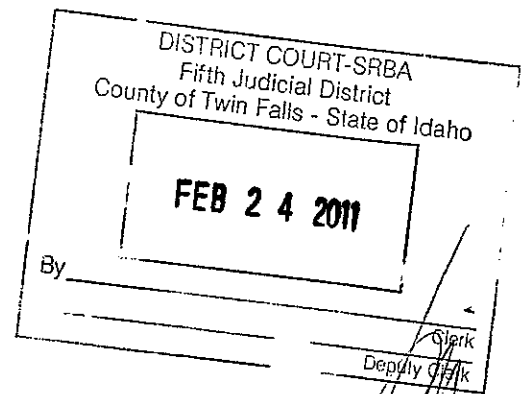


RECEIVED

FEB 25 2011

DEPARTMENT OF
WATER RESOURCES



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

-) Subcases: 01-04 *et al.*
-) (see list of 37 subcases attached)
-)
-) ORDER GRANTING PERMISSIVE
-) REVIEW OF SPECIAL MASTER'S
-) ORDER ON MOTIONS FOR SUMMARY
-) JUDGMENT; AOI 9.e.
-)
-) NOTICE OF HEARING ON
-) SCHEDULING CONFERENCE FOR
-) PROCEEDINGS ON PERMISSIVE
-) REVIEW

This matter came before the Court pursuant to a *Recommendation to Grant Motion for Permissive Review of Interlocutory Determinations* issued by the Special Master on February 16, 2011. The *Recommendation* is based on a proposal by the parties as a means for advancing an orderly and expedient process for resolving various controlling issues of law common to a number of subcases. The above-captioned matter consists of 37 subcases and involves numerous parties. The *Order on Motions for Summary Judgment*, which addresses the issues for which permissive review is sought, pertains to 9 separate motions for summary judgment filed in 11 different subcase groupings. No party to the common proceeding has opposed the *Recommendation* for permissive review. *SRBA Administrative Order 1, Rules of Procedure (AOI)*, 9.e. sets forth the standard for granting permissive review:

ORDER GRANTING PERMISSIVE REVIEW OF SPECIAL MASTER'S ORDER ON MOTIONS FOR SUMMARY JUDGMENT; AOI 9.e.; NOTICE OF HEARING ON SCHEDULING CONFERENCE FOR PROCEEDINGS ON PERMISSIVE REVIEW

Permissive Review — A Special Master or any party to the Subcase may seek permissive review by the Presiding Judge of the Special Master's interlocutory determination which involves a controlling question of law as to which there are substantial grounds for difference of opinion and on which immediate consideration of the determination may advance the orderly resolution of the litigation following the procedure set forth in I.A.R. 12.

The Court has reviewed the file in the above-captioned matter and finds that the issues addressed in the Special Master's *Order on Motions for Summary Judgment* are indeed controlling issues of law and that an interlocutory determination of the issues would facilitate an orderly and expedient resolution of the various subcases. However, given the large number of issues as well as the large number of parties and recognizing that all parties are not similarly situated as to all issues, the Court will require a scheduling conference as a prerequisite to the issuance of any scheduling order on the matter.

THEREFORE, based on the foregoing, THE FOLLOWING ARE HEREBY ORDERED:

1. Permissive review of the above-captioned matter is **GRANTED**.
2. Notice is hereby given that a scheduling conference will be held on **Thursday, March 10, 2011, at 3:00 p.m. (Mountain Time) at the Snake River Basin Adjudication District Court, 253 3rd Avenue North, Twin Falls, Idaho.** Telephone participation will be available by dialing 1-918-583-3445 and entering 406128# when prompted. Video teleconferencing ("VTC") will also be available by appearing at the Idaho Department of Water Resources, Idaho Water Center, 322 E. Front St., Conference Rm. B, Boise, Idaho.
3. At the scheduling conference parties should be prepared to address the following: 1) whether any transcripts will be requested; 2) whether review of the matter should be conducted in a single common proceeding or should be segregated based on the issues and parties involved; 3) the filing of an agreed

ORDER GRANTING PERMISSIVE REVIEW OF SPECIAL MASTER'S ORDER ON MOTIONS FOR SUMMARY JUDGMENT; AOT 9.e.; NOTICE OF HEARING ON SCHEDULING CONFERENCE FOR PROCEEDINGS ON PERMISSIVE REVIEW

upon statement of issues framed for permissive review; 4) a briefing schedule, including whether simultaneous or staggered briefing will be requested; 5) any agreed upon schedule, and; 6) any other issues or proposals that should be brought to the Court's attention for the purpose of facilitating an orderly resolution of the issues.

IT IS SO ORDERED

Dated February 24, 2011.

A handwritten signature in black ink, appearing to read 'Eric J. Wildman', written over a horizontal line.

ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

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
01-02040
01-02050
01-02060
01-02060A
01-02061
01-04060
01-10034
01-10189
01-10225
01-10237
01-10238
01-10239
01-10240
01-10241
01-10482
01-10483

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING PERMISSIVE REVIEW OF ORDER ON MOTIONS FOR SUMMARY JUDGMENT - NOTICE OF HEARING was mailed on February 24, 2011, with sufficient first-class postage to the following:

CITY OF POCATELLO

Represented by:
A. DEAN TRANMER
CITY OF POCATELLO
PO BOX 4169
POCATELLO, ID 83201
Phone: 208-234-6148

MILNER IRRIGATION DISTRICT

Represented by:
BARKER, ROSHOLT & SIMPSON LLP
113 MAIN AVE W, STE 303
PO BOX 485
TWIN FALLS, ID 83303-0485
Phone: 208-733-0700

AMERICAN FALLS RESERVOIR

Represented by:
C THOMAS ARKOOSH
CAPITOL LAW GROUP, PLLC
301 MAIN ST
PO BOX 32
GOODING, ID 83330
Phone: 208-934-8872

MINIDOKA IRRIGATION DISTRICT

Represented by:
EDWARD F ANDERSON
310 REYNOLDS RD
PO BOX 327
KINGSTON, ID 83839
Phone: 509-994-2557

BLACKFOOT IRRIGATION CO FREMONT MADISON IRRIGATION FREMONT-MADISON IRRIGATION UNITED CANAL CO

Represented by:
JERRY R. RIGBY
25 N 2ND E
PO BOX 250
REXBURG, ID 83440-0250
Phone: 208-356-3633

A & B IRRIGATION DISTRICT BURLEY IRRIGATION DISTRICT

Represented by:
JOHN K SIMPSON
1010 W JEFFERSON, STE 102
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

CITY OF POCATELLO THE AMALGAMATED SUGAR CO

Represented by:
JOSEPHINE P BEEMAN
409 W JEFFERSON ST
BOISE, ID 83702
Phone: 208-331-0950

STATE OF IDAHO

Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449

A & B IRRIGATION DISTRICT BURLEY IRRIGATION DISTRICT

Represented by:
PAUL L ARRINGTON
113 MAIN AVE W, STE 303
PO BOX 485
TWIN FALLS, ID 83303-0485
Phone: 208-733-0700

CITY OF POCATELLO

Represented by:
PEMBERTON, MITRA M
WHITE & JANKOWSKI LLP
511 16TH ST STE 500
DENVER, CO 80202
Phone: 303-595-9441

(Certificate of mailing continued)

ABERDEEN AMERICAN FALLS
BINGHAM GROUND WATER DISTRICT
BONNEVILLE JEFFERSON GROUND
CAREY VALLEY GROUND WATER DIST
IGWA INC
JEFFERSON CLARK GROUND WATER
MADISON GROUND WATER DISTRICT
MAGIC VALLEY GROUND WATER DIST
NORTH SNAKE GROUND WATER DIST

Represented by:
RANDALL C BUDGE
201 E CENTER, STE A2
PO BOX 1391
POCATELLO, ID 83204-1391
Phone: 208-232-6101

UNIT A ASSOCIATION
Represented by:
ROBERT A. MAYNARD
PERKINS COIE LLP
1111 W JEFFERSON ST STE 500
BOISE, ID 83702-5391
Phone: 208-343-3434

INDEPENDENT WATER USERS OF
JEFFERSON IRRIGATION DISTRICT
MONTEVIEW CANAL CO
MUD LAKE WATER USERS INC
PALISADES WATER USERS INC
PRODUCERS IRRIGATION CO
Represented by:
ROBERT L HARRIS
1000 RIVERWALK DR, STE 200
PO BOX 50130
IDAHO FALLS, ID 83405
Phone: 208-523-0620

A & B IRRIGATION DISTRICT
BURLEY IRRIGATION DISTRICT
FALLS IRRIGATION DISTRICT
Represented by:
ROGER D LING
615 H ST
PO BOX 396
RUPERT, ID 83350-0396
Phone: 208-436-4717

ORDER

CITY OF POCATELLO
Represented by:
SARAH A KLAHN
WHITE & JANKOWSKI LLP
KITTREDGE BUILDING
511 16TH ST STE 500
DENVER, CO 80202
Phone: 303-595-9441

STATE OF IDAHO DEPARTMENT OF
Represented by:
STATE OF IDAHO
PO BOX 44449
BOISE, ID 83711-4449
Phone: 208-334-2400

A & B IRRIGATION DISTRICT
BURLEY IRRIGATION DISTRICT
NORTH SIDE CANAL CO LTD
TWIN FALLS CANAL COMPANY
Represented by:
TRAVIS L THOMPSON
113 MAIN AVE W, STE 303
PO BOX 485
TWIN FALLS, ID 83303-0485
Phone: 208-733-0700

UNITED STATES OF AMERICA
USDI BUREAU OF RECLAMATION
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

MINIDOKA IRRIGATION DISTRICT
Represented by:
W KENT FLETCHER
1200 OVERLAND AVE
PO BOX 248
BURLEY, ID 83318
Phone: 208-678-3250

PAUL T. SMITH
PO BOX 1882
TWIN FALLS, ID 83303
Phone: 208-734-2510

(Certificate of mailing continued)

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

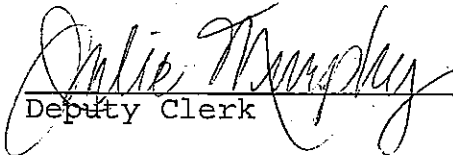
UNITED STATES OF AMERICA
REGIONAL DIRECTOR PN REGION
BUREAU OF RECLAMATION
1150 N CURTIS RD STE 100
BOISE, ID 83706-1234
Phone: 208-378-5322

MILNER IRRIGATION DISTRICT
5294 E 3610 N
MURTAUGH, ID 83344
Phone: 208-432-5560

ORDER

Page 3 2/24/11

FILE COPY FOR 00007


Deputy Clerk