

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

MAY 28 2008

By

Clerk
Deputy Clerk

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) Consolidated Subcase 00-92023
Case No. 39576)
) CORRECTED ORDER AMENDING
) SCHEDULING ORDER FOR
) CONSOLIDATED SUBCASE 00-92023¹
)
)
)

This matter came before the Court pursuant to a status and scheduling conference held May 20, 2008. Pursuant to the scheduling and status conference, the *Scheduling Order* entered December 20, 2007, is amended as follows:

May 30, 2008: Parties serve request for written discovery re: recharge subordination summary judgment motions.

June 30, 2008: Parties respond to requests for written discovery re: recharge subordination summary judgment motions.

July 14, 2008: Parties serve any follow up discovery re: recharge subordination summary judgment motions.

August 1, 2008: Parties file cross-motions for summary judgment and opening briefs re: recharge subordination.

August 29, 2008: Parties file responses to opening briefs on cross-motions for summary judgment re: recharge subordination.

September 12, 2008: Parties file replies on cross-motions for summary judgment re: recharge subordination.

¹ The previous order stated the incorrect date for the pre-trial conference and omitted the deadline for filing witness and exhibit lists.

September 18, 2008: Hearing on cross-motions for summary judgment re: recharge subordination. 1:30 p.m. at the SRBA Courthouse, 235 – 3rd Avenue North, Twin Falls, Idaho. Telephone participation will be allowed by calling 1-918-583-3445 and entering participant code 406128 when prompted.

November 10, 2008: Discovery closes.

November 24, 2008: Dispositive motion filing deadline.

January 13, 2009: Pre-Trial Statements Including Final Witness and Exhibit Lists

January 22, 2009 Final Pre-Trial Conference. 1:30 p.m. at the SRBA Courthouse. Telephone participation will be allowed by calling 1-918-583-3445 and entering participant code 406128 when prompted.

February 2, 2009: Trial (2-4 weeks) 9:00 a.m. at the SRBA Courthouse, 235 – 3rd Avenue North, Twin Falls, Idaho.

The State of Idaho's *Motion to Dismiss*.

The distinction between defining the elements of a water right and the administration of a water right often times overlaps and is not always certain. As such, any dismissal by this Court on the basis that the claim(s) should be pursued administratively would be without prejudice. This eliminates any prejudice to a party occasioned by the overlap and uncertainty. However, in the interest of avoiding significant delay through the blanket dismissal and potential later re-filing of claims this Court should proceed in ruling on the State's *Motion* to determine what specific issues, if any, can be parsed out and decided by this Court. Accordingly, the following deadlines apply:

May 30, 2008: State files opening brief in support of motion to dismiss.

June 20, 2008: Idaho Power files its response brief on State's motion to dismiss.

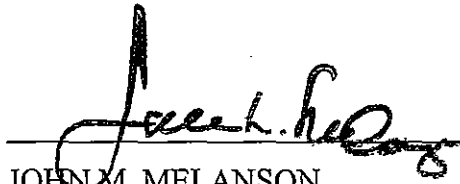
July 7, 2008: State files its reply brief on State's motion to dismiss

July 18, 2008:

Hearing on State's *Motion to Dismiss*. 10:00 a.m. at the SRBA Courthouse, 235 – 3rd Avenue North, Twin Falls, Idaho. Telephone participation will be allowed by calling 1-918-583-3445 and entering participant code 406128 when prompted.

Dated

May 28, 2008



JOHN M. MELANSON

Presiding Judge

Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the CORRECTED ORDER AMENDING SCHEDULING ORDER FOR CONSOLIDATED SUBCASE 00-92023 was mailed on May 28, 2008, with sufficient first-class postage to the following:

IDAHO POWER COMPANY

Represented by:
ADAM T DEVOE
BROWNSTEIN HYATT & FARBER PC
410 17TH STREET, 22ND FL
DENVER, CO 80202
Phone: 303-223-1100

IDAHO POWER COMPANY

Represented by:
JAMES C TUCKER
IDAHO POWER CO
PO BOX 70
BOISE, ID 83707
Phone: 208-388-2200

IDAHO POWER COMPANY

Represented by:
JAMES S LOCHHEAD
BROWNSTEIN HYATT ET AL
410 17TH STREET, SUITE 2200
DENVER, CO 80202
Phone: 303-223-1100

IDAHO POWER COMPANY

Represented by:
JOHN K SIMPSON
1010 W JEFFERSON, STE 102
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

CITY OF POCATELLO
GARY & HELEN DEMOSS

Represented by:
JOSEPHINE P BEEMAN
409 W JEFFERSON ST
BOISE, ID 83702
Phone: 208-331-0950

IDAHO POWER COMPANY

Represented by:
MARK J MATHEWS
BROWNSTEIN HYATT ET AL
410 17TH STREET, SUITE 2200
DENVER, CO 80202
Phone: 303-223-1100
ORDER

IDAHO POWER COMPANY

Represented by:
MICHAEL A GHELETA
BROWNSTEIN HYATT ET AL
410 17TH STREET, SUITE 2200
DENVER, CO 80202
Phone: 303-223-1100

IDAHO POWER COMPANY

Represented by:
MICHELLE C. KALES
BROWNSTEIN HYATT ET AL
410 17TH STREET, SUITE 2200
DENVER, CO 80202
Phone: 303-223-1100

STATE OF IDAHO

Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449

ABERDEEN AMERICAN FALLS
BINGHAM GROUND WATER DISTRICT
BONNEVILLE-JEFFERSON GROUND
CLARK JEFFERSON GROUND WATER
MADISON GROUND WATER DISTRICT
MAGIC VALLEY GROUND WATER
NORTH SNAKE GROUND WATER

Represented by:
RANDALL C BUDGE
201 E CENTER, STE A2
PO BOX 1391
POCATELLO, ID 83204-1391
Phone: 208-232-6101

IDAHO POWER COMPANY

Represented by:
SHELLEY M DAVIS
1010 W JEFFERSON, STE 102
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

(Certificate of mailing continued)

IDAHO POWER PETITION FOR
DECLARATORY & INJUNCTIVE
RELIEF

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098