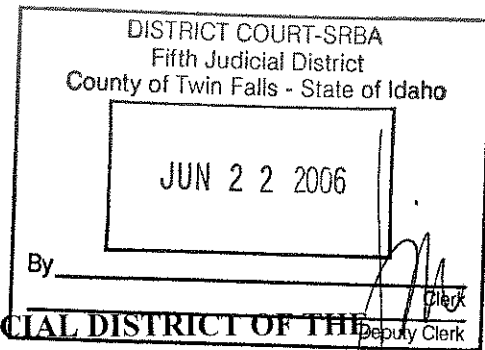




IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA) Subcase Nos.: 29-13727 & 29-13728
Case No. 39576)
) ORDER OF REFERENCE
) APPOINTING BRIGETTE BILYEU
) SPECIAL MASTER FOR FURTHER
) PROCEEDINGS ON MOTION TO
) FILE LATE CLAIM

This matter came before this Court pursuant to a *Motion to File a Late Claim*, heard on June 20, 2006. The claimants, Max & LaRue Whitworth and Johanna Wallace, appeared *pro se*. 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 the claimants in open court, the Court finds that claimants have demonstrated an excuse for the untimely filing of the subject late claim and a meritorious position; both of which are elements of the "good cause" standard for filing a late claim as required by **SRBA Administrative Order 1 (AO1)** 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 29 have substantially all been litigated and decreed. In addition, the source for the claim is tributary to the Portneuf River. 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 been properly raised at the time the source of the subject claim was initially reported and litigated. A comprehensive agreement was previously entered into involving a significant number of water rights on the Portneuf River. The claimants were unable to explain if the late claims would have any impact on that settlement.

Therefore, THE FOLLOWING IS HEREBY ORDERED:

This matter is referred Special Master Brigitte Bilyeu for further proceedings to determine the degree of prejudice, 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 Bilyeu 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 her duties under this *Order*.

IT IS SO ORDERED.

DATED June 22, 2004.



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 BRIGETTE BILYEU SPECIAL MASTER FOR FURTHER PROCEEDINGS ON MOTION TO FILE LATE CLAIM was mailed on June 22, 2006, with sufficient first-class postage to the following:

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