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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

MAY 18 2017

By

Clerk

Deputy Clerk

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 Nos. (see attached list)
)
)
) ORDER *SUA SPONTE* DISMISSING
) MOTION WITHOUT PREJUDICE
)
)

I.

BACKGROUND

1. On November 19, 1987, the Court entered an order commencing the Snake River Basin Adjudication ("SRBA").

2. The United States is a party to the SRBA. It filed numerous claims in the adjudication including those involved in the above-captioned subcases.

3. On August 26, 2014, the Court entered the *Final Unified Decree* in the SRBA. The *Final Unified Decree* completed the SRBA proceeding.¹ However, under its terms the Court retained jurisdiction over the proceeding for certain limited purposes. One purpose was to "enter partial decrees, orders of disallowance, or other final determination for the pending subcases listed in the *Order Regarding Subcases Pending Upon Entry of Final Unified Decree* entered contemporaneously herewith."

4. The above-captioned subcases were part of the small group of subcases pending unresolved upon entry of the *Final Unified Decree*. As a result, the Court filed its *Order Regarding Subcases Pending Upon Entry of Final Unified Decree* in the subcases. The *Order* provided in part that the Court "retains jurisdiction over [the] subcases until such time as a final determination is made and the time for appeal has run"

¹ No appeal was taken from entry of the *Final Unified Decree* and the time for seeking an appeal has expired.

5. *Partial Decrees* were entered in the above-captioned subcases on August 17, 2016, followed by *Amended Partial Decrees* on March 29, 2017.² The *Amended Partial Decrees* are final and appealable judgments that resolved all issues placed before the Court regarding the United States' claims. No party appealed the Court's issuance of the *Amended Partial Decrees* and the time for filing an appeal has passed.

6. Following entry of the *Amended Partial Decrees*, the parties informed the Court at various status conferences of an issue they have identified related to the subcases. The parties refer to the issue as the "reset issue." At a status conference held February 21, 2017, the parties notified the Court of their desire to attempt a negotiated resolution of the "reset issue" via mediation. To accommodate the parties in this respect the Court entered an *Order on Mediation* in the subcases.

7. In the *Order on Mediation*, the Court addressed the procedural posture of these subcases. Among other things, it noted that the "reset issue" has not been placed before the Court and that the subcases are closed:

These subcases came before the Court pursuant to a status conference held on February 21, 2017. At the hearing, the parties informed the Court of an issue they have identified related to the subcases. The parties refer to the issue as the "reset issue." *The Court notes that the parties have not placed the "reset issue" before the Court at this time. Procedurally, the above-captioned subcases are closed. Final judgments have been entered in the form of Partial Decrees and no post-judgment motions have been filed in an attempt to set aside or seek relief from those judgments.* That said, the parties informed the Court of their desire to attempt to negotiate a resolution of the "reset issue" short of court involvement pursuant to a sixty-day mediated period. In the event that no resolution is reached, the parties agreed that post-judgment motions shall be filed following the expiration of the sixty-day mediated period. *Although no issue in these subcases has been placed before the Court at this time, the Court agreed to issue this order in an attempt to facilitate the parties' desire to reach a negotiated settlement of what they have characterized as the "reset issue."*

Order on Mediation, p.1 (emphasis added).

² *Amended Partial Decrees* were entered pursuant to Idaho Rule of Civil Procedure 60(a) for the limited purpose of correcting various clerical errors contained in the *Partial Decrees*.

8. The parties' attempt at mediation was unsuccessful. On May 15, 2017, the Surface Water Coalition filed a *Joint Motion to Decree General Provision* in the subcases.³ The *Motion* asks the Court to decree a new general provision in the SRBA.

II. ANALYSIS

Under Idaho law, the question of subject matter jurisdiction may be raised by the Court at any time *sua sponte*. *In Re Quesnell Dairy*, 143 Idaho 691, 693, 152 P.3d 562, 564 (2006). The Court elects to do so here with respect to the Surface Water Coalition's *Motion*. A determination that a court lacks jurisdiction to issue an order or judgment has weighty ramifications:

[B]ecause of the serious ramifications and consequences which could follow from a court acting without jurisdiction over the subject matter, we recognize that it is important to keep that concept clearly defined. For example, the defense of lack of jurisdiction over the subject matter is never waived; purported judgments entered by a court without jurisdiction over the subject matter are void and as such are subject to collateral attack, and are not entitled to recognition in other states under the full faith and credit clause of the United States Constitution. In addition, judges who act without jurisdiction over the subject matter may be liable for damages in civil actions. For these reasons, it may work considerable mischief to confuse lack of jurisdiction over the subject matter with questions of venue, other aspects of jurisdiction, or defenses which may bar relief or render it improper or inappropriate for a court to proceed with a case even though it has jurisdiction over the subject matter.

Sierra Life Ins. Co. v. Granata, 99 Idaho 624, 626-627, 586 P.2d 1068, 1070-1071 (1978) (internal citations omitted). Here, the Court holds it lacks the power to hear or determine the issues raised in the Surface Water Coalition's *Motion* in these subcases.

A. The Court's jurisdiction over these subcases expired when final judgments were entered and the time for appeal passed.

The Court's finding that it lacks jurisdiction is informed by the procedural posture of these subcases. The subcases were initiated when the United States filed notices of claim for the above-captioned water rights in the SRBA. Objections to the claims were filed by various

³ The term "Surface Water Coalition" refers collectively to the A&B Irrigation District, American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company.

parties to the adjudication. All issues raised by the objections were resolved via stipulation of the parties dated January 30, 2015. The Court then entered final judgments consistent with the stipulation in the form of *Amended Partial Decrees*. Thus, prior to the filing of the Surface Water Coalition's *Motion*, final judgments were entered on all claims for relief in these subcases and no appeal was taken. As a result, the subcases are now closed.

Under Idaho law, a district court does not retain perpetual jurisdiction over a proceeding following entry of final judgment. To the contrary, absent a statute, rule or other authority extending its jurisdiction a district court's jurisdiction expires once the judgment entered becomes final. *See e.g., State v. Jakoski*, 139 Idaho 352, 355, 79 P.2d 711, 714 (2003) ("[a]bsent a statute or rule extending its jurisdiction, the trial court's jurisdiction to amend or set aside a judgment expires once the judgment becomes final. . . ."). Here, the judgments entered in the above-captioned subcases have become final. As a result, the Court's jurisdiction in these subcases has expired absent a statute or rule extending it.

The Surface Water Coalition asserts that the Court has jurisdiction pursuant to its *Order Regarding Subcases Pending Upon Entry of Final Unified Decree*. The Court disagrees. Under the *Order* the Court retained jurisdiction over the subcases notwithstanding entry of the *Final Unified Decree* "until such time as a final determination is made and the time for appeal has run." Final judgments have been entered and the time for appeal has run in these subcases, so this provision of the *Order* does not extend jurisdiction under facts and circumstances present here. The *Order* continues stating that following expiration of the appeal time, the Court "retains jurisdiction pursuant to the Final Unified Decree, Section IV, paragraph 17." This provision refers to the retained jurisdiction provision of the *Final Unified Decree*. The retained jurisdiction provision of the *Final Unified Decree* retains jurisdiction over the adjudication generally for certain specified purposes, but does not extend the Court's jurisdiction in these particular subcases.⁴ Therefore, the Court holds that its *Order Regarding Subcases Pending*

⁴ Under the *Final Unified Decree*, the Court retained jurisdiction over the adjudication generally to: "a) resolve any issues related to the Final Unified Decree that are not reviewable under the Idaho Administrative Procedures Act and/or the rules of the Idaho Department of Water Resources; b) adjudicate any domestic or stock water rights deferred under this Court's June 28, 2012, *Order Governing Procedures in the SRBA for Adjudication of Deferred De Minimis Domestic and Stock Water Claims*; and c) enter partial decrees, orders of disallowance, or other final determination for the pending subcases listed in the *Order Regarding Subcases Pending Upon Entry of Final Unified Decree* entered contemporaneously herewith."

Upon Entry of Final Unified Decree does not extend its jurisdiction in these subcases under the facts and circumstances present here.

The Court's *Order on Mediation* likewise does not extend the Court's jurisdiction in these subcases. The Court entered the *Order on Mediation* at the request and agreement of the parties. When the Court entered the *Order* it noted the "reset issue" has not been placed before it. *Order on Mediation*, p.1. Further, that the "subcases are closed," as "[f]inal judgment have been entered in the form of *Partial Decrees* and no post-judgment motions have been filed in an attempt to set aside or seek relief from those judgments." *Id.* In the event that mediation was unsuccessful, the parties agreed any post-judgment motions should be filed within a time certain. Therefore, in its *Order on Mediation* the Court included the following provision:

Filing of Post-Judgment Motions: Pursuant to the request of the parties, the Court orders that in the event that no resolution of the "reset issue" is reached within the sixty day mediation period, the parties shall file, should they so desire, any post-judgment motions they deem appropriate with respect to the above-captioned subcases prior to May 16, 2017. *The post-judgment motions should be made pursuant to and in accordance with the appropriate Idaho Rules of Civil Procedure.*

Order on Mediation, p.2 (emphasis added). This provision does not extend its jurisdiction in these subcases. Rather it simply recognizes that the parties may file any post-judgment motions "in accordance with the appropriate Idaho Rules of Civil Procedure," such as Idaho Rule of Civil Procedure 60(b). Here, the Surface Water Coalition's *Motion* is not filed pursuant to any Idaho Rule of Civil Procedure.

In sum, the judgments entered in these subcases have become final and the Court's jurisdiction over these subcases has expired. Since the Surface Water Coalition has not directed the Court to any rule, statute, or other authority through which the Court may extend its jurisdiction to hear its *Motion*, the *Motion* must be dismissed. The Court notes that it raises the issue of jurisdiction *sua sponte* at this time to avoid the time and expense of proceeding with the *Motion* only to have the jurisdictional issue raise its head either later in this proceeding or before a higher court on appeal.

B. Taking up the *Motion* in these subcases is unworkable from a procedural perspective.

Taking up the *Motion* in these subcases under the conditions as they now exist makes little sense from a procedural perspective. It does not appear the Surface Water Coalition wishes to set aside, amend or otherwise affect the judgments entered in these subcases. Indeed, it has not moved the Court to set aside the judgments under Rule 60(b). Rather, its *Motion* asks this Court to decree a new general provision in the SRBA. Were this Court to grant the *Motion*, the result would be the issuance of a second final and appealable judgment in these subcases in the form of an *Order of Partial Decree for General Provision*. The Idaho Rules of Civil Procedure and Idaho Appellate Rules do not permit two final and appealable judgments to be entered in a single proceeding under the circumstances present here. See e.g., I.R.C.P. 54(a) & I.A.R. 14.

The Court also has concerns with notice. Again, the *Motion* does not seek to reopen these subcases. It moves the Court to decree a new general provision in the SRBA. Nevertheless, the Surface Water Coalition only served the *Motion* on the existing parties to the subcases. Other parties to the adjudication may wish to participate in a proceeding to determine whether a new general provision should be decreed in the SRBA. There are issues regarding what type of notice and opportunity must be given these parties, including how and under what circumstances they would be permitted to appear in these subcases. From the perspective of other parties to the adjudication the subcases were resolved according to the elements decreed in the *Partial Decrees*. The proposed general provision has the effect of affecting the *Partial Decrees* and has the potential to impact the water rights of parties other than those parties to these subcases. The Court does not reach these issues here since it finds it lacks jurisdiction over the *Motion* in these subcases. It only notes these issues to highlight some of the procedural irregularities that may occur were the Court to proceed on the *Motion* in these subcases.

C. The *Motion* is dismissed without prejudice.

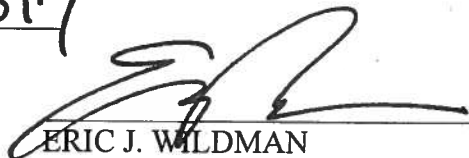
The Court in an exercise of its discretion dismisses the *Motion* without prejudice. Should the Surface Water Coalition wish to refile it in the above-captioned subcases it must first take the appropriate steps to set aside the *Final Unified Decree* and reopen the subcases consistent with

the Idaho Rules of Civil Procedure.⁵ Should they wish to refile it under the retained jurisdiction provision (Section IV, ¶17) of the *Final Unified Decree* they must establish that the *Motion* appropriately falls within one of the limited categories over which this Court retained jurisdiction. Should they wish to refile it in the SRBA outside of the *Final Unified Decree* retained jurisdiction provision (for instance under the SRBA main case number or under a new subcase number), they must take the appropriate steps to set aside the *Final Unified Decree* to allow for such a filing. Should they wish to refile in any other fashion, they must establish that the Court has the jurisdiction to hear the *Motion* given the issuance of the *Final Unified Decree*. The Court does not prejudge the merits of any of these refiling possibilities at this time.

III.
ORDER

Therefore, IT IS ORDERED that the Surface Water Coalition's *Joint Motion to Decree General Provision* is hereby dismissed without prejudice.

DATED: May 18, 2017


ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

⁵ Arguably it must also address the Court's *Order on Mediation* which set a deadline for the filing of post-judgment motions in these subcases pursuant to the agreement of the parties.

Subcase Nos:

01-00219
01-02064
01-02068
01-04055
01-10042
01-10043
01-10044
01-10045
01-10620
01-10621A
01-10621B
01-10622
01-10623
21-02156
21-04155
21-10560
21-13161
25-07004

CERTIFICATE OF MAILING

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