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2. The point of diversion for the subject late claim is located down gradient from the last diversion that is within the North Side Canal Company system.¹

3. The use of water under this late claim stems from an Agreement dated February 25, 1914, between Harvey W. Hurlebaus, apparent predecessor-in-interest to George Bohr, and the Twin Falls Land and Water Company, apparent predecessor-in-interest to the North Side Canal Company.

4. A statutory claim under Idaho Code § 42-243 has been filed with the Idaho Department of Water Resources for water used pursuant to the aforementioned Agreement, under water right number 36-4238. The subject late claim represents the only surviving portion of that statutory claim.

5. The subject late claim is not significantly related to any other group of water rights which have been the subject of negotiation and settlement in the SRBA.

II. CONCLUSIONS OF LAW

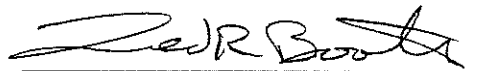
1. George Bohr has demonstrated good cause for his untimely filing.

2. The subject late claim is based upon a meritorious position.

3. There is very little likelihood that holders of other water rights in Basin 36, or in the Snake River Basin, will be prejudiced by the granting of the subject *Motion to File a Late Notice of Claim*.

4. Based upon the forgoing, IT IS RECOMMENDED that the Court grant the *Motion to File a Late Notice of Claim*.

Dated November 15, 2005.



THEODORE R BOOTH
Special Master
Snake River Basin Adjudication

¹ According to Mr. Spencer, the Department's current position regarding when water becomes wastewater is that water is appropriable as wastewater after the water passes the last headgate controlled by the primary appropriator, at which point the primary appropriator relinquishes control over the water.

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER REPORT AND RECOMMENDATION RE: MOTION TO FILE LATE NOTICE OF CLAIM was mailed on November 15, 2005, with sufficient first-class postage to the following:

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