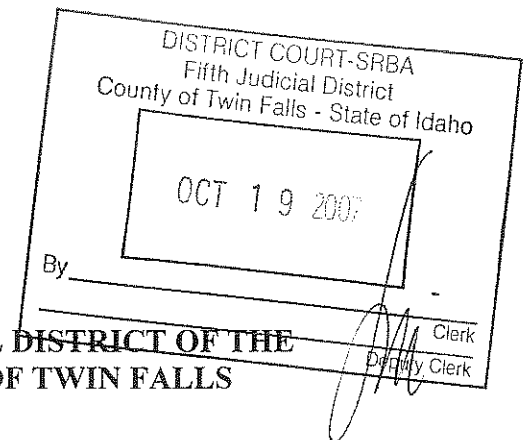




IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	ORDER OF REFERENCE APPOINTING
	)	BRIGETTE BILYEU SPECIAL MASTER
Case No. 39576	)	FOR FURTHER PROCEEDINGS ON
	)	MOTION TO FILE LATE CLAIM
	)	
	)	For Water Right Claim: ³⁴⁻¹³⁹¹⁵ ~~34-13995~~ <i>[Signature]</i>

This matter came before this Court pursuant to a *Motion to File a Late Claim*, heard on October 16, 2007. 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 claim, which is an element 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 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 34 have 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 have already been decided, or in the situation of addressing new issues that should have been properly raised at the time the source of the subject claim was initially reported and litigated. Also there was a question raised regarding meritorious position as the claimant stated that the water right had not been used since 1991.

Therefore, THE FOLLOWING ARE HEREBY ORDERED;

This matter is referred to Special Master Bilyeu for further proceedings to determine the degree of prejudice, if any, to other parties on the same claimed source and make further inquiry

on the issue of non-use. 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 duties under this *Order*.

IT IS SO ORDERED.

DATED: Oct. 18, 2007



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 October 19, 2007, with sufficient first-class postage to the following:

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

PHILLIP JAMES DAVIES
3128 N 3350 W
MOORE, ID 83255
Phone: 208-554-2591

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