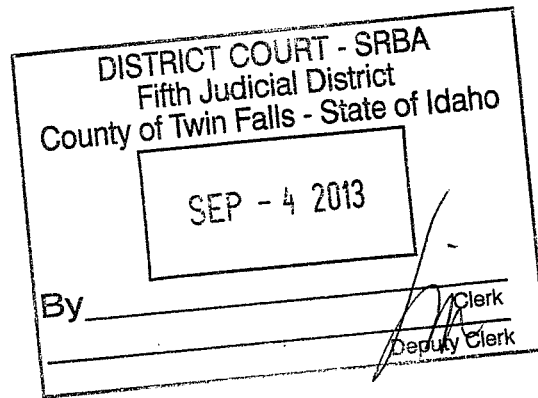


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SEP 05 2013

DEPARTMENT OF
WATER RESOURCES



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 29-12052
)
) INITIAL SCHEDULING ORDER ON
) JOINT MOTION FOR AN
) ACCOUNTING OF ALL GROUND
) WATER RIGHTS ENTITLED TO THE
) PROTECTIONS OF PARAGRAPH 29-
) 12052.X.C OF THE FORT HALL
) CONSENT DECREE; AND ORDER
) SETTING SCHEDULING
) CONFERENCE
)

This matter comes before the Court pursuant to a *Joint Motion for Accounting of all Ground Water Rights Entitled to the Protections of Paragraph 29-12052.X.C of the Fort Hall Consent Decree* (“*Joint Motion for Accounting*”) filed jointly by the United States, the Shoshone-Bannock Tribes (“Tribes”), the State of Idaho, and the Committee of Nine of Water District 1 (collectively identified as “Joint Movants”).

A. **The *Joint Motion for Accounting*.**

The *Joint Motion for Accounting* seeks an order from the Court requiring an accounting of all ground water rights entitled to the protections of Paragraph 29-12052.x.c of the *Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use of Water in the Upper Snake River Basin* (“*Fort Hall Consent Decree*”), which currently provides in relevant part:

The Tribes and the United States shall exercise this water right in a manner that ensures persons diverting ground water from the Bannock

Creek drainage prior to January 1, 1990, whose rights are decreed in the SRBA will continue to receive their full legal entitlement under state law. The parties will specifically enumerate the rights protected by this provision once the SRBA Decree for this basin becomes final.

(underline added). The *Joint Motion for Accounting* pertains to the underlined portion of the provision. The Joint Movants have identified those ground water rights they assert are entitled to the protections of Paragraph 29-12052.x.c. The *Joint Motion for Accounting* therefore seeks an order from the Court amending Paragraph 29-12052.x.c to enumerate those ground water rights partially decreed in the SRBA asserted to be entitled to the protections of Paragraph 29-12052.x.c., as follows:

The Tribes and the United States shall exercise this water right in a manner that ensures persons diverting ground water under partial decrees 29-2458, 29-2470, 29-2509, 29-2565, 29-4349, 29-7110, 29-7272, 29-7291, 29-7630, 29-10549, 29-13708, 29-13709, 29-13949, 29-13950, 29-13951, 29-13952, 29-13984, 29-13985 and under *de minimis* domestic and stock water rights with a priority date earlier than January 1, 1990, will continue to receive their full legal entitlement under state law. “*De minimis* domestic water right” for the purposes of this paragraph means (a) the use of water for homes, organization camps, public campgrounds, livestock, and for any purpose in connection therewith including irrigation of up to one-half (1/2) acre of land, if the total use is not in excess of thirteen thousand (13,000) gallons per day, or 14.5 acre-feet per year or less for storage, or (b) any other uses, if the total use does not exceed a diversion rate of four one-hundreds (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day. Domestic rights shall not include water for multiple ownership subdivisions, mobile home parks, or commercial or business establishments, unless the use meets the diversion rate and volume limitation set forth in (b) above. “*De minimis* stock water right” for purposes of this paragraph means the use of water solely for livestock or wildlife where the total diversion is not in excess of thirteen thousand (13,000) gallons per day or 14.5 acre-feet per year or less for storage.

[The ground water rights identified above in the proposed amendment are also listed in Attachment A to this *Order*.]

The *Joint Motion for Accounting* also seeks an order from the Court setting forth a procedure to give affected ground water users, whose rights are not included in the

proposed amendment, the opportunity to object and demonstrate why their rights should be included in the proposed amendment.

The *Joint Motion for Accounting* further seeks to have a remark included in each of the partial decrees of those water rights ultimately determined to be entitled to the protections Paragraph 29-12052.x.c, for purposes of administering water rights. The proposed remark would state as follows: "This ground water right is entitled to the protections of paragraph x.c of water right 29-12052."

The foregoing is a summary of the *Joint Motion for Accounting*. **Parties should review the *Joint Motion* for more detail.**

B. Order setting forth procedures and deadlines on the *Joint Motion for Accounting*.

Based on the foregoing THE FOLLOWING ARE HEREBY ORDERED:

1. **Service:** The Joint Movants shall provide personal service of their *Joint Motion for Accounting* on all ground water claimants in the Bannock Creek basin drainage, together with a copy of this *Order*, no later than **September 27, 2013**.

2. **Objections to *Joint Motion for Accounting*:** Parties should review the water right numbers enumerated in the proposed amendment and also listed as Attachment A to this *Order*. Parties wishing to object to their right(s) being excluded from the proposed amendment/list shall file an objection using a copy of the attached objection form entitled "OBJECTION TO JOINT MOTION FOR ACCOUNTING" and serving it on the parties identified in the certificate of mailing included on the form. **All objections shall be filed no later than October 28, 2013.**

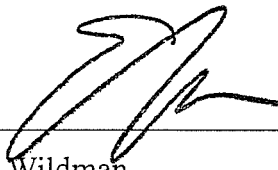
PARTIES FAILING TO OBJECT TO THEIR WATER RIGHT(S) BEING EXCLUDED FROM THE LIST OF PROTECTED RIGHTS WILL BE PRECLUDED FROM LATER RAISING AND BEING HEARD ON THAT ISSUE. PARTIES WHOSE WATER RIGHTS ARE ALREADY INCLUDED ON THE LIST NEED NOT FILE ANYTHING WITH RESPECT TO THE *JOINT MOTION FOR ACCOUNTING* AS THEIR RIGHT(S) WILL REMAIN ON THE LIST OF PROTECTED RIGHTS.

3. **Participation in Joint Motion for Accounting:** Parties not objecting to the *Joint Motion for Accounting* but wishing to participate in the proceedings shall file a notice of intent to participate using a copy of the attached form entitled "NOTICE OF INTENT TO PARTICIPATE IN THE JOINT MOTION FOR ACCOUNTING" and serving it on the parties identified in the certificate of mailing included on the form **no later than October 28, 2013.**

4. **Order Setting Scheduling Conference:** NOTICE IS HEREBY GIVEN that a scheduling conference in the above-captioned matter is set for **November 19, 2013, at 2:30 p.m. (Mountain Time) at the Snake River Basin Adjudication District Court, 253 3rd Avenue North, Twin Falls, Idaho.** Telephone participation will be available by dialing 1-215-446-0193 and entering 406128# when prompted. **However, no cell phones or speaker phones will be permitted as they interfere with our sound system making the proceeding difficult to accurately record.** Video teleconferencing ("VTC") will also be available by appearing at either (1) the Idaho Department of Water Resources, Idaho Water Center, 322 E. Front St., Conference Rm. B, Boise, Idaho, or (2) the Idaho Department of Water Resources, Eastern Regional Office, 900 N. Skyline Drive, Ste. A, Idaho Falls, Idaho.

IT IS SO ORDERED.

Dated Sept. 4, 2013


Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

29-2458
29-2470
29-2509
29-2565
29-4349
29-7110
29-7272
29-7291
29-7630
29-10549
29-13708
29-13709
29-13949
29-13950
29-13951
29-13952
29-13984
29-13985

**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 No: 29-12052
	)	
Case No. 39576	)	OBJECTION TO JOINT MOTION
	)	FOR ACCOUNTING
	)	
_____	)	

Please Print or Type the Following Information:

NAME AND ADDRESS OF PERSON OBJECTING:

Name: _____
Address: _____

Phone: _____

Name and Address of Attorney, if any:

Water Right Number(s) _____

Please Check Applicable Box:

- ☐ **I wish to object to my water right(s) not being included in the list of water rights entitled to the protections of Paragraph 29-12052.x.c of the Fort Hall Consent Decree.**

Signature: _____ Dated: _____

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this _____ day of _____, 2013, a true and correct copy of the foregoing was mailed with sufficient first-class postage to the following:

DIRECTOR OF IDWR
P.O. Box 83720
Boise, Idaho 83720

SHOSHONE-BANNOCK TRIBES
Represented By:
Jeanette Wolfley, Special Counsel
706 Paseo Sandia
Bernalillo, NM 87004

U.S. DEPARTMENT OF JUSTICE
Attn: Vanessa Boyd Willard
Environmental and Natural Resources
Division
U.S. Department of Justice
South Terrace, Ste. 370
999 18th Street
Denver, CO 80202

STATE OF IDAHO
Office of Attorney General
Attn: Clive Strong / Ann Y. Vonde
P.O. Box 44449
Boise, ID 83711-4449

COMMITTEE OF NINE
Represented By:
John K. Simpson
Barker, Rosholt & Simpson, LLP
P.O. Box 2139
Boise, ID 83702

SRBA DISTRICT COURT
P.O. Box 2707
Twin Falls, Idaho 83303-2707

Signature

**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 No: 29-12052
	)	
Case No. 39576	)	NOTICE OF INTENT TO
	)	PARTICIPATE IN THE <i>JOINT</i>
	)	<i>MOTION FOR ACCOUNTING</i>
	)	

Please Print or Type the Following Information:

NAME AND ADDRESS OF PERSON PARTICIPATING:

Name: _____
Address: _____
Phone: _____

Name and Address of Attorney, if any:

Water Right Number(s) _____

Please Check Applicable Box:

☐ **I wish to participate in the *Joint Motion for Accounting* filed in the above-mentioned subcase.**

Signature: _____ Dated: _____

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this _____ day of _____, 2013, a true and correct copy of the foregoing was mailed with sufficient first-class postage to the following:

DIRECTOR OF IDWR
P.O. Box 83720
Boise, Idaho 83720

SHOSHONE-BANNOCK TRIBES
Represented By:
Jeanette Wolfley, Special Counsel
706 Paseo Sandia
Bernalillo, NM 87004

U.S. DEPARTMENT OF JUSTICE
Attn: Vanessa Boyd Willard
Environmental and Natural Resources
Division
U.S. Department of Justice
South Terrace, Ste. 370
999 18th Street
Denver, CO 80202

STATE OF IDAHO
Office of Attorney General
Attn: Clive Strong / Ann Y. Vonde
P.O. Box 44449
Boise, ID 83711-4449

COMMITTEE OF NINE
Represented By:
John K. Simpson
Barker, Rosholt & Simpson, LLP
P.O. Box 2139
Boise, ID 83702

SRBA DISTRICT COURT
P.O. Box 2707
Twin Falls, Idaho 83303-2707

Signature

CERTIFICATE OF MAILING

I hereby certify that true and correct copies of the **INITIAL SCHEDULING ORDER ON JOINT MOTION FOR AN ACCOUNTING OF ALL GROUND WATER RIGHTS ENTITLED TO THE PROTECTIONS OF PARAGRAPH 29-12052.X.C OF THE FORT HALL CONSENT DECREE; AND ORDER SETTING SCHEDULING CONFERENCE**, were mailed on September 4, 2013, by first-class mail to the following:

DIRECTOR OF IDWR
PO Box 83720
Boise, ID 83720-0098

Candy L. Jackson
SHOSHONE-BANNOCK TRIBES
PO Box 306
Fort Hall, ID 83203

Rim View Trout
Represented by:
Daniel V. Steenson
SAWTOOTH LAW OFFICE PLLC
1101 W River St Ste 110
Boise, ID 83707

Charles Steiner
HC79 Box 2320
Oreana, ID 83650

Farm Development Corp.
Jeff Blanksma
Sailor Creek Water Co.
West End Project
Represented by:
RINGERT LAW CHARTERED
455 S 3rd St
PO Box 2773
Boise, ID 83701-2773

Allen Noble Farms Inc.
Allen T. Noble
C & T Ranches
Cottonwood Canal Company
Grindstone Butte Mutual Canal
Nampa & Meridian Irrigation
Rainbow Trout Farms
Represented by:
WILLIAM F. RINGERT
PO Box 2773
Boise, ID 38701-2773


Julie Murphy
Deputy Clerk