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DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
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ISB # 2207

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 92-00021 (Interim Administration)**
Case No. 39576	)	**ORDER GRANTING STATE OF IDAHO'S MOTION FOR ORDER OF INTERIM ADMINISTRATION OF WATER RIGHTS IN BASIN 45**

I.
PROCEDURAL BACKGROUND

1. On September 7, 2004, the Idaho Department of Water Resources (IDWR) filed its *Director's Report for Irrigation and Other Uses ("Director's Report"), IDWR Basin 45* with the SRBA District Court.

2. On April 18, 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 April 19, 2005, a *Certificate of Service* evidencing service of the State's *Motion* and related documents on those claimants in IDWR Basin 45 reasonably determined to be adversely affected by the entry of the requested ***Order***.

4. The *Brief of Southwest Irrigation District, Goose Creek Irrigation District, and Oakley Canal in Support of the Motion of the State of Idaho for Interim Administration for Water Rights in Basin 45* was lodged with the SRBA court on or about July 7, 2005.

5. A hearing was held on the State's *Motion* on July 21, 2005.

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 Basin 45 reasonably determined to be adversely affected by the entry of the Requested ***Order***. Interim administration in IDWR Basin 45 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 a water district for Basin 45 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 a water district will provide for a mechanism for administration, regulation, and enforcement of water rights, including ground and surface water rights.

3. Interim administration in IDWR Basin 45 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 Basin 45 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 Basin 45.

IT IS SO ORDERED.

Dated: July 21, 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 BASIN 45** was mailed on July 21, 2005, with sufficient first-class postage to the following:

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~~[SEE ATTACHED MAILING LIST]~~

Deputy Clerk