

AUG 27 2008

DEPARTMENT OF
WATER RESOURCES

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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

Case No. 39576

)
) Subcase Nos. **Exhibit A**
)
) **OBJECTION TO NOTICE SETTING**
) **HEARING ON MOTION TO COMPEL**
) **DISCOVERY RESPONSE & MOTION TO**
) **EXTEND DEADLINE**
)
)

COME NOW, A&B Irrigation District, American Falls Reservoir District #2, Burley

Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal

Company, and Twin Falls Canal Company, Claimants in the above-referenced subcases

(collectively referred to as “SWC”), by and through counsel of record, and submit this objection to the *Notice Setting Hearing on Motion to Compel Discovery Responses & Motion to Extend Deadline*, pursuant to AO1(6)(f)(2) and I.R.C.P. 7(b)(3).

PROCEDURAL SETTING

On August 20, 2008, the ground water districts (“Districts”) apparently filed a *Motion to Compel Discovery Response & Motion to Extend Deadline* (hereinafter “*Motion*”), seeking an order compelling the SWC to respond to their objectionable discovery requests – even though the SWC already responded to the request by advising the Districts as to where the information it sought was available for review and/or copying.¹ On that same day, August 20, 2008, IGWA filed a *Notice of Hearing on Motion to Compel Discovery Responses & Motion to Extend Deadline* for August 28, 2008 at 2:00 p.m. – only 8-days after the *Motion* was filed. Counsel for the Districts made no attempt to contact the SWC’s counsel to discuss the *Motion* or a proposed hearing date. In addition, the Districts failed to comply with the requirements of AO1(6)(f)(2), dealing with expedited hearings. As such, the hearing on the District’s *Motion* violates the rules of procedure must be vacated.

OBJECTION

The Districts wrongly set a hearing on the *Motion* in violation of the Idaho Rules of Civil Procedure. Administrative Order 1 provides that the “litigation of the SRBA will be governed by the Idaho Rules of Civil Procedure.” AO1(1)(a). The Civil Rules provides a clear timeframe for motion practice. *See* I.R.C.P. 7(b)(3). The Civil Rules provide that a motion and supporting memorandum must be filed and “*served* so that it is *received* by the parties *no later than*

¹ Importantly, the Districts received the SWC response to its discovery requests on July 25, 2008. However, in the more than three weeks that followed, the Districts failed to make any attempt to review the documents identified in the SWC responses. Indeed, it was three week until the Districts notified counsel of its apparent concerns over the discovery responses.

fourteen (14) days before the time specified for the hearing.” I.R.C.P. 7(b)(3)(A) (emphasis added). Furthermore, any response to the *Motion* must be filed and “served so that it is received by the parties *at least seven (7) days prior to the hearing.*” *Id.* at 7(b)(3)(E) (emphasis added).² IGWA violated the Civil Rule’s requirements by filing its *Motion* only 8-days prior to the hearing, making SWC’s response due on August 21, 2008 – less than 24 hours after the *Motion* was served.

Administrative Order 1 provides a procedure for obtaining an expedited hearing.

Expedited Hearings - Any party moving for an order to expedite a hearing shall send a copy of the motion and supporting documents to all parties listed in Section 6e(2) and each person on the current copy of the Court Certificate of Mailing for Expedited Hearings which is available from the Clerk of the SRBA Court.

AO1(6)(f)(2). The Districts did not comply with this requirement as it has not served its motion or supporting documents on the individuals listed on the Court’s “Certificate of Mailing for Expedited Hearings.” Accordingly, the hearing must be vacated immediately.

CONCLUSION

The hearing set for the District’s *Motion* violates the Civil Rules and AO1. The *Motion*, which was served only 8-days before the hearing, provides the SWC with less than 24-hours to respond, or the SWC would also be in violation of the Civil Rules. Accordingly, the hearing must be vacated.

The SWC is preparing a summary judgment motion and supporting memorandum, in accordance with the timeframes contained in the *Trial Scheduling Order*, and will file a response

² The Rules also provide that any reply to briefing by the moving party must be filed with the Court no fewer than 3-days prior to the hearing. IRCP 7(b)(3)(E).

to IGWA's *Motion* in accordance with the timeframes of Civil Rule 7(b), once a proper hearing date has been set.

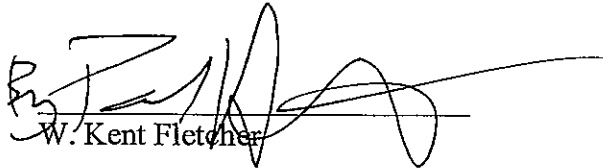
DATED this 21st day of August, 2008.



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Attorney for A & B Irrigation District
and Burley Irrigation District

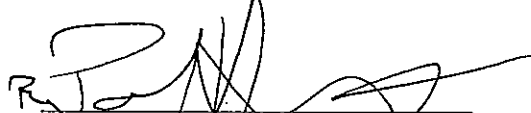
FLETCHER LAW OFFICES



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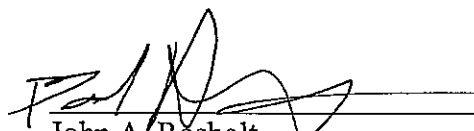
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North Side Canal Company, and
Twin Falls Canal Company

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of August, 2008, I served a true and correct copy of the foregoing **OBJECTION TO NOTICE SETTING HEARING ON MOTION TO COMPEL DISCOVERY RESPONSE & MOTION TO EXTEND DEADLINE** on the following by the method indicated:

Clerk of the SRBA Court
253 Third Ave. North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

☐ U.S. Mail, Postage Prepaid
☒ Hand Delivery
☐ Overnight Mail
☐ Facsimile
☐ Email

Natural Resources Division Chief
State of Idaho
Attorney General's Office
P.O. Box 44449
Boise, Idaho 83711-4449

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☐ Hand Delivery
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550 West Fort St., MSC 033
Boise, Idaho 83724

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☐ Facsimile
☐ Email

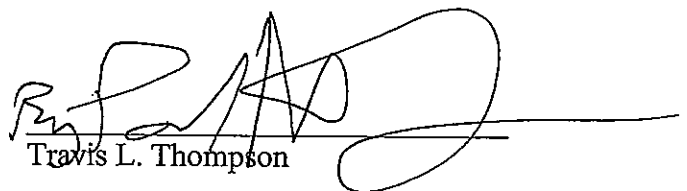

Travis L. Thompson

EXHIBIT "A"

Subcases No.s:

01-00004
01-00005
01-00006
01-00007
01-00008
01-00009
01-00010
01-00013
01-00014
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