

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)	
)	
	)	Subcases 51-12767, et al. (See Attachment A)
	)	(US/Shoshone-Paiute Tribes – Decreed Rights)
)	
Case No. 39576	)	Subcases 51-12756, et al. (See Attachment B)
	)	(US/Shoshone-Paiute Tribes - Disallowed Claims)
)	
	)	Subcases 51-02002, et al. (See Attachment C)
	)	(Riddle Ranches/Jackson – Dismissal of Objections)
)	
	)	REVISED CONSENT DECREE APPROVING
	)	ENTRY OF PARTIAL DECREES DETERMINING
	)	THE RIGHTS OF THE UNITED STATES AS
	)	TRUSTEE FOR THE BENEFIT OF THE
	)	SHOSHONE-PAIUTE TRIBES TO THE USE OF
	)	WATER IN THE SNAKE RIVER BASIN WITHIN
	)	IDAHO
)	

The Parties to this Consent Decree are the United States as trustee for the benefit of the Shoshone-Paiute Tribes, the State of Idaho, Riddle Ranches and J.R. Simplot Company, hereinafter collectively referred to as the “Parties”:

1. Procedural History and Offer of Judgment. The United States as trustee for the benefit of the Shoshone-Paiute Tribes of the Duck Valley Indian Reservation, hereinafter the “United States,” filed a Notice of Claim To A Water Right Under Federal Law on February 4, 1998, hereinafter the “1998 Notice of Claim.” The Idaho Department of Water Resources assigned a total of 363 claim numbers to the water right descriptions contained in the 1998 Notice of Claim. Later, the United States filed a Motion to Amend certain designated notices of claim, which split

two of the existing notices of claim into a total of six notices of claim. The Court granted the Motion to Amend.¹ Thus, the total number of notices of claim was 369.

The State of Idaho, J. R. Simplot Company and Riddle Ranch, hereinafter collectively referred to as the “Objectors,” filed objections to the notices of claim filed by the United States.² The Shoshone-Paiute Tribes of the Duck Valley Indian Reservation, hereinafter referred to as the “Tribes,” filed a motion to intervene in those subcases filed by the United States on its behalf, and the Court granted the motion. In addition, the Tribes also filed a motion to participate in most of the notices of claim for the Riddle Ranch listed on Attachment C, which the Court also granted.

Pursuant to I.R.C.P. 68, the Objectors made an offer of judgment to the United States on October 13, 2005, which was clarified by several subsequent letters and an e-mail. The United States notified the Objectors in writing on November 15, 2005 that the United States conditionally accepted the offer of judgment.

2. Entry of Partial Final Decrees for federal reserved water rights. The Parties agree to entry of and incorporate herein the partial decrees for federal reserved water rights set forth in Attachment A for the beneficial use of the Shoshone-Paiute Tribes of the Duck Valley Indian

¹ The Court also added two claim numbers to allow parties to object to written narrative in the Director’s Report. Five other discrepancies need to be noted. The Director’s Report listed notice of claim number 51-12603 for a stockwater claim. This notice of claim number did not end up on the Court’s list of notices of claim in Exhibits B and C to the Special Master’s Report and Recommendation. The Director also had assigned notice of claim number 51-12603 to a stockwater claim for the U.S. Department of Interior, Bureau of Land Management, and the Court later entered a partial decree for that agency. Thus, the Director had inadvertently assigned notice of claim number 51-12603 to two separate water uses. Another problem existed. The first two digit number in a water right number denotes the hydrologic basin where the water is diverted. Notices of claim 51-12603 through 51-12607 were water uses in basin 55 and not Basin 51 as their number indicates. The Director filed on January 6, 2006 a Notice of Change of Subcase Numbers. This notice changed notice of claim numbers 51-12603 through 51-12607 for the United States as trustee for the benefit of the Shoshone-Paiute Tribes to notice of claim numbers 55-13603 through 55-13607. Notice of claim number 51-12603 remains assigned to a water use decreed for the U.S. Department of the Interior, Bureau of Land Management.

² The term “Riddle Ranch” refers to Riddle Ranch, Inc. and Nancy and Peter Jackson collectively.

Reservation within the Snake River Basin in the State of Idaho. As set forth in each of the partial decrees in Attachment A, these are federal reserved water rights, which are not subject to loss through non-use. These water rights describe purposes of use, points of diversion and places of use, which are not intended to preclude the Tribes' ability to change those purposes of use, points of diversion and places of use within the Duck Valley Indian Reservation pursuant to a tribal water code, provided however, that any change shall not enlarge the right.

3. Remaining water right claims disallowed. With the exception of the partial final decrees set forth in Attachment A, the Parties agree that the remaining claims asserted by the United States as trustee for the benefit of the Shoshone-Paiute Tribes in the SRBA within the State of Idaho will be decreed as disallowed. Attachment B provides a list of all claim numbers to be disallowed. These claims will be dismissed by a separate order issued contemporaneously herewith.

4. Withdrawal of United States' objections to Riddle Ranch. The objections of the United States to the notices of claim for the Riddle Ranch listed in Attachment C shall be withdrawn with prejudice. A separate order dismissing the objections with prejudice will be issued contemporaneously herewith.

5. Administration of water rights. The exercise of the water rights on the Duck Valley Indian Reservation outlined in the Final Partial Decrees set forth in Attachment A shall be administered by the Tribes pursuant to a tribal water code or in accordance with applicable federal law.

6. Waivers and releases. Except as provided in Attachment A, the United States, as trustee for the benefit of the Shoshone-Paiute Tribes, waive and release all existing claims for

water rights within the Snake River Basin in Idaho. No water right claims that the United States has asserted or may in the future assert on behalf of the Shoshone-Paiute Tribes outside the Snake River Basin in Idaho shall require water to be supplied from the Snake River Basin in Idaho to satisfy such claims. This Consent Decree is also in full satisfaction of all water rights or claims to water rights within the state of Idaho by the United States for the Bureau of Indian Affairs' Duck Valley Agency and the Duck Valley Indian Irrigation Project. Nothing in this Consent Decree shall preclude the United States or the Tribes from acquiring water rights in the future pursuant to state law, provided the water rights confirmed in this Consent Decree have been fully utilized at the time the application is made, or are not physically available for use through reasonable diversion facilities.

7. No establishment of precedent. Nothing in this Consent Decree shall be construed or interpreted to establish any standard to be used for the quantification of federal reserved water rights or any other Indian water claims of any other Indian Tribes in any judicial or administrative proceeding. This Consent Decree is the result of good faith negotiations between the Parties for the purpose of implementing the United States' conditional acceptance of the Objectors' offer of judgment regarding the United States' claims for the benefit of the Shoshone-Paiute Tribes. The Parties agree that no offers and/or compromises made in the course thereof shall be construed as admissions against interest or be used in any legal proceeding and nothing in this Consent Decree shall be read as an admission or determination by the Parties that any of the actions anticipated by this Consent Decree are necessarily required under any federal or state law.

8. Resolution and Finality. The Parties agree that the Consent Decree and final partial decrees represent a just, fair, adequate and equitable resolution of the water right claims of the United States as trustee for the benefit of the Shoshone-Paiute Tribes in the SRBA within the State of Idaho.

9. Costs and Fees. The Parties will bear their own costs and fees with regard to the entry of the Consent Decree and all litigation relating to the water right claims submitted in the SRBA by the United States as trustee for the benefit of the Shoshone-Paiute Tribes.

IT IS SO ORDERED.

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

DATED December 12, 2006.

/s/ John Melanson
JOHN MELANSON
Presiding Judge
Snake River Basin Adjudication