

THOMAS L. SANSONETTI
 Assistant Attorney General
 Environment and Natural Resources Division

R. LEE LEININGER
 Trial Attorney
 United States Department of Justice
 Environment & Natural Resources Division
 General Litigation Section
 999 18th St. Suite 945
 Denver, CO 80202
 (303) 312-7322

**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	)	Subcase Nos.: 78-10996, 78-11080, 78-12022,
	)	78-10968, and 78-10972
	)	
Case No. 39576	)	MOTION TO ALTER OR
	)	AMEND AND TO STAY LITIGATION
	)	

Descriptive Summary

This is the United States' motion to alter or amend the Special Master's recommendation for the above referenced subcases, and to stay further litigation.

Motion

This motion respectfully asks that the Special Master alter or amend his recommendation contained in the *Special Master's Report* issued May 24, 2004 in the above referenced subcases.^{1/}

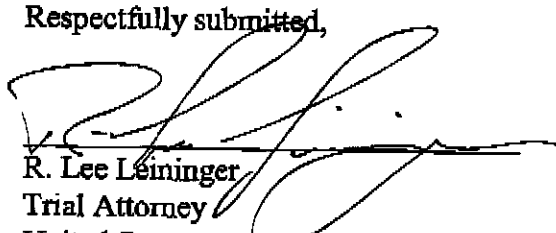
^{1/} The United States does not seek to alter or amend the determination for subcase 78-12024, which was also included in the May 24 Special Master's Report.

The Special Master denied the United States' claim to water based upon the federal reservation Public Water Reserve No. 107. *Id.* at 4. The Special Master has previously ruled that a pending homestead application defeated a reservation under PWR 107. *See Order Denying Amended Motion to Alter or Amend*, re: subcases 25-13635, 25-13637, 25-13653, 65-19960, and 65-19962, dated May 24, 2004. The Special Master cites that decision in denying the United States' PWR 107 claims at issue here. As grounds for this motion to alter or amend, the United States incorporates the previously submitted *Amended Motion to Alter or Amend the Special Master's Report and Recommendation*, re: subcases 25-13635, 25-13637, 25-13653, 65-19960, and 65-19962, filed May 2, 2003, wherein the United States argued in support of its PWR 107 claims.

The United States also respectfully requests that all further litigation in subcases 78-10996, 78-11080, 78-12022, 78-10968, and 78-10972 be stayed. The issue of the effect of a homestead entry on a PWR 107 reservation is now before presiding Judge Melanson on the United States' *Challenge Notice* in subcases 25-13635, et al. A decision by the district court on this legal issue will be applicable to the Special Master's decision in these subcases. Judicial efficiency will be served by staying this matter until the Judge Melanson rules on the matter of law.

DATED this 28th day of June, 2004.

Respectfully submitted,



R. Lee Leininger
Trial Attorney
United States Department of Justice

CERTIFICATE OF SERVICE

I certify that on this 28 th day of June, 2004, I served a true and correct copy of fore-going Motion to Alter or Amend and to Stay Litigation upon the following individuals by serving as indicated, postage pre-paid, addressed as follows:

via Facsimile & Federal Express mail:

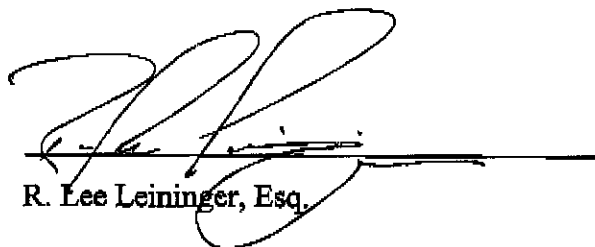
Diana R. Delaney, Chief Deputy Clerk (Original)
Snake River Basin Adjudication
DISTRICT COURT
253 Third Ave., North
Twin Falls, ID 83301

via Facsimile & First-Class Mail:

U.S. Department of Justice
Environment and Natural Resources
550 W. Fort Street, MSC 033
Boise, ID 83724

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

David Barber, Esq.
Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 4449
Boise, ID 83711-4449



R. Lee Leininger, Esq.



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FROM: Labat-Anderson, Inc.
999 18th Street
Suite 945, North Tower
Denver, CO 80202

Fax No. 303-312-7379
Voice No. 303-312-7370

SENT BY: David Jarvis, Paralegal

TO: Diana Delaney **FAX No.** 208-736-2121

cc: David Barber, Esq. 208-334-2690
IDWR Document Depository 208-327-7866
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SPECIAL INSTRUCTIONS: Attached for filing is the United States' **MOTION TO ALTER OR AMEND AND TO STAY LITIGATION** relative to the Special Master's Report and Recommendation in Subcase Nos. 78-10996, 78-11080, 78-12022, 78-10968, and 78-10972.