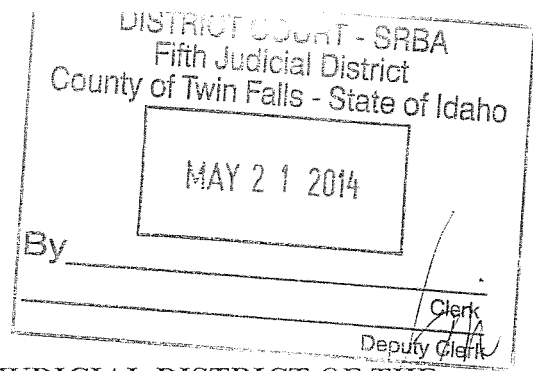




IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

-) WATER RIGHT NOS.: 74-361, 74-362, 74-
-) 363, 74-364, 74-365, 74-367 and 74-368
-)
-) ORDER SETTING ASIDE DISALLOWAL
-) OF UNCLAIMED WATER RIGHTS
-)
-) ORDER GRANTING LATE NOTICE OF
-) CLAIM
-)
-) ORDER FOR EXPEDITED LATE CLAIM
-) DIRECTOR'S REPORT AND
-) SETTING FORTH PROCEDURES AND
-) DEADLINES FOR EXPEDITED PROCESS
-)

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DEPARTMENT OF
WATER RESOURCES

On April 25, 2012, this Court entered an *Order* in SRBA subcase no. 00-92099 and Twin Falls County Case No. 39576 closing Basin 74 to the filing of non-deferrable late claims and disallowing certain unclaimed water rights ("*Order*"), including the above-captioned water rights.¹ On April 29, 2014, Bruce and Glenda McConnell (collectively "McConnell") filed *Motions to File Late Notice of Claim* for the above-captioned water rights. As part of their *Motions*, McConnell requested that this Court set aside the *Order* disallowing the above-captioned water rights as well as the *Order* closing claims taking in Basin 74 under Idaho Rule of Civil Procedure 60(b) to allow for the filing of the instant late claims. A hearing on the *Motions* was held on May 20, 2014. No one appeared in opposition to the *Motions*.

Following a review of the files and after hearing the comments made in open court, the Court found that McConnell had set forth sufficient grounds to justify the setting aside the *Order* disallowing the above-captioned water rights, as well as the *Order* closing claims taking in Basin 74 pursuant to Idaho Rule of Civil Procedure 60(b)(6). The justifications and rationale

¹ The *Order* was entitled *Order Closing Claims Taking Basins 21, 22, 29, 32, 33, 65, 67, 69, 71, 72, 73, 74, 75, 77, 78 and 79 and Disallowal of Unclaimed Water Rights*.

supporting the Court's holding were orally set forth on the record at the May 20, 2014, hearing. Additionally, the Court, for the reasons set forth on the record, found good cause and a meritorious position for the *Motions to File Late Notice of Claim*. At the hearing, it was represented to the Court by the Idaho Department of Water Resources ("IDWR") that, if granted, these late claims would be candidates for expedited late claim director's reports given the current stage of Snake River Basin Adjudication.

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

1. The *Motions to File Late Notice of Claim* complied with all procedural requirements under *SRBA Administrative Order 1*, and no objections were made to the *Motions*. Although this Court previously entered an *Order* disallowing the above-captioned water rights and closing Basin 74 to the filing of late claims generally, the Court finds that McConnell has set forth sufficient grounds to justify the setting aside of that *Order* for the limited purposes of allowing the filing of the instant late claims.

2. In limited circumstances it is preferable to have a *Late Claims Director's Report* for certain late claims individually prepared and filed. This is on a case-by-case basis and provided IDWR does not oppose preparing and filing an expedited *Late Claims Director's Report*.

3. In this case IDWR does not oppose preparing and filing an expedited *Late Claim Director's Report* for the late claim, given that the final regularly scheduled SRBA late claims director's report was filed December 31, 2013. IDWR represented that it would be able to prepare the expedited *Late Claim Director's Report* in a short time period.

4. This Court therefore finds that under the circumstances the issuance of expedited *Late Claim Director's Reports* for the above-captioned claim is appropriate.

THEREFORE, IT IS HEREBY ORDERED that the disallowal of the above-captioned water rights in this Court's *Order Closing Claims Taking Basins 21, 22, 29, 32, 33, 65, 67, 69, 71, 72, 73, 74, 75, 77, 78 and 79 and Disallowal of Unclaimed Water Rights* dated April 25, 2012, is hereby set aside.

IT IS HEREBY FURTHER ORDERED that this Court's *Order Closing Claims Taking Basins 21, 22, 29, 32, 33, 65, 67, 69, 71, 72, 73, 74, 75, 77, 78 and 79 and Disallowal of Unclaimed Water Rights* dated April 25, 2012, **is hereby set aside** for the limited purpose of allowing for the filing of the instant *Motions to File Late Notice of Claim*.

IT IS HEREBY FURTHER ORDERED that the *Motions to File a Late Notice of Claim* for the above-captioned water right claims are **granted**.

IT IS HEREBY FURTHER ORDERED that the Director issue an expedited *Late Claim Director's Report* for the above-captioned water right claims, and that the parties abide by the following schedule with respect to the late claim:

1. Deadline for filing *Late Claim Director's Report*: The Director shall file an original of the *Late Claim Director's Report* for the above-captioned water right claims with this Court on or before **June 30, 2014**, and shall distribute for display and review at least one (1) copy of the *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 each 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 on or before **July 31, 2014**.

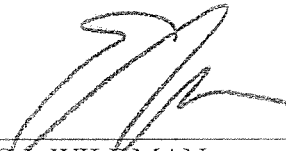
3. Deadline for the filing of responses to objections to *Late Claim Director's Report*: Responses to objections to the *Late Claim Director's Report* must be filed on or before **August 15, 2014**.

4. Hearing on uncontested claim: In the event no objections are filed, the Court will hold a hearing on the entry of the ***Partial Decree*** as required by I.C. § 42-1412(7). **NOTICE IS HEREBY GIVEN** that the hearing will be held on **August 19, 2014, 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 June 2014 docket sheet.

IT IS SO ORDERED.

Dated May 21, 2014



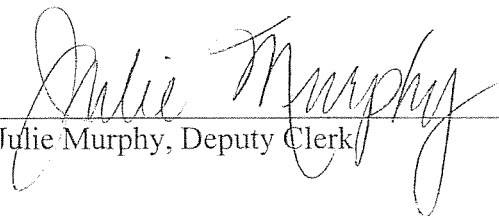
ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I hereby certify that true and correct copies of the **ORDER SETTING ASIDE
DISALLOWAL OF UNCLAIMED WATER RIGHTS / ORDER GRANTING LATE
NOTICE OF CLAIM / ORDER FOR EXPEDITED LATE CLAIM DIRECTOR'S
REPORT AND SETTING FORTH PROCEDURES AND DEADLINES FOR
EXPEDITED PROCESS**, were mailed on May 21, 2014, by first-class mail to the following:

DIRECTOR OF IDWR
PO Box 83720
Boise, ID 83720-0098

Bruce Mc Connell
Glenda Mc Connell
Represented by:
Chris M. Bromley
380 S 4th Street Ste 103
Boise, ID 83702


Julie Murphy, Deputy Clerk