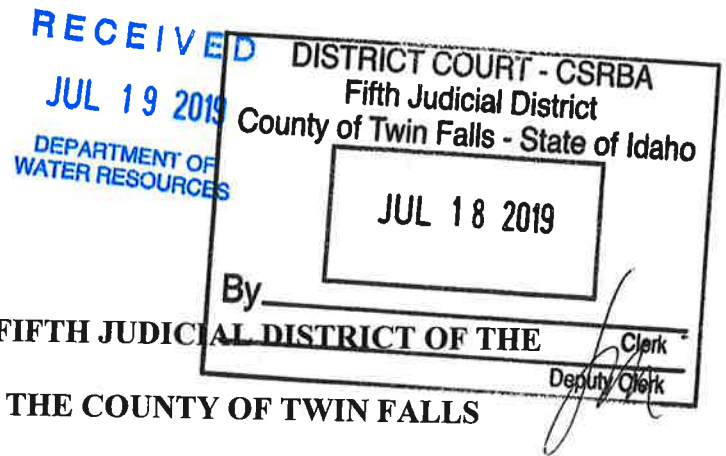




IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re CSRBA

Case No. 49576

) WATER RIGHT NO: 95-12568
)
) ORDER GRANTING MOTION TO FILE
) AMENDED NOTICE OF CLAIM
)
) REQUEST FOR AMENDED
) DIRECTOR'S REPORT
)

Randall Nichols ("Claimant") filed a claim in the above-captioned subcase to divert .04 cfs of surface water from an unnamed spring for domestic purposes. The claim is based on beneficial use and seeks a priority date of January 1, 1987. 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 April 29, 2019, the Claimant filed a *Motion* to amend the priority date of his claim from January 1, 1987 to April 17, 1955. On that same date the Claimant filed an objection to the recommendation. 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 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: 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:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

RANDALL J NICHOLS
RANDALL NICHOLS
8175 E FERNAN LAKE RD
COEUR D ALENE, ID 83814

ORDER

Page 1 7/18/19

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Deputy Clerk