

**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 91-00005-34
	)	(Basin-Wide Issues 5-34, Separate
Case No. 39576	)	Streams)
	)	
	)	<b>ORDER RE: STIPULATIONS FOR</b>
	)	<b>BASIN 34 GENERAL PROVISION</b>
_____	)	<b>NO. 5 (SEPARATE STREAMS)</b>

**I.**

**DESCRIPTIVE SUMMARY**

This is an order adopting the stipulations reached by the parties who attended the April 10, 2000, settlement conference, and concurred with by IDWR, regarding General Provision no. 5 in Basin 34 (separate streams).

**II.**

**PROCEDURAL BACKGROUND**

1. On June 24, 1999, IDWR filed its *Supplemental Director's Report, Reporting Area 1, IDWR Basin 34, Regarding Revisions of the Following: Period of Use (for Irrigation Water Uses), Conjunctive Management General Provisions* ("Supplemental Director's Report"). This *Supplemental Director's Report* included a General Provision 5 ("separate streams") regarding the administration of certain water rights which were listed on "Attachment A" attached thereto.

2. On January 27, 2000, this Court issued an order appointing Special Master Cushman as settlement judge for the separate streams issue.

3. On April 10, 2000, a settlement conference was held before Special Master Cushman. Several of the parties to the separate streams issue failed to attend.

4. On May 12, 2000, Special Master Cushman issued a *Settlement Conference Report*. This report described the agreements reached by the parties who were in attendance at the settlement conference.

5. On May 25, 2000, this Court issued an *Order to Show Cause and Summons to Appear* directed to those parties who failed to attend the settlement conference. That order required the non-attending parties to appear before this Court and show good cause as to why they should not be bound by the agreements reached at the settlement conference. The time and place set for the show cause hearing was June 22, 2000, at 1:30 p.m. at the Fremont County Courthouse located in St. Anthony, Idaho.

6. At the scheduled time and place, none of the parties to whom the *Order to Show Cause and Summons to Appear* was directed appeared to show cause.

7. At the June 22, 2000, hearing, Mr. Patrick Brown, counsel for Mountain Springs Ranch, LLC, stated on the record that his client, who owns water right no. 34-10635, wishes to have this water right number included on the "Attachment A" list of separately administered streams, but that the parties who attended the settlement conference were unable to reach an agreement regarding the inclusion of this water right on that list. Therefore, there remains an unresolved objection with respect to this water right to the separate streams general provision.<sup>1</sup>

8. On June 19, 2000, IDWR transmitted to the Court via facsimile two stipulations signed by the parties who attended the settlement conference, which memorialized the agreements reached by those parties. IDWR concurred with these stipulations, as indicated by the signatures of Carter Fristchle and Susan Hamlin Nygard.

### **III.**

#### **ORDER RE: STIPULATIONS FOR SEPARATE STREAMS ISSUE**

In accordance with the forgoing, the Court having reviewed the two written stipulations submitted to the Court, which are attached hereto and incorporated herein by reference, and no party having shown good cause as to why they should not be bound

thereby, IT IS HEREBY ORDERED that these two written stipulations are accepted in their entirety by the Court as a final resolution of the matters stipulated to therein.

IT IS SO ORDERED:

DATED: June 23, 2000.

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

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<sup>1</sup> The unresolved separate streams issue in subcase no. 34-10635 will be decided along with the other general provisions in Basin-34. *See Amendment to Trial Scheduling Order – Basin-Wide Issue 5-34* (June 23, 2000).