

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

APR - 3 2009

By _____ Clerk
_____ Deputy Clerk

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

Case No. 39576

ORDER GRANTING MOTION TO AMEND OBJECTIONS AND SETTING DEADLINE

SUBCASE NOS.: 22-2287 AND 22-11185

I. PROCEDURAL BACKGROUND

On July 24, 2007, Shawn J. Walters, W. Jeffrey Walters, Mona Walters and Patrice Walters (hereafter “Objectors”) filed a timely *Objection* to the *Director’s Reports* for water rights 22-2287 and 22-11185

Subsequently, a *Motion to Amend Objection*¹ was filed on February 10, 2009 by the Objectors. The Objectors lodged a proposed *Amended Objection* for each subcase. The *Amended Objection* proposes to object to additional elements based on information recently analyzed.

The Objectors filed proposed *Amended Objections* which are attached to the *Motion to Amend Objection*. There was no opposition to the *Motion*.

II. STANDARD OF REVIEW

This is a *Motion to Amend Objection*. The original *Objections* were timely, and the proposed *Amended Objections* seek to raise issues which are related to the original *Objections*. Accordingly, this Special Master applies the standard for amending pleadings established in I.R.C.P. 15(a).

¹ The title of the document was actually *Motion to File Late Objection*, but since the movants filed timely *Objections*, the parties concurred that this was properly a *Motion to Amend Objections*.

A court generally considers whether the allegations sought to be added to the pleading state a valid claim. See *Black Canyon Racquetball Club, Inc. v. Idaho First Nat'l Bank N.A.*, 119 Idaho 171, 175, 804 P.2d 900, 904 (1991). A court does not usually consider the sufficiency of evidence supporting the claim when deciding a motion to amend. Consideration of the sufficiency of evidence is more properly determined at the summary judgment stage. *Thomas v. Medical Center Physicians, P.A.*, 138 Idaho 200, 61 P.3d 557 (2002).

III. ANALYSIS

A. Rule 15(a)

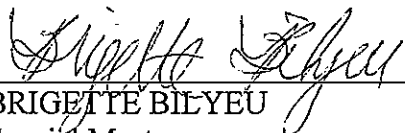
Although the court has discretion in allowing amendments, I.R.C.P. 15(a) establishes that "leave shall be freely given when justice so requires." Rule 15(a) establishes a rather lenient standard for amending pleadings. The Objectors presented sufficient information to support an amendment to the pleadings, and no party opposed the *Motion*.

IV. FINDINGS

The court finds that the *Motion to Amend Objections* asserts a valid request to amend the existing *Objections*. Thus, under I.R.C.P. 15(a), "justice requires" that Objectors be allowed to amend their *Objections*. Accordingly, the court **grants** the *Motion to Amend Objections* and will include Shawn Jeffrey, Mona and Patrice Walters as part of the *Amended Objections*. Responses to the new *Amended Objections* shall be **due May 22, 2009**.

THEREFORE, the *Motion to Amend Objection* is **granted**.

DATED: April 3, 2009.


BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTION TO AMEND OBJECTIONS AND SETTING DEADLINE was mailed on April 03, 2009, with sufficient first-class postage to the following

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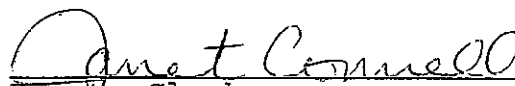
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