

**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)	
)	91-00005-57
Case No. 39576)	
_____)	NOTICE OF HEARING

**ORDER SETTING INITIAL HEARING ON ESTABLISHING BEGINNING AND
ENDING DATES OF IRRIGATION PERIOD OF USE FOR BASIN 57; AND ON
ESTABLISHING WHICH SPECIFIC DECREES IN BASIN 57 SHOULD
CONTAIN ‘EXCESS’ WATER PROVISIONS**

**I.
PROCEDURAL BACKGROUND**

1. This Court previously entered a series of three orders setting forth the procedural history and this Court’s posture for resolving those general provisions previously designated as Basin-Wide Issues following the Idaho Supreme Court’s remand in *A & B Irrigation Dist. v. Idaho Conservation League*, 131 Idaho 411, 558 P.2d 568 (1998) and *State v. Idaho Conservation League*, 131 Idaho 329, 955 P.2d 1108 (1998). For a detailed discussion, see *Order of Consolidation/Separation of Issues (Realignment and Redesignation of Issues) of Basin-Wide Issues 5, 5A and 5B; AO1 § 11* (August 31, 1999); *Amended Order of Consolidation/Separation of Issues (Realignment and Redesignation of Issues) of Basin-Wide Issues 5, 5A and 5B; AO1 § 11* (December 3, 1999); *Second Amended Order of Consolidation/Separation of Issues (Realignment and Redesignation of Issues) of Basin-Wide Issues 5, 5A and 5B; AO1 § 11* (December 20, 1999).

2. Pursuant to the August 31, 1999, **Order**, this Court realigned and redesignated the remaining issues by particular Basin (i.e. Basin 34, 36, and 57). Those General Provisions unique to Basin 57, *to wit*: 1) Beginning and ending dates of irrigation period of use; 2) Conjunctive Management; and 3) Which specific decrees should contain “excess” water provisions, were designated collectively as Basin Wide Issue 5-57. Pursuant to the December 3, 1999, and December 20, 1999, **Orders**, the issue of Conjunctive Management was separated from Basin-Wide Issue 5-57 and redesignated as Basin-Wide Issue 5. Basin-Wide Issues 5-57 now only consist of the issues of irrigation season of use and the “excess” water general provisions.

3. In regards to establishing specific beginning and ending dates for irrigation season of use, the issue initially proceeded as a Basin-Wide Issue. Following the Idaho Supreme Court’s instructions on remand, however, specific dates designating the irrigation period of use must be established for each particular irrigation water right. Accordingly, IDWR issued Supplemental Director’s Report’s which recommended specific periods of use for each irrigation water right claim in Basin 57. *See* August 31, 1999, **Order**. In response, numerous objections to the Director’s Recommendations were filed by individual claimants. However, based on the nature and content of some of the objections, coupled with the fact that the issue was initially intended to be resolved collectively as a Basin-Wide Issue, it is not readily apparent whether the objections are intended to apply only to certain water rights or all irrigation rights within Basin 57. Since following remand, the irrigation season issue is not amenable to being resolved as a Basin-Wide issue as to each water right, clarification regarding the intended scope of the objections will ultimately assist the Court with determining how to proceed.

4. In regards to the “excess” water general provision, the SRBA Court received numerous objections regarding this provision. However, it is not apparent whether the objections are directed to particular water right claims or to all of the water right claims in Basin 57 for which the provision has been recommended.

5. In an effort to adjudicate the various objections in the most efficient and expeditious manner, it would be productive for Court to conduct an initial status conference and hearing for the purposes of clarifying the nature of the objections and determining whether certain common objections can be realigned for consolidation and

also determining which individual issues will require recommitment to a special master for further findings.

II.

ORDER SETTING INITIAL HEARING

THEREFORE; FOR THE REASONS SET FORTH ABOVE, IT IS HEREBY ORDERED; that an initial hearing be set on Basin-Wide Issues 5-57, for the purpose of determining which objections may be realigned, consolidated and resolved in the District Court, and which objections need to be recommitted to a special master for further proceedings on those issues unique to a particular water right claim. Parties should be prepared to discuss these issues. The hearing is set for **Tuesday, March 14, 2000, at 1:30 p.m. at the Owyhee County Courthouse, Highway 78, Murphy , Idaho.**

IT IS SO ORDERED:

DATED: _____

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