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DEPARTMENT OF
WATER RESOURCES

Fifth Judicial District
County of Twin Falls - State of Idaho

NOV 14 2014

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

) Subcase Nos: 01-10614, 01-10615, 01-10616, 01-
) 10617, 01-10618, 01-10620, 01-10621, 01-10622,
) 01-10623, 21-13161, 37-22806, 65-23531 and
) 65-23532

) ORDER GRANTING LIMITED
) PARTICIPATION
)

I.

BACKGROUND AND ANALYSIS

On December 31, 2013, the Director filed a *Director's Report for Late Claims* in various IDWR Basins. That *Director's Report* included recommendations for the above-captioned water right claims. *Objections* and *Reponses* to the recommendations were filed by various parties. On October 10, 2014, United Water Idaho Inc. ("United Water") filed a *Motion to Participate* in the above-captioned subcases, citing *SRBA Administrative Order 1*, §10.k, and Idaho Rules of Civil Procedure 24(a) and 24(b). United Water is a Respondent in subcase numbers 63-33732, 63-33733, 63-33734, 63-33737 and 63-33738 ("Basin 63 Subcases"). Those subcases, like the above-captioned subcases, concern late claims based on beneficial use for storage water rights that were filed in relation to proceedings before this Court in Basin Wide Issue 17 (i.e., SRBA Subcase No. 00-91017).

After reviewing the *Motion* and the files, the Court in an exercise of its discretion finds that United Water has set forth sufficient grounds to intervene and participate in these subcases under Rule 24(b) on a limited basis. The Court finds United Water's *Motion* to be timely. These subcases are in their early stages. The *Motion* was filed prior to the issuance of a scheduling

order by this Court and prior to the filing of any substantive motions by the parties.¹

Furthermore, no substantive determinations of any kind had been made by this Court prior to the filing of the *Motion*. Therefore, the Court finds the *Motion* timely. The Court further finds that United Water's claims and defenses in the Basin 63 Subcases share common questions of law or fact with this action. United Water holds relatively junior priority surface water rights in Basin 63 that may be affected by the outcome of the late claims filed in the Basin 63 Subcases.

Last, the Court finds that granting full party status will result in prejudice to the original parties. United Water does not hold water rights that would be directly affected by any of the above-captioned claims. Participation in discovery, trial or any settlement proceedings, given the limited nature of United Water's interest, would result in prejudice to the original parties. However, permissive intervention on a limited basis for purposes of participating in proceedings related to the application of law addresses United Water's interest and will not result in undue delay or prejudice to the original parties. For these reasons, and in an exercise of its discretion, this Court finds that United Water may permissively intervene on a limited basis as set forth below.

II. ORDER

THEREFORE, BASED ON THE FOREGOING, IT IS ORDERED that the United Water's *Motion to Participate* is **hereby granted** on a limited basis as follows:

1. United Water shall appear on the certificate of service in the above-captioned subcases.
2. United Water shall be entitled to participate in any of the proceedings relating to legal issues that may arise in the above-captioned subcases.
3. United Water is prohibited from participating in discovery, trial, settlement negotiations or resolutions reached in any of the above-captioned subcases.

Dated November 14, 2014



ERIC J. WILDMAN
District Judge

¹ The Court notes that no action was taken on these subcases during the pendency of the appeal of this Court's decision in Basin-Wide Issue 17 (i.e., SRBA Subcase No. 00-91017) to the Idaho Supreme Court.

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING LIMITED PARTICIPATION was mailed on November 14, 2014, with sufficient first-class postage to the following:

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