

Roscoe B. Ward
P. O. Box 108
Almo, Idaho 83312
Telephone: (208) 824-5591
Facsimile: (208) 824-5591

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	)	REQUEST TO IDENTIFY
	)	ISSUES
SUBCASE NO. 43-10356	)	

The Objectors to water right number 43-10356 have a filed a Motion for Interim Administration and have lodged a Proposed Order with the Court. On February 11th, 2003 the Court held a hearing to identify parties who may be adversely affected by signing the Proposed Order. A.E. and Michael Nicholson, 805 3rd Street, Rupert, Idaho 83350, the claimants of 43-04173 for which IDWR described one of the sources as Circle Creek, tributary to Raft River was identified by IDWR as being potentially affected in an adverse manner by the signing of the Proposed Order.

IDWR and the Claimants did not give any reasons for disputing the Proposed Order, and at the hearing the Objectors attempted to identify which issues were in dispute and the Claimant's Attorney said he was not familiar with the Proposed Order. IDWR said that they

didn't feel that they needed to identify which issues they were disputing.

The Court asked IDWR and the Claimant's Attorney to send a brief to the Objectors identifying which issues they intend to dispute so that the issues can be narrowed down and not waste time in preparing for the Hearing. Therefore the Objectors are filing this REQUEST TO IDENTIFY THE ISSUES so that the Claimant's and IDWR will know what is being ask for and can be more efficient in preparing their briefs.

Attached is a copy of the Proposed ORDER ON JOINT MOTION FOR INTERIM ADMINISTRATION. It contains twelve Findings of Fact and eight Conclusion of Law and an Order which contains five paragraphs. The Objectors are requesting that the Claimants and IDWR identify by number which Findings of Fact, Conclusions of Law, and which paragraphs in the order they intend to dispute in the Hearing on March 20, 2003. The Objectors are also requesting that for each Fact, Law or part of the Order which will be disputed that IDWR and the Claimants give the basis of their dispute and provide any documents and exhibits that will be used to support their dispute at the hearing.

Since IDWR has identified Mr. Nicholson's Water Right 43-04173 as being adversely affected by this Order the Objectors are also requesting that IDWR identify the following:

1. On a Map or Aerial Photo show where Circle Creek is, where Water Right 43-04173 is, where Raft River and Almo Creek are and where Water Right 43-10356 is.
2. Show how water can be taken from Raft River and delivered to Circle Creek.
3. Show how water can be taken from Almo Creek and delivered to Circle Creek.

4. Identify how Circle Creek Water Rights can be affected by Almo Creek or Raft River diversions.
5. Identify any other manner in which the proposed Order will affect Circle Creek or any Water Rights on Circle Creek.
6. Identify the last time that Circle Creek contributed water to Raft River or Almo Creek.
7. Identify and produce copies of all Decrees which identify Circle Creek as a Tributary to Raft River or Almo Creek.

Please answer these requests and identify the issues which we are requesting in time for us to review your answers before the Settlement Hearing on February 28th, 2003.

Signed _____
Roscoe Ward

CERTIFICATE OF SERVICE

I hereby certify that I mailed a copy of this REQUEST TO IDENTIFY ISSUES to the following:

A.E. and MICHAEL NICHOLSON
8053rd Street
Rupert, Idaho 83350

ROGER D. LING
P.O. box 396
Rupert, Idaho 83350

DIRECTOR OF IDWR
P.O. Box 83720
Boise, Idaho 83720-0098

RODNEY HALL
P.O. Box 631
Malta, Idaho 83342

NOLAN BRANCH
1823 South 2330 East
Malta, Idaho 83342

OLENE WARR
2231 South 2350 East
Malta, Idaho 83342

CLARK W. WARD
HC 61 Box 1560
Malta, Idaho 83342

Signed *Joyce Ward for Prescribed* Dated February 15th, 2003.