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Department of Water Resources

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

2003 JUN 23 PM 2 15

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

) Consolidated Subcase: 91-63
)
) ORDER SEPARATING AND
) CONSOLIDATING COMMON ISSUE
) FROM SUBCASES IN "EXHIBIT A"; A01
) § 11 AND 16, I.R.C.P. 42;
)
) ORDER RESCINDING ORDER OF
) REFERENCE TO SPECIAL MASTER AS
) TO CONSOLIDATED ISSUE;
)
) ORDER DESIGNATING ISSUE AS
) CONSOLIDATED SUBCASE 91-63;
)
) NOTICE OF SCHEDULING AND
) STATUS CONFERENCE ON
) CONSOLIDATED ISSUE

On June 19, 2003, various irrigation entities, to wit: Pioneer Irrigation District and Settlers Irrigation District, by and through their counsel of record Moffatt, Thomas, Barrett, Rock & Fields, Chtd.; Nampa Meridian Irrigation District, New Dry Creek Ditch Company, Boise Valley Irrigation District Company South Boise Water Company, Eureka Water Company, Thurman Mill Ditch Company, Eagle Island Water Users Association, Farmers Cooperative Ditch Company and Ballantyne Ditch Company Limited, by and through their counsel of record Ringert Clark Chartered; and Farmers Union Ditch Company, Canyon County Water Company, Middleton Irrigation Association, and Middleton Mill Ditch Company, by and through their counsel of record Stoppello & Kiser, Attorneys at Law; (collectively "Irrigation Entities"), jointly filed a *Motion to Consolidate* a common issue regarding the ownership of water rights developed pursuant to the Reclamation Act of 1902 as between the Irrigation Entities and the

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United States Department of Interior, Bureau of Reclamation, (BOR), specifically pertaining to water rights for Arrowrock Dam and Reservoir, Lucky Peak Dam and Reservoir and Anderson Ranch Dam and Reservoir.

The ownership issue was raised in subcases presently pending before Special Master Thomas Cushman. Because the ownership issue primarily involves a question of law, the likelihood of similar issues arising in other sub-basins, and the need to have the issue decided in an expeditious manner, the Court intends to preside over and decide the issue directly as opposed to having the matter first proceed before a special master.

THEREFORE, THE FOLLOWING ARE HEREBY ORDERED:

1. **Order Separating and Consolidating Issue:** Pursuant to A01 § 11 and I.R.C.P. 42, IT IS ORDERED that the common issue regarding the ownership of water rights as between the Irrigation Entities and the BOR is separated from those subcases listed in attached **Exhibit A** and is consolidated into a single subcase for purposes of resolution.
2. **Order Designating Issue as Consolidated Subcase 91-63:** IT IS FURTHER ORDERED that the consolidated subcase is hereby designated as consolidated subcase 91-63. All future filings pertaining to said consolidated issue should be filed under said subcase number.
3. **Order Rescinding Consolidated Issue from Order of Reference:** IT IS FURTHER ORDERED that the ownership issue separated from those subcases listed in **Exhibit A** and now consolidated into consolidated subcase 91-63 is hereby rescinded from the previously issued *Order of Reference to Special Master Thomas Cushman* which referred those subcases to Special master Cushman. Consolidated subcase 91-63 shall proceed before the Presiding Judge. All other matters and issues pertaining to said subcases in **Exhibit A** shall proceed before the Special Master. Any party asserting that issues regarding the other elements of the water rights cannot proceed until a resolution of the consolidated subcase is reached will have to take such matters up with the Special Master.
4. **Notice of Initial Hearing for Scheduling and Status Purposes:** Notice is hereby given that an initial hearing will be conducted for purposes of scheduling on **July 15, 2003 at the SRBA Courthouse, 253 3rd Ave. N., Twin Falls, Idaho**. Anyone wishing to participate by phone may do so by calling 1-918-583-3445 and entering the participant code 406128 when prompted.

ORDER SEPARATING AND CONSOLIDATING COMMON ISSUE FROM SUBCASES
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5. **Notices of Intent to Participate:** Any party to the adjudication not already a party to one of the enumerated subcases in **Exhibit A**, seeking to participate in the consolidated subcase may do so by filing and serving a response setting forth their position on the issue. The response must be served on the parties to the consolidated subcase (listed in the attached certificate of mailing) prior to the date set for the hearing.

DATED: June 23rd 2003.



ROGER S. BURDICK
Presiding Judge
Snake River Basin Adjudication

EXHIBIT A

Subcase Nos:

63-00303
63-00303A
63-03613
63-03613A
63-03614
63-03614A
63-03614B
63-03614C
63-03614D
63-03614E
63-03614F
63-03618
63-03618A
63-03618B
63-03618C
63-03618D
63-03618E
63-03618F
63-03618G
63-03618H
63-03618J
63-03618K
63-03618L
63-03618M
63-03618N
63-03618P
63-05262
63-05262A
63-05262B
63-05262C

(Subcase list: CONCOMMON)
6/23/03

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER SEPARATING AND CONSOLI- DATING COMMON ISSUE; ORDER RESCINDING ORDER OF REFERENCE; ORDER DESIGNATING ISSUE was mailed on June 23, 2003, with sufficient first-class postage to the following:

BOISE PROJECT BOARD OF CONTROL

Represented by:
ALBERT P. BARKER
205 N 10TH ST, STE 520
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

PIONEER IRRIGATION DISTRICT
SETTLERS IRRIGATION DISTRICT

Represented by:
ANGELA SCHAEER KAUFMANN
101 S CAPITOL BLVD, 10TH FLOOR
PO BOX 829
BOISE, ID 83701-0829
Phone: 208-345-2000

BOISE PROJECT BOARD OF CONTROL

Represented by:
CHESTNUT, AMY D
205 N 10TH ST, STE 520
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

BALLANTYNE DITCH COMPANY LTD
BOISE VALLEY IRRIGATION DITCH
EAGLE ISLAND WATER USERS ASSN
EUREKA WATER COMPANY
FARMERS COOPERATIVE DITCH CO
NAMPA & MERIDIAN IRRIGATION
NEW DRY CREEK DITCH COMPANY
SOUTH BOISE WATER COMPANY
THURMAN MILL DITCH CO

Represented by:
DANIEL V. STEENSON
PO BOX 2773
BOISE, ID 83701-2773
Phone: 208-342-4591

CANYON COUNTY WATER COMPANY
FARMERS UNION DITCH COMPANY
MIDDLETON IRRIGATION ASSN
MIDDLETON MILL DITCH COMPANY

Represented by:
JERRY A. KISER
620 WEST HAYES
BOISE, ID 83702
Phone: 208-336-1020

COMMITTEE OF NINE (SEE NOTES)

Represented by:
JOHN K. SIMPSON
205 N 10TH ST, STE 520
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

STATE OF IDAHO, DEPT OF F & G

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

BALLANTYNE DITCH COMPANY LTD
BOISE VALLEY IRRIGATION DITCH
EAGLE ISLAND WATER USERS ASSN
EUREKA WATER COMPANY
FARMERS COOPERATIVE DITCH CO
NAMPA & MERIDIAN IRRIGATION
NEW DRY CREEK DITCH COMPANY
SOUTH BOISE WATER COMPANY
THURMAN MILL DITCH CO

Represented by:
S. BRYCE FARRIS
RINGERT CLARK, CHTD
PO BOX 2773
BOISE, ID 83701
Phone: 208-342-4591

(Certificate of mailing continued)

PIONEER IRRIGATION DISTRICT
SETTLERS IRRIGATION DISTRICT
Represented by:
SCOTT L. CAMPBELL
101 S CAPITOL BLVD, 10TH FLOOR
PO BOX 829
BOISE, ID 83701-0829
Phone: 208-345-2000

UNITED STATES OF AMERICA ACTIN
REGIONAL DIRECTOR PN REGION
BUREAU OF RECLAMATION
1150 N CURTIS RD SUITE 100
BOISE, ID 83706-1234
Phone: 208-378-5322

COMMITTEE OF NINE (SEE NOTES)
Represented by:
TRAVIS L THOMPSON
205 N 10TH ST, STE 520
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

UNITED STATES OF AMERICA
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

PIONEER IRRIGATION DISTRICT
PO BOX 426
CALDWELL, ID 83605
Phone: 208-459-3617

PIONEER IRRIGATION DISTRICT
PO BOX 426
CALDWELL, ID 83606
Phone: 208-459-3617

SETTLERS IRRIGATION DISTRICT
PO BOX 7571
BOISE, ID 83707
Phone: 208-344-2471

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