

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) Subcase Nos. 63-33732 (consolidated subcase no. 63-
Case No. 39576) 33737), 63-33733 (consolidated subcase no. 63-
) 33738), and 63-33734
)
) ORDER DENYING MOTION FOR I.R.C.P. 54(b)
) CERTIFICATE
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_____)

I. BACKGROUND

On September 1, 2016, the Court entered a Memorandum Decision and Order on Challenge in the above-captioned subcases (“Memorandum Decision”). On that same date, the Court entered an Order recommitting the subcases to the Special Master for further proceedings consistent with the Memorandum Decision. On December 6, 2016, the Ditch Companies filed a Motion for Rule 54(b) Certification, requesting that this Court certify the Memorandum Decision as a final judgment.¹ The Boise Project Board of Control joins in the Motion. Briefing in opposition to the Motion was filed by the State of Idaho and Suez Water Idaho Inc. The Court rescinded the order of reference to the Special Master for the limited purpose of hearing the Motion. A hearing on the Motion was held on December 20, 2016.

¹ The term “Ditch Companies” refers collectively to Ballentyne Ditch Company, Boise Valley Irrigation Ditch Company, Canyon County Water Company, Eureka Water Company, Farmers’ Co-operative Ditch Company, Middleton Mill Ditch Company, Middleton Irrigation Association, Nampa & Meridian Irrigation District, New Dry Creek Ditch Company, Pioneer Ditch Company, Pioneer Irrigation District, Settlers Irrigation District, South Boise Water Company, and Thurman Mill Ditch Company.

II. ANALYSIS

The Ditch Companies ask the Court to certify the *Memorandum Decision* as a final and appealable judgment under Rule 54(b). The Court in an exercise of its discretion declines to do so. In denying the *Motion*, the Court first finds that the Court did not direct entry of a final judgment as to any of the claims involved in the above-captioned subcases. That is, the Court did not enter a *Partial Decree* either allowing or disallowing any of the water right claims involved. Therefore, the *Memorandum Decision* is an interlocutory order. The Court next finds that the movants did not timely seek appeal of the *Memorandum Decision* by permission under Idaho Appellate Rule 12. Moving for a Rule 54(b) certification is not a substitute for timely seeking appeal by permission of an interlocutory order under Idaho Appellate Rule 12.

Finally, the Court is unable to make a determination under Rule 54(b) that there is no just reason for delay. The State of Idaho raised numerous issues in the summary judgment proceedings before the Special Master. The Special Master failed to reach any of these issues due to the limited scope of his ruling. As a result, the only issue the Court would be certifying as final for purposes of appeal pertains to the proper jurisdiction for resolving disputes implicating the scope of decreed water rights. The substantive issue regarding the scope of the decreed reservoir rights is at issue in the administrative cases currently on appeal. Depending on the outcome of the appeal the reservoir right holders can determine whether or not to further pursue the late claims. Therefore, while it may promote judicial economy to motion the Special Master to stay the late claim proceedings pending the outcome of the administrative appeal, it would not promote judicial economy to create a situation potentially requiring further appeals once the issues raised by the State have been ruled on.

Therefore, the Court will deny the *Motion* and recommit the subcases to the Special Master for further proceedings.

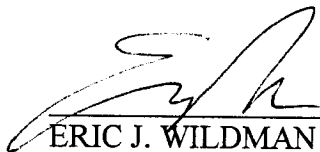
III.
ORDER

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

1. The *Motion for Rule 54(b) Certification* is denied.
2. The subcases are recommitted to the Special Master for further proceedings consistent with the Court's *Memorandum Decision*.

IT IS SO ORDERED.

DATED: January 6, 2017


ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER DENYING MOTION FOR I.R.C.P. 54(B) CERTIFICATE was mailed on January 06, 2017, with sufficient first-class postage to the following:

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ORDER

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