

**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) **Consolidated Subcase: 91-63**
)
Case No. 39576) **SCHEDULING ORDER**
)
_____)

On July 15, 2003, the Court held a scheduling and status conference on the above-captioned matter. Therefore, **IT IS ORDERED** that the following schedule shall apply:

1. Statement of Issues: In general, the issue in this consolidated subcase addresses the ownership of certain water rights as between the Bureau of Reclamation (BOR) and various irrigation delivery entities responsible for delivering the water to the end water user. The water is stored in and delivered from Arrow Rock Dam and Reservoir, Lucky Peak Dam and Reservoir and Anderson Ranch Dam and Reservoir by the BOR to the irrigation entities pursuant to statutorily defined contracts entered into between the BOR and the entities. This consolidated subcase is limited to these three reservoirs.

While there may ultimately exist factual issues unique to these particular rights and contracts, based on similar issues raised in the SRBA, which were ultimately settled, as well as in other jurisdictions, the Court initially viewed the issue in this case as primarily involving matters of law concerning statutory and contract interpretation. Procedurally, because the Court rescinded the *Order of Reference* from the Special Master, together with the opportunity for parties to the adjudication to file motions to alter or amend on legal issues, the Court requested interested parties to file motions to participate.

However, because of this Judge's recent appointment, this Judge is unwilling to address the matter substantively, other than to enter a scheduling order to keep the matter moving during the pendency of the appointment of a new presiding judge. In an effort to assist this Judge's replacement with ruling on participation by other parties to the adjudication and defining the issues for summary judgment, the parties, including those seeking to participate, shall file with the Court a statement of the issues that party asserts to be involved in the consolidated subcase,

and whether that party believes the issue to be factual or legal in nature. **Said statements shall be filed no later than 5:00 p.m., Friday, August 15, 2003.**

2. Responses to Intervention: Any response or objection to intervention shall be filed **no later than 5:00 p.m., Friday, September 5, 2003.**

3. Hearing on Motion/Notices of Intent to Participate: October 21, 2003, at 1:30 p.m. at the SRBA Courthouse, 253 3rd Ave. N., Twin Falls, Idaho. Those who wish to participate by phone may do so by calling 1-918-583-3445 and entering participant code 406128 when prompted.

4. Negotiation Period: The parties **shall have until December 31, 2003**, within which to negotiate a settlement concerning the ownership of the subject water rights as between the irrigation entities and the BOR.

5. Order Concerning Discovery: At this stage of the proceedings the court will allow discovery only through leave of Court. If it is determined that the issues presented extend to more than questions of law concerning statutory and contractual interpretation, and factual issues become present, any party may motion the Court for the opportunity to conduct very limited discovery. However, if it is ultimately agreed by the parties that factual issues are present then there is no point in the Court moving ahead with a briefing schedule on summary judgment proceedings.

6. Briefing Schedule: Because the intent of the Court was to decide the matter as a legal issue on a summary judgment proceeding, the following briefing schedule shall apply, but may be amended depending on the progress of the negotiations:

Opening Briefs and Affidavits: Opening briefs and affidavits shall be filed with the Court and served on the parties **no later than 5:00 p.m., Friday, February 27, 2004.**

Responsive Briefs and Affidavits: Responsive briefs and affidavits shall be filed with the Court and served on the parties **no later than 5:00 p.m., Wednesday, March 31, 2004.**

Reply Briefs: Reply briefs and affidavits shall be filed with the Court and served on the parties **no later than 5:00 p.m., Friday, April 16, 2004.**

A hearing will be set at a later date by separate notice.

DATED: July _____, 2003.

ROGER S. BURDICK
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of this **SCHEDULING ORDER** was mailed on July 25, 2003, with sufficient first-class postage to the following:

Boise Project Board of Control

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Ballentyne Ditch Company
Boise Valley Irrigation Ditch Co.
Eagle Island Water Users Assoc.
Eureka Water Company
Farmers Cooperative Ditch Co.
Nampa & Meridian Irrigation District
New Dry Creek Ditch Company
South Boise Water Company
Thurman Mill Ditch Company

Represented by:
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Canyon County Water Company
Farmers Union Ditch Company
Middleton Irrigation Assoc.
Middleton Mill Ditch Company

Represented by:
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Pioneer Irrigation District
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Represented by:
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Deputy Clerk