

2005 DEC 30 AM 9:40

DISTRICT COURT-SRBA
TWIN FALLS, 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

) **Water Right Claim: 25-14175**

) **NOTICE CONTINUING HEARING**
) **ON MOTION TO FILE LATE**
) **NOTICE OF CLAIM**

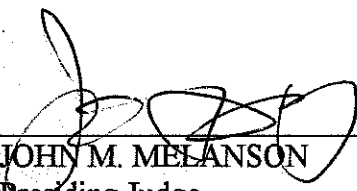
On September 19, 2005, the United States of America, by and through its counsel, Mr. James DuBois, filed a *Motion to File Late Notice of Claim* for above-captioned water right. A hearing on the *Motion* was held on December 20, 2005, and Counsel for the Claimant appeared.

At the hearing, the Court raised several concerns about this late claim in order to determine prejudice to other parties and the merit of the late claims. These concerns are:

- 1) The priority date for the right is claimed for November 18, 1975. Because the basis for the right is claimed as beneficial use, the Court is concerned that this right may not fall into any of the exceptions to the mandatory permit requirement, which generally would be necessary for this type of right after 1971. Can the United States demonstrate how this right is excepted from the mandatory permit requirements?
- 2) If not, can the United State prove beneficial use prior to 1971?

Because the Court wishes to allow the claimant and I.D.W.R to address these concerns before the *Motion* is ruled on, the matter is therefore continued to **January 17, 2006, at 1:30 p.m. (MST), at the Snake River Basin Adjudication District Court, 253 3rd Avenue North, Twin Falls, Idaho.** Parties may participate by telephone by dialing the number 1-918-583-3445 and when prompted entering code 406128.

Dated December 29, 2005.



JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the NOTICE CONTINUING HEARING ON MOTION TO FILE LATE NOTICE OF CLAIMS was mailed on December 30, 2005, with sufficient first-class postage to the following:

UNITED STATES OF AMERICA

Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

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