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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JAN 30 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

Case No. 39576

) Subcase 63-18957
)
) ORDER DENYING MOTION TO
) COMPEL
)
) ORDER REQUESTING 706 REPORT /
) AMENDED DIRECTOR'S REPORT
) FROM IDWR;
)
) ORDER SETTING SCHEDULING
) CONFERENCE

I. ORDER DENYING MOTION TO COMPEL

On January 2, 2009, The Terteling Company, Inc. (TTCI), objector, through its attorney Charles L. Honsinger, filed a *Motion to Compel* seeking an order requiring claimant Owyhee Motorcycle Club to permit TTCI and its experts to enter upon land owned by Owyhee Motorcycle Club for the purpose of inspecting the water diversion and distribution system that is used in connection with the subject water right. The motion was heard on January 27, 2009. In accordance with the comments of this Special Master and the comments of the participants at the hearing, TTCI's *Motion to Compel* is denied without prejudice.

**II. ORDER REQUESTING 706 REPORT /
AMENDED DIRECTOR'S REPORT FROM IDWR**

Pursuant to Idaho Rule of Evidence 706, and Idaho Code § 42-1401B, it is ordered that IDWR shall prepare and serve upon the parties to the subcase and the SRBA Court a report detailing the basis for its recommendation. Additionally, because there is

an error¹ in the quantity element of the previously filed *Director's Report*, an *Amended Director's Report* shall be filed contemporaneously therewith. The deadline for filing the 706 Report and the *Amended Director's Report* is **April 30, 2009**. The 706 report may address any or all of the elements of the water right claim as IDWR deems appropriate, but particular emphasis should be placed upon the disputed element of quantity.

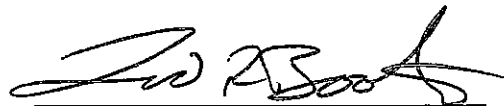
In accordance with I.R.E. 706, a deposition of IDWR may be taken by any party; and IDWR may be called to testify by any party or by the Court pursuant to I.R.E. 614(a); and IDWR shall be subject to cross-examination by each party.

Notice of the filing of the *Amended Director's Report* shall be published on the Court's Docket Sheet in May, 2009, and objections to the *Amended Director's Report* shall be filed by **May 28, 2009**. The objections and responses currently on file will not survive the filing of the *Amended Director's Report*, and the parties are required to file new objections / responses as they deem necessary.

III. ORDER SETTING SCHEDULING CONFERENCE

A scheduling conference will be held on **June 23, 2009 at 10:00 AM Mountain Time** at the Snake River Basin Adjudication Courthouse, 253 3rd Avenue North, Twin Falls, Idaho. Parties may participate by telephone by dialing 225-383-1099 and when prompted entering the code 675342.

Dated Jun 30, 2009



THEODORE R. BOOTH
Special Master
Snake River Basin Adjudication

¹ The *Director's Report* recommended a quantity of 0.16 cfs, with an annual limitation of 142.40 AFY. One cfs running continuously for one year yields 723.94 AF. Therefore, 0.16 cfs running continuously for one year would yield 115.83 cfs ($723.94 \times 0.16 = 115.83$).

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER DENYING MOTION TO COMPEL ORDER REQUESTING 706 REPORT ORDER SETTING SCHEDULIN CONFERENCE was mailed on January 30, 2009, with sufficient first-class postage to the following:

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EDWARDS FAMILY LLC

Represented by:

DANA L. HOFSTETTER

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OWYHEE MOTORCYCLE CLUB INC

Represented by:

JULIE K. FISCHER

5680 E FRANKLIN RD, STE 220

NAMPA, ID 83687

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DIRECTOR OF IDWR

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