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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	)	ORDER GRANTING MOTION TO
	)	PARTICIPATE
Case No. 39576	)	
	)	WATER RIGHT NOS. : EXHIBIT A
	)	(City of Pocatello)
_____	)	

These water rights were claimed by the City of Pocatello (hereafter "Pocatello") as state-based water rights. Pocatello filed *Objections* relating to administrative provisions for these rights and other issues. *Responses* were filed by the United States and the State of Idaho.

On March 2, 2006, American Falls Reservoir District #2, A & B Irrigation District, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, Northside Canal Company, and Twin Falls Canal Company (hereafter "movants") filed a *Joint Motion to Participate*.

The movants seek to participate because they have claims to water rights in the SRBA. Additionally, they assert the interconnection between ground water and surface water in the SRBA. The movants specifically oppose the separate administration sought by Pocatello.

I. STANDARD OF REVIEW UNDER AOI 10(k) AND I.R.C.P. 24(a)

Under the rules established by *SRBA Administrative Order 1 10(k)*, motions to participate in a subcase are treated like motions to intervene under I.R.C.P. 24. *AOI 10(k)* establishes 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*." The Idaho Rules of Civil Procedure 24(a) establishes the requirements for intervention as of right:

Upon timely application anyone may be permitted to intervene in an action (1) when a statute confers a conditional right to intervene; (2) when the applicant has an interest relating to the property or transaction which is the subject of the action and

he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicants interest is adequately represented by existing parties.

I.R.C.P. Rule 24(a)

II. DISCUSSION

Pursuant to I.R.C.P. 24(a), movants must make a showing of timeliness, interest, impairment, and inadequate representation. The *Motion* was filed before the discovery cutoff, prior to the filing of summary judgment motions, and well in advance of the trial date. Given the stage of the proceedings, the *Motion* is timely.

The movants asserted an interest in the outcome of these subcases by demonstrating a close interconnection between Pocatello's claims and those of the movants. Consequently, the outcome of a trial on these subcases could impair movants' rights. Although other parties have objected to these claims and have responded to Pocatello's *Objections*, those parties do not sufficiently represent the interests of movants.

Although Pocatello and the United States reported that they have reached an agreement on the separate administration issue, the agreement has not been filed with the court. Therefore, since movants filed a timely motion, claimed an interest in the water rights, demonstrated impairment, and inadequate representation, they shall be allowed to participate. Movants shall participate by filing responses to existing objections, and shall not file new objections or raise new issues.

III. CONCLUSION

The *Motion to Participate* is timely. The movants made the proper showings of interest, impairment, and adequacy of representation. Therefore, the *Motion to Participate* is **granted**. Accordingly, the movants may file responses in these subcases.

IT IS SO ORDERED.

DATED: April 25, 2006.


BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

EXHIBIT A (CITY OF POCA TELLO)

Subcase Nos:

29-00271
29-00272
29-00273
29-02274
29-02338
29-02354
29-02382
29-02401
29-02499
29-04221
29-04222
29-04223
29-04224
29-04225
29-04226
29-07106
29-07118
29-07119
29-07222
29-07322
29-07375
29-07431
29-07450
29-07502
29-07770
29-07782
29-11339
29-11344
29-11348
29-13558
29-13559
29-13560
29-13561
29-13562
29-13636
29-13637
29-13638
29-13639

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTION TO PARTICIPATE was mailed on April 25, 2006, with sufficient first-class postage to the following:

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