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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho
OCT 22 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) Subcase: 63-00180, 63-00181 & 63-33406
Case No. 39576)
) ORDER CONDITIONALLY GRANTING
) LATE NOTICE OF CLAIM FOR
) WATER RIGHT CLAIMS 63-00180 & 63-
) 00181
)
) ORDER GRANTING LATE NOTICE OF
) CLAIM FOR WATER RIGHT CLAIM
) 63-33406
)
) ORDER FOR EXPEDITED LATE
) CLAIM DIRECTOR'S REPORT AND
) SETTING FORTH PROCEDURES AND
) DEADLINES FOR EXPEDITED
) PROCESS
)

On July 27, 2010, Claimant EG Johnson Farms, Inc. filed a *Motion to File Late Notice of Claim* for each of the above-captioned water rights. A hearing on the *Motions* was held on October 19, 2010. No party appeared in opposition to the *Motions*.

However, at the hearing the Idaho Department of Water Resources pointed out that water right claims 63-00180 and 63-00181 were missing legal descriptions of the applicable points of diversion. In addition, at the hearing it was represented to the Court that the late claims are associated with, relate to, and may affect other claims pending unresolved in the SRBA filed by various other claimants. The Idaho Department of Water Resources represented that, if granted, the late claims would be candidates for expedited late claim director's reports, given that trial for the other potentially affected claims is presently set for May 9, 2011.

ORDER CONDITIONALLY GRANTING LATE NOTICES OF CLAIM /
ORDER GRANTING LATE NOTICE OF CLAIM /
ORDER FOR EXPEDITED LATE CLAIM DIRECTOR'S REPORT

Accordingly, following a review of the file and after hearing the comments made in open court, the Court makes the following findings:

1. Good cause exists for granting the *Motions to File a Late Notice of Claim* for water right claims 63-00180 and 63-00181, provided that Claimant first files and serves, as required by *SRBA Administrative Order 1* ("AOI") section 6, an *Amended Late Notice of Claim* for each claim that corrects the above-mentioned errors as to the claimed points of diversion.

2. The *Motion to File a Late Notice of Claim* for water right claim 63-33406 meets the procedural requirements under *AOI*, and no objections were made to this Late Notice of Claim. Good cause exists for granting this *Motion*.

3. The subcases pending unresolved in the SRBA which are affected by the above-captioned water right claims are currently set for trial.

4. The next regularly scheduled *Late and Miscellaneous Claims Director's Report* will be issued in November 2010. The parties are hopeful that recommendations for the above-captioned water right claims will appear in this *Director's Report*. However, in the event recommendations for the above-captioned water right claims do not appear in the November 2010 *Late and Miscellaneous Claims Director's Report*, IDWR does not oppose filing individual expedited *Director's Reports* for the late claims and represented that it would be able to prepare such *Director's Reports* and recommendations in a short time period following the issuance of the November 2010 *Late and Miscellaneous Claims Director's Report*.

5. In furtherance of the winding down process for the SRBA it is imperative that matters be timely set for trial. Therefore in limited circumstances such as this it is preferable to have a *Late Claims Director's Report* for certain late claims individually prepared and filed on an expedited basis. This is on a case-by-case basis and provided the Idaho Department of Water Resources is in a position to prepare the recommendation and does not oppose preparing and filing an expedited *Director's Report*.

6. This Court therefore finds that under the circumstances should recommendations for the late claims not appear in the November 2010 *Late and*

Miscellaneous Claims Director's Report, the issuance of an expedited *Late Claim Director's Report* for each of the above-captioned claims is appropriate.

THEREFORE, IT IS HEREBY ORDERED that the *Motions to File a Late Notice of Claim* for water right claims **63-00180** and **63-00181** are **conditionally granted** subject to the filing and service, as required by *AOI* section 6, by the Claimant of *Amended Late Notices of Claim* that correct the errors presently existing in the *Notices of Claim* pertaining to the descriptions of the points of diversion. Upon receipt by this Court of *Amended Late Notices of Claim* that conform with this *Order*, this Court will forward the same to the Idaho Department of Water Resources for processing.

IT IS HEREBY FURTHER ORDERED that the *Motion to File a Late Notice of Claim* for water right claim **63-33406** is **granted**. The original Notice of Claim, as well as any attached filing fees, and a copy of this *Order* will be forwarded to the Idaho Department of Water Resources for further action.

IT IS HEREBY FURTHER ORDERED that in the event recommendations for the late claims do not appear in the November 2010 *Late and Miscellaneous Claims Director's Report*, the Director shall issue expedited *Late Claim Director's Reports* for each of the above-captioned water right claims, and that the parties shall abide by the following schedule with respect to the late claims:

1. Deadline for filing *Late Claim Director's Report*: The Director shall file an original of the *Late Claim Director's Report* for each of the above-captioned water right claims with this Court on or before **December 30, 2010** and shall distribute for display and review at least one (1) copy of each *Late Claim Director's Report* to the office of the clerk of the district court for each county in which any part of the water system is located, together with a copy of this *Order*. The Director shall also serve on the claimant or the claimant's attorney a notice of filing of the *Late Claim Director's Report*. Last, the Director shall file with the Court an affidavit demonstrating compliance with the notice requirements of Idaho Code § 42-1411(6).

2. Deadline for the filing of objections to *Late Claim Director's Report*: Any party wishing to file an objection to the *Late Claim Director's Report* may do so within

21 days following the notice of filing of the *Late Claim Director's Report* in the Docket Sheet, or on or before **January 20, 2011**.

3. Deadline for the filing of responses to objections to *Late Claim Director's Report*: Responses to objections to the *Late Claim Director's Report* must be filed within 14 days following the close of the objection period, or on or before **February 3, 2011**.

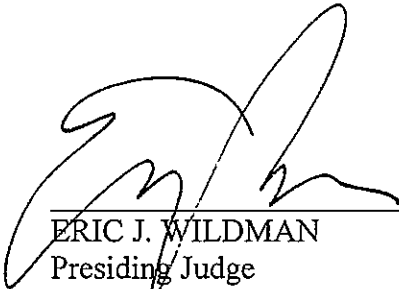
4. Hearing on uncontested claim: In the event no objections are filed, the Court will hold a hearing on the entry of the *Partial Decrees* as required by I.C. § 42-1412(7). **NOTICE IS HEREBY GIVEN** that the hearing will be held on **February 15, 2011, at 1:30 p.m. (Mountain Time)**, at the **Snake River Basin Adjudication District Court, 253 - 3rd Avenue North, Twin Falls, Idaho**. Parties may participate by telephone by dialing the number 1-215-446-0193 and when prompted entering code 406128.

5. Publication of Notice: The clerk of the court is instructed to publish a notice of the issuance of this order, together with the applicable objection, response and hearing date, on the November 2010 docket sheet.

IT IS SO ORDERED

Dated

October 22, 2010.

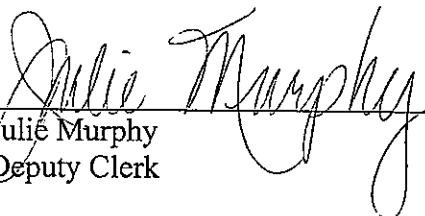

ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I hereby certify that true and correct copies of the **ORDER CONDITIONALLY GRANTING LATE NOTICE OF CLAIM FOR WATER RIGHT CLAIMS 63-00180 and 63-00181; ORDER GRANTING LATE NOTICE OF CLAIM FOR WATER RIGHT CLAIM 63-33406; ORDER FOR EXPEDITED LATE CLAIM DIRECTOR'S REPORT and SETTING FORTH PROCEDURES AND DEADLINES FOR EXPEDITED PROCESS** were mailed on October 22, 2010, by first-class mail to the following:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

E G Johnson Farms Inc.
Represented by:
John M. Marshall
575 W Bannock St Suite B
Boise, ID 83702


Julie Murphy
Deputy Clerk