DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho
SEP 29 2005
By
Clerk
Deputy Clerk

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.: 92-00021**
	)	**(Interim Administration)**
Case No. 39576	)	
	)	**ORDER GRANTING STATE OF**
	)	**IDAHO'S MOTION FOR ORDER OF**
	)	**INTERIM ADMINISTRATION OF**
	)	**WATER RIGHTS IN BASINS 71 & 72**

I.
PROCEDURAL BACKGROUND

1. On November 10, 1998, the Idaho Department of Water Resources (IDWR) filed its *Director's Report for Irrigation and Other Uses ("Director's Report"), IDWR Basin 71* with the SRBA District Court. On January 29, 1999, IDWR filed its *Director's Report for IDWR Basin 72.*

2. On May 16, 2005, the State of Idaho filed a *Motion and Brief in Support of Motion for Order of Interim Administration ("Motion")* and the *Affidavit of Timothy J. Luke In Support of Motion for Order of Interim Administration.*

3. On May 16, 2005, a *Certificate of Service* was filed evidencing service of the State's *Motion* and related documents on those claimants in IDWR Basins 71 and 72 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 20, 2005.

5. No objections were filed in opposition to the State of Idaho's *Motion* and no party appeared in opposition to the *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 rights 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 there of **that could reasonably be determined to 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(1996) (emphasis added).

2. Idaho Code § 42-1417 therefore requires the district court to make the following determinations: (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 has complied with the notice and service requirements of Idaho Code § 42-1417(2)(b) by serving of the State's *Motion* and related documents on those claimants in IDWR Basins 71 and 72 reasonably determined to be adversely affected by the entry of the requested ***Order***. Interim administration in IDWR Basins 71 and 72 in accordance with the *Director's Reports* and the ***Partial Decrees*** for water rights is reasonably necessary to efficiently administer water rights and to protect senior water

rights. The establishment of water districts for Basins 71 and 72 will provide the watermasters with the ability to administer water rights in accordance with the prior appropriation doctrine as established by Idaho law.

2. The creation of water districts will provide for a mechanism for administration, regulation, and enforcement of water rights, including ground and surface water rights.

3. Interim administration in IDWR Basins 71 and 72 in accordance with the *Director's Reports* and the ***Partial Decrees*** for water rights will facilitate the implementation of conjunctive administration of all water rights diverting from hydraulically connected water sources.

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 those water rights located within IDWR Basins 71 and 72 is hereby **granted**. The Court authorizes the distribution of water pursuant to chapter 6, title 42, Idaho Code in accordance with the *Director's Reports* and the ***Partial Decrees*** that supercede the *Director's Reports* in IDWR Basins 71 and 72.

IT IS SO ORDERED.

Dated: September 29, 2005

JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the **ORDER GRANTING STATE OF IDAHO'S MOTION FOR ORDER OF INTERIM ADMINISTRATION OF WATER RIGHTS IN BASINS 71 & 72** was mailed on September 29, 2005, with sufficient first-class postage to the following:

IDWR Document Repository
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Boise, ID 83720-0098

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Julie Murphy
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