

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

MAY 31 2011

By _____ Clerk

Deputy Clerk

Case No. 39576

**JOINT ORDER ACCEPTING MOTION
TO WITHDRAW AMENDED CLAIMS
AND AMENDING SCHEDULING
DATES**

SUBCASE NO.: 00-92020

A status conference was held May 16, 2011 in consolidated subcase 00-92020. The parties reported that the SRBA District Court *Memorandum Decision and Order on Challenge* (Subcase nos. 01-23B *et. al.*) (Aberdeen-Springfield Canal Co.) (April 4, 2011) decided many of the legal questions raised in this consolidated subcase.

Egin Bench Canals Inc. and the other claimants explained the history of their clients' *Objections* and later *Amended Claims*. Counsel for the claimants explained that the *Memorandum Decision* in Aberdeen-Springfield appears to require that a water right with recharge as a purpose of use must have intent to recharge at the time the right was established or at the time of the accomplished transfer. Based on the *Memorandum Decision* (Aberdeen-Springfield), the claimants withdrew the *Amended Claims*. Counsel explained that withdrawing the *Amended Claims* means that the recovered water or recharge component of the claims are withdrawn. Therefore, claimants would go back to the original *Claims* filed in the recovered water or recharge subcases. Consequently, the claimants anticipate resolution of the 240 or 250 subcases with either SF5s or withdrawal of *Objections* to the original *Director's Reports*.

However, the Idaho Department of Water Resources reminded the court that during the course of investigating the *Amended Claims*, it found the original *Director's Reports* contained some technical flaws. Certain aspects of prior decrees, licenses, and transfers were erroneously omitted. As a result, the court previously established deadlines for the *Amended Director's*

Reports, taking into account the time IDWR needed to consider those omissions.

The claimants said they will determine whether they will need to file any motions relating to IDWR's *Amended Directors' Reports* once those changes are filed. In the meantime, IDWR reported that it has investigated about 80 subcases which are ready to be submitted to the parties in the next week in the form of proposed standard form 5's or proposed amended director's reports.

The other parties did not object to the Claimants' withdrawal of the *Amended Claims*. However, the other parties are looking at the current trial schedule in light of the proposed *Amended Director's Report*.

The Court previously set a number of deadlines relating to the six representative subcases identified by IDWR and the parties. The Court modifies the *Joint Order Granting Motion to Bifurcate and Consolidate and Changing Scheduling Dates* as follows:

1. The deadline for parties to submit refined or additional issues has passed.
2. The Discovery Cutoff for the six (6) representative subcases has passed. However, the parties may ask the court to extend deadlines to produce Answers to Discovery previously served.
3. The deadline for filing Dispositive Motions set June 10, 2011 is **vacated** based on representations by counsel that the bifurcated and consolidated issues previously identified were determined in the *Memorandum Decision and Order* in Aberdeen-Springfield.
4. Accordingly, the Dispositive Motion Hearing date of August 3, 2011 at 1:30 is **vacated**
5. The Status conference previously set for June 22, 2011 at 1:30 shall go forward.
6. IDWR provided the parties and the court, prior to May 20, 2011, a list of approximately 40 subcases which required no changes to the Director's Reports. It is anticipated that the court will issue *Special Master's Reports and Recommendations* consistent with the *Director's Reports* for these unchanged subcases.
7. IDWR provided the parties, prior to May 27, 2011, with proposed *Amended Director's Reports* for approximately 40 additional subcases which required changes to the Director's Reports. The parties shall report on the record on June 22, 2011 whether they stipulate to the elements for the proposed *Amended Director's Reports*.
8. IDWR shall report to the court at the status conference on June 22, 2011 at 1:30 pm regarding the remainder of the subcases and its plan for reviewing and revising its *Director's Reports*.

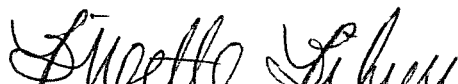
9. There is currently no trial date scheduled for October/November of 2011, relating to the rec/rec subcases.
10. Currently Special Master Bilyeu has a trial date scheduled February 13-17, 2012 for any unresolved rec/rec subcases.

Parties may participate in the Hearings by telephone by dialing 1-215-446-0193 and when prompted enter participant code 926509. Any questions regarding telephone participation, please contact the Clerk's office at (208)736-3011.

Dated: May 31, 2011.



Terrence A. Dolan, Special Master
Snake River Basin Adjudication



Brigitte Bilyeu, Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the JOINT ORDER ACCEPTING MOTION TO WITHDRAW AMENDED CLAIMS AND AMENDING SCHEDULING DATES was mailed on May 31, 2011, with sufficient first-class postage to the following:

ABERDEEN-AMERICAN FALLS
BINGHAM GROUND WATER DISTRICT
BONNEVILLE-JEFFERSON GROUND
JEFFERSON-CLARK GROUND
MADISON GROUND WATER DISTRICT
MAGIC VALLEY GROUND WATER
NORTH SNAKE GROUND WATER

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JEFFERSON-CLARK GROUND
MADISON GROUND WATER DISTRICT
MAGIC VALLEY GROUND WATER
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MILNER IRRIGATION DISTRICT
NORTH SIDE CANAL COMPANY
TWIN FALLS CANAL COMPANY

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JOINT ORDER SEPERATING AND
CONSOLIDATING COMMON ISSUES

DIRECTOR OF IDWR
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Deputy Clerk