

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF POWER**

MONTE EVANS, KEVIN NORTH, KEN
ESTEP, JERRE EVANS, GARN FARMS,
and JAY MEYERS,

Plaintiffs,

vs.

A. JACOB ANDERSEN,

Defendant.

Case No. CV-14-168

**AMENDED MEMORANDUM
DECISION AND ORDER**

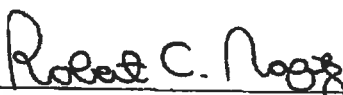
Defendant filed a Motion for Summary Judgment in this matter on September 8, 2017, asking this Court to grant summary judgment in his favor by finding as a matter of undisputed fact and law that water right no. 29-2470 has not been forfeited on the basis that (a) the forfeiture rule was tolled during the pendency of the Snake River Basin Adjudication, and/or (b) the adjudication of the Tribes' water right constitutes circumstances beyond the control of the owner of water right no. 29-2470 under Idaho Code § 42-223(6). Thereafter, Plaintiffs filed a Response to Defendant's Summary Judgment Motion on September 26, 2017, stating that Plaintiffs did not oppose Defendant's Motion for Summary Judgment.

On October 4, 2017, this Court issued a Memorandum Decision and Order granting Defendant's Motion for Summary Judgment. Defendant thereafter filed a Motion for Clarification or Reconsideration asking this Court to clarify whether its Memorandum Decision and Order reflects a decision on the merits of Defendant's Motion for Summary Judgment.

The Court hereby grants Defendant's Motion for Clarification and enters this Amended Memorandum Decision and Order to clarify that the Court granted Defendant's Motion for Summary Judgment on the merits, finding as a matter of undisputed fact and

law that water right no. 29-2470 has not been forfeited on the basis that (a) the forfeiture rule was tolled during the pendency of the Snake River Basin Adjudication, and (b) the adjudication of the Tribes' water right constitutes circumstances beyond the control of the owner of water right no. 29-2470 under Idaho Code § 42-223(6).

IT IS SO ORDERED this ^{November} ~~October~~ 3, 2017.



ROBERT C. NANTZ
District Judge

CERTIFICATE OF SERVICE

I CERTIFY that on this 3 day of ~~October~~ ^{November}, 2017, I served a true and correct copy of the foregoing document water served on the following persons in the manner indicated:

Jerry R. Rigby
RIGBY, ANDRUS
& RIGBY LAW, PLLC
25 N. Second East
P.O. Box 250
Rexburg, ID 83440
jrigby@rex-law.com

- ☐ U.S. Mail/Postage Prepaid
- ☐ Facsimile
- ☐ Overnight Mail
- ☐ Hand Delivery
- ☒ E-Mail

Thomas J. Budge (ISB No.7465)
RACINE OLSON NYE & BUDGE,
CHARTERED
201 E. Center St. / P.O. Box 1391
Pocatello, Idaho 83204-1391
tjb@racinelaw.net

- ☐ U.S. Mail/Postage Prepaid
- ☐ Facsimile
- ☐ Overnight Mail
- ☐ Hand Delivery
- ☒ E-Mai



Maria Campbell
Clerk of the Court