

**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.: 00-92021-02**
) **(Interim Administration)**
)
) **ORDER GRANTING STATE OF IDAHO'S**
) **MOTION FOR ORDER OF INTERIM**
) **ADMINISTRATION OF DECREED**
) **SURFACE WATER RIGHTS IN BASIN 02**
)
)

I.

PROCEDURAL BACKGROUND

1. On December 29, 2006, the Idaho Department of Water Resources (IDWR) filed its *Director's Report for Irrigation and Other Uses ("Director's Report")*, IDWR Basin 02 with the SRBA District Court.

2. On June 14, 2011, the State of Idaho filed a *Motion for Order of Interim Administration of Surface Water Rights in Basin 02 ("Motion")*; *Brief In Support of Motion for Order of Interim Administration For Surface Rights in Basin 02* and the *Affidavit of Timothy J. Luke In Support of Motion for Order of Interim Administration*.

3. On June 17, 2011, the State of Idaho filed a *Certificate of Service* evidencing service of the State's *Motion* and related documents on those claimants in IDWR Basin 02 reasonably determined to be adversely affected by the entry of the requested **Order**.

4. A hearing was held on the State's *Motion* on September 12, 2011. No objections were filed in response to the State's *Motion*, and no one appeared in opposition to the State's *Motion*.

II.

LEGAL STANDARDS FOR INTERIM ADMINISTRATION

1. Idaho Code § 42-1417 authorizes the district court to order interim administration of water rights and provides, in part, as follows:

- (1) The district court may permit the distribution of water pursuant to chapter 6, title 42, Idaho:
 - (a) in accordance with the director's report or as modified by the court's order;
 - (b) in accordance with applicable partial decree(s) for water rights acquired under state law;
 - (c) in accordance with applicable partial decree(s) for water right established under federal law.
- (2) The district court may enter the order only:
 - (a) upon motion by a party;
 - (b) **after notice by the moving party** by mail to the director and **each claimant** from the water system or portion thereof **that could reasonably be determined be adversely affected by entry of the order;** and
 - (c) **upon a determination by the court, after hearing, that the interim administration of water rights in accordance with the report, or as the report is modified by the court's order, and in accordance with any partial decree(s), is reasonably necessary to protect senior water rights.**

Idaho Code § 42-1417 (emphasis added).

2. Idaho Code § 42-1417 therefore requires the district court to make the following determination: (1) a party filed a motion for interim administration, (2) the moving party served by mail each claimant that could reasonably be determined to be adversely affected, (3) interim administration is reasonably necessary to protect senior water rights, and (4) the water rights should be administered in accordance with the director's report, as modified by the district court, or in accordance with partial decrees that supercede the *Director's Report*.

III.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Court having heard the motion and reviewed the pleadings, makes the following findings of fact and conclusions of law:

1. The State of Idaho satisfied the notice and service requirements of Idaho Code § 42-1417(2)(b) by serving the State's *Motion* and related documents on those claimants in IDWR Basin 02 reasonably determined to be adversely affected by the entry of the requested *Order*.

2. Interim administration of surface water rights in IDWR Basin 02 in accordance with the *Partial Decrees* for water rights is reasonably necessary to efficiently administer water rights and to protect senior water rights.

3. Basin 02 is a nearly completed basin. SRBA *Partial Decrees* reflect the most accurate and up-to-date records of water rights in Basin 02. Therefore the Court finds it appropriate for such rights to be distributed according to the *Partial Decrees*.

4. The inclusion of decreed water rights into water districts in Basin 02 will provide current watermasters with the ability to administer, regulate and enforce water rights in accordance with the *Partial Decrees* issued in the SRBA.

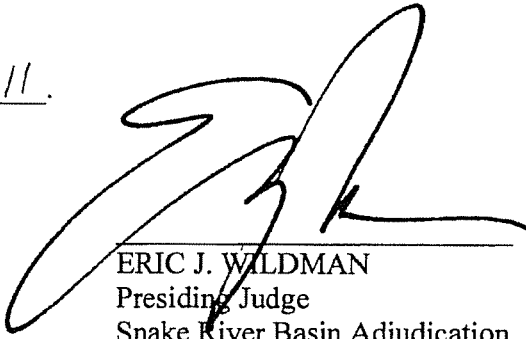
IV.

ORDER

Based on the foregoing, and pursuant to Idaho Code § 42-1417, the State of Idaho's *Motion for Order of Interim Administration of Surface Water Rights in Basin 02*, for which *Partial Decrees* have been issued in the SRBA, is hereby **granted**. The Court authorizes the distribution of surface water pursuant to chapter 6, title 42, Idaho Code in accordance with the *Partial Decrees* that supercede the *Director's Reports* in Basin 02.

IT IS SO ORDERED.

Dated: Sept 12, 2011.



ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTION FOR ORDER OF INTERIM ADMINISTRATION OF DECREED SURFACE RIGHTS IN BASIN 02 was mailed on September 12, 2011, with sufficient first-class postage to the following:

INTERIM ADMINISTRATION
IN BASIN 02

STATE OF IDAHO
Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098