

RECEIVED
JUN 25 2012
DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho
JUN 22 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	)	Subcases 01-2064, et al. (American Falls Reservoir)
	)	and 01-2068, et al. (Palisades Reservoir)
Case No. 39576	)	(see list of subcases attached)
	)	
_____	)	ORDER ON AMICUS MOTIONS

On June 8, 2012, the Black Canyon Irrigation District, New York Irrigation District, Pioneer Irrigation District and Boise Project Board of Control ("Amicus Curiae") filed their *Motion for Leave to File Amicus Brief: State of Idaho's Motion Concerning "Refill" of Bureau of Reclamation Storage Rights* in the above subcases. Along with their *Motion*, the Amicus Curiae lodged a brief and affidavit of Rex R. Barrie, Basin 63 Watermaster.

On June 19, 2012, the State of Idaho filed its *Response to Motion for Leave to File Amicus Brief* along with the *Second Affidavit of Michael C. Orr*, affidavits of Mr. Barrie and Ron Shurtleff, Basin 63 and 65 Watermasters and the affidavit of Elizabeth Anne Cresto.

On June 21, 2012, the Amicus Curiae filed their *Motion to Vacate and Reset* the June 21, 2012, hearing "to provide the movants additional time to respond to the State's Response in opposition to the Amici's Motion for Leave to File Amicus Brief."

The Amicus Curiae's two *Motions* were heard on June 21, 2012, along with a status conference to discuss the impact of their pending *Petition to Designate Basin-Wide Issue* filed before SRBA Presiding Judge Eric J. Wildman on June 8, 2012.¹

¹ In the *Petition*, the Amicus Curiae asked Judge Wildman to designate the following issue as a basin-wide issue: "Does Idaho law require a remark authorizing storage rights to 'refill' space vacated for flood control?" To provide requisite docket sheet notice, Judge Wildman entered a *Notice of Hearing on Petition to Designate Basin-Wide Issue, Basin-Wide Issue 17, Subcase No. 00-91017* setting the matter before him on September 10, 2012.

A hearing on the two amicus *Motions* and a status conference was held on June 21, 2012, at the SRBA Courthouse in Twin Falls, Idaho. Shelley M. Davis, Albert P. Barker, Celeste K. Miller and Andrew J. Waldera appeared for the Amicus Curiae; Michael C. Orr and Ann Y. Vonde appeared for the State of Idaho, along with Lucy P. Chestnutt; David W. Gehlert and David L. Negri appeared for the United States of America, Department of Interior, Bureaus of Reclamation and Land Management; Travis L. Thompson, Paul L. Arrington, W. Kent Fletcher and C. Tom Arkoosh appeared for the "Surface Water Coalition"²; Candice M. McHugh appeared for the Ground Water Districts; Josephine P. Beeman appeared for the City of Pocatello; Jerry R. Rigby appeared for the Fremont-Madison Irrigation District, Idaho Irrigation District and Blackfoot Irrigation Company; and Garrick L. Baxter and Chris M. Bromley appeared for IDWR, along with Ray Williams and Tony Olenichak.

Order

Having considered all the filings to date and argument of counsel, and having weighed the best interests of the parties and the Court, particularly the orderly resolution of these subcases,

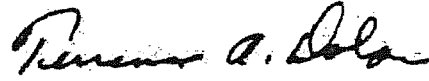
THEREFORE, IT IS ORDERED that:

1. The Amicus Curiae's *Motion to Vacate and Reset* is **denied**;
2. The Amicus Curiae's *Motion for Leave to File Amicus Brief* is **granted**; and
3. The parties are advised that on July 12, 2012, the Special Master will hear all matters presented in the pending *Motions for Partial Summary Judgment* filed by the State and the Coalition, including issues related to priority date and quantity (a particular remark, re-fill and subordination). No issues presently before the Special Master in the pending *Motions for Partial Summary Judgment* are to be stayed or separated out at this time as a result of the filing of the *Petition to Designate Basin-Wide Issue*. Regardless of the Special Master's decision on those *Motions*, all parties to the SRBA will have ample opportunity to revisit these issues in

² The Surface Water Coalition includes: 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. The State's *Motion for Partial Summary Judgment* in the above subcases (filed January 25, 2012) and the Coalition's *Joint Motion for Partial Summary Judgment* (filed April 19, 2012) are presently the core filings – both set for hearing on July 12, 2012. See May 3, 2012 *Amended Trial Schedule*.

subsequent proceedings before the Special Master, the Presiding Judge and ultimately the Idaho Supreme Court.

DATED June 22, 2012.

A handwritten signature in black ink, appearing to read "Terrence A. Dolan". The signature is fluid and cursive, with the first name being the most prominent.

TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

AMERICA FALLS AND PALISADES RESERVOIRS

Subcase Nos:

01-02064
01-02064A
01-02064B
01-02064C
01-02064D
01-02064E
01-02064F
01-02064L
01-02068
01-02068D
01-02068E
01-02068F
01-02068M
01-02068Y
01-10042
01-10042A
01-10042B
01-10043
01-10043A
01-10043E
01-10053A
01-10190
01-10191
01-10389

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER ON AMICUS MOTIONS was mailed on June 22, 2012, with sufficient first-class postage to the following:

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