

2004 SEP 23 PM 4:39

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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

In Re SRBA

Case No. 39576

)
) **ORDER OF REFERENCE TO SPECIAL**
) **MASTER BRIGETTE BILYEU**
)
) **For water right claims: 29-239 & 29-2322**
)
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)

I. PROCEDURE

The above-captioned matter was filed by the Shoshone-Bannock Tribes and styled as a *Motion to File Late Notice of Claims*. The basis for the *Motion* was that water right claim 29-239 was inadvertently omitted from the *1990 Fort Hall Indian Water Rights Agreement* and the *Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use of Water in the Upper Snake River Basin*. The *Motion* also asserts other clerical errors in the *Consent Decree* affecting the 29-239 claim. The *Motion* with respect to 29-2322 asserts that the Shoshone-Bannock Tribes purchased the water right from the City of American Falls. However, it has yet to be determined whether the claim is also covered by the *Consent Decree*.

A hearing was held on the *Motion* on September 21, 2004. At the hearing, the Court determined that the relief sought with respect to 29-239 should be treated as a motion to amend the *Consent Decree*. With respect to 29-2322, the Court had insufficient information to determine whether said right was covered by the *Consent Decree*. The State of Idaho took the position that 29-2322 was also covered by the

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Consent Decree. The Court concluded that the matter would be referred to a special master for further proceedings.

II. ORDER OF REFERENCE

THEREFORE, IT IS ORDERED that the above-captioned matter is referred to Special Master Brigitte Bilyeu to conduct all necessary proceedings for the purpose of making a recommendation to the Court regarding whether the above-captioned claims are covered by the *Consent Decree*; if so then whether there is a legal basis for amending the *Consent Decree*, if not, whether leave should be granted to file late claims.

The special master shall preside over subcases and issue reports as set forth in *SRBA Administrative Order 1* and shall have the authority to: fix the time and conditions for the filing of supplemental pleadings and amendments to pleadings; schedule and hear dispositive and nondispositive motions of any party; schedule and conduct all pretrial matters, including pretrial, status and scheduling conferences; issue pretrial orders; schedule and limit the scope of discovery; order the discovery of facts known and opinions held by experts; issue protective orders; issue orders compelling discovery; sanction failure to comply with pretrial, trial-related or post-trial orders; summon witnesses and issue subpoenas; take such evidence as may be introduced or deemed necessary by her; rule on the admissibility of evidence; call witnesses on behalf of the court; and appoint expert witnesses for the court. Special Master Bilyeu shall set proceedings in conformity with *SRBA Administrative Order 1*, section 9, notwithstanding the provisions of I.R.C.P. 53(d)(1), and exercise the power to regulate all proceedings in every hearing and to do all acts and take all measures necessary or proper for the efficient performance of her duties under this *Order*

Dated: September 23, 2004


JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

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CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER OF REFERENCE TO SPECIAL MASTER BRIGETTE BILYEU was mailed on September 23, 2004, with sufficient first-class postage to the following:

SHOSHONE-BANNOCK TRIBE

Represented by:

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