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DISTRICT COURT - SRBA
TWIN FALLS CO., 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

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)
) **Subcase No. 79-13597**
) **Hells Canyon National Recreation Area Act**
) **Claims (Encompassing Subcases 79-14054 through**
) **79-14079; and to further encompass and be consolidated**
) **with Subcases 78-12200 through 78-12205)**
)
)

CASE NO. 39576

) **Order Approving Stipulation and Entry of**
) **Basin 79 Partial Decrees**
)
)

_____)

The District Court of the Fifth Judicial District in and for the County of Twin Falls, having entered its Commencement Order on November 19, 1987, commencing the Snake River Basin Adjudication ("SRBA"); the United States of America, the State of Idaho and Idaho Power Company, through their respective counsel, having presented a Stipulation and Joint Motion for Order Approving Stipulation and Entry of Partial Decrees, with the effective date of September 1, 2003 ("Stipulation"); due notice of the requested approval of the Stipulation, the proposed entry of the Basin 79 and the SF-4 motions to file late notices of claim for the Basin 78 Partial Decrees having been given pursuant to the Idaho Rules of Civil Procedure and the SRBA Court Administrative Order 1; the Court having reviewed the Stipulation, the proposed Basin 79 Partial

ORDER APPROVING STIPULATION AND ENTRY OF BASIN 79 PARTIAL DECREES

Decrees, the supporting affidavits and the SF-4 motions for the Basin 78 claims and having heard the parties concerning these matters;

THE SRBA DISTRICT COURT NOW FINDS AS FOLLOWS:

The parties have satisfied the requirements of Chapter 14, Title 42, Idaho Code, including Section 42-1411A, the Idaho Rules of Civil Procedure and SRBA Administrative Order 1. The Stipulation is a fair and equitable settlement of all the United States' claims in the SRBA for the portion of the Hells Canyon National Recreation Area within Idaho Department of Water Resources Administrative Basin No. 79. The Stipulation does not adversely affect the interests of persons not party to the Stipulation and good cause has been shown for granting the Joint Motion for Order Approving Stipulation and Entry of Partial Decrees and the SF-4 motions to file late notices of claim for the Basin 78 Partial Decrees.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. The Partial Decrees for the United States' Hells Canyon National Recreation Area Act federal reserved water rights within Idaho Department of Water Resources Administrative Basin No. 79, i.e., Partial Decrees numbered 79-14054 through 79-14079, are hereby ratified, confirmed and approved. The Court shall retain jurisdiction for the purpose of resolving disputes regarding the interpretation and implementation of the Partial Decrees.

2. The SF-4 motions to file late notices of claim for the Basin 78 Partial Decrees, i.e., Partial Decrees numbered 78-12200 through 78-12205, were granted by the Court's Order dated November 2, 2004. Notice of the Director's Report that includes these late notices of claim shall be provided in the SRBA Docket Sheet. The hearing on entry of those Partial Decrees is hereby set for February 15, 2005.

ORDER APPROVING STIPULATION AND ENTRY OF BASIN 79 PARTIAL DECREES

3. The Stipulation is hereby approved, provided, that the provisions of paragraph 2 of the Stipulation ("paragraph 2") that address administration of water rights are covenants among the signatory parties only and shall not be binding on this Court or non-signatory parties with regard to administration of water rights by IDWR. The Court retains jurisdiction for the purpose of resolving disputes among the signatory parties regarding the implementation and enforcement of the Stipulation. The provisions of paragraph 2 shall not affect the rights of any non-signatory party to participate in and object to any motion for interim administration, proceeding for creation of a water district, or other administrative action or other judicial proceeding affecting their water rights or their use, diversion, or measurement of water; nor shall the provisions of paragraph 2 affect the disposition or review of such proceedings.

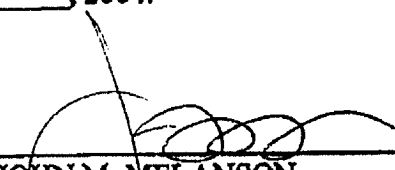
4. Pursuant to Idaho Rule of Evidence 408, nothing in the Stipulation, including the stipulated entry of Partial Decrees for these claims and any affidavits or other evidence or pleading submitted or relied upon for approval of the Stipulation, or any offers or compromises made in the course of negotiating the Stipulation, shall be construed as admissions against interest or tendered or used as evidence to support or oppose any party's claims or objections in the SRBA or in any other adjudication involving claims for the same or similar purposes, including the quantities of water claimed, or in any other manner by any party in the SRBA in any future proceedings in the SRBA, in any appellate proceedings concerning the SRBA, or in any other proceeding, other than those for interpretation, enforcement or administration of the Stipulation or the Partial Decrees or for a purpose contemplated by Rule 408. This Order is fully in accordance with Idaho Rule of Evidence 408, as well as the policy underlying that rule and the policy of the SRBA Court directed at furthering the strong public policy favoring out-of-court

settlement of disputes over litigation.

6. The water rights adjudicated by the Basin 79 Partial Decrees are in full satisfaction of all the United States' claims in the SRBA for the portion of the Hells Canyon National Recreation Area within Idaho Department of Water Resources Administrative Basin No. 79.

IT IS SO ORDERED.

DATED this 16 day of November, 2004.



JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

ORDER APPROVING STIPULATION AND ENTRY OF BASIN 79 PARTIAL DECREES

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER APPROVING STIPULATION AND ENTRY OF BASIN 79 PARTIAL DECREES was mailed on November 16, 2004, with sufficient first-class postage to the following:

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