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Clear Lakes Trout Company, Inc.

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Department of Water Resources

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 NUMBERS 36-07004 and 36-02659

Case No. 39576

MOTION TO EXPEDITE ISSUANCE OF PARTIAL
DECREES

DESCRIPTION

This is Clear Lakes Trout Company, Inc.'s (hereinafter "Clear Lakes"), *Motion to Expedite Issuance of Partial Decrees* filed in subcase numbers 36-07004 and 36-02659. This *Motion* is made pursuant to I.R.C.P. 7, and is based upon the statements and discussion below.

DISCUSSION

Clear Lakes makes this *Motion* because of the pending creation and organization of Water District 130 (the organizational meeting for the Water District is currently scheduled for April 23, 2002). The organization of Water District 130 will result in the administration of all water rights whose priorities have been adjudicated. See I.C. § 42-604. However, because Clear Lakes' water

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right nos. 36-02659 and 36-07004 have not yet been decreed, it is unclear whether they are subject to such administration. Therefore, Clear Lakes requests that the Court expedite its issuance of the Partial Decrees of these water rights so that they come within the confines of the administration of water rights contemplated by I.C. § 42-604.

The relevant procedural history of these subcases is contained in the *Amended Order Granting in Part Clear Lakes Motion to Alter or Amend and 2nd Amended Special Master Report* (“*2nd Amended Report*”) entered by the Special Master on April 15, 2002. As mentioned in the *2nd Amended Report*, Clear Lakes is the only party to these subcases. The issuance of the *2nd Amended Report* resulted from the *Standard Forms Five* filed in the subcases by IDWR and Clear Lakes in which they agreed that the water rights should be decreed as attached thereto and as recommended by the Special Master in the *2nd Amended Report*. Clear Lakes has examined the *Special Master’s Recommendations* of water right nos. 36-02659 and 36-07004 attached to the *2nd Amended Report* and determined that they are accurate.

No party (including Clear Lakes) has any right to file *Motions to Alter or Amend* the current Special Master’s Recommendations. Administrative Order No. 1 provides in relevant part that “[n]o second *Motion to Alter or Amend* may be filed on the decision granting or denying a *Motion to Alter or Amend*.” SRBA AO1 Rules of Procedure, §13, ¶ b. Because Clear Lakes has already filed its *Motion to Alter or Amend*, and the *2nd Amended Report* deciding the issues raised in Clear Lakes’ *Motion to Alter or Amend* has already been entered, no further *Motions to Alter or Amend* the *Special Master’s Recommendations* can be filed. The only party that potentially has the right to make such a *Motion* is Clear Lakes. However, because the subcases have been resolved as Clear Lakes desires, it hereby waives any right it may have to move for the alteration or amendment of the current *Special*

Master's Recommendations of the subject water rights.

Additionally, no party other than Clear Lakes has any right to file *Challenges* to the Special Master's Recommendations for these water rights. See SRBA AO1 Rules of Procedure, §13, ¶ a ("Failure of any party in the adjudication to pursue or participate in a Motion to Alter or Amend the Special Master's Recommendation shall constitute a waiver of the right to challenge it before the Presiding Judge"). However, as mentioned above, the subcases have already been resolved as Clear Lakes desires. Therefore, Clear Lakes does not wish to Challenge the current Special Master's Recommendations of its water rights that are attached to the *2nd Amended Report*, and hereby waives its right to file a *Notice of Challenge* in these subcases.

In summary, because no party other than Clear Lakes is entitled to file either a *Motion to Alter or Amend* the *Special Master's Recommendations* of water right nos. 36-02659 and 36-07004, or a *Notice of Challenge* to the same, and because Clear Lakes hereby waives its right to file either a *Motion to Alter or Amend* or a *Notice of Challenge* in these subcases, water right nos. 36-02659 and 36-07004 can and should now be decreed as recommended by the Special Master. Therefore, Clear Lakes respectfully requests that the Presiding Judge immediately issue *Partial Decrees* for these water rights which contain the elements and language specified in the *Special Master's Recommendations* attached to the *2nd Amended Report*.

DATED this 16th day of April, 2002.

RINGERT CLARK, CHARTERED



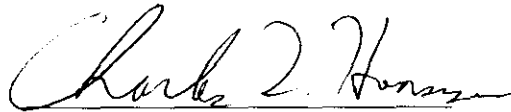
Charles L. Honsinger

Attorney for Clear Lakes Trout Farms, Inc.

CERTIFICATE OF MAILING

I certify that on April 16, 2002, I served by facsimile and by U.S. Mail copies of this document, including all attachments to the following:

Director, Idaho Department of Water Resources
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A handwritten signature in cursive script, appearing to read "Charles E. Hansen".

Person faxing and mailing documents