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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 45-4160
	) (Larson)
Case No. 39576	)
	) SPECIAL MASTER REPORT
_____	) AND RECOMMENDATION

Findings of Fact

Late Claim

Charles and Becky Larson, 274 South, 150 East, Burley, Idaho, 83318 filed a *Motion to File Late Notice of Claim* on February 14, 2007, claiming 2.4 cfs from groundwater to irrigate 173 acres in Cassia County from March 15 to November 15 with a priority date of March 15, 1962, based on beneficial use. The Larson wrote: "Bought [sic] farm in 2005; found out well wasn't filed on." They attached a pump purchase invoice, dated August 26, 1961, in the amount of \$1,844.60 that included installation of pump and testing of well.

Included in the Court's file is an IDWR *Inter-Department Memo*, dated January 12, 1983, from Jim Stanton (an IDWR employee) to file with the subject, "Claim To A Water Right, Gerald Larson [Charles Larson's father]."

By the claimant's own admission, this is a false claim with regard to the acreage watered. Only 128 acres have been watered since 1962. Land in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ (29 ac.), NW $\frac{1}{4}$ SE $\frac{1}{4}$ (20 ac.), and SW $\frac{1}{4}$ NE $\frac{1}{4}$ (10 ac.) was not watered with the well until the 1977 drought. This land is higher than the well, and is served by 3rd lift canal water. I understood the claimant to say that the land was only watered in 1977 due to a water shortage in the canal system (the high ground), that is). Mr. Larson insisted that all his land be shown on the claim, however, so I prepared it that way.

Order of Reference

On May 18, 2007, the SRBA Presiding Judge entered an *Order of Reference Appointing Terrence Dolan Special Master for Further Proceedings on Motion to File Late Claim*. He found that the Larsons demonstrated an excuse for the untimely filing and stated a meritorious position, both of which constitute good cause for filing the late claim. The Presiding Judge then stated:

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 already been decided or settled through negotiations, 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.

...
[The Presiding Judge then ordered] further proceedings to determine the degree of prejudice with respect to the foregoing concerns raised by this Court, 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.

Hearing

A hearing on the Larsons' *Motion to File Late Notice of Claim* was held on August 9, 2007. Charles W. Larson appeared *pro se* and Chris M. Bromley appeared for IDWR. Mr. Larson said that there is no prejudice to other appropriators in the area because the groundwater is only used to supplement flood irrigation from the Burley Irrigation District when needed – the Larsons are at the end of the BID ditch. The well is located three miles south of Burley and can water only 80 of their 230 acres. Mr. Larson said no other users have complained about their use of the well. No one opposed their *Motion*.

Conclusions of Law

There is no evidence of record that the Larsons' late claim for groundwater will prejudice others' water rights to the same source.

Recommendation

THEREFORE, IT IS RECOMMENDED that the Larsons' *Motion to File Late Notice of Claim* in subcase 45-4160 be **granted**.

DATED August 22, 2007.

A handwritten signature in black ink, reading "Terrence A. Dolan". The signature is fluid and cursive, with the first name "Terrence" being more prominent than the last name "Dolan".

TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER REPORT AND RECOMMENDATION was mailed on August 22, 2007, with sufficient first-class postage to the following:

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

BECKY J LARSON
CHARLES W LARSON
274 S 150 E
BURLEY, ID 83318
Phone: 208-312-3110