

May 7, 2003

Frances McGovern
P.O. Box 1556
Ross, CA 94957

Dear Mr. McGovern:

For some period of time I have been mulling the continued efficacy of the mediation on the Nez Perce issues in the Snake River Basin Adjudication. This mediation started in 1998. I tried to energize it with certain scheduling and status conferences in 2002 and there was some progress as a result. I know that many outstanding attorneys have tried their hardest to bring this mediation to a fruitful conclusion. I have immense respect for those individuals who see the greater good and try to bring their clients to it. I cannot imagine the amount of time and energy some of these great attorneys have put into this mediation. That is the main reason that I have kept a hands off attitude and allowed the mediation to progress at its own pace.

However, in order to try this lawsuit within a reasonable period of time, many years of preparation will be necessary. In addition, the Idaho Supreme Court has stayed Judge Wood's Nez Perce decision while awaiting results from this mediation. I have tried to move other issues forward in the Nez Perce case, but while Judge Wood's opinion is on appeal, the consensus has been that nothing can go forward.

Notwithstanding the progress that might have been made, I believe it is necessary to order this mediation to end on June 2, 2003. After that date I will not entertain any further motions to restart the mediation prior to trial. This Court expects to put this on a pure litigation track. I understand the costs the parties might be put to by this decision; however, I believe that this issue must come to some conclusion.

I cannot understate my appreciation for the talent and effort you have brought to this herculean enterprise. Getting to work with you has been a true learning experience and pleasure. I have enclosed a copy of the order which I have signed. You will note that I have sent a copy of this letter and order to Chief Justice Trout of the Idaho Supreme Court. I have sent copies of this letter, as well as this order, to all of the individuals on

the expedited mailing list and also will post it on the internet for notice to all parties in the SRBA.

Thank you for your efforts.

Sincerely,

Roger S. Burdick
Presiding Judge
Snake River Basin Adjudication

RSB:sb

Enc.

CC: Chief Justice Trout

Expedited Mailing List Recipients