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

In Re SRBA	)	Subcases 45-12050 <i>et al.</i>
	)	See Attachment A
Case No. 39576	)	
	)	
	)	RESPONSE RE: BEDKES' MOTIONS
	)	TO FILE LATE OBJECTIONS (USFS)
_____	)	

Pursuant to the SCHEDULING ORDER ON BEDKE MOTIONS TO FILE
LATE OBJECTIONS dated October 21 2005, this is the RESPONSE RE: BEDKES'
MOTIONS TO FILE LATE OBJECTIONS (USFS) from Bruce Byron Bedke and Jared
K. Bedke, pro se litigants, in the above named subcases.

Discussion

In the Court's *Order on Permissive Review and Order of Recommitment*, 15-
12475, *et al.* of August 3, 2005 (Order) the District Court remanded those subcases to the
Special Master to make findings of fact and apply the "good cause" standard under

I.R.C.P. 55(c) and *McFarland*, 123 Idaho at 935:

- 1) whether the default was willful;
- 2) whether setting aside the judgment would prejudice the opponent.
- 3) As with a Rule 60(b) motion, whether a meritorious position has been presented.

McFarland, 123 Idaho at 936, 854 P.2d 279.

The same is applicable here.

A. Good Cause

In the UNITED STATES' RENEWED OPPOSITION TO MOTIONS TO FILE LATE OBJECTIONS, Subcase nos. 45-12050, et al (Renewed Opposition), they continue to make arguments similar, if not identical, to the arguments they made in Subcase nos. 47-16433 et al. The District Court not only rejected these arguments, but also found that the Bedkes had met the requirements of *AOI* for filing late objections. ***Memorandum Decision and Order on Challenge; Order of Recommitment***, Subcases 47-16433 et al (Bedke I) (March 22, 2005); See also ***Order on Permissive Review and Order of Recommitment***, Subcases 45-12475 et al, (August 3, 2005) page 3 at I.

B. Meritorious Position

In the Renewed Opposition it is also argued that the letters and objection forms submitted by the Bedkes on April 7, 1999 fail to satisfy the legal requirements necessary to establish a meritorious position. While the District Court has already ruled in Bedke I that the Bedkes have met all the requirements of *AOI* for filing late objections, it appears that an additional discussion of the circumstances surrounding the April 7, 1999 filings is in order to place them in their proper context.

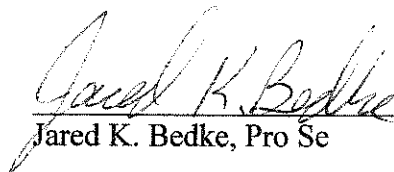
As discussed in the Bedkes' *Memorandum on Bedkes' Motions to File Late Objections*, Subcases 45-12050 *et al* (November 15, 2005) (Bedkes' Memorandum) initial hearings for the outstanding objections to the subcases at issue were scheduled for April 7, 1999. These hearings, along with the several other initial hearings, were held in a small room in the basement of the Cassia County Courthouse. As has been stated previously, it was during these initial hearings that the Bedkes and several other private claimants learned that the proper procedure for filing objections to the subcases at issue. That was to file Motions to File Late Objections with the court. (see Transcript of 1:45 p.m. Hearing beginning at pg 75, relevant pages attached as Exhibit 1). Immediately after the conclusion of that hearing, the Bedkes and other private claimants borrowed the use of a computer from the staff of the Cassia County Courthouse, hurriedly typed the cover letters, filled out the objection forms, attached copies of the subcase numbers to the back of the objections, and filed them with the SRBA Court before Special Master Dolan and Ms. Lash left the Courthouse. Copies of these objections were also hand delivered to the United States at the same time. Later on, revised objection lists were submitted by the Bedkes.

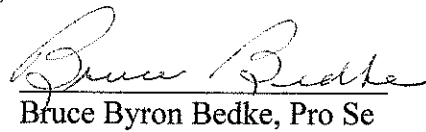
In acting so promptly to request relief it is understandable that there might be some inadequacies in these documents, but the intent is clear. That intent is to object to all of the United States' stockwater claims. In *Haines v Kerner*, (404 U.S. 519) the United States Supreme Court directed that when dealing with pro se claimants that the court should look to the substance of the pleadings rather than the form, and once again the substance of these forms and letters is clear: The United States stockwater claims should not exist.

CONCLUSION

For the reasons stated above, as well as all of the Objector's previous pleadings, this court should grant relief to the Objectors by issuing an ORDER VACATING STAYS in the above named subcases and by granting the Objector's Motions to File Late Objections in the above named subcases because they have fully met the conditions imposed by the Court in this matter.

Dated this 15th day of December, 2005.


Jared K. Bedke, Pro Se


Bruce Byron Bedke, Pro Se

CERTIFICATE OF SERVICE

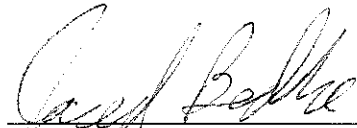
I hereby certify that on this 15th day of December, 2005 I served a true and correct copy of the foregoing RESPONSE RE: BEDKES' MOTIONS TO FILE LATE OBJECTION (USFS) upon the following individuals by hand delivery or placing the document in the United States Mail, postage prepaid, addressed as follows:

USDA FOREST SERVICE

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STATE OF IDAHO
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BOISE, ID 83711-4449



Jared K. Bedke

Attachment A

45-12050
45-12053
45-12055
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45-12869
45-12871

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1 your role would go beyond an intervenor.
2 MS. POULTON: ght. What's happening is our
3 name was left off. The whole deal has to do with all
4 of these (inaudible).
5 THE COURT: Sure.
6 MR. POULTON: Not (inaudible) we were not
7 there to sign the paper, thinking that we were all
8 together (inaudible).
9 THE COURT: Well, I can't give you legal
10 advice. And it sounds like these things are getting
11 complicated enough to where you might want to consider
12 at least talking with a water law attorney.
13 But at least for now if you file a motion to file
14 late objection, that's probably your best way to get
15 into this and be named as a claimant. Because you're
16 saying you're objecting to who the claimant is or who
17 the owner is? That's one element of a water right, who
18 the owner is. Priority date and all of those elements
19 of a water right. But my guess is you're objecting to
20 ownership; is that right?
21 MS. POULTON: (Inaudible).
22 THE COURT: Okay. But attaching your
23 objection tells us exactly what you're objecting to.
24 Now, anything further? Mr. Bramer, are you
25 already done?

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1 MR. BRAMER: I have nothing further,
2 Your Honor.
3 THE COURT: Mr. Brown, you're already
4 finished?
5 MR. BROWN: I am as far as with this
6 particular group of subcases.
7 THE COURT: Mr. Ampe, aren't you going to
8 say something more?
9 MR. AMPE: No, Your Honor. I think we're
10 okay. (Inaudible) my confusion was apparently you
11 originally had some cases set at 1:45 with a list. Now
12 those subcases are also a list for the 2 o'clock. So
13 it looks like we'll just have one hearing (inaudible).
14 THE CLERK: That was the motions to file
15 the late objections before we knew that they were
16 granted.
17 MR. AMPE: All right. Got it straightened
18 out.
19 THE COURT: Now, Mr. Bedke or Mr. Bedke or
20 Mrs. Bedke, anybody else? Anything further on these
21 batches?
22 SCOTT BEDKE: Well, just would reiterate that
23 maybe that if --
24 THE COURT: This is Scott Bedke.
25 SCOTT BEDKE: This is Scott Bedke. If the,

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1 if original claims had not been set aside, then the
2 Poulton and the other Bedkes would have been
3 Bruce Bedke, et al, would have been -- you know, these
4 licenses would have shown, you know, there was a claim
5 on those licenses as well, these six.
6 VOICE: With the BLM.
7 THE COURT: Well, the basis for BLM's claim
8 is the fact that they have a license already issued by
9 the State of Idaho.
10 VOICE: Okay.
11 THE COURT: And your claims are based on
12 beneficial use?
13 VOICE: Correct. But we understand
14 that the SRBA expresses over all previous decrees
15 and/or anything.
16 THE COURT: Oh, sure. But what I'm saying
17 is there's a difference between your claim as a
18 beneficial use and their claim based on a license.
19 MARTI BEDKE: May I --
20 THE COURT: Yes.
21 VOICE: This is Marti Bedke.
22 THE COURT: Marti Bedke, good.
23 MARTI BEDKE: The confusion, I think, here is
24 where they were granted the license evidently, we did
25 not have the opportunity to object to those before the

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1 grantor because we had not received any of this
2 information. So there was no objection made when the
3 license had already been granted to the BLM.
4 THE COURT: When were the licenses issued?
5 MR. BROWN: (Inaudible) object during the
6 administrative part of the process. The United States
7 made an application for a permit, and the license was
8 granted. And so we have a licensed right. And, of
9 course, we served those in the SRBA (inaudible).
10 THE COURT: Sure. What they're saying is a
11 licensed right was issued outside of the SRBA.
12 JARED BEDKE: Mr. Dolan, this is
13 Jared Bedke. The problem we have is these establish a
14 use for stock water. And if the water dating back to
15 whenever, priority date, was already prior
16 appropriated, then the license should not have been
17 issued in the first place because the water has already
18 been fully adjudicated.
19 THE COURT: Sure. Now we're getting to the
20 substance of the argument.
21 JARED BEDKE: Correct.
22 THE COURT: So which (inaudible) we'll do
23 that right now.
24 JARED BEDKE: All right.
25 THE COURT: So hush up.

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