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DEPARTMENT OF
WATER RESOURCES

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Attorneys for Susan P. Bedke, Movant

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 Nos. 45-00569, 45-00574,
Case No. 39576) 45-00575, 45-00576, 45-00618, 45-02658
MOTION TO PARTICIPATE

Susan P. Bedke, by and through her attorney Michael P. Tribe of the firm Robinson & Associates, moves to participate in the above-captioned proceedings. 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

MOTION TO PARTICIPATE

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

6 Susan P. Bedke (hereinafter referred to as "Bedke") is currently involved in
7 litigation against LeRoy Fairchild (hereinafter referred to as "Fairchild") in the District Court of
8 the Fifth Judicial District of the State of Idaho, in and for the County of Cassia, Case No. CV-
9 2007-47, in which a *Lis Pendens* has been filed by Bedke. A true and correct copy of the
10 Complaint filed in Cassia County Case No. CV-2007-47 is attached hereto as Exhibit "A" and
11 made a part hereof as though fully set forth herein. Fairchild and Bedke had discussed that
12 Bedke would purchase the Fairchild property for years, and Bedke has partially performed an oral
13 contract for said purchase. If Bedke is successful in the civil action to take possession of
14 Fairchild's real property, she would be injured if the appurtenant water rights were not litigated
15 and resolved and if the Martins were able to take those rights unlawfully.

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18 **2. Right to Participate.**

19 Bedke understands that the hearing in the above-captioned matter is set for
20 August 23, 2007 before Special Master Dolan, but Bedke's *Motion to Participate* and subsequent
21 participation, if granted, would not necessitate a change in the date and time of such hearing.
22 This *Motion* is filed simply to ensure Fairchild's rights are vigorously defended as Eugene
23 Matthews, who has a written agreement to purchase the Fairchild real property, is currently
24 leasing property from Harold Rex Martin and Anne Rex Martin. Furthermore, Bedke has reason
25 to believe that because Matthews is seeking to purchase adjacent land from the Martins,
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3 Matthews may fail to continue funding the SRBA litigation on behalf of Fairchild, and Fairchild
4 may simply not proceed with the current action. Bedke's knowledge that Matthews is funding
5 the SRBA litigation comes from Fairchild's *Motion to Vacate* the May 30, 2007 hearing dated
6 May 23, 2007 and served upon all known parties of record by Fairchild's counsel. Therefore,
7 because Fairchild may settle the matter without litigating the issues, Bedke is entitled to preserve
8 her claim to the water rights.

9
10 Bedke's participation at the August 23, 2007 hearing would be limited to the
11 examination and cross-examination of witnesses and oral argument.

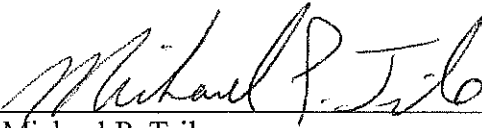
12 **3. Conclusion.**

13 Bedke desires to participate in these proceedings to protect her interest in the
14 above-mentioned water rights and to establish that Fairchild is the rightful owner of a portion of
15 said water rights. By reason of the above and foregoing, this Court should not determine the
16 controversy now before it without Bedke's participation because full and complete justice may
17 not be done without the presence of Bedke as a party because Bedke's ability to protect her
18 interest in the water rights may be impaired if she is not entitled to participate in this matter.
19

20 Therefore, Bedke respectfully request that this Motion to Participate be granted
21 and that she be allowed to participate as a party in these proceedings.

22 DATED this 27th day of July, 2007.

23 LING, ROBINSON & WALKER

24
25 By: 

26 Michael P. Tribe

27 Attorneys for Susan P. Bedke

28 MOTION TO PARTICIPATE

CERTIFICATE OF MAILING

I hereby certify that on the 27th day of July, 2007, I mailed the original of the foregoing *Motion to Participate* for filing to:

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

and served copies of said *Motion to Participate* upon:

Donald J. Chisholm and via fax 878-4998
Attorney for LeRoy Fairchild
P. O. Box 1118
Burley, Idaho 83318

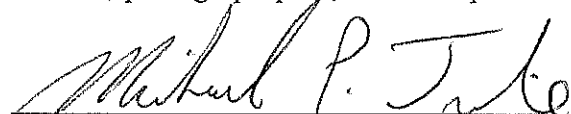
LeRoy Fairchild
84 East Basin Road
Oakley, Idaho 83346

Travis L. Thompson and via fax (208) 735-2444
Barker, Rosholt & Simpson
Attorneys for Anne and Harold Rex Martin
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Twin Falls, Idaho 83303-0485

Anne R. Martin
Harold Rex Martin
72 East Basin Road
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Director of IDWR
P. O. Box 83720
Boise, Idaho 83720-0098

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


Michael P. Tribe

MOTION TO PARTICIPATE