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JAN 14 2009

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JAN 13 2009	
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	) Subcases 01-4, et al.
	) (see list of 31 subcases attached)
Case No. 39576	)
	) ORDER GRANTING MOTION TO
	) AMEND OBJECTIONS and
	) ORDER CLARIFYING CITY OF
	) POCATELLO'S PARTICIPATION

Motion

On October 16, 2008, the Ground Water Districts¹ and the Upper Snake Users² filed their *Motion for Leave to File Amended Objections and Memorandum in Support*. The two groups, sometimes collectively called Ground Water Users, argued "that the Amended Objections more clearly define the issues raised in the original objections."

Request for Order

The same date, the City of Pocatello lodged its *Memorandum Regarding Pocatello's Participation in Issues Raised after March 26, 2008*.³ Pocatello requested "an order confirming that Pocatello's participation . . . is limited only by the issues in the case, regardless of whether those issues were raised in the original pleadings or in amended pleadings."

¹ The Ground Water Districts include: Aberdeen American Falls Groundwater District, Bingham Groundwater District, Bonneville Jefferson Groundwater District, Carey Valley Groundwater District, Jefferson Clark Groundwater District, Madison Groundwater District, Magic Valley Groundwater District and North Snake Groundwater District.

² The Upper Snake Users include: Fremont-Madison Irrigation District, Blackfoot Irrigation Company, United Canal Company and Independent Water Users, Mud Lake Water Users, Inc., Jefferson Irrigation District and Montevue Canal Company. Three of the Upper Snake Users were once called the Upper Valley Irrigators.

³ See Special Master's March 26, 2008 *Order Granting City of Pocatello's Motion to Participate*. The City of Pocatello's *Motion to Participate* was unopposed.

Joint Response

The Claimants⁴ filed their *Joint Response to Ground User's Motion for Leave to File Amended Objections and Pocatello's Memorandum* on October 30, 2008. They argued that the proposed amendments "fail to establish a cause of action upon which relief can be granted, are untimely, would lead to great delay and would prejudice the Claimants." The also argued that Pocatello "should not be allowed to participate as to any issues rising after March 26, 2008."

Hearing

A hearing on the *Motion* filed by the Ground Water Districts and the Upper Snake Users and Pocatello's request for order was held by telephone on November 25, 2008. The following counsel appeared:

Candice M. McHugh and Randall C. Budge – Ground Water Districts

Sarah A. Klahn – City of Pocatello

Jerry R. Rigby – Fremont-Madison Irrigation District, Blackfoot Irrigation Company and United Canal Company

Robert L. Harris – Independent Water Users, Mud Lake Water Users, Inc., Jefferson Irrigation District and Montevue Canal Company

Paul L. Arrington – Milner Irrigation District, North Side Canal Company and Twin Falls Canal Company

W. Kent Fletcher – Minidoka Irrigation District

C. Thomas Arkoosh – American Falls Reservoir District #2

David L. Negri – United States of America, Department of Interior, Bureau of Land Management and Bureau of Reclamation

Josephine P. Beeman – Amalgamated Sugar Company

David I. Stanish – State of Idaho

Andrea L. Courtney – IDWR

Discussion

The Special Master entered the October 8, 2008 *Order Denying Motions* primarily to "ensure an orderly development of the subcases *with their potential wide*

⁴ The Claimants, called the Surface Water Coalition, include: A&B Irrigation District, American Falls Reservoir District #2, Burley Irrigation District, Falls Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company and Twin Falls Canal Company.

range of issues. . . [emphasis added].” It is apparent from even a cursory reading of the filings that the Court will be faced with a multitude of complex issues because 1) certain issues affect some claims and not others, 2) not all objectors maintain consistent positions *inter se* and 3) at some point, the Court will be faced with interpreting the 1968 *Eagle Decree*. There is no way to judge any one issue separate from other issues without prematurely determining what may ultimately be the controlling law of the case. In other words, all genuine issues must be on the table before the Court can fairly determine the ultimate outcome. For those reasons, the *Motion for Leave to File Amended Objections* should be granted.

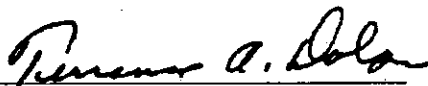
In the matter of Pocatello’s request for an order clarifying its participation, it is clear that in light of this *Order* allowing the Ground Water Districts and the Upper Snake Users to amend their objections, it should not be prohibited from litigating issues raised *after* March 26, 2008. However, consistent with its original agreement and the *Order Granting City of Pocatello’s Motion to Participate*, Pocatello’s participation should be limited to the issues raised by the other parties – i.e., objections as currently amended.

Order

THEREFORE, IT IS ORDERED that:

1. The *Motion for Leave to File Amended Objections* filed by the Ground Water Districts and the Upper Snake Users is **granted**; and
2. The City of Pocatello shall be allowed to participate in the above subcases but limited to objections as currently amended.

DATED January 13, 2009.


TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

ATTACHMENT A

Subcase Nos:

01-00004
01-00005
01-00006
01-00007
01-00008
01-00009
01-00010
01-00013
01-00014
01-00016
01-00017
01-00209
01-00210
01-00211A
01-00211B
01-00212
01-00213
01-00214A
01-00214B
01-00219
01-02050
01-02061
01-10034
01-10225
01-10237
01-10238
01-10239
01-10240
01-10241
01-10482
01-10526

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTION TO AMEND OBJECTIONS AND ORDER CLARIFYING CITY OF POCA TELLO'S PARTICIPATION was mailed on January 13, 2009, with sufficient first-class postage to the following:

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MILNER IRRIGATION DISTRICT
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BONNEVILLE JEFFERSON GROUND
CAREY VALLEY GROUND WATER DIST
IGWA INC
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ORDER GRANTING

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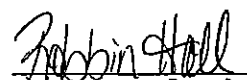
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Page 3 1/13/09

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