

2-17-2015

Order Consolidating Subcases

Eric J. Wildman

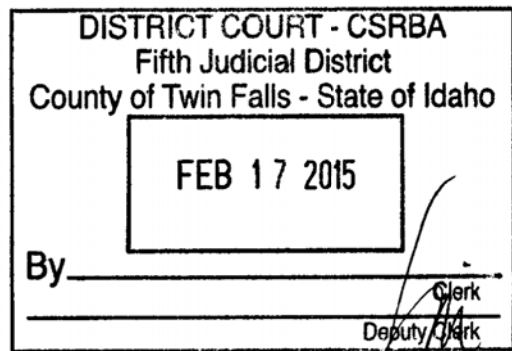
Presiding Judge, Coeur d'Alene-Spokane River Basin Adjudication

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**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 |) Subcase No. 91-7755 |
| |) (353 consolidated subcases (see attached list)) |
| Case No. 49576 |) |
| |) ORDER CONSOLIDATING SUBCASES |
| |) |
| |) ORDER BIFURCATING PROCEEDINGS |
| |) |
| |) SCHEDULING ORDER |
| |) |
| |) |
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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.

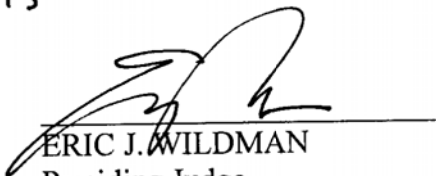
September 19, 2016: Summary Judgment Motion deadline.

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 |
| 91-07772 | 93-07477 | 93-07527 | 93-07577 | 93-07627 | 94-09268 |
| 91-07773 | 93-07478 | 93-07528 | 93-07578 | 93-07628 | 94-09269 |
| 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 |
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| 91-07783 | 93-07488 | 93-07538 | 93-07588 | 93-07638 | 94-09279 |
| 91-07784 | 93-07489 | 93-07539 | 93-07589 | 93-07639 | 94-09280 |
| 91-07785 | 93-07490 | 93-07540 | 93-07590 | 93-07640 | 94-09281 |
| 91-07786 | 93-07491 | 93-07541 | 93-07591 | 93-07641 | 94-09282 |
| 91-07787 | 93-07492 | 93-07542 | 93-07592 | 93-07642 | 94-09283 |
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| 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 |
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| 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 |

(Subcase list: CSRBATRIBE)
2/17/15

CSRBA TRIBAL CLAIMS

Subcase Nos:

95-16686 95-16740
95-16687 95-16741
95-16688 95-16742
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95-16739

(Subcase list: CSRBATRIBE)
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MIKE MARKUS

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KELLOGG, ID 83837
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