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TWIN FALLS, IDAHO

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

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)
) Subcase Nos. 36-02708,
) 36-07201, and 36-07218
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ORDER ON MOTION FOR STAY OF RULE 11 HEARING

I.
BRIEF PROCEDURAL HISTORY

1. In May 1998, the Special Master issued Reports and Recommendations for eight of the eleven Clear Springs Foods' fish propagation claims. Reports and Recommendations were not concurrently issued for the three other Clear Springs

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Foods' claims because point of diversion objections raised by Clear Lakes Trout remained.

2. In June 1998, the North Snake Ground Water District, May Farms, Ltd., and Faulkner Land & Livestock Company filed a Motion to Alter or Amend for the eight Clear Springs subcases. This Motion was denied by the Special Master.
3. On October 23, 1998, the North Snake Ground Water District, May Farms, Ltd., and Faulkner Land & Livestock Company filed a Notice of Challenge with respect to these eight subcases.
4. In August 1998, the Special Master issued Reports and Recommendations for the remaining three Clear Springs Foods' subcases.
5. In September 1998, the North Snake Ground Water District, May Farms, Ltd., and Faulkner Land & Livestock Company filed a Motion to Alter or Amend pertaining to these three subcases. This Motion to Alter and Amend was denied by the Special Master.
6. On December 11, 1998, the North Snake Ground Water District, May Farms, Ltd., and Faulkner Land & Livestock Company was served with a Rule 11 Motion pertaining to these three

subcases. The Rule 11 Motion is scheduled for hearing before the Special Master on February 23, 1999 at 10:00 a.m.

7. On February 2, 1999, the North Snake Ground Water District, May Farms, Ltd., and Faulkner Land & Livestock Company filed a Motion For Stay Of Rule 11 Hearing and a supporting memorandum. This Motion For Stay provides the basis for this Court Order.
8. On February 9, 1999, the North Snake Ground Water District, May Farms, Ltd., and Faulkner Land & Livestock Company filed a Notice of Challenge with respect to the decision denying the Motion to Alter or Amend in the three subcases.

II. ISSUES PRESENTED

The Memorandum of the North Snake Ground Water District, May Farms, Ltd., and Faulkner Land & Livestock Company presents the following two assertions in support of their Motion For Stay of the Rule 11 Hearing:

- (1) The Special Master lacks the authority to impose

sanctions under Rule 11.

- (2) The hearing regarding the imposition of Rule 11 sanctions will include unresolved legal matters now pending before the presiding Judge.

III. DISCUSSION

Assertion (1): The Special Master lacks the authority to impose sanctions under Rule 11.

It is well established that, in general, a special master can only recommend, and not impose, sanctions. See, e.g., Fajardo Shopping Center v. Sun Alliance Insurance Co., 999 F. Supp. 213, 222 (1998) (providing an excellent exposition on the role and power of the special master). Presented with such recommendations, the district court must determine whether to accept or reject them. Generally, the power to impose sanctions, such as those provided for under Rule 11, is reserved to the court. While the court will accept a master's findings of fact unless they are found to be clearly erroneous, a master's legal conclusions must be reviewed de novo. Stauble v. Warrob, 977

F.2d 690 (1st Cir. 1992), referring to Polin v. Dun & Bradstreet Inc., 634 F.2d 1319, 1321 (10th Cir. 1980), cited in Fajardo Shopping Center v. Sun Alliance Insurance Co., 999 F. Supp. 213, 222 (1998).

The Memorandum In Support Of Motion For Stay Of Rule 11 Hearing confuses basic issues related to Rule 11 procedures in this case. It is agreed that through the Orders of Reference, SRBA Administrative Order 1, and I.R.C.P. 53(c), an SRBA Special Master is not granted the authority to impose sanctions under Rule 11. The Special Masters are not judges. More to the point of the instant motion, the Special Master does have the authority in SRBA proceedings via the Orders of Reference, SRBA Administrative Order 1, and I.R.C.P. 53(c) to hear Rule 11 motions and provide recommendations to the presiding court. While the Memorandum In Support Of Motion For Stay Of Rule 11 Hearing provides cogent argument for barring a Special Master from actually imposing Rule 11 sanctions, it provides little argument against the Special Master conducting a Rule 11 hearing and making a recommendation, after which the District Judge will review the recommendation and issue a ruling.

Because the Special Master will not be resolving a contested issue or issues, but only conducting a hearing and providing recommendations to the district court, the holding in Olson v. Idaho Dept. Of Water Resources, 105 Idaho 98, 666 P.2d 188 (1983), cited as precedent in the memorandum, is not dispositive.

In Olsen, the Special Master in a water rights adjudication exceeded his authority by issuing a ruling on a contract disagreement between two parties. In so doing, the Special Master encroached on the powers of the District Judge. The Special Master in this case will be doing nothing of the sort, hence Olson provides no guiding precedent.

Assertion (2): The hearing regarding the imposition of Rule 11 sanctions will include pertinent, but unresolved legal matters now pending before the presiding Judge.

The second issue presented by North Snake Ground Water District, May Farms, Ltd., and Faulkner Land & Livestock Company in support of the Motion For Stay of Rule 11 Hearing sets forth logic and judicial economy as the basic reasons weighing against such a hearing.

While the grounds purported to support the argument are valid, the argument itself is not. It is in the best interest of judicial economy to hold the Rule 11 Hearing before the Special Master at this time, rather than defer it until other matters pending before the District Court are resolved. Holding the Rule 11 Hearing at this time will create a more complete, less fractured record at the present Court level.

IV.
CONCLUSION

For the reasons set forth above, The Motion for Stay of Rule
11 Hearing is denied.

IT IS SO ORDERED:

Dated: February 16th, 1999.

Signed: B Wood

Barry Wood
Administrative District Judge
Interim Presiding Judge of the
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the **ORDER ON MOTION FOR STAY OF RULE 11 HEARING** was mailed on February 16, 1999, with sufficient, first-class postage to the following:

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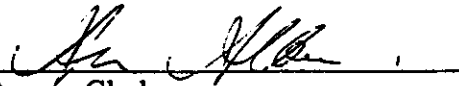
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