

2004 FEB 13 PM 4: 21

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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 36-10033, 36-10035, 36-10037,
Case No. 39576) 36-10090, 36-10863A, 36-11643, 36-
15152, 36-15264A, 36-15264B, 36-
15356A, 36-16123 and 36-16124
)
) ORDER SETTING HEARING ON
) CLAIMANTS' ALTERNATIVE
) MOTION TO ALTER OR AMEND

On January 28, 2004, the Special Master filed an *Order Granting Motions to Alter or Amend & Amended Special Master Report and Recommendation* in the above 12 subcases, plus 2 other subcases (36-14807 and 36-15356) not recommended because they were split.

On February 12, 2004, claimants Roost Potato Co., Inc., Vernon and Marilyn Phillips, Jack and Kent Harman, Salmon Falls Land & Livestock Co., Inc., and W.H. and Velva Moller filed their *Notice of Challenge or, in the Alternative, Motion to Alter or Amend the Amended Special Master Report and Recommendation*. Those claimants alleged in relevant part:

This Motion is made in the alternative for the reason that the *Order Granting Motions to Alter or Amend & Amended Special Master Report and Recommendation* does not appear to directly address the Claimants' previous *Motion to Alter or Amend* filed on February 26, 2003 regarding the objection to the inclusion of the subordination language in their *Objections*. To the extent the Order Granting Motions to Alter or Amend & Amended Special Master Report and Recommendation dated January 28, 2004 constitutes a new Special Master's Report and Recommendation, the Claimants respectfully request that the Amended Special Master Report and Recommendation be altered or amended so as to exclude the subordination language consistent with the Claimants' Motion to Alter or Amend filed February 26, 2003 [emphasis added].

Notice of Challenge or, in the Alternative, Motion to Alter or Amend the Amended Special Master Report and Recommendation, at 2.

It appears that the *Challenge* portion of the above claimants' filing was filed more than 14 days after the filing of the decision on their *Motion to Alter or Amend*. Hence, the *Challenge* was not timely. *SRBA Administrative Order 1, Rules of Procedure*, 13, c. However, the

alternative *Motion to Alter or Amend* portion of the claimants' filing was filed within 21 days from the date the *Amended Special Master Report and Recommendation* appeared on the docket sheet and was timely. *AO-1*, 13, a.

THEREFORE, IT IS ORDERED that the above claimants' alternative *Motion to Alter or Amend* will be heard by the Special Master on an expedited basis so as not to delay consideration of a *Challenge* filed on February 11, 2004, by claimants North Ridge LLC, Owyhee Ranches, Inc., Blaine and Deon Cook and Bruce and Rebecca Hunsaker in subcases 36-10090, 36-10863A, 36-15264A and 36-15264B.

The hearing on the claimants' alternative *Motion to Alter or Amend* will be held on **Thursday, March 18, 2004, 2:00 p.m.**, at the SRBA Courthouse, 253 3rd Avenue North, Twin Falls, Idaho.

DATED February 13, 2004.


TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER SETTING HEARING ON CLAIMANTS' ALTERNATIVE MOTION TO ALTER OR AMEND was mailed on February 13, 2004, with sufficient first-class postage to the following:

STATE OF IDAHO

Represented by:
CLIVE STRONG
NATURAL RESOURCES
DEP AG OFFICE OF ATTY GEN
STATEHOUSE MAIL
BOISE, ID 83720-0010
Phone: 208-334-2400

DALE H. KLINGLER
NORTH RIDGE LLC
ROSS HUNSAKER
SAM C. LARGE
SAMUEL & MARGARET LARGE
Represented by:
DAVID F. SHIRLEY
137 WEST 13TH STREET
PO BOX 910
BURLEY, ID 83318
Phone: 208-678-8382

ABERDEEN-AMERICAN FALLS GROUND
BINGAHM GROUND WATER DISTRICT
BINGHAM GROUND WATER DISTRICT
JOINT RESPONSE
MACK NEIBAUR
MACK NEIBUAR
MAGIC VALLEY GROUND WATER DIST
RALPH E BREDDING
TIM DEEG

Represented by:
JEFFREY C. FEREDAY
PO BOX 2720
BOISE, ID 83701-2720
Phone: 208-388-1200

DALE H. KLINGLER
KENT HARMAN
ROOST POTATO CO.
SALMON FALLS LAND & LIVESTOCK
SALMON FALLS LAND AND LIVESTOC
W.H. AND VELVA MOLLER

Represented by:
ROGER D LING
PO BOX 396
RUPERT, ID 83350
Phone: 208-436-4717

BLAINE COOK
OWYHEE RANCHES INC
C/O STEVE YOUNG
PO BOX 707
RUPERT, ID 83350

ROOST POTATO CO. INC.
CALVIN JONES, PRESIDENT
952 SOUTH 1400 EAST
EDEN, ID 83325
Phone: 208-420-2921

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

DANIEL L WILLIE
1017 S 1150 E
EDEN, ID 83325

MARILYN L PHILLIPS
VERNON C PHILLIPS
282 N 750 W
PAUL, ID 83347

JACK HARMAN
461A E 1500 N
RUPERT, ID 83350

BRUCE HUNSAKER
DEON COOK
REBECCA HUNSAKER
501 RIVERSIDE DR
BURLEY, ID 83318
Phone: 208-678-0327

W H & VELVA MOLLER
824 6TH ST
RUPERT, ID 83350
Phone: 208-436-3333