

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

2004 OCT 5 AM 11 37

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(s): 63-5250, 63-5251 and 63-3422A
Case No. 39576)
ORDER SETTING TRIAL DATES AND
DEADLINES
ORDER TO SHOW CAUSE AND
NOTICE OF HEARING THEREON

TRIAL SCHEDULING ORDER

This matter came before the Court, pursuant to an *Order Setting Initial Hearings* issued August 25, 2004. Pursuant to the *Order*, parties were notified that failure to attend would result in their subcase being set for trial in their absence. The initial hearing and scheduling conference was held September 28-29, 2004. William and Mary Lou Pote and Jan Blum (hereinafter "Claimants"), failed to appear in person or through counsel. Therefore the following schedule was ordered and shall apply:

Trial February 16, 2005, Time: 1:30 pm
Location: Snake River Basin Adjudication Courthouse
253 3rd Avenue North
Twin Falls, Idaho

A half day has been set aside for the trial, attendance at trial is mandatory.

Pretrial January 31, 2005, Time: 3:30 pm
Location: Snake River Basin Adjudication Courthouse
253 3rd Avenue North
Twin Falls, Idaho

Participation by telephone by dialing 1-225-383-1099 participation code 675342.

Discovery Cutoff: 5 p.m. on December 17, 2004.

Dispositive Motions due: 5 p.m. on January 3, 2005

Show Cause hearing: November 3, 2004, at 2:00 pm (see below for explanation)

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ORDER TO SHOW CAUSE

It is further ordered that the Claimant shall appear before the Special Master¹ November 3, 2004, at the Snake River Basin Adjudication Courthouse, 253 3rd Avenue North, Twin Falls, Idaho, or participate by telephone by dialing 1-225-383-1099 participation code 675342, to show cause why he/she should not be bound by the settlement to the objection proposed by objectors Bureau of Reclamation and Boise Project Board of Control. The proposed settlement was served on the Claimant in advance of and presented at the September 28-29, 2004, hearings. The purpose of the show cause hearing is to provide the Claimant with a final opportunity to oppose the objection despite failing to appear at the initial hearing/scheduling conference and at the same time not require the objectors to proceed with the trial schedule if the Claimant does not intend to oppose the objections.

Although styled as an *Order to Show Cause*, attendance at the show cause hearing is not mandatory and failure to appear will not result in contempt of Court.

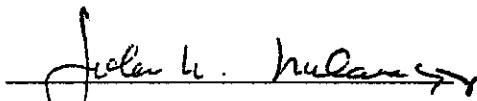
However, failure to appear will result in the Claimant being deemed to have consented to the proposed settlement language regarding the period of use element.

If the Claimant attends the hearing, the Claimant will be expected to notify the Court whether he/she intends to oppose the objection and proceed in accordance with the scheduling order. In such case, no additional evidence or argument need be presented as subcase(s) will be allowed to proceed to trial as a matter of course. Therefore the parties need not produce testimony or evidence in accordance with I.R.C.P. 6(c)(4).

A copy of this *Order to Show* cause shall be served upon the Claimant not less than five (5) days prior to the date herein shown, upon which those parties are required to appear before the Special Master and show cause. Service of this *Order to Show Cause* shall be made in accordance with I.R.C.P. 5(b) and 6(c)(2).

IT IS SO ORDERED

Dated October 4, 2004.


JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

¹ This matter will be referred to a special master for further proceedings by separate order of reference.

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER SETTING TRIAL DATES AND DEADLINES; ORDER TO SHOW CAUSE AND NOTICE OF HEARING THEREON was mailed October 5, 2004, with sufficient first-class postage to the following:

Director of IDWR
P O Box 83720
Boise, Idaho 83720-0098

United States Department of Justice
550 West Fort Street, MSC 033
Boise, Idaho 83724

Boise Project Beard of Control
Albert Barker
P O Box 2139
Boise, Idaho 83701-2139

William and Mary Lou Pote
Jan Blum
27 Idaho City Stage Rd
Boise, Idaho 83716


Deputy Clerk

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