

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER)
TO WATER RIGHTS NOS. 36-02356A, 36-07210,)
AND 36-07427) **STATUS CONFERENCE**
) **MINUTES**
(Blue Lakes Delivery Call))
_____)

IN THE MATTER OF DISTRIBUTION OF WATER)
TO WATER RIGHTS NOS. 36-04013A, 36-04013B,)
AND 36-07148 (SNAKE RIVER FARM); AND TO)
WATER RIGHTS NOS. 36-07083 AND 36-07568)
(CRYSTAL SPRINGS FARMS))
)
(Clear Springs Delivery Call))
_____)

A status conference concerning the above entitled matter was held October 1, 2007, commencing at 10:00 a.m. The parties appeared through counsel: Daniel V. Steenson for Blue Lakes, John K. Simpson for Clear Springs, Randall C. Budge and Candice McHugh for IGWA, J. Justin May for Rangen, Inc. Mike Creamer appeared for the Idaho Dairymen's Association and Phillip Rassier appeared for the Idaho Department of Water Resources. The following matters were resolved:

1. There is pending a joint motion for summary judgment filed by Blue Lakes and Clear Springs who will submit an affidavit and memorandum Friday, October 5, 2007. Any response shall be filed on or before October 19, 2007, and any reply by October 26, 2007. Hearing on the joint motion shall be held November 2, 2007, commencing at 10:00 a.m.

2. There is a pending motion in limine concerning the testimony of John Church. The hearing officer reserves ruling on the relevance of testimony by John Church but recommends that the parties proceed with whatever discovery is necessary to establish a record of any testimony this witness might give so a complete record is developed for any reviewing tribunal. The discover deadlines for this witness shall be modified to complete any discovery.
3. Discussion was held concerning the state of the record. The parties were assured by counsel for IDWR that they either had or would receive a full record of matters utilized by the Department in entering the orders in issue.
4. The parties agree that the threshold controversy concerns the foundational orders entered by the Director on May 19, 2005, the Blue Lakes order, and July 8, 2005, the Clear Springs order. Subsequent implementation orders were entered based upon the foundational orders. Rulings on the foundational orders may render some of the issues concerning the implementation orders moot. Consequently, the parties and the hearing officer will attempt to address the determinations in the foundational orders first and proceed to the implementation orders as necessary. The order of presentation will be addressed further in pre-trial conference.
5. The parties have submitted extensive listings of those portions of the orders to which they object. The refinement and further definition of the issues will be stated in the pre-trial briefs.
6. The hearing officer indicated that if the Director has decided a factual issue and no party has noted an objection, that fact will be deemed established. If an objection has been made to a fact or conclusion in a foundation order, it is not necessary to repeat that objection to the same fact or conclusion stated in an implementation order.
7. If the testimony of lay witnesses is pre-filed, cross-examination shall proceed in the same manner as pre-filed expert testimony.

8. For purposes of clarity in the record, the participants shall utilized the following numbering for their exhibits: IDWR – 100 series; Blue Lakes – 200 series; Clear Springs – 300 series; IGWA – 400 series; Rangen – 500 series; Dairymen – 600 series.
9. The order of testimony shall be determined at the pre-trial hearing.

Dated October 9, 2007.



Gerald F. Schroeder
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of October, 2007, the above and foregoing, was served by the method indicated below, and addressed to the following:

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