

OCT 17 2002

Department of Water Resources

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ISB No. 5790

Attorneys for Claimant/Objector,
A & B Irrigation District

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 36-02080, 36-15127 (36-15127A
) and 36-15127B), 36-15192, 36-15193
Case No. 39576,) (36-15193A and 36-15193B), 36-15194
) (36-15194A and 36-15194B), 36-15195
) (36-15195A and 36-15195B), 36-15196
) (36-15196A and 36-15196B) (US/BOR)

**MOTION TO ALTER OR AMEND
SPECIAL MASTER'S REPORT AND
RECOMMENDATION DATED OCTOBER 8, 2002**

COMES NOW the Claimant/Objector, A & B Irrigation District, by and through its attorneys of record Ling & Robinson, and moves the Court to alter or amend the Special Master's Report and Recommendation of October 5, 2002 pursuant to Section 13 of SRBA Administrative Order 1 by vacating said Special Master's Report and Recommendation and setting the matter for an evidentiary hearing on the merits or for such other proceedings as the Special Master may determine appropriate.

This Motion is based upon the grounds that the Special Master's Report and Recommendation fails to identify drain and recaptured waste water as the source in the "B" claims and that

LING & ROBINSON
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

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there is no subordination to other water rights when this water is used. Furthermore, the Special Master's Report and Recommendation does not properly take into account the fact that the "B" claims were initially made in reliance upon Idaho Code §42-1516, which Code was enacted in 1985 and repealed in 1994, thereby setting forth an incorrect priority date.

ORAL ARGUMENT IS REQUESTED.

DATED this 15th day of October, 2002.

LING & ROBINSON

By: 
Jason D. Walker
Attorneys for Claimant/Objector
A & B Irrigation District

CERTIFICATE OF MAILING

I hereby certify that on the 15th day of October, 2002, I served a true and correct copy of the *Motion to Alter or Amend Special Master's Report and Recommendation Dated October 8, 2002*, upon:

Director of IDWR
P. O. Box 83720
Boise, ID 83720-0098

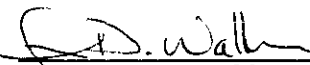
Karl T. Klein, Esq.
P. O. Box 2720
Boise, ID 83701

Clive Strong
Chief, Natural Resources Div
Deputy AG Office of Atty Gen
Statehouse Mail
Boise, Idaho 83720-0010

U. S. Department of Justice
Environment & Natrl Resrc Div
550 West Fort Street, MSC 033
Boise, Idaho 83724

USDI Bureau of Reclamation
Regional Director PN Region
550 W Fort Street, Box 043
Boise, ID 83724

by depositing copies thereof in the United States mail, postage prepaid, in envelopes addressed to said parties at the foregoing addresses.


Jason D. Walker