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Department of Water Resources

Attorneys for WaterOne Enterprises LLC,
a California limited liability company

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.: 51-04037
Case No. 39576)
) MOTION FOR ATTORNEYS FEES AND
) COSTS

COMES NOW claimant WaterOne Resources LLC, California ("WaterOne California")
by and through its attorneys of record, and moves this court for an award of the reasonable
expenses incurred, including reasonable attorney's fees, in responding to Mathew Olivas'
Motion to Alter or Amend the Special Master's Recommendation.

On June 27, 2003 Mathew Olivas filed a Motion to Alter or Amend the Special Master's
Recommendation for water right no. 51-04037. Mr. Olivas specifically seeks the deletion of
language limiting the purpose of use for the water and objects to the quantity of the water under
the right. As discussed in WaterOne California's Response to Motion to Alter (filed
concurrently herewith), Mr. Olivas has no interest in the water right and has no reason to seek
modification of the right. Mr. Olivas has no proper purpose for attempting to modify the water
right; therefore, WaterOne California seeks sanctions under Idaho Rules of Civil Procedure Rule
11(a)(1).

Litigation in the SRBA is governed by the Idaho Rules of Civil Procedure. Specifically,
I.R.C.P. 11(a)(1) requires that any paper filed with the court be (1) well grounded in fact, (2)

warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and (3) not interposed for any improper purpose “such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.” I.R.C.P. 11(a)(1). *See also, Koehn v. Riggins*, 126 Idaho 1017, 1021, 895 P.2d 1210, 1214 (1994). If a motion is signed in violation of this rule, the court “shall impose upon the person who signed it ... an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the ... motion ... including a reasonable attorney’s fee.” *Id.* (emphasis added).

Mr. Olivas has no proper purpose for seeking to amend WaterOne California’s water right. The modifications Mr. Olivas seeks would delete language limiting the use and quantity of the water right. However, Mr. Olivas has no interest in the right, so the modifications he seeks would not benefit him. In addition, because Mr. Olivas seeks to remove restrictions on the water right, he cannot assert that his intervention is necessary to protect other water rights in the adjudication. Mr. Olivas therefore has no proper purpose for seeking to modify the right. Mr. Olivas’ Motion is merely another attempt to harass WaterOne California, cause unnecessary delay and increase the cost of securing the water right; therefore, sanctions are warranted. *See Hagy v. State*, 137 Idaho 618, 51 P.3d 432 (2002)(upholding sanctions where complaint was filed with no investigation of facts or law and was merely a “frivolous and unsupported pursuit of the action”); *Rodriguez v. Department of Correction*, 136 Idaho 90, 29 P.3d 401 (2001)(granting Rule 11 sanctions where appeal was not grounded in fact or warranted by existing law and constituted a needless increase in the cost of litigation); *Talbot v. Ames Construction*, 127 Idaho 648, 904 P.2d 560 (1995)(granting sanctions where appeal was brought in bad faith with no legal basis).

Mr. Olivas' attempt to modify the water right, to which he has not interest and which will not benefit him in any way, is simply an attempt to further delay the processing of the water right. Because Mr. Olivas has no proper purpose for seeking the modification, WaterOne California should be awarded its reasonable expenses, including attorneys fees, incurred to respond to the filing of the Motion to Alter or Amend.

Dated this 10th day of July, 2003

STOEL RIVES LLP

By: 

Teresa A. Hill
Attorneys for WaterOne Enterprises, LLC

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 10th day of July, 2003, I caused to be served a true copy of the foregoing via U.S. Mail upon the following:

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