

2-17-2015

## Order Bifurcating Proceedings

Eric J. Wildman

*Presiding Judge, Coeur d'Alene-Spokane River Basin Adjudication*

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<b>DISTRICT COURT - CSRBA</b> Fifth Judicial District County of Twin Falls - State of Idaho	
<div style="border: 1px solid black; padding: 5px; display: inline-block;"> <b>FEB 17 2015</b> </div>	
By _____	Clerk Deputy <i>[Signature]</i>

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

**In Re CSRBA**

**Case No. 49576**

- ) **Subcase No. 91-7755**
- ) **(353 consolidated subcases (see attached list))**
- )
- ) **ORDER CONSOLIDATING SUBCASES**
- )
- ) **ORDER BIFURCATING PROCEEDINGS**
- )
- ) **SCHEDULING ORDER**
- )
- )
- )
- )
- )

**I.**

**PROCEDURAL BACKGROUND**

1. The United States of America, as trustee on behalf of the Coeur d'Alene Tribe ("Tribe"), filed 353 water right claims on behalf of the Tribe in the Coeur d'Alene-Spokane River Basin Adjudication ("CSRBA"). The claims will be referred to herein collectively as "the Tribal Claims." Objections and Responses to some or all of the Tribal Claims were filed by various parties.

2. On January 9, 2015, this Court issued a *Notice of Scheduling Conference* in the above-captioned subcases. Among other things, the *Notice* gave the parties the opportunity to submit a proposal for scheduling in these subcases.

3. On February 6, 2015, a *Joint Proposed Scheduling Order* was filed by the following parties: (1) the United States; (2) the State of Idaho; (3) the City of Coeur d'Alene; (4) Alpine Meadows Water and Sewer District, *et al.*; (5) Steve Addington, *et al.*; (6) Benewah County, *et al.*; (7) Hecla Mining Co.; and (8) Bernard Weber, *et al.* (i.e., the members of the North Idaho Water Rights Alliance).

4. A scheduling conference was held before this Court on February 12, 2015. No party opposed the *Joint Proposed Scheduling Order* submitted by the parties previously identified. Also, the parties discussed consolidating all Tribal Claims subcases into subcase number 91-7755, and bifurcating the proceedings between issues of entitlement and issues of quantification. No party opposed consolidation or bifurcation.

## II. CONSOLIDATION

The Idaho Supreme Court has directed that “whenever the court is of the opinion that it may expedite its business and further the interests of the litigants, at the same time minimizing the expense upon the public and the litigants alike, the order of consolidation should be made.” *Branom v. Smith Frozen Foods of Idaho, Inc.*, 83 Idaho 502, 508, 365 P.2d 958, 961 (1961). This Court finds that the Tribal Claims and Objections and Responses thereto may involve similar issues, and that consolidation of those subcases will expedite their resolution. Further, at the scheduling conference held before this Court on February 12, 2015, no party opposed consolidation. Therefore, the Tribal Claims subcases shall be consolidated into subcase number 91-7755, with the understanding that upon motion by the parties, or upon this Court’s own initiative, the subcases may be deconsolidated at a future date if circumstances so require.

## III. BIFURCATION

The *Joint Proposed Scheduling Order* proposed that the proceedings in the above-captioned subcases be bifurcated into issues of entitlement and quantification. Further, that issues related to entitlement be addressed in a single proceeding prior to litigation of quantification issues. At the scheduling conference held before this Court on February 12, 2015, no party opposed bifurcating the proceedings in this fashion. Therefore, proceedings in the above-captioned subcases shall be bifurcated between issues of entitlement and issues of quantification. Issues related to entitlement will be addressed in a single proceeding prior to litigation of quantification issues.

#### IV.

#### SCHEDULING ORDER

The *Joint Proposed Scheduling Order* sets forth a proposed schedule for litigation of entitlement issues. At the scheduling conference held before this Court on February 12, 2015, no party opposed the *Joint Proposed Scheduling Order*. In addition to the deadlines set forth in the *Joint Proposed Scheduling Order*, the Court directed that the parties shall submit a proposed order to the Court on or before June 6, 2015, setting forth a proposed process for settlement negotiations related to the above-captioned subcases. Therefore, the Court will adopt the deadlines and trial date set forth in the *Joint Proposed Scheduling Order*, with the addition of a deadline to submit a proposed order setting forth the process for settlement negotiations.

#### V.

#### ORDER

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

1. The Tribal Claims subcases are hereby consolidated into subcase number 91-7755 until further order of the Court. All further captions used in this proceeding shall be styled as shown above.

2. Proceedings in the above-captioned consolidated subcase shall be bifurcated between issues of entitlement and issues of quantification. Issues related to entitlement will be addressed in a single proceeding prior to litigation of quantification issues.

3. The parties shall abide by the following deadlines and schedule for litigation of entitlement issues in the above-captioned consolidated subcase:

April 15, 2015: United States initial disclosure of public records related to entitlement and identification of entitlement experts and subject matter on which they are expected to testify.

May 7, 2015: Initial settlement discussions.

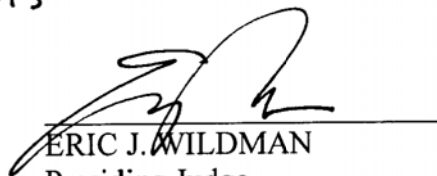
May 15, 2015: State and Objector disclosure of public records related to entitlement, if any. State disclosure of entitlement experts and subject matter on which they are expected to testify.

June 8, 2015: Deadline for parties to submit to the Court a proposed order setting forth a proposed process for settlement negotiations.

- September 1, 2015: Open formal discovery on entitlement.
- November 2, 2015: Disclosure of United States' expert reports and supporting documents.
- February 1, 2016: Disclosure of State's expert reports and supporting documents.
- April 1, 2016: Disclosure of Objectors' expert reports and supporting documents.
- May 27, 2016: Disclosure of United States' rebuttal expert reports and supporting documents.
- July 31, 2016: Entitlement discovery cut-off.
- September 19, 2016: Summary Judgment Motion deadline.
- March 1, 2017: Exchange witness and exhibit lists. Proposed findings of fact and conclusions of law. Pre-trial briefs.
- April 3, 2017: Trial on Entitlement.

IT IS SO ORDERED.

DATED: February 17, 2015



ERIC J. WILDMAN  
Presiding Judge  
Coeur d'Alene-Spokane River Basin Adjudication

CSRBA TRIBAL CLAIMS

Subcase Nos:

91-07755	92-10921	93-07510	93-07560	93-07610	94-09251
91-07756	92-10922	93-07511	93-07561	93-07611	94-09252
91-07757	93-07462	93-07512	93-07562	93-07612	94-09253
91-07758	93-07463	93-07513	93-07563	93-07613	94-09254
91-07759	93-07464	93-07514	93-07564	93-07614	94-09255
91-07760	93-07465	93-07515	93-07565	93-07615	94-09256
91-07761	93-07466	93-07516	93-07566	93-07616	94-09257
91-07762	93-07467	93-07517	93-07567	93-07617	94-09258
91-07763	93-07468	93-07518	93-07568	93-07618	94-09259
91-07764	93-07469	93-07519	93-07569	93-07619	94-09260
91-07765	93-07470	93-07520	93-07570	93-07620	94-09261
91-07766	93-07471	93-07521	93-07571	93-07621	94-09262
91-07767	93-07472	93-07522	93-07572	93-07622	94-09263
91-07768	93-07473	93-07523	93-07573	93-07623	94-09264
91-07769	93-07474	93-07524	93-07574	93-07624	94-09265
91-07770	93-07475	93-07525	93-07575	93-07625	94-09266
91-07771	93-07476	93-07526	93-07576	93-07626	94-09267
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91-07774	93-07479	93-07529	93-07579	93-07629	94-09270
91-07775	93-07480	93-07530	93-07580	93-07630	94-09271
91-07776	93-07481	93-07531	93-07581	93-07631	94-09272
91-07777	93-07482	93-07532	93-07582	93-07632	94-09273
91-07778	93-07483	93-07533	93-07583	93-07633	94-09274
91-07779	93-07484	93-07534	93-07584	93-07634	94-09275
91-07780	93-07485	93-07535	93-07585	93-07635	94-09276
91-07781	93-07486	93-07536	93-07586	93-07636	94-09277
91-07782	93-07487	93-07537	93-07587	93-07637	94-09278
91-07783	93-07488	93-07538	93-07588	93-07638	94-09279
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91-07786	93-07491	93-07541	93-07591	93-07641	94-09282
91-07787	93-07492	93-07542	93-07592	93-07642	94-09283
91-07788	93-07493	93-07543	93-07593	93-07643	95-16668
91-07789	93-07494	93-07544	93-07594	93-07644	95-16669
92-10906	93-07495	93-07545	93-07595	93-07645	95-16670
92-10907	93-07496	93-07546	93-07596	93-07646	95-16671
92-10908	93-07497	93-07547	93-07597	93-07647	95-16672
92-10909	93-07498	93-07548	93-07598	93-07648	95-16673
92-10910	93-07499	93-07549	93-07599	93-07649	95-16674
92-10911	93-07500	93-07550	93-07600	93-07650	95-16675
92-10912	93-07501	93-07551	93-07601	93-07651	95-16676
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92-10914	93-07503	93-07553	93-07603	94-09244	95-16678
92-10915	93-07504	93-07554	93-07604	94-09245	95-16679
92-10916	93-07505	93-07555	93-07605	94-09246	95-16680
92-10917	93-07506	93-07556	93-07606	94-09247	95-16681
92-10918	93-07507	93-07557	93-07607	94-09248	95-16682
92-10919	93-07508	93-07558	93-07608	94-09249	95-16683
92-10920	93-07509	93-07559	93-07609	94-09250	95-16684

CSRBA TRIBAL CLAIMS

Subcase Nos:

95-16686      95-16740  
95-16687      95-16741  
95-16688      95-16742  
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(Subcase list: CSRBATRIBE)  
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ROSALIE MILLER

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Deputy Clerk

A handwritten signature in cursive script, reading "Julie Murphy", is written over a horizontal line. The signature is positioned to the right of the printed text "Deputy Clerk".