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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - CSRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
JUL 18 2019	
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 CSRBA

Case No. 49576

) WATER RIGHT NO: 95-7082
)
) ORDER GRANTING MOTION TO FILE
) AMENDED NOTICE OF CLAIM
)
) REQUEST FOR AMENDED
) DIRECTOR'S REPORT
)

The Brickert Country Estates Homeowners Association ("Claimant") filed a claim in the above-captioned subcase to divert 3.11 cfs or 549.5 acre feet annually of ground water for irrigation. On August 2, 2018, the Director of the Idaho Department of Water Resources filed his *Director's Report* for Basin 95 Part 1. The *Director's Report* included a recommendation for the claim. On April 30, 2019, Claimant filed a *Motion* to amend the period of use element of its claim from 4/1-10/1 to 4/15-10/15. A hearing on the *Motion* was held on July 16, 2019.

A *Director's Report* has previously been filed for this 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 there has not been any dispositive motions or hearings in this subcase. Additionally, the Court does 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 Claimants 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: July 18, 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 July 18, 2019, with sufficient first-class postage to the following:

BRICKERT COUNTRY ESTATES
HOMEOWNERS ASSN
6607 OCTAVIA COURT
POST FALLS, ID 83854

BRICKERT HOMEOWNERS ASSN INC
C/O DARLA PAVLISH, SEC/TREAS
6607 E OCTAVIA CT
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ORDER

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Deputy Clerk