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DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

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.: 34-00503A
)
Case No. 39576) ORDER GRANTING MOTION
) TO AMEND CLAIM
)

On August 31, 1995, the claimants John and Elsie Traugher filed a *Motion to Amend Claim*. The *Motion* sought leave of court to amend the Traugher's claim to add stock water, fish, wildlife, recreation, and aesthetics as purposes of use for this water right.

A hearing on the *Motion* was held September 14, 1995. Mr. Peter Ampe represented the Traugher's. Mr. Ampe asserted that the land to which this water right is appurtenant was originally used for irrigation, but since that time has been used for stock water, and has been improved for fish and wildlife habitats. A second hearing was held on October 31, 1995. There were no objections to the *Motion*.

Idaho Rule of Civil Procedure 15(a) sets forth the provisions for amendments to pleadings in subcases. Where a responsive pleading has already been filed, I.R.C.P. 15(a) states:

[A] party may amend a pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires, and the court may make such order for the payment of costs as it deems proper. A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within ten (10) days after service of the amended pleading, whichever period may be the longer, unless the court otherwise orders.

I.R.C.P. 15(a)

A trial court exercises discretion in determining *Motions to Amend Pleadings*. *Sinclair Mktg., Inc. v. Siepert*, 107 Idaho 1000, 695 P.2d 385 (1985). Rule 15(a) permits the court to set the dates for responsive pleadings.

The court finds that John and Elsie Traughber asserted sufficient allegations which if proven, could entitle them to the water right claimed. The court **grants** Traughbers leave to amend their claim.

IT IS ORDERED that:

1. The *Motion to Amend Claim* is GRANTED and the amendment shall be deemed lodged with the court as of September 14, 1995. The proposed amended claim was not signed. A signed amended claim shall be immediately filed with IDWR, and a copy of the signed amended claim shall be immediately lodged with the court.
2. The claimants shall pay IDWR an additional fee of \$125.00.
3. An Amended Director's Report shall be filed with the court and served on the claimant to this water right on or before 5:00 p.m., December 15, 1995.
4. Objections to the Director's Report shall be filed on or before 5:00 p.m., February 15, 1996.
5. Responses to the Objections, if any, shall be filed on or before 5:00 p.m., April 15, 1996.

DATED: November 7, 1995.


BRIGETTE BILYEU
Special Master, Reporting Area 1,
Snake River Basin Adjudication

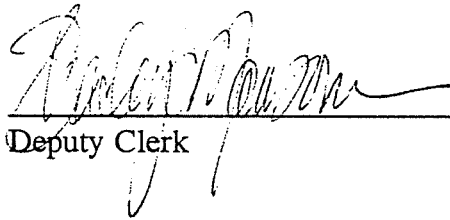
CERTIFICATE OF MAILING

I certify that a true and correct copy of the **ORDER GRANTING MOTION TO AMEND CLAIM** was mailed on November 7, 1995, with sufficient first-class postage to the following:

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Deputy Clerk

