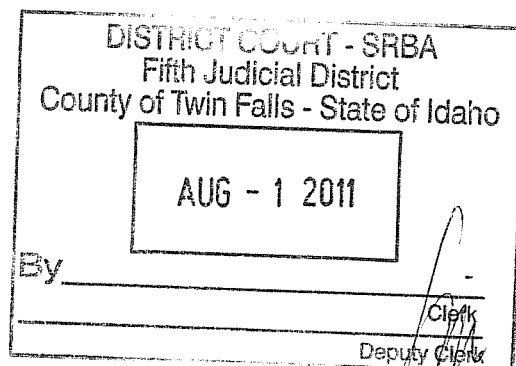


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DEPARTMENT OF
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA) Subcase Nos. 01-217, 01-218, 01-4024 and 01-4025
Case No. 39576) (Minidoka Power Rights)
)
) Subcase Nos. 01-2068 and 01-4054
) (Palisades Power Rights)
)
) ORDER GRANTING UNITED STATES'
) REQUEST FOR ADDITIONAL RECORD IN
) PART AND DENYING IN PART
)
) ORDER GRANTING THE SURFACE WATER
) COALITION'S REQUEST FOR REMOVAL OF
) DOCUMENTS

On February 9, 2011, this Court issued a *Memorandum Decision and Order on Challenge* in the above-captioned matter, followed by a *Memorandum Decision and Order on Motion to Alter or Amended Judgment*. On March 8, 2011, the A&B Irrigation District, American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company (collectively, "Surface Water Coalition" or "SWC") filed a *Notice of Appeal* in the above-captioned matter and an *Amended Notice of Appeal* on March 15, 2011. On April 4, 2011, the Clerk of the Court mailed the Clerk's Record on Appeal and Reporter's Transcript on Appeal to counsel for the parties for their review.

On July 14, 2011, the United States filed a *Request for Additional Record* ("Request"), requesting that the Reporter's Transcript and Clerk's Record on Appeal be supplemented with the following documents:

1. The transcript of the oral argument on the *Joint Motion for Reconsideration of the Memorandum Decision and Order on Challenge* held on April 18, 2011.

2. The *Erratum to United States' Motion for Summary Judgment* filed October 30, 2009.
3. The *GWD's Response to the State's Motion for Partial Summary Judgment* filed November 3, 2009.
4. The *Upper Valley Water Users' Response to State's Motion for Partial Summary Judgment* filed November 3, 2009.
5. The *Second Affidavit of David A. Jarvis* filed November 10, 2009
6. The *Idaho Power Response to SWC's Joint Motion to Alter or Amend* filed June 7, 2010, and
7. The *GWD's Join in the State's Response to Joint Motion to Alter or Amend* filed June 7, 2010.

(U.S. Request, p.2). On July 28, 2011 the SWC filed a *Joint Response to Request for Additional Record* ("Response"). The *Response* did not oppose the United States' *Request* aside from asserting that two of the documents identified by the United States – the *Erratum to United States' Motion for Summary Judgment* and the *Second Affidavit of David A. Jarvis* – were already in the record and therefore do not need to be added. In addition, the SWC's *Response* requested that the following documents be removed from the Clerk's Record on Appeal as they relate to the "Minidoka Credit Remark," and do not pertain to this matter:

1. The *Special Master Report and Partial Recommendation "Minidoka Credit Remark"* filed February 2, 2010.
2. The *Motion to Alter or Amend Special Master Report & Recommendation* filed April 5, 2010, and
3. The *Order Granting Motion to Alter or Amend and Amended Special Master Report and partial Recommendation "Minidoka Return Flow Credit"* filed May 7, 2010.

(SWC Response, p2).

Oral argument on the United States' *Request* and the SWC's *Response* was held before the Court on August 1, 2011. No opposition to the United States' *Request* was filed or raised by any party. However, the SWC did assert that two of the documents identified in the United States' *Request* – the *Erratum to United States' Motion for Summary Judgment* filed October 30, 2009, and the *Second Affidavit of David A. Jarvis* filed November 10, 2009 – were already contained in the record and therefore did not need to be added. The Court finds this to be the case. The *Erratum to United States' Motion for Summary Judgment* is located on page 893 of the Clerk's Record on Appeal and the *Second Affidavit of David A. Jarvis* can be found at page 1420 of the Record. No opposition to the SWC's *Response* was raised by any party.

THEREFORE THE FOLLOWING ARE HEARBY ORDERED:

1. The United States' request that the Clerk's Record and Reporter's Transcript on Appeal be supplemented with the following documents **is hereby granted**:

- a. The transcript of the oral argument on the *Joint Motion for Reconsideration of the Memorandum Decision and Order on Challenge* held on April 18, 2011.
- b. The *GWD's Response to the State's Motion for Partial Summary Judgment* filed November 3, 2009.
- c. The *Upper Valley Water Users' Response to State's Motion for Partial Summary Judgment* filed November 3, 2009.
- d. The *Idaho Power Response to SWC's Joint Motion to Alter or Amend* filed June 7, 2010.
- e. The *GWD's Join in the State's Response to Joint Motion to Alter or Amend* filed June 7, 2010.

2. The United States' request that the Clerk's Record on Appeal be supplemented with the following documents **is hereby denied** on the grounds that they are already contained in the Clerk's Record on Appeal:

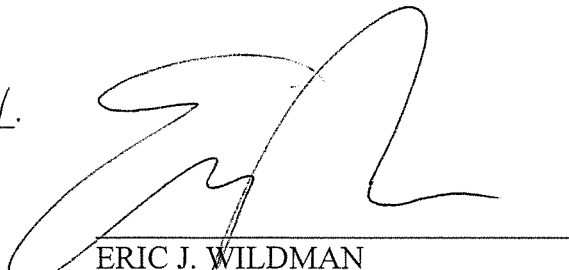
- a. The *Erratum to United States' Motion for Summary Judgment* filed October 30, 2009.
- b. The *Second Affidavit of David A. Jarvis* filed November 10, 2009.

3. The SWC's request the following document be removed from the Clerk's Record on Appeal **is hereby granted**:

- c. The *Special Master Report and Partial Recommendation "Minidoka Credit Remark"* filed February 2, 2010.
- d. The *Motion to Alter or Amend Special Master Report & Recommendation* filed April 5, 2010.
- e. The *Order Granting Motion to Alter or Amend and Amended Special Master Report and partial Recommendation "Minidoka Return Flow Credit"* filed May 7, 2010.

IT IS ORDERED.

DATED: August 1, 2011.



ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING UNITED STATES' REQUEST IN PART/DENYING IN PART - ORDER GRANTING SWC'S REQUEST was mailed on August 01, 2011, with sufficient first-class postage to the following:

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ORDER

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Deputy Clerk

