

11-22

RECEIVED

NOV 22 2010

DEPARTMENT OF
WATER RESOURCES

Attorneys for Claimant and Objector
Pioneer Irrigation District

Scott L. Campbell, ISB No. 2251
Andrew J. Waldera, ISB No. 6608
Dylan B. Lawrence, ISB No. 7136
Matthew J. McGee, ISB No. 7979
MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED
101 S. Capitol Blvd., 10th Floor
Post Office Box 829
Boise, Idaho 83701
Telephone (208) 345-2000
Facsimile (208) 385-5384
18946.0137

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 Nos. 63-00166A 63-00166B
63-00167A 63-00167B
63-00179A 63-00179C
63-32580

**PIONEER IRRIGATION DISTRICT'S
MOTION IN LIMINE**

Pioneer Irrigation District, through undersigned counsel of record, and pursuant to SRBA Rule of Procedure 1, Idaho Rule of Civil Procedure 7(b), and Idaho Rule of Evidence 103, hereby moves the Court to issue an order in limine confirming (1) Dr. David Tuthill's status as an independent, neutral expert witness and technical advisor to this Court in the adjudication

of water right numbers 63-00166B, 63-00167B, and 63-00179C; (2) that all of the parties are therefore precluded from retaining Dr. Tuthill as a paid consultant and/or expert witness in these subcases; (3) that further *ex parte* communication with Dr. Tuthill is prohibited; and (4) that the substance of any previous *ex parte* communications with Dr. Tuthill be divulged. This motion is made upon the grounds that Dr. Tuthill acted as the statutorily appointed technical advisor to this Court when he prepared the Idaho Department of Water Resources' recommendations regarding water right numbers 63-00166B, 63-00167B, and 63-00179C, and that this role precludes him from now acting as a paid expert witness on behalf of any of the parties.

In support of its motion, Pioneer submits herewith a memorandum and affidavits of Scott L. Campbell and Dylan B. Lawrence.

Pioneer requests a hearing on this motion.

DATED this 19th day of November, 2010.

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

By 
Dylan B. Lawrence – Of the Firm
Attorneys for Pioneer Irrigation District

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of November, 2010, I caused a true and correct copy of the foregoing **PIONEER IRRIGATION DISTRICT'S MOTION IN LIMINE** to be served by the method indicated below, and addressed to the following:

Mason Creek Ditch Company

Represented by:

Albert P. Barker

Shelley M. Davis

BARKER RSHOLT & SIMPSON LLP

1010 W. Jefferson, Suite 102

P.O. Box 2139

Boise, ID 83701-2139

☒ U.S. Mail, Postage Prepaid

☐ Hand Delivered

☐ Overnight Mail

☐ Facsimile

Franklin Ditch Company

Represented by:

Daniel V. Steenson

Jon C. Gould

RINGERT LAW CHARTERED

P.O. Box 2773

Boise, ID 83701

☒ U.S. Mail, Postage Prepaid

☐ Hand Delivered

☐ Overnight Mail

☐ Facsimile

Martin Galvin

P.O. Box 115

Middleton, ID 83644

☒ U.S. Mail, Postage Prepaid

☐ Hand Delivered

☐ Overnight Mail

☐ Facsimile

John J. McEvoy

1703 N. KCID Road

Caldwell, ID 83605

☒ U.S. Mail, Postage Prepaid

☐ Hand Delivered

☐ Overnight Mail

☐ Facsimile

Director

IDAHO DEPARTMENT OF WATER RESOURCES

322 E. Front Street, 6th Floor

P.O. Box 83720

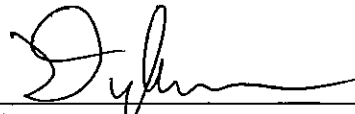
Boise, ID 83720

☒ U.S. Mail, Postage Prepaid

☐ Hand Delivered

☐ Overnight Mail

☐ Facsimile



Dylan B. Lawrence