

**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)	SETTLEMENT CONFERENCE REPORT
)	
Case No. 39576)	Subcase: 91-00005-34
<hr/>)	(BASIN-WIDE ISSUE 5-34 SEPARATE STREAMS)

A. Attendance

The following individuals and person were present at the Settlement Conference held on April 10, 2000, before Settlement Moderator, Thomas R. Cushman, Special Master, SRBA:

Young Harvey Walker; Mitchell Sorensen; G. David Nelson, Patrick Brown, Esq. representing Mr. Nelson and Mountain Springs Ranch; Shane Rosenkrance, manager for Mountain Springs Ranch; Tom Coates, assistant to Mr. Brown; Wiley Smith; Harriet Hensley, Esq., Deputy Attorney General, State of Idaho.

Also Present: IDWR was at the Settlement conference to assist the Special Master and the parties and was represented by Susan Hamlin Nygard, Esq., Deputy Attorney General and Carter Fritschle, Senior Water Rights Supervisor.

No other party was present, notwithstanding that this was a "Mandatory" Settlement Conference and that each party to the Basin 34 General Provisions mailing list was sent a copy of the Order setting the conference. A copy of the Certificate of Mailing mailing list is attached to this report. Additionally, the Order was posted on the SRBA Docket Sheet on March 7, 2000.

B. Stipulations

During the Settlement Conference, the parties reached agreement as to certain issues regarding the “separate streams” issue (Paragraph 5 of the *Director’s Supplemental Report*.)

First, they all agreed that all of the water rights the Director recommended be administered separately (Appendix A of the Supplemental Report) continue to be so separately administrated, i.e. there was no objection to any water right currently on Appendix A remaining on the list.

Second, they all agreed that two additional water rights be added to Appendix A so that they would also be administered separately. These were 34-04005A and 34-04005B owned by Wiley Smith.

C. Binding Effect on Non-Participants

Settlement Moderator, Thomas R. Cushman, recommends that these stipulations be binding on all parties, including those who did not appear at the Mandatory Settlement Conference. It is recommended that the SRBA Court deem the non-appearance as acquiesces to any agreement reached by participating parties. It is further recommended that any absent party only be allowed to challenge these stipulations, if such party can demonstrate good cause to the Court for his or her non-appearance at the Mandatory Settlement Conference. Further, that the Court set a time certain for any such absent parties to petition the court in order to show such cause why they were not present, or be forever barred from raising the issue.

D. Recommendation for Additional Settlement Conferences

Settlement Moderator, Thomas R. Cushman, recommends that the Court appoint a settlement moderator to conduct mandatory settlement conferences on the remaining issues in the Directors Supplemental Report Regarding Conjunctive Management, General Provisions, Basin 34. The reason an additional Settlement Conference may be beneficial is that the parties present believed that at least some of the remaining issues were amenable to such settlement.

E. Stipulation Signing

Ms. Hamlin Nygart has circulated two stipulations to the participating parties for their signatures. When all parties have signed them they will be forwarded to the Court. An unsigned copy of each has been attached to this report.

DATED: May 12, 2000

Thomas R. Cushman, Settlement Moderator
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of this Settlement Conference Report was mailed on May 12, 2000, with sufficient first-class postage prepaid to all parties on the attached Court Certificate of Mailing for Basin-Wide Issue 5-34.

Chief Deputy Clerk