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DEPARTMENT OF
WATER RESOURCES



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re CSRBA

Case No. 49576

) WATER RIGHT NO: 95-12633
)
) ORDER GRANTING MOTION TO FILE
) AMENDED NOTICE OF CLAIM
)
) REQUEST FOR AMENDED
) DIRECTOR'S REPORT
)

Kay Harris ("Claimant") filed a claim in the above-captioned subcase to divert .04 cfs of ground water for domestic purposes. The claim sought a period of use from 05/01 to 11/01. On February 26, 2019, the Director of the Idaho Department of Water Resources filed his *Director's Report* for Basin 95 Part 2. The *Director's Report* included a recommendation for the claim. On March 25, 2019, the Claimant filed a *Motion* to amend the originally claimed period of use (05/01- 11/01) to year-round use (01/01-12/31). A hearing on the *Motion* was held on June 18, 2019.

A *Director's Report* has previously been filed for this particular claim. As a result, leave of the Court is required to amend the claim. *CSRBA Administrative Order 1, Rules of Procedure* § 4.d.(2)(d). District courts should favor liberal grants of leave to amend a pleading in the interest of justice. *Hines v. Hines*, 129 Idaho 847, 853, 934 P.2d 20, 26 (1997). The decision to grant or refuse permission to amend a pleading is left to the sound discretion of the trial court. *Id.* At the hearing, the Court in an exercise of its discretion determined to grant the *Motion*.

The Court found that the Claimant has filed the *Motion* sufficiently early in the proceeding to warrant the granting of the request. The *Director's Report* for the claim was just recently filed and the time for the filing of *Objections* and *Responses* to the recommendation has not run. As a result, there have been no objections filed to the recommendation at this time, nor have there been any other dispositive motions or hearings in this subcase. Additionally, the Court did not find that the Claimant's *Motion* was filed in bad faith or with any dilatory motive. See e.g., *Drennon v. Fisher*, 141 Idaho 942, 946, 120 P.3d 1146, 1150 (Ct. App. 2005) (providing

that “[i]n the absence of any apparent or declared reason—such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of the allowance of the amendment, futility of amendment, etc.—the leave sought should, as the rules require, ‘be freely given’”). Therefore, the Court in its discretion will grant the Claimant leave to file the *Amended Claim*.

THEREFORE, BASED ON THE FOREGOING, THE FOLLOWING ARE HEREBY ORDERED:

1. The Claimant’s *Motion to File Amended Notice of Claim* is **hereby granted**.
2. The *Amended Notice of Claim*, as well as any attached filing fees, and a copy of this **Order** will be forwarded to the Idaho Department of Water Resources for further action. Following investigation by the Idaho Department of Water Resources, recommendation for the claim will be reported in a future *Late Claims Director’s Report*.

Dated: June 20, 2019.



ERIC J. WILDMAN

Presiding Judge

Coeur d’Alene-Spokane River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTION TO FILE AMENDED NOTICE OF CLAIM / REQUEST FOR AMENDED DIRECTOR'S REPORT was mailed on June 20, 2019, with sufficient first-class postage to the following:

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