off-reservation non-consumptive claims and consistent with the stipulation of the parties, all litigation activity, including discovery and motion practice, on the Fort Hall Claims is STAYED until February 18, 1997. Informal exchange of documents shall proceed as provided in the stipulation of the parties filed April 1, 1995. In addition, the following provisions shall apply:

(a) The parties are to report to the court at each regularly scheduled monthly Status Conference about progress made in the negotiations, and

(b) A continued scheduling conference will be held February 18, 1997, to review progress made during negotiations and to set the schedule for the case.

3. Northwestern Band Claims.

These Claims are closely related to the Fort Hall Claims. For purposes of judicial economy, all litigation activity, other than discovery, regarding the non-consumptive claims of this tribe is STAYED until February 18, 1997. A continued scheduling conference is set for February 18, 1997.

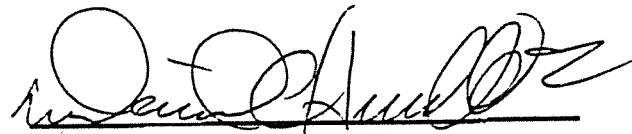
4. **Duck Valley Claims.**

These claims are geographically limited to the exterior boundaries of the reservation and are geographically distinct from the other federal instream flow claims. There are ongoing negotiations for these and on-reservation consumptive claims, which also include the state of Nevada since a portion of the reservation lies within the state's boundaries.

Accordingly, it is ordered that any litigation activity on the Duck Valley Claims, other than discovery, is STAYED, until the consumptive claims are reported, either in the form of a negotiated agreement or in a director's report. When the stay is lifted, the non-consumptive use claims for the Duck Valley Reservation shall be litigated with consumptive use claims for the Duck Valley Reservation.

IT IS ORDERED.

DATED October 29, 1996.


DANIEL C. HURLBUTT, JR.
Presiding Judge
Snake River Basin Adjudication

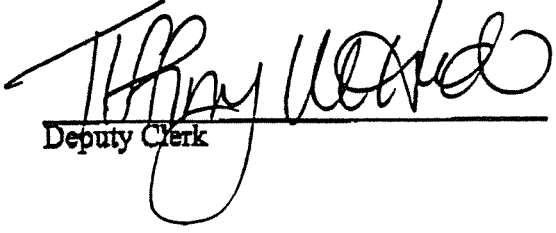
CERTIFICATE OF MAILING

I certify that on this 29th day of October, 1996, I served a true and correct copy of this
SIXTH AMENDED CASE MANAGEMENT ORDER: Federal and Tribal Non-Consumptive (Instream Flow) Claims by placing a true and correct copy thereof in the United States mail, postage prepaid or in the Statehouse Mail, addressed as follows:

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

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

Mailing to the parties is to be completed by the State of Idaho on or before 11/4/96.


Deputy Clerk