

4-26

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UNITED STATES OF AMERICA

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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. 34-10807, 34-
	)	10717, 34-12429
Case No. 39576	)	
	)	MOTION FOR EXTENSION OF TIME
	)	TO RESPOND TO IDWR'S SECOND
	)	BRIEF RE: ELEMENTS OF SMALL
	)	DOMESTIC AND STOCKWATER
	)	RIGHTS

Descriptive Summary

This is the United States' motion for a one week extension to respond to IDWR's brief on the elements of small domestic and stockwater rights and request for expedited consideration.

Motion

The United States respectfully requests a one week extension to April 28, 1995 to respond to IDWR's Second Brief Re: Elements of Small Domestic and Stockwater Rights. In support of its motion the United States states the following:

1. The Special Master for Basin 34 in the SRBA issued two orders establishing a briefing schedule for the above referenced subcases regarding certain elements of small and domestic stockwater rights.
2. Initial briefs were due on April 21, 1995 and responses were due one week following the deadline for initial briefs.
3. At the prior hearing on water rights 34-12425 and 34-12429, the United States stated that they would not be filing an initial brief but would reserve its right to respond to a brief from IDWR.
4. Also at the hearing the United States requested that IDWR send via facsimile transmission a copy to the Department of Justice offices in Washington upon filing of the document. This request was made because of the short response time and delay in receipt of mail because of the weekend. IDWR agreed to do this.
5. IDWR did not fax a copy of its brief to the United States upon filing of the document on Friday, April 21, 1995. The DOJ attorneys received a copy via fax from IDWR on Tuesday evening at 5:20 p.m. EDT.
6. The Brief from IDWR is 23 pages in length and raises substantive issues of law and fact that were not raised in previous briefing on small stockwatering and domestic claims.

7. The Brief from IDWR accuses the United States of bad faith and other misconduct.

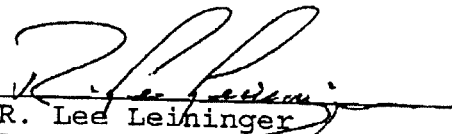
8. The Brief raises a new issue on the Court's inquiry through the hearing process on fully executed Standard Form No. Fives.

WHEREFORE, for the foregoing reasons the United States respectfully requests a one week extension for the filing of its response brief and expedited consideration of this request. The United States has found it necessary to respond in detail to the varied positions and serious allegations contained in the IDWR Brief. The late delivery of this document to the United States attorneys has made such a required response extremely difficult.

Respectfully submitted,

Dated

4/26/95


R. Lee Leininger
Attorney, ENRD

CERTIFICATE OF SERVICE

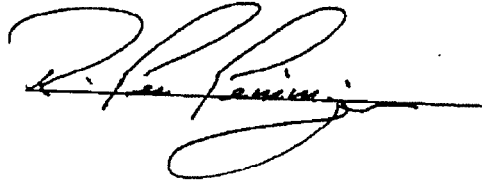
I certify that on the 26th day of April, 1995, I served a true and correct copy of the United States' Motion for Extension of Time to Respond to IDWR's Second Brief Re: Elements of Small Domestic and Stockwater Rights upon the following individuals:

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Deputy Attorney General
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A handwritten signature in black ink, appearing to read "R. B. Hiller", is written over a horizontal line.

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FROM: Lee Leininger

DATE: April 26, 1995

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COMMENTS:

