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MAR 26 2010
DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
MAR 25 2010	
By _____	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

) WATER RIGHT NO: 41-04009
)
) ORDER OF REFERENCE APPOINTING
) TERRENCE A. DOLAN AS SPECIAL
) MASTER
)
)
)

On December 2, 2009, John Kildew and Jacqueline Kildew (collectively, "Claimants") filed a *Motion to File Late Notice of Claim* for the above-captioned water right. A hearing on the *Motion* was held on March 24, 2010. Kim R. Kildew appeared on behalf of Claimants. No party 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 Claimants have demonstrated an excuse for the untimely filing of the subject late claim 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 (AO1)** 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 was not specifically resolved. Basin 41 is a completed basin and the practice of the Court is to refer the matter to the Special Master for a determination of prejudice to other parties. The Court ruled on the record that there were a number of settlement agreements made with respect to diversions from Rock Creek in Basin 41 and that additional claims on the source could adversely impact those settlements.

THEREFORE, THE FOLLOWING ARE HEREBY ORDERED:

1. This matter is referred to Special Master Terrence A. Dolan 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.

2. 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 or her duties under this *Order*.

IT IS SO ORDERED.

Dated _____

ERIC L. WILDMAN
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER OF REFERENCE APPOINTING TERRENCE A. DOLAN AS SPECIAL MASTER was mailed on March 25, 2010, with sufficient first-class postage to the following:

JACQUELINE KILDEW
JOHN KILDEW
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DIRECTOR OF IDWR
PO BOX 83720
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A handwritten signature in cursive script, appearing to read "Julie Murphy", is written over a horizontal line.