

**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 75-10253 (75-119, 75-120 and 75-125)
	)	
	)	(Bellamy)
Case No. 39576	)	
	)	
_____	)	Motion to Alter or Amend

This Motion is being made to respectfully ask the Court to amend Water Rights 75-119 and 75-120 recommended in an August 2008 Amended Director's Report because information in the IDWR database used as the basis for these claims was incomplete and resulted in errors in the calculation of the irrigated acreage.

Background

An objection to water right 75-10253 (ref. 1) was filed in order to split that right into the original 1982 decreed rights (75-119, 75-120 and 75-125) (ref 2). The reason was to clarify these rights and meet the requirements of SRBA rule 60 (37.03.01 Adjudication Rules 060).

The result was a filing of an amended claim July 17, 2008 by the owner and a Special Master Report and Recommendation in Subcase 75-10253 dated October 29, 2008 (ref. 3) disallowing water right 75-10253 and splitting it into water rights 75-119, 75-120 and 75-125 (ref 4). Water rights 75-119 and 75-120 under this recommendation now include additional irrigated acreage and expanded use above and beyond that decreed in 1982.

In seeking clarification from IDWR regarding why these additional irrigated acres were recommended (above and beyond that decreed in 1982) we were advised that the IDWR database did not include the complete map based (shape file) water right information for another water right, 75-13963, at the time of the July 17, 2008 claim (ref 5). This was a reason IDWR provided misinformation to the owner in claiming additional acres under water rights 75-119 and 75-120, most of which are in fact already claimed and irrigated under water right 75-13963 (ref. 4).

To prevent an expanded use and deviation from the intent of the 1982 decree we are filing this motion to amend water rights 75-119 and 75-120 requesting that provisions be added to:

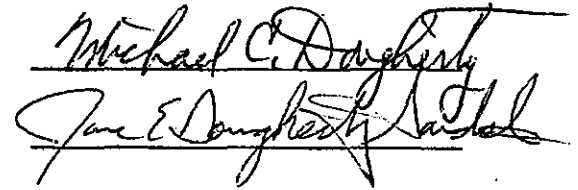
1. Limit the irrigated acres in each water right to the acreage originally decreed in 1982 for that right, and
2. Limit the total irrigated acreage to the total 1982 decreed acreage for water rights 75-119, 75-120 and 75-13963 if they are allowed to be used together.

These acreages, from the 1982 decree, are:

- 75-119; 102 acres
- 75-120; 4 acres
- 75-13963; 22 acres NOTE: 75-13963 is a split from the 1982 decreed water rights 75-122 and 75-123, (ref. 6)

Please note a Motion to File a Late Objection to water right 75-13963 has been filed to add a similar provision to that water right to correct this error (ref 7).

Respectfully submitted,



Michael C Dougherty
Jane E Dougherty Sandstrom
502 Fourth of July Creek Rd
North Fork, ID 83466
November 25, 2008

References:

1. Objection to Water Right 75-10253 filed October 2, 2007 by Michael C. Dougherty and Jane E. Dougherty Sandstrom.
2. Decree: Court Case 5235, Stipulation for Entry of Judgment, filed December 16, 1982 in Lemhi County.
3. Special Master Report and Recommendation Case #39576, subcase 75-10253 (75-119, 75-120 and 75-125). In the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Twin Falls.
4. SRBA recommended water rights 75-119, 75-120, 75-125 and 75-13963.
5. Telecom November 7, 2008 with Nathaniel Arave, IDWR, Idaho Falls.
6. Disallowed or inactive water rights 75-122, 75-123, 75-10252 and 75-10253.
7. Motion to File a Late Objection to Water Right 75-13963, signed and dated November 25, 2008.

NOTE: All references are available to the Court through the SRBA or IDWR document system except reference 5 (verbal, notes available) and reference 7 (copy attached).

CERTIFICATE OF MAILING

We certify that on November 25, 2008 we mailed the original and copies of this Motion, including all attachments, to the following persons:

1. Original to:

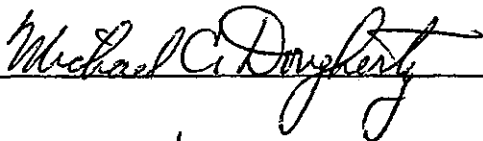
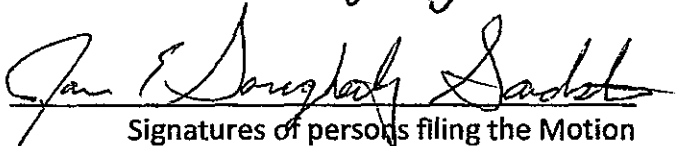
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

Name: Don R Bellamy
Address: PO Box 1031
Salmon, ID 83467

3. Copies to:

Director of IDWR
PO Box 83720
Boise, ID 83720-0098



Signatures of persons filing the Motion