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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	)	MOTION FOR RECONSIDERATION AND ALTERNATIVE
	)	MOTION FOR PERMISSIVE APPEAL OF ORDER DENYING
	)	MOTION TO DISMISS KIM BODILY
Case No. 39576	)	
	)	SUBCASE Nos. 01-10223, 01-10248, 25-02160
	)	25-13615, 27-02007, 27-11560, 27-11561.
	)	
	)	

DESCRIPTIVE SUMMARY

This is a motion of Kim Bodily, pursuant to the Idaho Rules of Civil Procedure 11(a)(2)(B), requesting the court to reconsider its order limiting the objections of Kim Bodily to the issue of ownership of water rights 01-10248 and 27-11560. In the alternative, Kim Bodily moves the court, pursuant to Rule 12(b) of the Idaho Appellate Rules, for permission to appeal from the decision as an interlocutory order.

MOTION

COMES NOW Kim Bodily and hereby moves this court under Rule 11(a)(2)(B) of the Idaho Rules of Civil Procedure to reconsider the

ruling in its Order of May 11, 1995, Denying Motion to Dismiss Kim Bodily. This motion is made on the ground and for the reason that the court's order is contrary to requirements of I.C. §42-1401(A) and Idaho summary judgment law. Additionally, the court's order requiring Kim Bodily to proceed to trial on the issue of ownership in accordance with the Order Setting Subcases for Trial and Pretrial Scheduling Order, dated March 21, 1995, sets an impossible schedule under the circumstances of this case and would cause extreme prejudice to Mr. Bodily.

In the alternative, Kim Bodily moves this court under Rule 12(b) of the Idaho Appellate Rules for a permissive appeal of the court's May 11, 1995, order. This motion for permissive appeal is made on the grounds that the interlocutory order of the District Court is not otherwise appealable pursuant to the Idaho Appellate Rules, but involves a controlling question of law as to which there is substantial grounds for differences of opinion and is a legal question of first impression in which an immediate appeal may materially advance the orderly resolution of the litigation.

Kim Bodily does not request oral argument on these motions. The motions are supported by the Brief of Kim Bodily and the Fort Hall Water Users Association filed concurrently herewith.

DATED this 17th day of May, 1995.

MOTION FOR RECONSIDERATION AND ALTERNATIVE
MOTION FOR PERMISSIVE APPEAL OF ORDER
DENYING MOTION TO DISMISS KIM BODILY -2

Respectfully Submitted,



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MOTION FOR RECONSIDERATION AND ALTERNATIVE
MOTION FOR PERMISSIVE APPEAL OF ORDER
DENYING MOTION TO DISMISS KIM BODILY -3

CERTIFICATE OF SERVICE

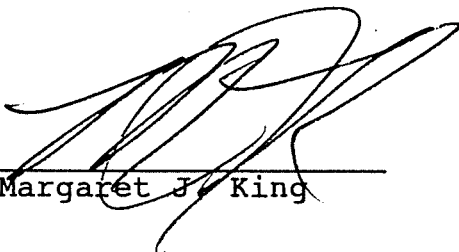
I hereby certify that on this 17th day of May, 1995, I served copies of the foregoing MOTION FOR RECONSIDERATION AND ALTERNATIVE MOTION FOR PERMISSIVE APPEAL OF ORDER DENYING MOTION TO DISMISS KIM BODILY by placing true and correct copies thereof in the United States mail, first class postage prepaid to each person listed below:

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