

Dale Gooby:
18 Savage Ranch Road
Salmon, ID 83467
June 28, 2010
Pro Se:

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR COUNTY OF TWIN FALLS

In Re SRBA	)	Subcase 75-14092 (Gooby)
	)	
	)	
	)	
Case No. 39576	)	NOTICE OF CHALLENGE
	)	SPECIAL MASTER'S RECOMMENDATION
	)	FOR SUBCASE 75-14092

I would like to challenge the denial of the motions to alter or amend dated June 17, 2010 as it pertains to my Subcase 75-14092. I am not suggesting that the Court should re-open the proceedings for further evidence concerning the testimony of William R. Maxwell. I am asking the Court to recognize through an affidavit that William R. Maxwell admitted that the testimony he provided on September 30th 2009 in the form of a hand drawn delineation, on a poor quality aerial photo, to represent the portion of my property he considered to be irrigated, was inaccurate. The fact that he looked at higher quality aerial photography with clearly visible landmarks to come to the conclusion that his testimony was inaccurate is inconsequential. All that matters is that he was incorrect in this particular delineation and he freely acknowledges that fact. I am not proposing a new legal theory, but rather requesting the correction of inaccurate testimony that was used to produce the current recommendations.

It is evident, that Ms. Van Bussum did not take Mr. Maxwell's mapping testimony into consideration but rather directly transferred his mapping delineations onto the GIS aerial photography while completely ignoring the criteria that she used to arrive at the original recommendation. I do not know if that was the direction that the court gave her, or if that was her own interpretation of what the court requested from her. Either way, in doing so, it was necessary for her to exclude areas that were obviously irrigated to arrive at the current delineation.

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The court does not want to entertain further evidence, yet IDWR produced, after the fact, evidence in the form of aerial photos with new digitized land areas with quantities, that were presented after the initial hearing. The court then used this information to produce the current recommendations. There was no way for me to accurately verify that the area and the acreage drawn on IDWR Exhibit 3 (enlarged 1987 aerial map) was either correct or incorrect. There was no scale on the exhibit and the poor resolution made accurately identifying existing land marks virtually impossible. Only after the court had made its decision on the new recommendation and the new delineations from IDWR became available was that possible. I contend that the current delineations used to show place of use and land area quantity were not available at the hearing on September 30th 2009, but produced after the fact by IDWR. By doing this the court did not allow myself an opportunity to verify the accuracy of the recommendation.

It is inconsistent that the court chose to use Mr. Maxwell's admittedly inaccurate lines yet conveyed the following on page 4 under discussion of the ORDER DENYING MOTIONS TO ALTER OR AMEND: "Mr. Maxwell said that the IDWR Exhibit 3, with Ms. Van Bussum's outlines, was a reasonable representation of the irrigated land despite some aerial distortion. He had no dispute with IDWR's recommendations." Mr. Maxwell agreed that the expert mapping of Ms. Van Bussum, was correct. Mr. Maxwell agreed that his novice mapping attempt was incorrect in the form of a signed affidavit saying so.

It is with this that I request that the Court amend the recommendation to reflect the original recommendation of 0.19 cfs to irrigate 9.7 acres.

Dated: June 28, 2010



Dale Gooby: Pro Se
18 Savage Ranch Road
Salmon, Id 83467

CERTIFICATE OF MAILING

I certify that on June 29, 2010, I mailed the original and copies of this MOTION TO ALTER OR AMEND SPECIAL MASTER'S REPORT FOR SUBCASE 75-14092, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

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. Copies to:

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

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

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Greg Bourdon
Linda Barinaga
Represented by:
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25 N. 2nd E.
PO Box 250
Rexburg, ID 83440-0250
Phone: 208-356-3633

Dan F Farley
Represented by:
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116 N. Center St.
Salmon, ID 83467
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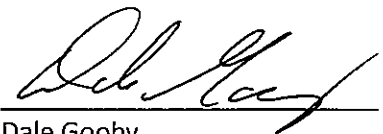
David Jeffrey Odell
2742 Alpenglow Rd
Stevensville, MT 59870

David Yanoff
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Greg Bourdon
Vera M. Hartley Trust
59 Savage Ranch Rd
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Phone: 208-756-8315

Michelle Sneed
Russell Sneed
9449 Pershing Ave.
Orangevale, CA 95662

Wester Watersheds Project
Larry Zuckerman, Cent Id Dir
PO box 1322
Salmon, Id 83467
Phone: 208-756-800



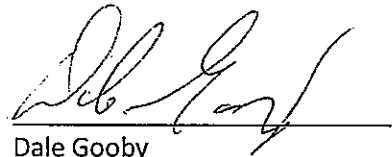
Dale Gooby
18 Savage Ranch Rd
Salmon, ID 83467

VERIFICATION

State of Idaho
County of Lemhi

I Dale Gooby, being first duly sworn, upon oath, deposes and says:

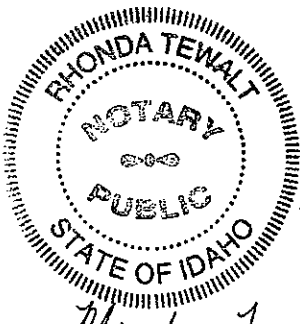
That I am the party/claimant filing this notice of challenge on the denial of the motion to alter or amend SPECIAL MASTER'S RECOMMENDATION FOR SUBCASE 75-14092, as defined by SRBA Administrative Order 1, Section 13a, I have written its contents and believe them to be true to the best of my knowledge.



Dale Gooby
18 Savage Ranch Rd
Salmon, ID 83467

Subscribed and sworn to before me, this 29 {day of month} day of June {month}, 2010;

{Notary Seal:}



Rhonda Tewalt
Rhonda Tewalt
Notary Public for Idaho
Residing at: Salmon, Idaho
My Commission expires: 8-25-2014