

5-3-2017

Final Order Disallowing Purposes

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 Nos. See Attached List**
)
Case No. 49576)
) **FINAL ORDER DISALLOWING PURPOSES**
) **OF USE**
)

On March 26, 2014, the United States filed the above-captioned water right claims as trustee on behalf of the Coeur d'Alene Tribe. The claims seek federal reserved water rights associated with the Coeur d'Alene Indian Reservation. With respect to water right claim 95-16704, the United States claims the following purposes of use:

Present and future uses, including but not limited to: food; fiber; transportation; recreation; religious, cultural and ceremonial; fish and wildlife habitat; lake level and wetland maintenance; water storage; power generation; and aesthetics – as a component of a water right necessary to fulfill the homeland purpose of the Coeur d'Alene Reservation. . . .

With respect to the remainder of the claims, the United States claims the following purposes of use:

Wildlife and plant habitat for hunting and gathering rights as well as other tribal traditional, cultural, spiritual, ceremonial, and/or religious uses – as a component of a water right necessary to fulfill the homeland purpose of the Coeur d'Alene Reservation. . . .

Objections and responses to some or all claims were filed by various parties.

A *Motion for Summary Judgment* seeking disallowal of the claims was subsequently filed by the State of Idaho. Various other Objectors joined in the *Motion*. Following hearing, the Court entered an *Order on Motions for Summary Judgment* contemporaneously herewith. In its *Order*, the Court held that the United States may seek federal reserved water rights for the following uses associated with the Coeur d'Alene Indian Reservation: agriculture, fishing and hunting, and domestic use. It further held that all other purposes of use may not be pursued as federal reserved water rights as a matter of law.

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

1. With respect to water right claim 95-16704, it is ordered that the following claimed purposes of use are hereby disallowed with prejudice: food; fiber; transportation; recreation; religious, cultural and ceremonial; lake level and wetland maintenance; water storage; power generation; and aesthetics. This claim will proceed to the quantification phase of this litigation on its “fish and wildlife habitat” purpose of use.

2. With respect to the remainder of the above-captioned water right claims, it is ordered that the following claimed purposes of use are hereby disallowed with prejudice: wildlife and plant habitat for gathering rights as well as other tribal traditional, cultural, spiritual, ceremonial, and/or religious uses. These claims will proceed to the quantification phase of this litigation on their “wildlife and plant habitat for hunting” purpose of use.

IT IS SO ORDERED.

DATED May 3, 2017.



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

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

DATED May 3, 2017.



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

Subcase Nos:

91-07779	93-07532	93-07582	93-07632	95-16721
91-07780	93-07533	93-07583	93-07633	95-16722
91-07781	93-07534	93-07584	93-07634	95-16723
91-07782	93-07535	93-07585	93-07635	95-16724
91-07783	93-07536	93-07586	93-07636	95-16725
91-07784	93-07537	93-07587	93-07637	95-16726
91-07785	93-07538	93-07588	93-07638	95-16727
91-07786	93-07539	93-07589	93-07639	95-16728
91-07787	93-07540	93-07590	93-07640	95-16729
91-07788	93-07541	93-07591	93-07641	95-16730
91-07789	93-07542	93-07592	93-07642	95-16731
92-10913	93-07543	93-07593	93-07643	95-16734
92-10914	93-07544	93-07594	93-07644	95-16735
92-10915	93-07545	93-07595	93-07645	95-16736
92-10916	93-07546	93-07596	93-07646	95-16737
92-10917	93-07547	93-07597	93-07647	95-16738
92-10918	93-07548	93-07598	93-07648	95-16739
92-10919	93-07549	93-07599	93-07649	95-16740
92-10920	93-07550	93-07600	93-07650	95-16741
92-10921	93-07551	93-07601	93-07651	95-16742
92-10922	93-07552	93-07602	93-07652	
93-07503	93-07553	93-07603	94-09271	
93-07504	93-07554	93-07604	94-09272	
93-07505	93-07555	93-07605	94-09273	
93-07506	93-07556	93-07606	94-09274	
93-07507	93-07557	93-07607	94-09275	
93-07508	93-07558	93-07608	94-09276	
93-07509	93-07559	93-07609	94-09277	
93-07510	93-07560	93-07610	94-09278	
93-07511	93-07561	93-07611	94-09279	
93-07512	93-07562	93-07612	94-09280	
93-07513	93-07563	93-07613	94-09281	
93-07514	93-07564	93-07614	94-09282	
93-07515	93-07565	93-07615	94-09283	
93-07516	93-07566	93-07616	95-16704	
93-07517	93-07567	93-07617	95-16705	
93-07518	93-07568	93-07618	95-16706	
93-07519	93-07569	93-07619	95-16708	
93-07520	93-07570	93-07620	95-16709	
93-07521	93-07571	93-07621	95-16710	
93-07522	93-07572	93-07622	95-16711	
93-07523	93-07573	93-07623	95-16712	
93-07524	93-07574	93-07624	95-16713	
93-07525	93-07575	93-07625	95-16714	
93-07526	93-07576	93-07626	95-16715	
93-07527	93-07577	93-07627	95-16716	
93-07528	93-07578	93-07628	95-16717	
93-07529	93-07579	93-07629	95-16718	
93-07530	93-07580	93-07630	95-16719	
93-07531	93-07581	93-07631	95-16720	

CERTIFICATE OF MAILING

I certify that a true and correct copy of the FINAL ORDER
DISALLOWING PURPOSES OF USE was mailed on May 03, 2017, with
sufficient first-class postage to the following:

ALBERT P BARKER
BARKER ROSHOLT & SIMPSON LLP
1010 W JEFFERSON ST STE 102
PO BOX 2139
BOISE, ID 83701-2139

PO BOX 83720
BOISE, ID 83720-0010

IDWR
PO BOX 83720
BOISE, ID 83720-0098

US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

RATLIFF FAMILY LLC #1
13621 S HWY 95
COEUR D'ALENE, ID 83814

CHRISTOPHER H MEYER
JEFFREY C FEREDAY
JEFFREY W BOWER
MICHAEL P LAWRENCE
GIVENS PURSLEY LLP
601 W BANNOCK ST
PO BOX 2720
BOISE, ID 83701-2720

JOHN T MCFADDIN
20189 S EAGLE PEAK RD
CATALDO, ID 83810

WILLIAM M GREEN
2803 N 5TH ST
COEUR D'ALENE, ID 83815

SCHROEDER, WILLIAM J
KSB LITIGATION PS
221 N WALL STE 210
SPOKANE, WA 99201

HOWARD A. FUNKE
424 SHERMAN AVE STE 308
PO BOX 969
COEUR D ALENE, ID 83816-0969

CANDICE M MCHUGH
CHRIS M BROMLEY
MCHUGH BROMLEY PLLC
380 S 4TH STREET STE 103
BOISE, ID 83702

RONALD D HEYN
828 WESTFORK EAGLE CREEK
WALLACE, ID 83873

NORMAN M SEMANKO
MOFFATT THOMAS BARRETT ROCK
& FIELDS CHARTERED
101 S CAPITOL BLVD 10TH FL
PO BOX 829
BOISE, ID 83701-0829

MARIAH R DUNHAM
NANCY A WOLFF
MORRIS & WOLFF PA
722 MAIN AVE
ST MARIES, ID 83861

CHIEF NATURAL RESOURCES DIV
OFFICE OF THE ATTORNEY GENERAL
STATE OF IDAHO