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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
MAR 11 2010	
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	)	SPECIAL MASTER'S
	)	RECOMMENDATION REGARDING
Case No. 39576	)	PREJUDICE ON MOTION TO FILE
	)	LATE CLAIM
	)	
	)	WATER RIGHT NO.: 31-12181
	)	

I. PROCEDURAL HISTORY

On October 30, 2009, the SRBA Court received a *Motion to File Late Notice of Claim* from claimant Mud Lake Water Users Inc. A hearing on the *Motion* was held on January 19, 2010, before presiding Judge Eric J. Wildman. An *Order of Reference to Special Master Brigitte Bilyeu* was issued January 20, 2010.

In the *Order of Reference*, Judge Wildman ruled that both "good cause" for the untimeliness and a "meritorious position" had been demonstrated by the claimant. However, Judge Wildman asked this Special Master to take up further proceedings to determine prejudice to other parties, if any. A hearing was held on March 5, 2010. Mud Lake Water users, Inc. submitted a *Memorandum, in Support, the Affidavit of Robert L. Harris*, and attachments showing other water rights from the same source. The Idaho Department of Water Resources was present and reported on the likelihood of prejudice to other parties.

II. STANDARD OF REVIEW

The SRBA Administrative Orders provide that *Motions to File a Late Notice of Claim* are to be reviewed under the criteria of I.R.C.P. 55(c) and 60(b). *SRBA Administrative Order 1 (AO1)* § 4 (d)(2)(d).

III. FINDINGS

Judge Wildman has previously determined that the claimant has shown both "good cause"

SPECIAL MASTER'S RECOMMENDATION
REGARDING PREJUDICE ON MOTION TO FILE LATE CLAIM
S:/BASIN FOLDERS/31MRR/12181.RECOMMEND.MOTN.LATE CLAIM.GRANTED
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CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S RECOMMENDATION REGARDING PREJUDICE ON MOTION TO FILE LATE CLAIM was mailed on March 11, 2010, with sufficient first-class postage to the following:

MUD LAKE WATER USERS INC

Represented by:

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