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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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GCUBE INSURANCE SERVICES,  
INC., a California  
corporation,

NO. CIV. 2:12-1163 WBS CKD

Plaintiff,

ORDER RE: MOTION FOR LEAVE TO  
FILE A THIRD-PARTY COMPLAINT

v.

LINDSAY CORPORATION, a  
Delaware corporation, and DOES  
1 through 10, inclusive,

Defendant.

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Plaintiff GCube Insurance Services, Inc. ("GCube")  
brought this action against defendant Lindsay Corporation, Inc.  
("Lindsay") arising out of defendant's provision of A-frame  
supports for a Solar Steam Generation array ("SSG array").  
Presently before the court is defendant's motion pursuant to  
Federal Rule of Civil Procedure 14(a) for leave to file a third-  
party complaint against Areva Solar, Inc., Ausra CA I, LLC, now

1 known as Areva Solar CA I, LLC, Special Services Contractors,  
2 Inc., Lloyd W. Aubry Co., Inc., Material Integrity Solutions,  
3 Inc., and Zoes one through fifty. (Docket No. 14.) Plaintiff  
4 opposes the motion as to parties Areva Solar, Inc. and Areva  
5 Solar CA I, LLC. (Docket No. 15.)

6 Federal Rule of Civil Procedure 14(a) provides in  
7 pertinent part:

8 A defending party may, as third-party plaintiff, serve a  
9 summons and complaint on a nonparty who is or may be  
10 liable to it for all or part of the claim against it.  
11 But the third-party plaintiff must, by motion, obtain the  
12 court's leave if it files the third-party complaint more  
13 than 10 days after serving its original answer.

14 Fed. R. Civ. Pro. 14(a). "The decision whether to implead a  
15 third-party defendant is addressed to the sound discretion of the  
16 trial court." Sw. Adm'rs, Inc. v. Rozay's Transfer, 791 F.2d  
17 769, 777 (9th Cir. 1986).

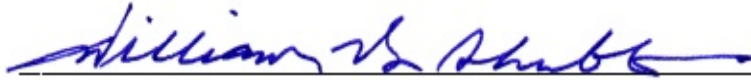
18 Defendant argues that for several reasons the third-  
19 party complaint will be futile and/or unnecessary. The preferred  
20 procedure for litigating these questions, however, is to allow  
21 the third-party complaint to be filed and to permit the third-  
22 party defendants to raise those questions in the context of a  
23 motion to dismiss, motion for summary judgment, or other  
24 appropriate procedural vehicle. The court will grant defendant's  
25 motion for leave to file a third-party complaint as to all  
26 requested parties without prejudice to the right of those parties  
27 to bringing any appropriate motion raising the issues plaintiff  
28 has sought to raise in its opposition to defendant's request.

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1           IT IS THEREFORE ORDERED that defendant's motion for  
2 leave to file a third-party complaint be, and the same hereby, is  
3 GRANTED.

4 DATED: February 27, 2013

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7 WILLIAM B. SHUBB  
8 UNITED STATES DISTRICT JUDGE  
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