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MAR 30 2009
DEPARTMENT OF
WATER RESOURCES

Attorneys for Aberdeen-Springfield Canal Company

**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	)	
	)	A. Subcase Nos. 01-23B, 01-297, 35-2543, 35-4246
Case No. 39576	)	
	)	MOTION TO CLARIFY AND/OR
	)	MODIFY TRIAL SCHEDULING ORDER
	)	
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COMES NOW, Claimant Aberdeen-Springfield Canal Company ("Claimant"), through counsel, and hereby moves the Court for an Order clarifying and/or modifying the Trial Scheduling Order dated September 2, 2008. The Trial Scheduling Order was entered as a result of the scheduling conference conducted on August 28, 2008, during which time the parties established by consensus the following schedule confirmed in the Order:

3/6/09:	Discovery Cut-off
3/27/09:	Dispositive Motion Deadline
5/21/09:	Pretrial Conference
6/8/09:	Trial Commences

At the time this schedule was set, it was the understanding of Claimant's counsel that the established deadlines were to submit not complete discovery and dispositive motions.

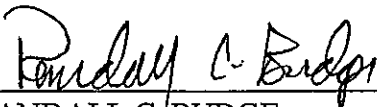
Accordingly, Claimant timely filed discovery requests consisting of Interrogatories, Requests for Production and Notice of Taking Deposition Duces Tecum, as well as a dispositive Motion for Summary Judgment prior to the deadlines.

No Objectors have responded to Claimant's discovery requests, by reason of which Claimant has filed a Motion to Compel. Additionally, Objector Minidoka Irrigation District recently filed an Objection to the Discovery Requests (which will be presumably joined by other SWC Objectors) asserting that the discovery requests were not timely because the March 6, 2009 deadline was intended as a deadline to complete, not submit, discovery. Presumably Objector Minidoka Irrigation District and other SWC Objectors will also assert that Claimant's dispositive Motion for Summary Judgment filed by the March 27, 2009 dispositive motion deadline is also untimely, arguing that the motion had to be disposed of by that date.

Accordingly, this Motion seeks clarification from the Court whether the Trial Scheduling Order was intended to establish deadlines to submit or complete discovery and dispositive motions. If these were submission deadlines, then Objectors are required to respond to Claimant's Discovery Requests and Motion for Summary Judgment. Alternatively, if these were intended to be completion deadlines, then Claimant was mistaken and the Trial Scheduling Order should be modified to accommodate Claimant's Discovery Requests and dispositive motion.

DATED this 26th day of March, 2009.

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