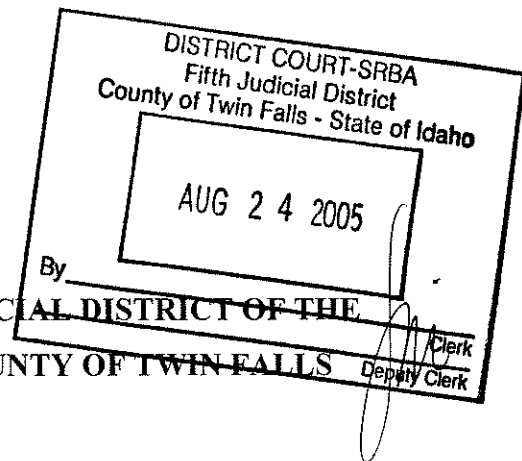




IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

) Subcase No.: 29-00239

)

) ORDER DENYING MOTION TO FILE
) LATE NOTICE OF CLAIM and
) MOTION TO CORRECT CLERICAL
) ERRORS PURSUANT TO RULE 60(a)

)

On July 26, 2004, claimant the Shoshone-Bannock Tribes (the Tribes), by and through their counsel, filed a *Motion to File Late Notice of Claim* for the above water right. The *Motion* was referred to Special Master Brigitte Bilyeu on September 23, 2004.

The Shoshone-Bannock Tribes filed a *Motion to Correct Clerical Errors Pursuant to Rule 60(a)* and a *Memorandum in Support of Motion to Correct Clerical Errors Pursuant to Rule 60(a)* on January 5, 2005. On January 24, 2005, the United States joined in the Tribes' *Motion*. See, *United States' Joinder in Shoshone-Bannock Tribes' Motion to Correct Clerical Errors Pursuant to Rule 60(a)*. A status conference was held January 6, 2005. At that time, the Shoshone-Bannock Tribes explained that the *Motion* sought to correct elements of water rights previously decreed in the SRBA. Specifically, water right 29-00239 was omitted at the conclusion of the ***Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use of Water in the Upper Snake River Basin*** (August 2, 1995) (hereafter "Consent Decree"). The elements for 29-00239 were omitted, although the water right was referred to in the ***Partial Final Consent Decree***, was referred to in the agreement that resolved the Shoshone-Bannock Tribes water rights (*The 1990 Fort Hall Indian Water Rights Agreement*) and was also referred to in a prior decree relating to tribal rights, *United States v. Hibner*. The Shoshone-Bannock Tribes and the United States determined that

they needed to file the *Motion to Correct Clerical Errors* in the subcase in which the *Consent Decree* was filed, subcase no. 92-22.

On March 25, 2005, the Shoshone-Bannock Tribes filed a *Motion to Correct Clerical Errors* in subcase 92-22. That *Motion* asked the court to correct the *Consent Decree*. A hearing on the *Motion* was held May 25, 2005. The United States joined in the *Motion* during the hearing. The *Motion to Correct Clerical Errors* in 92-22 was **granted**. Following the granting of the *Motion to Correct Clerical Errors* in 92-22, the Shoshone-Bannock Tribes and the United States moved to withdraw their *Motion to Correct Clerical Errors Pursuant to Rule 60(a)* that was filed in 29-00239.

On June 6, 2005, the Special Master issued a *Special Master's Recommendation on Motion to File Late Claim*, recommending that the *Motion to File Late Notice of Claim* and the *Motion to Correct Clerical Errors Pursuant to Rule 60(a)* filed in subcase 29-00239 be denied. No objections were filed to the *Special Master's Report*, and the time for challenges has expired.

Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 13f this Court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report* and wholly adopts them as its own.

THEREFORE, IT IS ORDERED, that the *Motion to File a Late Notice of Claim* and the *Motion to Correct Clerical Errors Pursuant to Rule 60(a)* be **denied**.

IT IS SO ORDERED.

Dated August 24, 2005.



JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER DENYING MOTION TO FILE LATE NOTICE OF CLAIM AND MOTION TO CORRECT CLERICAL ERRORS PURSUANT TO RULE 60(A) was mailed on August 24, 2005, with sufficient first-class postage to the following:

SHOSHONE-BANNOCK TRIBES

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A handwritten signature in cursive script, reading "Julie Murphy", is written over a horizontal line.