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DEC 21 2006

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

DEC 21 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
) BRIGETTE BILYEU SPECIAL MASTER
) FOR FURTHER PROCEEDINGS ON
) MOTION TO FILE LATE CLAIM

) For Water Right Claim(s): 23-11 (and any
) related claims)

This matter came before this Court pursuant to a *Motion to File a Late Claim*, heard December 19, 2006. The claimant appeared through counsel. 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 claim(s) 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 claim(s) was not specifically resolved. The subject late claim is one of several rights that were originally claimed collectively by an irrigation company on behalf of its shareholders. Following Idaho Department of Water Resources (IDWR) investigation it was determined that the rights should have been claimed individually by the water users as the irrigation company did not hold the ownership of the rights on behalf of shareholders. IDWR recommended the claim be disallowed and the claim was ultimately disallowed. The individual water users were not informed of the situation. Subsequently, certain individual water users filed late claims for their respective portions of the original claim. Apparently, some of these claims have been decreed and there are other late

claims still pending. As such, for purposes of this proceeding, it needs to be determined whether sufficient unclaimed water exists to satisfy the instant claim. It also should be determined whether there may be other individual claimants who assumed the claim was being pursued in the name of the irrigation company and now may also be required to file a late claim to any remaining available water. In these types of cases the Court's practice is to refer the matter to the special master assigned to the basin in which the late claim is filed to make special findings regarding such issues.

THEREFORE, THE FOLLOWING ARE HEREBY ORDERED:

This matter is referred to 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.

The Special Master 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: December 21, 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 APPAOINTING BRIGETTE BILYEU SPECIAL MASTER FOR FURTHER PROCEEDINGS ON MOTION TO FILE LATE CLAIM was mailed on December 21, 2006, with sufficient first-class postage to the following:

DIAMOND K, INC
LYNN DIXON
SNAKE RIVER ESTATES LLC
THE DANIEL W RICHARDS & JUDY K

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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".