

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED 211
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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 45-02663
Case No. 39576) (Broadie, Northcott, Stuhlberg,
) Potter and Grant)
)
) ORDER GRANTING MOTION
) TO PARTICIPATE

Grant M. Clark, Box 20, Albion, Idaho, 83311, filed a *Notice of Claim to a Water Right* in subcase 45-02663 on January 29, 1991, claiming 1 cfs from groundwater to irrigate 134 acres in Cassia County from March 15 to November 15 with a priority date of July 26, 1961, based on a license. The Director of the Idaho Department of Water Resources filed his *Director's Report for Irrigation and Other, Reporting Area 10, IDWR Basin 45* on September 7, 2004. The Director recommended the claim as filed, but for irrigation of 129.9 acres from April 1 to October 31 to the following owners:

Deborah Broadie
222 Picabo Cutoff Road
Carey, ID 83320

Jolene Northcott
1836 South, 2000 East
Gooding, ID 83330

Elizabeth Stuhlberg
938 4th Avenue Drive
Jerome, ID 83338

Mary May Potter
P.O. Box 993
Ketchum, ID 83340

Earl Warthen filed an *Objection* on January 3, 2005, alleging the water right should not exist: "The water right has been abandoned and/or forfeited."

On April 1, 2005, Mr. Clark filed a *Motion to Participate* stating: "this Court cannot determine the controversy between the parties now before it without prejudice to the rights of [Grant M.] 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." Mr. Clark alleged that he is the lessee/purchaser of land to which water right 45-02663 is appurtenant under a lease-purchase contract dated June 30, 1989. The lessors/sellers are James and Elizabeth Neyman, predecessors-in-interest to Deborah Broadie, Jolene Northcott, Elizabeth Stuhlberg and Mary May Potter.

A hearing on the *Motion to Participate* was held by telephone on April 14, 2005. Michael P. Tribe appeared for Mr. Clark; Shelley M. Davis appeared for Mr. Warthen; and Chris M. Bromley appeared for IDWR. Deborah Broadie, Jolene Northcott, Elizabeth Stuhlberg and Mary May Potter did not appear.

Mr. Clark has shown good cause to participate in the subcase.

THEREFORE, IT IS ORDERED that Mr. Clark's *Motion to Participate* in subcase 45-02663 is **granted**.

DATED April 15, 2005.



TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTION TO PARTICIPATE was mailed on April 15, 2005, with sufficient first-class postage to the following:

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DIRECTOR OF IDWR

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