

2003 DEC 5 AM 11 28

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

	)	ORDER REDESIGNATING
	)	CONSOLIDATED SUBCASE 37-2499 ET AL.,
	)	AS CONSOLIDATED SUBCASE 92-37;
	)	
In Re SRBA	)	ORDER SEPARATING AND
	)	CONSOLIDATING ISSUE FROM SUBCASES
	)	IN BASIN 29;
Case No. 39576	)	
_____	)	NOTICE OF HEARING

I.
BRIEF PROCEDURAL BACKGROUND

1. On November 26, 2002, the Snake River Basin Adjudication Court issued an *Order Separating and Consolidating Common Issue from Subcases; AOI §§ 11 and 16, I.R.C.P. 42; Order for More Definite Statement and Notice of Hearing on Whether to Designate Basin-Wide Issue and Scheduling*, relative to objections filed to individual water right claims reported in the *Director's Report for Irrigation & Other Uses Reporting Area 16 IDWR Basin 37 Part 1 Groundwater* regarding the Swan Falls Agreement, etc.

2. The subject common issue raised in the objections was separated from the individual subcases and consolidated for resolution to avoid delay in issuing partial decrees for affected individual rights. The common issue was never designated as a basin-wide issue. The parties to the consolidated subcase were then ordered to attempt to reach a negotiated settlement.

Pursuant to a status conference held November 18, 2003, the parties stated they were unable to reach a resolution and requested the matter be set for trial.

3. On July 11, 2003, the *Director's Report for Basin 29 Irrigation and Other Uses* was filed wherein objections raising the identical issue were filed to certain water right claims.

4. The Court, pursuant to this **Order**, intends to separate the issue raised in the objections in Basin 29 and consolidate the matter for resolution with the pending issue in Consolidated Subcase 37-2499 *et al.* and for administrative purposes, redesignate the matter as Consolidated Subcase 92-37.

II. ORDER

THEREFORE, THE FOLLOWING ARE ORDERED,

1. Pursuant to *AOI § 11* the issues regarding the absence of a provision regarding the Swan Falls Agreement, etc., raised in the objections to the water right claims listed on the attached Exhibit A are hereby separated from those subcases and consolidated with the issues now comprising Consolidated Subcase 37-2499 *et al.* Any remaining issues raised in these subcases shall proceed before the Special Master consistent with the previously issued ***Order of Reference***.

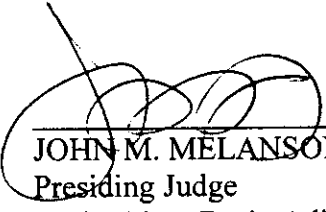
2. Formerly designated Consolidated Subcase 37-2499 *et al.* is hereby redesignated as Consolidated Subcase 92-37. The Clerk of the Court is instructed to set up and docket the matter as such. All filings pertaining to the consolidated subcase need only be filed in Subcase 92-37 and served on parties to that subcase. Previous parties already parties to Consolidated Subcase 37-2499 *et al.* are automatically parties to Consolidated Subcase 92-37, as are any parties to the above-referenced subcases in Basin 29. Any party to a Basin 29 subcase automatically included by operation of this **Order** may withdraw from the consolidated subcase upon notice to the Court.

III.
NOTICE OF HEARING

Notice is hereby given that a Status Conference on Consolidated Subcase 92-37 will be held on **December 16, 2003, at 1:30 p.m.** to set a trial schedule and determine whether the Court can take any action that may facilitate a resolution. Said conference will be held at the **SRBA District Court located at 253 3rd Avenue North, Twin Falls, Idaho.** Parties may participate by telephone by calling **1-918-583-3445** and when prompted, entering the code **406128.**

IT IS SO ORDERED.

Dated December 5th, 2003.



JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

EXHIBIT A

Subcase Nos:

29-00271
29-00272
29-00273
29-02274
29-02338
29-02354
29-02382
29-02401
29-02499
29-04221
29-04222
29-04223
29-04224
29-04225
29-04226
29-07106
29-07118
29-07119
29-07222
29-07322
29-07375
29-07431
29-07450
29-07502
29-07770
29-07782
29-11339
29-11344
29-11348
29-13558
29-13559
29-13560
29-13561
29-13562
29-13636
29-13637
29-13638
29-13639

(Subcase list: SWAN29)
12/04/03

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER REDESIGNATI
ORDER CONSOLIDATING AND NOTICE OF HEARING was mailed on December
05, 2003, with sufficient first-class postage to the following:

STATE OF IDAHO

Represented by:

DAVID J. BARBER

PO BOX 44449

BOISE, ID 83711-4449

Phone: 208-334-2400

USDI BLM

Represented by:

US DEPARTMENT OF JUSTICE

ENVIRONMENT & NATL' RESOURCES

550 WEST FORT STREET, MSC 033

BOISE, ID 83724

BURGESS CANAL

EGIN BENCH CANALS INC

ENTERPRISE IRRIGATION DISTRICT

HARRISON CANAL

IDAHO IRRIGATION DISTRICT

NEW SWEDEN IRRIGATION DISTRICT

NORTH FREMONT CANAL SYSTEMS

PEOPLES CANAL & IRRIGATION

PROGRESSIVE IRRIGATION DIST

SNAKE RIVER BALLEY IRRIGATION

Represented by:

JERRY R. RIGBY

PO BOX 250

REXBURG, ID 83440-0250

Phone: 208-356-3633

DIRECTOR OF IDWR

PO BOX 83720

BOISE, ID 83720-0098

PROPOSED LANGUAGE IN REGARDS
TO SWAN FALLS AGREEMENT

CLEAR SPRINGS FOOD, INC.

IDAHO POWER COMPANY

Represented by:

JOHN K. SIMPSON

205 N 10TH ST, STE 520

PO BOX 2139

BOISE, ID 83701-2139

Phone: 208-336-0700

CITY OF POCATELLO

Represented by:

JOSEPHINE P. BEEMAN

409 WEST JEFFERSON STREET

BOISE, ID 83702

Phone: 208-331-0950

FAULKNER LAND & LIVESTOCK CO,

IDAHO GROUND WATER

NORTH SNAKE GROUND WATER

Represented by:

MICHAEL C. CREAMER

PO BOX 2720

BOISE, ID 83701-2720

Phone: 208-388-1200