

RECEIVED

JUL 25 1996

Department of Water Resources
Adjudication Bureau

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

RECEIVED

JUL 24 1996

OFFICE OF THE
ATTORNEY GENERAL

DARIA J. ZANE
R. LEE LEININGER
PAUL F. HOLLEMAN
WILLIAM FERRY
Attorneys, Department of Justice
General Litigation Section
Environment and Natural Resources Division
P.O. Box 663
Washington, D.C. 20044-0663
(202) 305-0471, (202) 305-0242, (202) 305-0494

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. 57-11124 et.al. and 57-
	)	00243
	)	
	)	United States' Response to Second
	)	Motion to Extend Time for Responding
	)	to Interrogatories, Requests for
	)	Admissions and Requests for
Case No. 39576	)	Production of Documents.

DESCRIPTIVE SUMMARY

This is the United States' response to the second motion for extension of time to respond to discovery requests filed by Joyce Livestock, Chipmunk Grazing Association, Harry Richard Bass, Richard Brandeau and Ted Blackstock in subcase no. 57-00243.

Response

Joyce Livestock, Chipmunk Grazing Association, Harry Richard Bass, Richard Brandeau and Ted Blackstock (the "private claimants") were served with very limited, and nearly identical discovery in these consolidated SRBA subcase nos. 57-11124 et. al., on June 17, 1996. The purpose of that discovery was to

prepare for the July 13, 1996 summary judgment deadline in these consolidated cases. Under the Idaho Rules of Civil Procedure, answers to the discovery were due on or before July 1, 1996. I.R.C.P. 33(a)(2), 34(b)(2), 36(a). The private parties filed a motion for extension of time until July 3rd to respond. As indicated in that motion, counsel for the United States consented to this first extension of time until July 3rd. The private parties did not respond to any of the discovery by the July 3rd deadline, did not respond before the July 13, 1996 summary judgment deadline, have not responded to date, and have not filed a request for an extended deadline.¹

Because the discovery was not answered, the scope of the United States' initial motion for summary judgment was necessarily limited. The private claimants should not be allowed to benefit from their failure to respond to discovery, and, as argued in the United States' recent motion for summary judgment in these consolidated cases, should be bound by the requests for admission they refused to answer. I.R.C.P. 36(a); See United States Memorandum in Support of Motion for Summary Judgment at 2, 7.

¹The private claimants did file a motion for extension in subcase 57-00243, wherein they indicated that answers to discovery should not be expected until after the Court's July 13, 1996 summary judgment deadline had passed. They have not, however, filed any motion for extension of time in these consolidated cases. The United States has not filed any discovery requests to date in subcase 57-00243. Even if the Special Master were to consider their July 11th second motion for extension of time as filed in the 57-11124 et. al. consolidated subcases, it is untimely, being filed eight days after their first requested extension expired, and should be summarily denied.

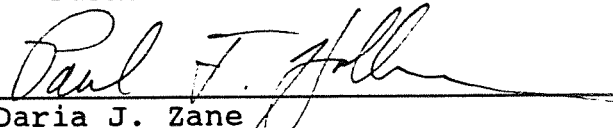
If the Court is inclined to grant the requested extension, even though untimely and filed in the wrong case, the Court should order that complete answers to the requested discovery be submitted as soon as possible. The United States respectfully requests that it be given two weeks from the date that answers are received to supplement its initial motion for summary judgment. This extension, necessitated by the private claimants' failure to timely respond to discovery, will require some modifications to the Special Master's trial schedule in this case.

Respectfully submitted this 18th day of July, 1996

UNITED STATES OF AMERICA
ON BEHALF OF
BUREAU OF LAND MANAGEMENT
DEPARTMENT OF THE INTERIOR

OF COUNSEL:

John Hockberger
Office of the Solicitor
Department of the Interior
Boise, Idaho 83702


Daria J. Zane
R. Lee Leininger
Paul F. Holleman
William Ferry
Attorneys, Department of Justice
Environment and Natural Resources
Division

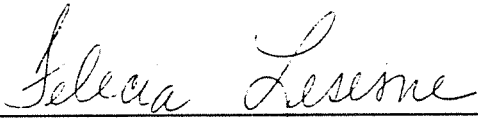
CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of July, 1996, I caused a true and correct copy of the **United States' Response to Second Motion to Extend Time for Responding to Interrogatories, Requests for Admissions and Request for Production of Documents** to be served by United States mail, postage prepaid, on the following persons:

Special Master Fritz X Hammerle
Snake River Basin Adjudication
P.O. Box 2707
Twin Falls, Idaho 83303-2707

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

Richard L. Harris
P.O. Box 1438
Caldwell, Idaho
83606-1438



FELECIA LESESNE