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Movant's Name:

UNITED STATES OF AMERICA

Attorneys' Names and Addresses:

LOIS J. SCHIFFER
Assistant Attorney General
Environment and Natural Resources Division

DARIA J. ZANE
Attorney, Department of Justice
General Litigation Section
Environment and Natural Resources Division
P.O. Box 663
Washington, D.C. 20044-0663
(202) 305-0471

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 No. 36-02080

UNITED STATES' RESPONSE TO
MOTION FOR PERMISSION TO FILE
DOCUMENTS AND BRIEF IN SUPPORT
OF MOTION FOR PERMISSIVE
APPEAL

Descriptive Summary

This is the United States' Response to the Magic Valley
Underground Pumper's Association's (hereinafter Association)
Motion for Permission to File Documents and Brief in Support of
Motion for Permissive Review. The United States does not oppose
granting this motion. However, the United States believes that
should the Court grant this motion and permit briefs and
documents to be filed, those submissions should also be docketed
to provide notice to all parties in accordance with

Administrative Order No. 1. In addition, pursuant to A.O. 1, any responses should be due following the docketing of such briefs.

I. DISCUSSION

The Association filed its motion for permissive appeal and for review on September 5, 1995. On December 14, 1995, the Court ordered that these documents be treated as a Motion for Permissive Review. The Court further ordered that the motion be docketed and that responses and replies would be governed by the docket sheet procedure. Under the Court's rule, the motion would be docketed on January 6, 1996, and responses due on February 15, 1996.

On December 28, 1995, the Association requested leave to file briefs in support of its motion. The Association requests that the Court grant it leave to file such brief fourteen (14) days following the granting of the motion.

The United States has no objection to the Court granting this motion. Of course, the United States reserves the right to file a response to any brief and documents submitted.

At the same time, the United States is concerned that unless certain conditions are placed on the granting of this motion, the notice provisions intended to be fulfilled through the docket sheet procedures and the parties' opportunity to respond will be compromised.

First, with regard to the notice provisions, the docket sheet was established to provide all parties to the SRBA with notice of filing of documents. This ensures that parties are on notice of the filing of documents. Under A.O. 1, parties, by

virtue of the docket sheet procedures, are also on notice of the amount of time within which they have to respond to any documents docketed.

In the present case, should the Court permit the filing of a brief to support the Motion for Permissive Review, unless this brief is docketed, parties will not be aware that there has been any filing, much less when such filing occurred. Thus, parties will not be aware that they should respond to such brief.

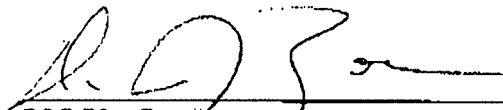
Second, under the current schedule, granting this motion would result in any briefs being filed after the docketing of the motion on January 6, 1996. As a result, parties will not have the full amount of time allotted under the docket sheet procedures with which to respond. The times set for filing responses under the docket sheet procedure were deemed by the Court to be necessary to ensure adequate time within which to respond. In the present case, this reduced amount of time might well result in an inadequate adequate amount of time within which to respond.

Both these concerns can be resolved by placing certain conditions on the granting of this motion. Specifically, the Court can assure notice of the brief and adequate response time by ordering that any documents and briefs submitted be docketed and that the parties then file their responses in accordance with docket sheet procedures calculated from the date of the docketing of these briefs.

II. CONCLUSION

WHEREFORE, for the foregoing reasons, the United States respectfully requests that if the Association's motion is granted, it be granted on the condition that the briefs and documents submitted be docketed. Any responses to such briefs and/or documents should be due according to docket sheet procedures following the filing of such brief and documents.

Respectfully submitted this 30 day of January, 1996.



DARIA J. LANE
Attorney, Department of Justice
Environment and Natural Resources
Division
General Litigation Section
P.O. Box 663
Washington, D.C. 20044-0663
(202) 305-0471

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ORDER

This matter having come before the Court upon the Association's Motion for Permission to File Documents and Brief in Support of Motion for Permissive Review. Upon consideration of this motion, and response thereto, it is

ORDERED that the motion should be and hereby is GRANTED. The Association shall file any briefs by January 31, 1996, and it is further

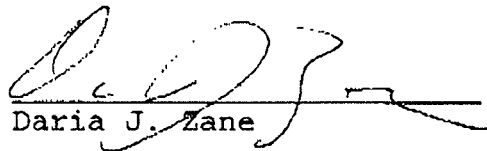
ORDERED that such briefs shall be docketed on the docket sheet procedures and parties shall file responses according to such procedures.

DATED and signed this _____ day of _____

TERRENCE A. DOLAN
Special Master, Reporting Area
No. 3
Snake River Basin Adjudication

Laird Lucas
Land & Water Fund
PO Box 1612
Boise, Idaho 83701
FAX: 208/342-8286

by fax



Daria J. Zane

FAX

1/3/96

TO: SRBA Court, 208/736-2121
Laird Lucas, 208/342-8286
Idaho State AG, 208/334-2690
IDWR, 208/327-5400
Michael Creamer, 208/343-9492
Roger Ling, 208/436-6804
CACI, 208/387-0842

FROM: Daria Zane

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