

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE SRBA
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS - State of Idaho

IN RE SRBA

CASE NUMBER 39576

Response to Statement:

SUBCASES 22-11639,

22-13509, 22-13584

Clerk

Deputy Clerk

BACKGROUND

On the afternoon of October 11, 2011, Michael Reid dissolved the agreement concerning the Miller right, #22-405. This was due to a material mistake by IDWR in preparing the SF-5, subsequent lack of action to correct by Mr. Budge or Mrs. Courtney, and a court deadline. Since Mr. Reid was provided none of the things he was to get from the agreement, he should not be held to providing others the things he gave as part of the agreement. Reid, as part of the agreement, agreed to overlook the deficiencies of other claims on the Miller Right that he has previously protested, namely 22-11639, 22-13854 and 22-13509. The offspring claims of 22-405 are interconnected and like dominos, when one claim falls, they all do.

Rex Miller was not at the settlement conference nor did he ever sign off on the agreements concerning water rights on Paradise Springs, and he also opposes finalizing the agreement concerning 22-405 and 22-587.

Don Miller was at the conference, but signed on as a global agreement and if Mr. Reid doesn't get any of the Miller right from the agreement, he is no longer a party to the agreement.

RESPONSE

Mr. Harris has stated that he was present during the meeting that I held with Mr. Budge outside of the main meeting room where we tried to hammer out a deal. This is not true. Mr. Budge and I met in private for 30 minutes or more, of which less than 5 minutes included Mr. Harris. Mr. Budge had a point, which was that he would object to me filing a *Motion to Set Aside* to correct claim 22-13212 unless I subordinated my right to his clients. I said

no way. He then told me he would prevail in his objection to my *Motion to Set Aside* even if I had the agreement backing me up. He stated that the court had ruled on 22-13212 and that it was over. I agreed that a court might not re-open, especially under an objection. Mr. Budge then said, ask Mr. Harris what he thinks if you want, he's kind of on your side. Mr. Budge left, and Mr. Harris was then summoned to the room where I asked him what he thought. He said, "I can't advise you because you're not my client and I don't know the particulars." That's exactly what a good attorney should say. I then took 5 minutes by myself to think about what I wanted out of the deal, and I came back to Mr. Budge with an offer. Perhaps during this time Mr. Budge and Mr. Harris talked about the priority date issue; I don't recall them discussing this in front of me. I don't care about any opinion about whether or not the priority date issue would be overturned if I raised it again, it was that important to me and if I was going to re-open 22-13212, we were going to discuss the priority date or there was no deal, period. My offer was, if you let me argue that the priority date is a mistake (mistakes are not affected by res judicata and can be corrected at any time), then I'll subordinate the additional water I was granted under the agreement to your clients wells. I still don't understand how this error in the priority date was not ruled a mistake and corrected by this court. At first, Mr. Budge didn't agree, but he admitted that he knew he would prevail against this argument and he did agree to it. He now says that he didn't. Back room deals with the opposing attorney are not advisable, but being the type of guy who does business on a handshake, that is exactly what I entered into with Mr. Budge. Mr. Harris was not there for this part of the meeting.

Mr. Harris states that Rex Miller was at the settlement conference and agreed whole-heartedly to the agreement. The record will show, and those who were there and remember things correctly will testify that Rex Miller was not at the settlement conference and never signed off on anything. Mr. Harris obviously cannot recall the exact details of the settlement conference. I told Mr. Harris, at the beginning of the settlement conference, that his clients' right was based on the Withrich right, not the Miller right, and I said that Gary Zohner had told everyone for 30 years while he was farming the Miller's place that he was using his water there. It was among the first things said at the settlement meeting. His reply was, this meeting is about the Miller right, not the Withrich right. It was true, the settlement meeting regarding the Withrich right had moved to the next room over. Unfortunately, Mr. Harris never pursued the true source of right 22-13509, and settled for having me give up portions of my claims to his clients.

Giving up my claims wasn't the first idea I had going into the settlement conference, but I agreed to such as long as the additional 0.36 cfs that was agreed to be mine at the settlement conference became appurtenant to my property via right 22-13212, and that I would be allowed to re-open my argument about the priority mistake. This didn't happen. As such, the agreement has collapsed. I am the chief objector to Mr. Harris' clients' rights; my objections have always centered around getting the truth into Mr. Harris clients' claims which has yet to happen.

Both Mr. Budge and Mr. Harris have cried out about the expense to their clients. I don't feel at all sorry for Mr. Budge's clients. The groundwater users ganged up, hired the best groundwater attorneys they could, hired Harvey Walker to try to intimidate me, and falsely attacked me—I did not attack them. I did and continue to defend myself against their lies. If now, their budgets don't allow for their lies and vicious attacks to continue, too bad. I have rights to due process that haven't been exercised and that I have requested to exercise, that can't be denied. I also must state, that to pay money to an attorney would be much easier than what I have done, which is to spend thousands of hours learning about the water, how it has been used, and about how to be in court and deal with attorneys who have spent their lives in water law. To have spent a little money and to have your life, not affected by water issues, 18th century court rules, and dealing with self centered attorneys, is the easier way to go. If they want, they can settle everything by ceasing pumping water from their wells. They continue to pump, they continue to attack, they continue to lie, and so they should be fine with continuing to pay their attorney. Soon, this case will go forward to conjunctive management which will cost 10 times what they have paid so far, so maybe they should get used to it.

If Mr. Harris had ever returned a phone call or email message, he could have saved his clients a lot of time and money in the beginning. Instead of an ounce of prevention, Mr. Harris appears now to want a pound of cure, if he could figure out what that is. Mr. Harris' clients could have the water they have a historical right to without his help. I called Ron Miller, the de facto leader of the Fred Miller trust, claim 22-13509, before he ever filed this late claim and told him he should file a claim on the water that's been used on his place. He never called me back after this, but hired Mr. Budge and they filed his current claim on my water, as far as I know. This was not filed on the correct source, in my opinion done purposefully by Mr. Budge to create mischief. Soon after, Ron Miller changed representation to Mr. Harris due

to Budge's conflict of interest. Mr. Harris never did any research to try to see if the claim for 22-13509 was correct, he simply assumed it was correct and tried to get the claim through the system. If Ron Miller had asked me to, I would have provided him with all the information necessary to file on the Withrich right, and I still will. I have no objection to the Fred Miller Trust using water on their place; how it is claimed now, they are claiming my water to use on their place. For little expense, they can claim from the correct source and end their legal expenses. Mr. Richardson, 22-13854, could easily change his own POD to reflect where he is actually pumping from, which he should have done already, without much expense to him. I totally reject these hardship arguments; access to the law is for those who can afford it, according to my former attorney Kent Foster. I have afforded it in my way, and they must afford it as well.

Lastly, Mr. Harris says that he is fine with adjustments to my right, 22-11639; who cares? He's not an objector or intervenor. The water in 22-11639 isn't based on the agreement, but what was recommended initially by IDWR and what I successfully defended at trial. Just more confusion from Mr. Harris; I don't need his permission.

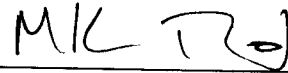
CONCLUSION

Mr. Harris is not very familiar with what is going on with the Miller right subcases. Mr. Harris has done no research into historical water use on Paradise Springs. Mr. Harris cannot remember what happened at the settlement conference and is not a reliable witness to that proceeding. Mr. Harris could have returned one of my phone calls or emails at any time and prevented a lot of cost to his clients, Mr. Budge's clients, and me. Mr. Harris states that there was no mention of the priority date issue on Mr. Holliday's January 24th letter, yet he and Mr. Budge have talked on the record about how they remember the conversation and the issue, but do not remember it turning out the same way I do. Mr. Harris has failed to operate in good faith. Mr. Harris *Statement Regarding Response to Order* is not factually correct.

Mr. Budge's clients ganged up to falsely attack me, splitting the legal fees between all of the junior-priority groundwater users they could find. To hear them complain about the legal fees is hypocritical at best. If Mr. Budge's clients want to know why they are still paying fees, it is because Mr. Budge failed to sign off on my right as we had agreed to at the settlement

conference, a 5 minute job for his secretary; perhaps Mr. Budge can deflect this and blame Mrs. Courtney for the State's mistake in preparing the SF-5 for 22-13212 and then not acknowledging and immediately correcting that mistake when I called her on it.

Both Mr. Budge and Mr. Harris claim that the agreement is still in place as far as they are concerned. This is fine for them, because if this is true they get what they wanted even if I didn't get the water that my predecessors and I have been using for more than 100 years. This is not fine with me, Rex Miller, or Don Miller.

A handwritten signature in black ink, appearing to read "ML Reid", written above a horizontal line.

Michael L Reid