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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 SRBA	Subcase No. 45-02663
Case No. 39576	**MOTION TO PARTICIPATE**

Grant Monroe Clark ("Clark"), by and through his attorney Michael P. Tribe of the firm Ling, Robinson & Walker, moves to participate in the above-captioned proceeding. This Motion to Participate is filed pursuant to SRBA Administrative Order # 1 (A.O.1) §10k, which provides that any party to the adjudication who is not a party to a subcase may seek leave to participate in a subcase by filing a timely Motion to Participate. A Motion to Participate shall be treated like a motion to intervene under I.R.C.P. 24 and shall be decided by the Presiding Judge or the assigned Special Master.

1. **Status as a party.**

Under I.R.C.P 24, upon timely application any party shall be permitted to intervene in an action when the applicant claims an interest relating to the property or transaction

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which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

Clark is an individual with an interest in Water Right No. 45-02663. The water right is appurtenant to land purchased by Clark from James H. Neyman and Elizabeth Neyman in a Lease-Purchase Contract dated June 30, 1989; payment is currently being made by Clark on the Lease-Purchase Contract. The Neymans' heirs are the current named owners of Water Right No. 45-02663.

2. **Right to Participate.**

Clark's interest is not represented by any other party to the proceeding and he will loose his ability to use the water to irrigate his land if Earl Warthen's Objection to Deborah Broadie's Claim of Water Right is granted. Clark has used and currently uses said water right to irrigate his land and uses the land to raise hay and for pasture. Clark desires to participate in these proceedings to protect his interest in Water Right No. 45-02663 and to establish that said water right has not been abandoned and/or forfeited.

Power bills and other records of Clark and his successors in interest, Roy Thornburg, Dave Peterson and Bert Neyman, will demonstrate that the above-mentioned water right has not been abandoned and/or forfeited.

3. **Conclusion.**

By reason of the above and foregoing, this Court cannot determine the controversy between the parties now before it without prejudice to the rights of Clark; full and complete

justice cannot be done without the presence of Clark as a party herein because Clark is a party necessary for a complete determination of the controversies herein.

Clark respectfully requests that this Motion to Participate be granted and that he be allowed to participate as a party in these proceedings.

DATED this 30th day of March 2005.

LING, ROBINSON & WALKER

By: _____
Michael P. Tribe
Attorneys for Grant Monroe Clark

CERTIFICATE OF MAILING

I hereby certify that on the 30th day of March, 2005, I served the original of the foregoing *Motion to Participate* upon:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

and copies of said *Motion to Participate* upon:

IDWR Document Depository
P. O. Box 83720
Boise, Idaho 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P. O. Box 44449
Boise, Idaho 83711-4449

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by depositing said document in the United States mail, postage prepaid, in envelopes addressed to said parties at the foregoing addresses.

Michael P. Tribe