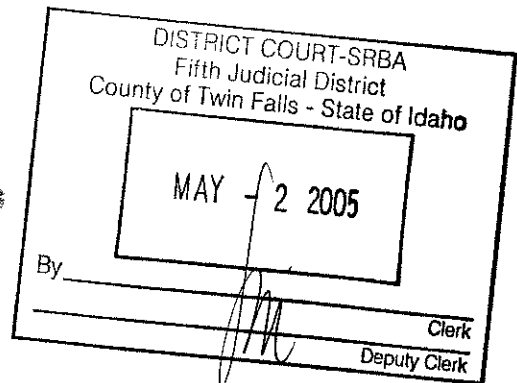


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DEPARTMENT OF
WATER RESOURCES



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 APPOINTING
) THEODORE R. BOOTH SPECIAL MASTER
) FOR FURTHER PROCEEDINGS ON
) MOTION TO FILE LATE CLAIM
)

) For Water Right Claim 36-07763
)

This matter came before this Court pursuant to a *Motion to File a Late Claim*, heard on April 21, 2005. The Claimant, Roost Potato Company, Inc., appeared through counsel. No party filed an objection or appeared in opposition to the *Motion*. Following a review of the file and after hearing the comments made by counsel in open court, the Court finds that the Claimant has demonstrated an excuse for the untimely filing of the subject late claim and a meritorious position (claim based on former license); both of which are elements of the "good cause" standard for filing a late claim as required by *SRBA Administrative Order 1 (AOI)* 4.d.(2)(d) and I.R.C.P. 55(c). However, the element of prejudice to other parties, if any, that may arise by the late claim was not addressed. The Court places emphasis on this element because the originally reported irrigation and other purposes water rights in Basin 36 have substantially all been litigated and decreed. A new late claim on a fully decreed source potentially puts parties with rights on the same source in the position of re-litigating issues that have already been decided or settled through negotiations, or in the position of addressing new issues that should have been properly raised at the time the source of the subject claim was initially reported and litigated.

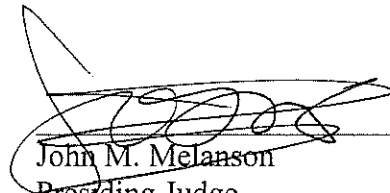
Therefore, THE FOLLOWING ARE HEREBY ORDERED;

This matter is referred to Special Master Theodore R. Booth for further proceedings to determine the degree of prejudice with respect to the foregoing concerns raised by this Court, if any, to other parties on the same claimed source. If the Special Master finds no such prejudice, then to recommend to this Court that the late claim be granted.

Special Master Booth shall set proceedings in conformity with *AOI*, 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 ^{his}her duties under this *Order*.

IT IS SO ORDERED.

DATED: April 25, 2005



John M. Melanson
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER OF REFERENCE APPOINTING THEODORE R. BOOTH SPECIAL MASTER FOR FURTHER PROCEEDINGS ON MOTION TO FILE LATE CLAIM was mailed on May 02, 2005, with sufficient first-class postage to the following:

ROOST POTATO COMPANY

Represented by:
ROGER D LING
PO BOX 396
RUPERT, ID 83350
Phone: 208-436-4717

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

A handwritten signature in cursive script, reading "Julie Murphy", is written over a horizontal line. The signature is in dark ink and is positioned to the right of the printed text "Deputy Clerk".