

**BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO**

**IN THE MATTER OF APPLICATION FOR     )  
TRANSFER NOS. 79357, 79380 & 79384     )  
IN THE NAME OF LENO AND NO. 79466     )  
IN THE NAME OF FOUR SISTERS DAIRY     )**

**ORDER GRANTING  
PETITION TO INTERVENE**

On May 20, 2014, Thomas and Dorothy Leno filed Application for Transfer Nos. 79357, 79380 and 79384 with the Idaho Department of Water Resources ("Department"). Protests against the applications were filed by Delea C. Miller, Jimmie L. Conder, Michael and Jana Humphries, Ed Smith, Barbara and Lynn Stephens, Leslie Ellsworth, William D. Hamby, Jeanie and Fred McCreary, Lois M. Rice, Victoria B. Henson, Pam Ritter, Eric Parrott, Scott R. Houtz, Martin Hackard, Margaret Winsryg and Leroy Elliott represented by David Coleman and Elizabeth (Betty) Slifer. Richard M. Parrott only protested Application for Transfer 79384.

On July 9, 2014, Four Sisters Dairy, LLC filed Application for Transfer No. 79466 with the Department. Protests were filed by Richard Parrott, Jimmie L. Conder, Michael and Jana Humphries, William D. Hamby, Eric Parrott, Lois M. Rice, Leslie Ellsworth, Pam Ritter, Ed Smith, Shadow and Bonnie Seaman, Jeanie and Fred McCreary, Barbara and Lynn Stephens, Margaret Winsryg and Leroy Elliott represented by David Coleman, Elizabeth (Betty) Slifer and Martin F. Hackard.

A prehearing conference was held on November 19, 2014 for all four contested cases. On January 20, 2015, Cedar Ridge Dairy LLC ("Cedar Ridge") filed a motion to intervene in the four contested cases. The motion noted that Cedar Ridge would be the owner of all of the water rights if the four transfers were approved. According to the motion, Travis Thompson would represent Cedar Ridge if the motion to intervene were approved. None of the parties filed responses in opposition to the petition to intervene.

Rule 351 of the Department's Rules of Procedure (IDAPA 37.01.01) states that petitions to intervene must comply with Rules 200, 300, and 301 of the Rules of Procedure. Cedar Ridge's petition to intervene identifies the contested cases and was mailed to all of the parties to the contested cases. The petition to intervene satisfies the requirements of Rule 351.

Rule 352 of the Department's Rules of Procedure (IDAPA 37.01.01) states that a petition to intervene is considered timely if it is filed "at least fourteen (14) days before the date set for formal hearing, or by the date of the prehearing conference, whichever is earlier . . . . Petitions not timely filed must state a substantial reason for delay." Cedar Ridge's petition is not considered timely because it was filed after the November 19<sup>th</sup> pre-hearing conference. Cedar Ridge's motion did not state a substantial reason for the delay in filing.

Rule 352 also states: "The presiding officer *may* deny or conditionally grant petitions to intervene that are not timely filed for failure to state good cause for untimely filing, to prevent disruption, prejudice to existing parties or undue broadening of the issues, or for other reasons." IDAPA 37.01.01.352 (emphasis added). In other words, Rule 352 allows the presiding officer to grant a petition to intervene with limiting conditions, even if the petition fails to state a reason for the untimely filing.

In this case, even though Cedar Ridge did not state a substantial reason for delay, Cedar Ridge's petition to intervene should be granted with conditions limiting its involvement in the proceedings. Because Cedar Ridge is represented by the same attorney as the applicants, granting the intervention will not cause delay or disrupt the proceedings. Further, the issues in the case will not be unduly broadened. The issues to be addressed at hearing are largely dictated by the protestants. Cedar Ridge is not joining as a protestant and, therefore, will not raise additional issues of protest.

At the time Cedar Ridge filed its petition to intervene, the discovery period for these contested cases had already passed. Consequently, protestants were not able to propound discovery on Cedar Ridge. Allowing Cedar Ridge to offer exhibits or other evidence that was not subject to discovery would cause prejudice to the protestants. The pre-hearing disclosure deadlines have already passed. To prevent prejudice to the protestants, Cedar Ridge should be limited to the witnesses, exhibits, and expert reports already disclosed by the applicants.

### ORDER

IT IS HEREBY ORDERED that Cedar Ridge's Petition to Intervene is **GRANTED**. However, Cedar Ridge's participation in this matter is limited. To prevent disruption, Travis Thompson must represent the original applicants and Cedar Ridge at the hearing. Cedar Ridge must rely on the evidence (witnesses, exhibits, and expert reports) already disclosed by the original applicants.

Dated this 5<sup>th</sup> day of March, 2015.

A handwritten signature in black ink, appearing to read "J. Cefalo", is written over a horizontal line.

James Cefalo  
Hearing Officer

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5<sup>th</sup> day of March 2015, true and correct copies of the documents described below were served by placing a copy of the same with the United States Postal Service, postage prepaid and properly addressed, to the following:

Document Served: Order Granting Petition to Intervene

Jimmie L. Conder  
3623 N 2000 E  
Filer ID 83328

Jeanie Mc Creary  
2217 E 3300 N  
Twin Falls ID 83301

Michael & Jana Humphries  
2382 E 3300 North  
Twin Falls ID 83301

Barbara & Lynn Stephens  
PO Box 2118  
Twin Falls ID 83303-2118

William D. Hamby  
2399 E 3300 N  
Twin Falls ID 83301

Margaret Winsryg & Leroy Elliott  
David Coleman  
PO Box 525  
Twin Falls ID 83303-0525

Eric Parrott  
2152 E 3300 N  
Twin Falls ID 83301

Elizabeth Slifer  
3779 N 2250 E  
Filer ID 83328

Lois M. Rice  
PO Box 200  
Filer ID 83328-0200

Martin F. Hackard  
3289 N 2300 E  
Twin Falls ID 83301

Leslie Ellsworth  
PO Box 5023  
Twin Falls ID 83303-5023

Richard Parrott  
1389 E 4400 N  
Buhl ID 83316

Pam Ritter  
3283 N 2300 E  
Twin Falls ID 83301

Delea C. Miller  
2239 E 3300 N  
Twin Falls ID 83301

Ed Smith  
PO Box 6015  
Twin Falls ID 83303-6015

Victoria B. Henson  
3295 N 2300 E  
Twin Falls ID 83301-0455

Shadow & Bonnie Seaman  
1940 E 3700 N  
Filer ID 83328

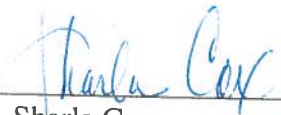
Scott Houtz  
2231 E 3300 N  
Twin Falls ID 83301

Thomas and Dorothy Leno  
4236 N 1900 E  
Buhl ID 83316

Four Sister Dairy LLC  
PO Box 105  
Twin Falls ID 83303-0105

Greg Sullivan  
Brockway Engineering PLLC  
2016 N. Washington St., Ste 4  
Twin Falls ID 83301

Barker Rosholt & Simpson  
Travis L Thompson  
195 River Vista Place, Ste 204  
Twin Falls ID 83301-3027



---

Sharla Cox  
Administrative Assistant