

RECEIVED

APR 27 2021

DEPARTMENT OF
WATER RESOURCES

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

APR 22 2021

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 No. 61-248 and 61-10419

)

)

) **ORDER ON MOTIONS TO**
) **STRIKE**

)

)

On February 26, 2021, Petitioner Mountain Home Irrigation District ("District") filed a *Motion to Strike* ("First Motion to Strike"). The *First Motion to Strike* seeks to strike paragraph 6 of the *Affidavit of Timothy M. Healy*, filed February 16, 2021, and paragraphs 5, 6, and 7 of the *Affidavit of Daniel P. Weitz*, filed on that same date. It also seeks to strike Exhibit 1 to the *Memorandum in Support of Weitz's Motion for Summary Judgment*, filed February 16, 2021. Respondent Weitz & Company, Inc. ("Weitz") opposes the *First Motion to Strike*.

On March 4, 2021, the District filed its *Second Motion to Strike*. The *Second Motion to Strike* seeks to strike footnote 2 and Exhibits 1 and 2 to *Weitz's Response to MHID's Motion for Summary Judgment*, filed February 26, 2021. Weitz opposes the *Second Motion to Strike*.

A hearing on the *Motions* was held before the Court on March 18, 2021. In an exercise of its discretion, and for the reasons set forth on the record, the Court granted the *First Motion to Strike* in part and denied it in part as set forth below. The Court granted the *Second Motion to Strike*.

THEREFORE, BASED ON THE FOREGOING, THE FOLLOWING ARE HEREBY ORDERED:

1. The District's *First Motion to Strike* is granted in part and denied in part.
2. The District's *First Motion to Strike* is granted to the extent it seeks to strike that portion of paragraph 6 of the *Affidavit of Timothy M. Healy* stating that water delivered to Bennett Ranch by the District "is allocated under Water Right No. 61-248."

3. The District's *Frist Motion to Strike* is granted to the extent it seeks to strike paragraphs 5 and 7 of the *Affidavit of Daniel P. Weitz*.

4. The District's *Frist Motion to Strike* is granted to the extent it seeks to strike that portion of paragraph 6 of the *Affidavit of Daniel P. Weitz* stating that water right 61-248 "continues to be" exercised at present. The District's request to strike the remainder of paragraph 6 of the *Affidavit of Daniel P. Weitz* is denied.

5. The District's *First Motion to Strike* is denied to the extent it seeks to strike Exhibit 1 to the *Memorandum in Support of Weitz's Motion for Summary Judgment*.

6. The District's *Second Motion to Strike* is granted.

IT IS SO ORDERED.

Dated April 22, 2021



ERIC J. WILDMAN
District Judge

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER ON MOTIONS TO STRIKE was mailed on April 22, 2021, with sufficient first-class postage to the following:

CHRIS M BROMLEY
380 S 4TH STREET STE 103
BOISE, ID 83702
Phone: 208-287-0991

JAMES BROWITT
SCHROEDER LAW OFFICES PC
1915 NE CESAR E CHAVEZ BLVD
PORTLAND, OR 97212
Phone: 503-281-4100

LAURA A SCHROEDER
SCHROEDER LAW OFFICES PC
1915 NE CESAR E CHAVEZ BLVD
PORTLAND, OR 97212
Phone: 503-281-4100

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

MOUNTAIN HOME IRRIGATION DIST
VERIFIED PETITION FOR
DECLARATORY JUDGMENT