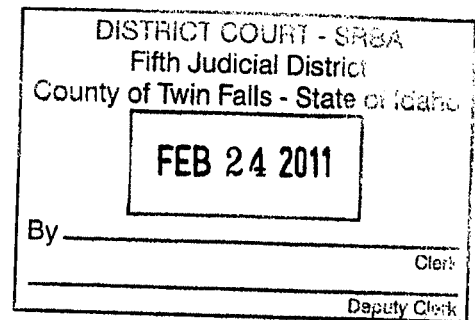




**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA	)	Subcase 41-4009
	)	(Kildew)
	)	
Case No. 39576	)	SPECIAL MASTER REPORT
	)	AND RECOMMENDATION
	)	

Findings of Fact

On December 2, 2009, John and Jackie Kildew filed a *Motion to File Late Notice of Claim* for 2.02 cfs from Rock Creek for year-'round stockwater use and to irrigate 54.6 acres in Power County from April 1 to October 31 with a priority date of April 1, 1963, based on beneficial use. On March 25, 2010, SRBA Presiding Judge Eric L. Wildman entered an ***Order of Reference Appointing Special Master*** "to determine the degree of prejudice, if any, to other parties on the same claimed source."

Hearings on the *Motion* were held on May 13 and 27, October 14 and February 3, 2010, often with the plan to consider this late claim along with adjacent claims – 41-42 and 41-47 (Roper). Counsel for the Ropers has participated informally on resolving the late claim together with the Ropers' claims. These three claims are the last to be settled in the basin.

Informal investigations and discussions with IDWR staff and counsel have revealed the Kildews have historically used the water as claimed, but potential prejudice cannot be determined before the late claim is allowed to go forward followed by further investigation by IDWR and notice to other water users on the same source. The Kildews understand that by granting their *Motion*, the Court will simply allow the claim to proceed further toward *possible* adjudication.

Conclusions of Law

The Kildews have shown good cause to file their late claim because of their historical beneficial use of the water and their minimal involvement in the farm operation after it was leased due to their advanced ages and health considerations.

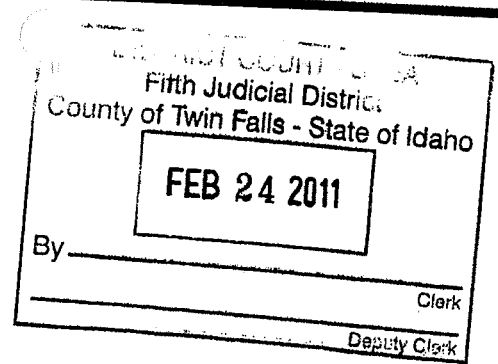
Recommendation

THEREFORE, IT IS RECOMMENDED that the *Motion to File Late Notice of Claim* in subcase 41-4009 be **granted** and the matter referred to IDWR for further investigation with particular emphasis on reasonable notice to other water users who may be prejudiced.

DATED February 24, 2011.



TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication



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

CERTIFICATE OF MAILING

Water Right(s) : 41-04009

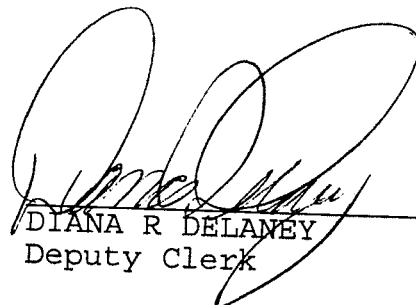
CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on February 24, 2011, with sufficient first-class postage prepaid to the following:

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

JACQUELINE KILDEW
JOHN KILDEW

Represented by:
KIM R KILDEW
410 S ORCHARD, STE 176
BOISE, ID 83705
Phone: 208-344-1096


DIANA R DELANEY
Deputy Clerk

CERTIFICATE OF MAILING

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