

RECEIVED

AUG 18 2006

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
AUG 17 2006	
By _____	Clerk
_____	Deputy Clerk

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
) TERRENCE DOLAN SPECIAL MASTER
) FOR FURTHER PROCEEDINGS ON
) MOTION TO FILE LATE CLAIM
)

) For Water Right Claims: 35-13565 & 35-13566
)

This matter came before this Court pursuant to a *Motion to File a Late Claim*, heard August 15, 2006. The claimant 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 in open court, the Court finds that the claimant has demonstrated an excuse for the untimely filing of the subject late claims 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 (AOI)* 4.d.(2)(d) and I.R.C.P. 55(c). However, the question of prejudice to other parties, if any, that may arise by the late claims was not addressed. The Court places emphasis on this element because the originally reported irrigation and other purposes water rights in Basin 35 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 may have already been decided, 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. In situations such as this it has been the practice of the Court to refer the matter to the special master assigned to the basin in which the late is filed for special findings.

THEREFORE, THE FOLLOWING ARE HEREBY ORDERED;

ORDER OF REFERENCE APPOINTING SPECIAL MASTER

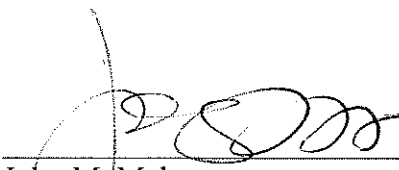
Z:\ERIC\Standard Order Forms\ORDER OF REFERENCE LATE CLAIM DETERMINE PREJUDICE.doc

This matter is referred to Special Master Terrence Dolan 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 Dolan 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 duties under this *Order*.

IT IS SO ORDERED.

DATED: August 16, 2006



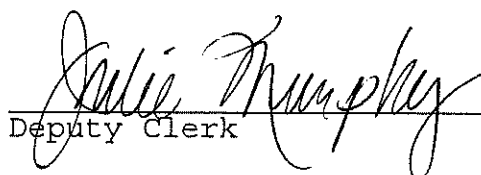
John M. Melanson
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER OF REFERENCE APPOINTING TERRENCE DOLAN SPECIAL MASTER FOR FURTHER PROCEEDINGS ON MOTION TO FILE LATE CLAIM was mailed on August 17, 2006, with sufficient first-class postage to the following:

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

VELIA DEGIULIO
1643 W 500 S
PINEGREE, ID 83262
Phone: 208-684-4677

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".