

**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. 91-00005-34
)	
Case No. 39576)	(Basin-Wide Issue, Basin 34)
)	(Season of Use)
_____)	

**ORDER CONSOLIDATING IRRIGATION PERIOD OF USE PROVISION
ISSUE FOR BASIN 34 WITH BASIN-WIDE ISSUES UNIQUE TO BASIN 34;
AND ORDER REQUESTING EXPLANATORY SUPPLEMENTAL DIRECTOR'S
REPORT ("706 REPORT"), I.R.E. 703, 705, 706, I.C. § 42-1412(4).**

This matter came before the Court pursuant to the Court's June 13, 2000, *Order Setting Status Conference Regarding Objections to Beginning and Ending Dates of Irrigation Period of Use for Basin 34*.

**I.
ORDER OF CONSOLIDATION FOR TRIAL SCHEDULING AND
SETTLEMENT CONFERENCE PURPOSES**

1. On June 13, 2000, this Court entered a pretrial scheduling order pertaining to the general provisions unique to Basin 34 (Basin-Wide Issue 5-34). *See Order Setting Trial Date, Final Pre-Trial Conference, Discovery Deadlines, and Pre-Trial Motions for Basin-Wide Issues 5-34 (General Provisions Unique to Basin 34) - I.R.C.P. 16*, Subcase No. 91-00005-34 (June 13, 2000).

2. The above-referenced order did not include those issues pertaining to the recommended period of use provisions for Basin 34, which to date have been proceeding independently from Basin-Wide Issue 5-34. For procedural background, refer to *Order*

Setting Status Conference Regarding Objections to Beginning and Ending Dates of Irrigation Period of Use for Basin 34, Subcase No. 91-00005-34 (June 13, 2000).

3. At the status conference held on August 22, 2000, in Arco, Idaho, it was agreed by the parties, counsel for IDWR, and ultimately the Court, that the issues pertaining to the period of use provisions for Basin 34 should be consolidated with Basin-Wide Issue 5-34 for purposes of pretrial scheduling matters, trial, and settlement conferences and that both matters should proceed on the same scheduling order previously entered for Basin-Wide Issue 5-34. No party objected to proceeding in this manner.

4. The parties also informed the Court that a settlement conference for Basin-Wide Issue 5-34 was set for September 12, 2000, before Special Master Cushman who was appointed as settlement facilitator. (The parties to Basin-Wide Issue 5-34 were previously ordered to participate in a mandatory settlement conference. *See Order Appointing Special Master Cushman as Settlement Facilitator for Remaining Basin-Wide Issues 5-34*, Subcase No. 91-00005-34 (April 28, 2000)). The parties also agreed that the period of use issues should be consolidated with Basin-Wide Issue 5-34 for settlement conference purposes. Therefore, based on the foregoing:

IT IS HEREBY ORDERED that all matters pertaining to the period of use provisions for Basin 34 are consolidated with Basin-Wide Issue 5-34 for purposes of pretrial scheduling, trial, and settlement conferences. Accordingly, both matters shall proceed in accordance with the June 13, 2000, scheduling order previously entered for Basin-Wide Issue 5-34. *See Order Setting Trial Date, Final Pre-Trial Conference, Discovery Deadlines, and Pre-Trial Motions for Basin-Wide Issues 5-34 (General Provision Unique to Basin 34) - I.R.C.P. 16*, Subcase No. 91-00005-34 (June 13, 2000).

IT IS FURTHER HEREBY ORDERED that Special Master Cushman is appointed as settlement facilitator for the issues pertaining to the period of use provisions.

Party participation is mandatory. Parties should be prepared to address the issues raised pertaining to the period of use provisions at the forthcoming settlement conference.

II.
ORDER REQUIRING "706 REPORT"

1. At the August 22, 2000, status conference, the parties recommended that a Supplemental Director's Report in the form of an I.R.E. 706 Report setting forth IDWR's basis for recommending the period of use provisions in Basin 34 would be helpful in facilitating settlement efforts as well as trial preparation efforts. Counsel for IDWR concurred and indicated that a written report could be prepared and filed with the Court by September 10, 2000. No objections were raised regarding this recommendation.

THEREFORE, pursuant to I.C. § 42-1412(4) and I.R.E. 706, and on the recommendation of the parties and the concurrence of IDWR, the Court hereby appoints IDWR as an expert witness in the above-entitled matter. IDWR is hereby ordered to prepare a written report setting forth any recommendations and expert opinions regarding the proposed period of use provisions for Basin 34. Said report shall include facts, data and legal bases upon which each opinion and recommendation relies. Said report shall be filed with the Court and served on the parties no later than 5 p.m. September 11, 2000. It is intended that said Report contain only "explanatory materials" so as to not be subject to a renewed objection period in accordance with I.C. § 42-1411(1).

IT IS SO ORDERED:

DATED: AUGUST 28, 2000.

BARRY WOOD
Administrative District Judge and
Presiding Judge of The
Snake River Basin Adjudication