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DEPARTMENT OF
WATER RESOURCES

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

FEB 28 2012

By _____

Clerk

Deputy Clerk

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. 01-217, 01-218, 01-4024 and 01-4025
) (Minidoka Power Rights)
)
) Subcase Nos. 01-2068 and 01-4054
) (Palisades Power Rights)
)
) FINAL ORDER AMENDING FEBRUARY 9,
) 2011 MEMORANDUM DECISION AND ORDER
) ON CHALLENGE PURSUANT TO IDAHO
) SUPREME COURT REMITTITUR
)
)

On February 9, 2011, the Court entered a *Memorandum Decision and Order on Challenge* ("Memorandum Decision") in the above-captioned matter. Among other things, the *Memorandum Decision* affirmed and adopted the Special Master's recommendation to include the following remark under the priority date element of water right claims 01-217 and 01-218:

While the United States has the privilege to use 2,700 cfs for the development of power under water right nos. 01-00217 and 01-00218, it will be the objective of the United States in the operation of the Minidoka powerplant to limit the exercise of water right nos. 01-00217 and 01-00218 for power production at the Minidoka powerplant whenever operation of the Minidoka powerplant to the full extent of these water rights for power production would result in loss of water otherwise storable in the reservoir system. Accordingly, except as it is determined by the Secretary that additional water may be passed through Minidoka Dam without the loss of water that could be stored in the reservoir system, the United States will limit the release of water through the Minidoka Dam. To the extent that it is practicable to do so, the Watermaster and the Water District 1 Advisory Committee will be informed in advance of any plans for the release of water in excess of the foregoing limitation. "Reservoir system" shall mean all Federal reservoirs on the Snake River and its tributaries down to and including Lake Walcott.

(hereinafter, “Priority Date Remark”). Following the Court’s denial of a *Motion to Alter or Amend* filed by the Surface Water Coalition,¹ the *Memorandum Decision* was appealed to the Idaho Supreme Court in Idaho Supreme Court Docket No. 38606-2011.

On January 27, 2012, the Idaho Supreme Court issued a *Remittitur* in Idaho Supreme Court Docket No. 38606-2011. The *Remittitur* was issued following the Court’s issuance of an *Order* dated December 19, 2011, dismissing the appeal with prejudice. The December 19, 2011 *Order* provided that the dismissal was entered pursuant to a *Joint Stipulation* filed by the parties. In the *Joint Stipulation*, the parties agreed to modify the Priority Date Remark contained in this Court’s *Memorandum Decision* with respect to water right claims 01-217 and 01-218 via the inclusion of the following underscored language:

While the United States has the privilege to use 2,700 cfs for the development of power under water right nos. 01-00217 and 01-00218, it will be the objective of the United States in the operation of the Minidoka powerplant to limit the exercise of water right nos. 01-00217 and 01-00218 for power production at the Minidoka powerplant whenever operation of the Minidoka powerplant to the full extent of these water rights for power production would result in loss of water otherwise storable in the reservoir system. Accordingly, except as it is determined by the Secretary that additional water may be passed through Minidoka Dam without the loss of water that could be stored in the reservoir system, the United States will limit the release of water through the Minidoka Dam. To the extent that it is practicable to do so, the Watermaster and the Water District 1 Advisory Committee will be informed in advance of any plans for the release of water in excess of the foregoing limitation. “Reservoir system” shall mean all Federal reservoirs on the Snake River and its tributaries down to and including Lake Walcott, which store and distribute water pursuant to water right nos. 01-00219, 01-02064, 01-02068, 01-04055, 01-10034, 01-10042, 01-10043, 01-10044, 01-10045, 21-02156, 21-04155, 21-10560, 25-07004.

The December 19, 2011 *Order* further directed that this Court’s *Memorandum Decision* “shall be modified pursuant to the joint stipulation filed with this Court.”

On February 27, 2012, a status conference was held in the above-captioned matter. No objections were raised to this Court entering an order amending the *Memorandum Decision* to reflect the *Joint Stipulation* filed by the parties in Idaho Supreme Court Docket No. 38606-2011.

¹ The term “Surface Water Coalition” refers collectively to the following parties: A&B Irrigation District, American Falls Reservoir District #2, Burley Irrigation District, Falls Irrigation District, Minidoka Irrigation District, North Side Canal Company, and the Twin Falls Canal Company.

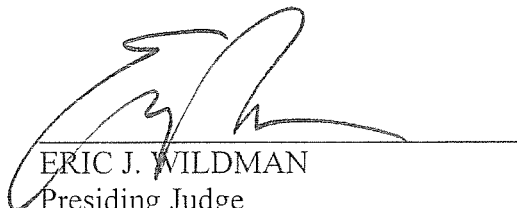
THEREFORE, THE FOLLOWING ARE HEREBY ORDERED:

1. The remark recommended by the Special Master and adopted by this Court in its *Memorandum Decision* pertaining to the priority date element of water right claims 01-217 and 01-218 shall be superseded by the following amended remark:

While the United States has the privilege to use 2,700 cfs for the development of power under water right nos. 01-00217 and 01-00218, it will be the objective of the United States in the operation of the Minidoka powerplant to limit the exercise of water right nos. 01-00217 and 01-00218 for power production at the Minidoka powerplant whenever operation of the Minidoka powerplant to the full extent of these water rights for power production would result in loss of water otherwise storable in the reservoir system. Accordingly, except as it is determined by the Secretary that additional water may be passed through Minidoka Dam without the loss of water that could be stored in the reservoir system, the United States will limit the release of water through the Minidoka Dam. To the extent that it is practicable to do so, the Watermaster and the Water District 1 Advisory Committee will be informed in advance of any plans for the release of water in excess of the foregoing limitation. "Reservoir system" shall mean all Federal reservoirs on the Snake River and its tributaries down to and including Lake Walcott, which store and distribute water pursuant to water right nos. 01-00219, 01-02064, 01-02068, 01-04055, 01-10034, 01-10042, 01-10043, 01-10044, 01-10045, 21-02156, 21-04155, 21-10560, 25-07004.

2. Aside from the amendment set forth in Paragraph 1 of this *Order*, all other aspects of this Court's February 9, 2011 *Memorandum Decision and Order on Challenge* shall remain unaltered and in full effect and force.

DATED: February 28, 2012.


ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the FINAL ORDER AMENDING 2/9/11 MEMORANDUM DECISION AND ORDER ON CHALLENGE PURSUANT TO IDAHO SUPREME COURT REMITTITUR was mailed on February 28, 2012, with sufficient first-class postage to the following:

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ORDER

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Deputy Clerk

