

**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: 37-2499 et al.**
) **(Comprising Subcases in Exhibit A)**
Case No. 39576)
) **ORDER SEPARATING AND CONSOLIDATING COMMON**
) **ISSUE FROM SUBCASES; AOI §§ 11 AND 16, I.R.C.P. 42;**
) **ORDER FOR MORE DEFINITE STATEMENT; AND NOTICE**
) **OF HEARING ON WHETHER TO DESIGNATE AS**
) **BASIN-WIDE ISSUE AND SCHEDULING**
)
_____)

This matter came before the Court pursuant to objections filed by Faulkner Land & Livestock on behalf of North Snake Ground Water District (NSGWD) to each of the 346 water rights recommended as allowed in the *Basin 37, Part 1, Groundwater Director's Report*. The objections are identical and seek to incorporate terms of the Swan Falls Agreement into the 346 *Partial Decrees* as either remarks or as a general provision. Specifically, the objections state:

This water right must be decreed with the appropriate remarks and/or general provisions necessary to incorporate the protections accorded by the October 25, 1984 Swan Falls Agreement, the October 25, 1984 Swan Falls Contract, the 1982 State Water Plan as amended in 1985 (hereinafter jointly referred to as the Swan Falls Agreement), and other related law. Such remarks and/or general provisions are necessary to define the right, and or clarify the elements of the right, and/or administer the right.

Because of the number of the objections, the potential for the same issue to be raised in subsequent *Director's Reports*, and because the objections involve an issue of law, the Presiding Judge intends to preside over the matter. This will also promote an early resolution of the matter as opposed to proceeding in individual subcases and potentially before different Special Masters. In the event the Court determines to proceed as a general provision, any delays in issuing partial decrees occasioned by an appeal will also be avoided.

THEREFORE, THE FOLLOWING ARE ORDERED:

- 1. ORDER SEPARATING AND CONSOLIDATING ISSUE:** Pursuant to *AOI § 11* and I.R.C.P. 42, the 346 objections to the water rights listed in Exhibit A pertaining to the above-referenced issue are hereby consolidated for resolution as consolidated subcase 37-2499. The remaining unrelated objections that were also filed in 19 of the 346 subcases will be referred to a Special Master for resolution by a separate order of reference.
- 2. FILING/SERVICE OF MORE DEFINITE STATEMENT BY OBJECTOR:** The Objector, NSGWD, shall file with the Court and serve on the parties to subcases in which the objections were filed, a more definite statement containing the specific language NSGWD proposes to be included as either a remark in the partial decrees or as a general provision. **Said filing and service shall be made by 5:00 p.m., January 10, 2003.**

3. RESPONSES BY PARTIES INTENDING TO PARTICIPATE: For purposes of determining the number of parties intending to participate in the issue and identifying and aligning issues, any party to the SRBA intending to participate in the proceedings shall file a response with the Court and serve a copy on NSGWD no later than **5.p.m. February 10, 2002**. The response should address whether or not to designate the issue as basin-wide and state that party's position on the substance of the objection. Parties to the individual subcases who previously filed responses to the objection will be deemed parties to the consolidated subcase.

4. NOTICE OF HEARING: An initial hearing will be held on the matter on **February 18, 2003 at 1:30 p.m. at the Snake River Basin Adjudication Courthouse, 253 3rd Avenue North, Twin Falls, Idaho. Telephone participation will be available by calling 1-918-583-3445 and entering 406128 when prompted.** At the hearing the Court will determine whether or not to designate the matter as a basin-wide issue. The Court will require that NSGWD set forth with particularity the reasons for the relief being sought and the scope of additional water rights, if any, to which the objection may be raised in the future. The Court will also request comment from IDWR as well as address scheduling matters.

5. NOTICE TO PARTIES: Notice of this hearing will be by both docket sheet and service to parties to the 346 individual subcases. Following the hearing only those parties intending to participate in the issue will receive notice by service.

DATED November 25, 2002.

ROGER BURDICK
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that on _____, 2002, I mailed copies of the ORDER SEPARATING AND CONSOLIDATING COMMON ISSUE FROM SUBCASES; *AOI* §§ 11 AND 16, I.R.C.P. 42; ORDER FOR MORE DEFINITE STATEMENT; AND NOTICE OF HEARING ON WHETHER TO DESIGNATE AS BASIN-WIDE ISSUE AND SCHEDULING by first-class mail, postage paid to the following:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Josephine P. Beeman
409 W Jefferson St
Boise, ID 83702
Representing Faulkner Land & Livestock Co., Inc.

Deputy Clerk