

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

**IN THE MATTER OF THE PETITION)
FOR DELIVERY CALL OF A&B)
IRRIGATION DISTRICT FOR THE)
DELIVERY OF GROUND WATER AND)
FOR THE CREATION OF A GROUND)
WATER MANAGEMENT AREA)**

**ORDER REGARDING
DISCOVERY MOTIONS AND
ORDER AMENDING
SCHEDULING**

On October 10, 2008, A&B Irrigation filed a Motion for Protective Order requesting that IGWA's Second Set of Interrogatories and Third Request for Production, asserting that the Interrogatories were improper discovery and that the requests to A&B's lay witnesses were redundant, burdensome and oppressive. Following hearing on October 22, 2008, the following determinations were made:

1. The issue concerning the interrogatories served on A&B for discovery from non-parties is moot. Discovery from the lay witnesses is scheduled and the same information requested in the interrogatories may be pursued in the depositions.

2. The lay witnesses shall produce the requested information to the extent that it is available to them. To the extent that documents or other foundational information is not produced at the depositions such information cannot be presented by A&B Irrigation District or its witnesses at the hearing, and the witnesses shall not rely on such information for their testimony at the hearing.

On October 21, 2008, A&B Irrigation District filed a Motion to Quash IGWA's Subpoenas of A&B's Lay witnesses as being procedurally defective and to find that the information requested in the subpoenas is redundant, burdensome and oppressive. The Motion to Quash was heard October 22, 2008, and the following determinations were made:

1. Any procedural defect in the subpoenas is moot. The witnesses have agreed to appear at the depositions.

2. As noted in response to the Motion for Protective Order, the lay witnesses shall produce the requested information to the extent that it is available to them. To the extent that documents or other foundational information is not produced at the depositions such information cannot be presented by the witnesses at the hearing, and the witnesses shall not rely on such information for their testimony at the hearing.

On October 20, 2008, IGWA and the City of Pocatello filed a Motion to Exclude Witness Kathryn Didricksen on the basis that she was not disclosed timely and that allowing her to testify would be prejudicial to IGWA and Pocatello. Following hearing on October 22, 2008, the Motion was GRANTED.

On October 20, 2008, A&B Irrigation moved orally to exclude the Sur-Rebuttal of Gregory Sullivan or to have the opportunity to respond. Following hearing it was determined that the Sullivan sur-rebuttal was not untimely and that A&B may respond and may file rebuttal reports to IGWA and Pocatello's rebuttal reports.

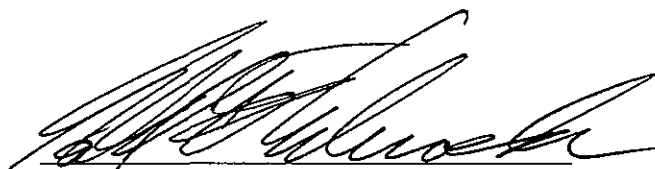
The parties further agreed that the Pre-Hearing Conference scheduled for November 14, 2008, shall begin at 10:00 a.m.

Hearing on the pending motions for summary judgment scheduled for November 5, 2008 shall begin at 9:30 a.m.

The pre-hearing briefs shall be due November 21, 2008.

The schedule in this matter is amended in accordance with these agreements.

Dated this 4 day of November, 2008.



GERALD SCHROEDER
HEARING OFFICER

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the following attached document on the persons listed below by mailing in the United States mail, first class, with the correct postage affixed thereto on the 11th day of November, 2008.

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