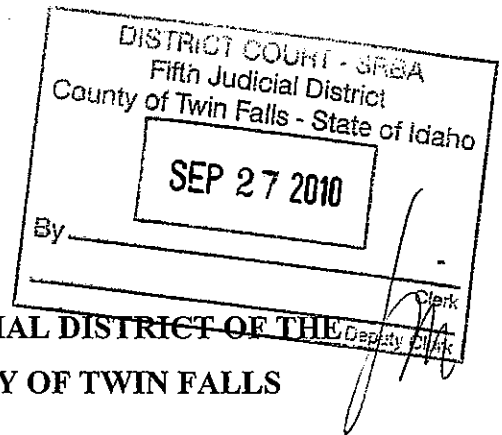


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DEPARTMENT OF  
WATER RESOURCES



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: 47-17541  
)  
) ORDER OF REFERENCE APPOINTING  
) THEODORE R. BOOTH AS SPECIAL  
) MASTER  
)  
)  
)

On June 15, 2010, Magic Irrigators, Inc. by and through its counsel Paul L. Arrington, filed a *Motion to File Late Notice of Claim* for the above-captioned water right. A hearing on the *Motion* was held on September 21, 2010. 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 Claimant has 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. In addition to the above-captioned late notice of claim, Magic Irrigators, Inc. has various other water right claims presently pending unresolved in the SRBA. These claims are presently set or will soon be set for trial. At the hearing it was represented to the Court that the late claim is associated with, relates to, and may affect Magic Irrigators, Inc.'s other claims. The Court was further informed that in the event the late claim is granted, it would not be reported in the next regularly scheduled *Late and Miscellaneous Claims Director's Report* due to time constraints. As a result, the granting of the late claim may affect the trial schedule set for Magic Irrigators, Inc.'s other claims. The Court is concerned about the potential prejudice to

other parties involved in the other claims that may result from the granting of this late claim, and as a result the practice of the Court is to refer the matter to the Special Master for a determination of prejudice to other parties.

In his evaluation prejudice to other parties, the Special Master shall determine whether the Idaho Department of Water Resources can prepare an expedited Director's Report for the late claim if granted. In addition the Special Master shall determine whether, if the late claim is granted, the trial schedule(s) set in Magic Irrigators, Inc.'s other claims would have to be altered, and if so whether such an alteration would result in prejudice to any of the parties.

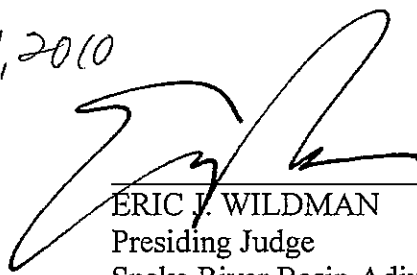
THEREFORE, THE FOLLOWING ARE HEREBY ORDERED:

1. This matter is referred to Special Master Theodore R. Booth 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 September 27, 2010

  
ERIC J. WILDMAN  
Presiding Judge  
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER OF REFERENCE APPOINTING THEODORE R. BOOTH AS SPECIAL MASTER was mailed on September 27, 2010, with sufficient first-class postage to the following:

MAGIC IRRIGATORS INC

Represented by:

PAUL L ARRINGTON

113 MAIN AVE W, STE 303

PO BOX 485

TWIN FALLS, ID 83303-0485

Phone: 208-733-0700

MAGIC IRRIGATORS INC

Represented by:

TRAVIS L THOMPSON

113 MAIN AVE W, STE 303

PO BOX 485

TWIN FALLS, ID 83303-0485

Phone: 208-733-0700

DIRECTOR OF IDWR

PO BOX 83720

BOISE, ID 83720-0098

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".