

**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 36-00077D
)	
)	ORDER DENYING SECOND AMENDED
)	OBJECTION TO THE CLERK'S RECORD
Case No. 39576)	ON APPEAL AND REPORTER'S
<hr/>)	TRANSCRIPT

This matter having come before the Court on the *Second Amended Objection to the Clerk's Record on Appeal and Reporter's Transcript* ("Second Amended Objection"), filed through counsel on behalf of the North Snake Ground Water District ("NSGWD"), on February 27, 2001.

Pursuant to the *Second Amended Objection*, NSGWD requests the following: "The Record on Appeal should be supplemented with SRBA Administrative Order 1: Rules of Procedure (Amended Sept. 30, 1996)." NSGWD did not request a hearing on this matter, unless an objection was filed or the Court required a hearing.

The determination of whether necessary evidence has been omitted from the clerk's record is discretionary with the trial court. *Lemar Corp. v. City of Twin Falls*, 133 Idaho 36, 40, 181 P.2d 1146, 1149 (1999) (citing *Aker v. Aker*, 52 Idaho 50, 56-67, 11 P.2d 372, 375-376 (1932)). In exercising such discretion, the trial court: (1) must correctly perceive the issue as one of discretion; (2) act within the boundaries of its discretion and consistent with applicable legal standards; and (3) reach its decision by exercise of reason. *Id.*; *Sun Valley Shopping Ctr. Inc.*, 119 Idaho 87, 94, 803 P.2d 993, 1000 (1991) (citing *State v. Hedger*, 115 Idaho 598, 600, 768 P.2d 1331, 1333 (1989)).

The Court having reviewed the file and being fully apprised in the premises and exercising its discretion **denies** the *Second Amended Objection* for the following reasons:

**ORDER DENYING SECOND AMENDED OBJECTION TO THE
CLERK'S RECORD ON APPEAL AND REPORTER'S TRANSCRIPT**

1. ***Second Amended Objection is untimely.*** Idaho Appellate Rule 29(a) requires that objections to the clerk's record be filed within 21 days after the date of service of copies of the reporter's transcript and clerk's record. The reporter's transcript and clerk's record were served on January 10, 2001. Therefore, the last day to file objections was January 31, 2001. The original objection was filed on January 31, 2001. The first amended objection was filed on February 2, 2001. The original objection and the amended objection did not include the material now being requested and is beyond the scope of the material requested in the prior objections. A hearing was previously held on the prior objections and all matters raised therein were settled.

2. ***The materials now being requested are also beyond the scope of the issues raised on challenge.*** The materials now being requested are beyond the scope of the issues raised by NSGWD on challenge and are also outside the scope of the briefing and oral argument made to the Court by NSGWD on challenge. Therefore the *Second Amended Objection* is also denied based on lack of relevance to the issues raised on challenge.

IT IS SO ORDERED.

DATED: March _____, 2001.

ROGER S. BURDICK
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the **ORDER DENYING SECOND AMENDED OBJECTION TO THE CLERK'S RECORD ON APPEAL AND REPORTER'S TRANSCRIPT** was mailed on March _____, 2001, with sufficient first-class postage to the following:

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