

noted, “ a 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 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.” *Order of Reference* (Subcase No. 34-13811) (October 28, 2003) The Water rights at issues are in Basin 29. It is, therefore, important to determine whether allowing a late claims would prejudice existing water rights in basin 29.

The Idaho Department of Water Resources reported that these water claims are on Indian Creek, tributary to the Portneuf River. IDWR explained that Indian Creek is below the area affected by the *Portneuf River Settlement Agreement* entered into by numerous parties in Basin 29. In addition, the late claims assert a 1939 priority date which are relatively junior compared to many other claims in the area. In addition, IDWR considered these high water rights. IDWR states that it is unlikely these late claims would cause prejudice to other parties in basin 29.

III. FINDINGS AND CONCLUSIONS

Based on IDWR’s report, this Special Master concludes that prejudice to other parties in the SRBA and in Basin 29 is unlikely given that Indian Creek is below the area affected by the *Portneuf River Settlement Agreement*, that the claimed priority is relatively junior, and that these claims are for high water rights.

IDWR reported that these water rights will be included in its annual *Director’s Report* for late claims in 2007. When the *Director’s Report* is filed, the claimant will have an opportunity to object if necessary.

Therefore, IT IS RECOMMENDED that the *Motions to File Late Notice of Claim* be **granted** for water rights 29-13727 and 29-13728.

Dated: September 26, 2006.


BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

2006 SEP 26 PM 4:11

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO

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

CERTIFICATE OF MAILING

Case No. 39576

Water Right (s) : 29-13727 and 29-13728

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT AND
RECOMMENDATION ON MOTION TO FILE LATE CLAIM was mailed on
September 26, 2006, with sufficient first-class postage prepaid to the following:

Director of IDWR
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Deputy Clerk