

FEB - 6 2003

Department of Water Resources

Kent W. Foster, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.
P.O. Box 50130
330 Shoup Avenue, Third Floor
Idaho Falls, Idaho 83405
Telephone: (208) 523-0620
Facsimile: (208) 523-9518
Idaho State Bar Number 1198

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
CASE NO. 39576

Subcase No. 41-07034 (Deeg)

**MOTION TO ALTER
OR AMEND**

Claimant, Timothy P. Deeg, hereby moves to alter or amend the Special Master's Report herein, dated January 17, 2003, on the grounds and for the reason that the underlying issues between claimant and the Idaho Department of Water Resources which resulted in the filing of claimant's objection have not yet been resolved.

It is true, as the Special Master is aware, that the objection has not been resolved by administrative proceedings before the Idaho Department of Water Resources as intended, and partly because of the need for obtaining expert assistance. But the inability to resolve the pending issues is also a result of apparent mis-communications between claimant's expert and the various levels of administration of Idaho Department of Water Resources.

Mr. Glen Saxton of the State office of Idaho Department of Water Resources required that the application to commence the appropriate administrative proceeding be prepared by Dr. Charles E. Brockway. Dr. Brockway did in fact prepare and file an Application for

Transfer with the Southern Region office of the Idaho Department of Water Resources in Twin Falls on November 11, 2002, but the application was summarily rejected by that office on November 14, 2002. Dr. Brockway then contacted Mr. Glen Saxton in the State office to try to determine how to overcome the apparent technical objections of the Twin Falls office to the application. Dr. Brockway followed up on his telephone contact with a letter to Mr. Saxton dated November 26, 2002. Further contact has been made with Mr. Saxton, and the application is being refined to be acceptable to the Southern Region office of Idaho Department of Water Resources for processing. More time will be required for accomplishment of this process because of the uniqueness and complexity of the issues.

Claimant is aware of and anxious to accommodate the desire of the Special Master to expedite this matter, but has limited control over the initiation and completion of the administrative process. Although claimant is most willing to have the underlying issues resolved through the administrative process, he has not yet, to his knowledge, waved his right to a hearing on his objection. Therefore, in addition to the request for the Special Master's indulgence in granting sufficient time to work out the administrative proceeding approach which claimant believes and hopes will yet resolve the objection, claimant must ultimately rely on his right to have the matter formally heard before the issuance of the final report by the Special Matter.

Dated this 4th day of February, 2003.

HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.



Kent W. Foster

CERTIFICATE OF SERVICE

I hereby certify that I am a duly licensed attorney in the State of Idaho, resident of and with my office in Idaho Falls, Idaho; that I served a copy of the following described pleading or document on the attorneys listed below by hand delivering, by mailing or by facsimile, with the correct postage thereon, a true and correct copy thereof.

DOCUMENT SERVED: MOTION TO ALTER OR AMEND

PARTIES SERVED:

✓ DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

ABERDEEN - AMERICAN FALLS GROUND

Represented by:
JEFFREY C. FEREDAY
PO BOX 2720
BOISE, ID 83701-2720

STATE OF IDAHO

Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449



Kent W. Foster, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Dated: 2/4/03

G:\WPDATA\KWF\1246 DEEG, TIM\Motion to Alter 7034 wpd cdv