

LATE CLAIM DIRECTOR'S REPORT

Water Right No. 22-14112

In Re SRBA

Twin Falls County Civil Case No. 39576

Report to the SRBA District Court

Prepared by the Idaho Department of Water Resources
Gary Spackman, Director
Carter Fritschle, Manager, Adjudication Section

June 30, 2014

DESCRIPTIVE SUMMARY

This is a Late Claim Director's Report submitted by the Director of the Idaho Department of Water Resources.

DISCUSSION

Pursuant to the *Order for Expedited Late Claim Director's Report and Setting Forth Procedures and Deadlines for Expedited Process* issued by Judge Eric J. Wildman on May 21, 2014 (see attached), the Director submits this Late Claim Director's Report for subcase 22-14112.

Respectfully submitted this 30th day of June, 2014.

for Carter L. Fritschle
CARTER FRITSCHLE
Manager, Adjudication Section

06/30/2014

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 22-14112

NAME AND ADDRESS: W DIAMOND RANCHES LLC
2655 S STATELINE RD
DRIGGS ID 83422

SOURCE: TETON CREEK

TRIBUTARY: TETON RIVER

QUANTITY: 1.660 CFS

The quantity of water diverted under this water right shall be from the portion awarded to Idaho and deducted therefrom as set forth in Roxana Canal Co. v. Daniels, Equity No. 2447 (D. Wy. Feb. 4, 1941).

PRIORITY DATE: 10/02/1906

POINT OF DIVERSION:

T05N R46E S20 SWNE Lot 2 Within TETON County

The point of diversion for this water right is in Wyoming, T44N, R118W, S21 SESW, Sixth Principal Meridian.

The point of diversion shown above is where the conveyance system enters Idaho.

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/15 10/31	1.660 CFS

PLACE OF USE: IRRIGATION in TETON County

T05N R46E S32	NWNW	40.00	T05N R46E S32	SWNW	40.00
T05N R46E S32	SESW	40.00	T05N R46E S32	NESW	25.00
T05N R46E S32	NWSW	39.00			

184 ACRES TOTAL

This right is limited to the irrigation of 116 acres within the place of use described above in a single irrigation season.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This water right is subject to the delivery provisions contained in Roxana Canal Co. v. Daniels, Equity No. 2447 (D. Wy. Feb. 4, 1941) ("Roxana decree"). Nothing in this Partial Decree is intended to relieve or alter the state of Idaho nor the state of Wyoming from their obligations contained in the Roxana decree.

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

This right is based on Wyoming Certificate of Appropriation of Water under Permit No. 7420.

CERTIFICATE OF SERVICE

I certify that on June 30TH, 2014, I caused to be served a true and correct copy of this Late Claim Director's Report, to the following persons, in the manner indicated and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

☐ Overnight Mail
☐ Regular Mail
☐ Hand-Delivered
☒ E-mail

2. Copies to:

Chief, Natural Resources Div.
Office of the Attorney General
P.O. Box 44449
Boise, ID 83711-4449

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ E-mail

United States Department of Justice
Environment & Natural Resources Div.
550 W. Fort Street MSC 033
Boise, ID 83724

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ E-mail

Teton County Courthouse
150 Courthouse Drive
Teton, ID 83422

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ E-mail

Robert H. Wood
Jerry R. Rigby
Rigby, Andrus & Rigby Law, PLLC
P.O. Box 250
Rexburg, ID 83340

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ E-mail


Signature of person mailing the form

DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

MAY 21 2014

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

RECEIVED

In Re SRBA

Case No. 39576

) WATER RIGHT NO: 22-14112
)
) ORDER GRANTING LATE NOTICE OF
) CLAIM
)
) ORDER FOR EXPEDITED LATE CLAIM
) DIRECTOR'S REPORT AND
) SETTING FORTH PROCEDURES AND
) DEADLINES FOR EXPEDITED PROCESS
)
)

MAY 22 2014

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 22 to the filing of non-deferrable late claims (hereinafter, "*Order*").¹ On April 30, 2014, W-Diamond Ranches, LLC filed a *Motion to File Late Notice of Claim* for the above-captioned water right. As part of its *Motion*, W-Diamond Ranches, LLC requested that the *Order* closing claims taking in Basin 22 be set aside under Idaho Rule of Civil Procedure 60(b) to allow for the filing of the instant late claim. A hearing on the *Motion* was held on May 20, 2014. No one appeared in opposition to the *Motion*.

Following a review of the file and after hearing the comments made in open court, the Court found that W-Diamond Ranches, LLC had set forth sufficient grounds to justify the setting aside of the *Order* closing claims taking in Basin 22 pursuant to Idaho Rule of Civil Procedure 60(b)(6). The justifications and rationale 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 *Motion to File Late Notice of Claim*. At the hearing, it was represented to the Court by the Idaho Department of Water Resources

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*.

("IDWR") that, if granted, this late claim would be a candidate for an expedited late claim director's report given the current stage of Snake River Basin Adjudication.

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

1. The *Motion to File Late Notice of Claim* complied with all procedural requirements under *SRBA Administrative Order 1*, and no objections were made to the *Motion*. Although this Court previously entered an *Order* in Basin 22 closing the Basin to the filing of late claims generally, the Court finds that W-Diamond Ranches, LLC has set forth sufficient grounds to justify the setting aside of that *Order* for the limited purpose of allowing the filing of the instant late claim.

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 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 *Motion to File Late Notice of Claim*.

IT IS HEREBY FURTHER ORDERED that the *Motion to File a Late Notice of Claim* for water right claim 22-14112 is **granted**.

IT IS HEREBY FURTHER ORDERED that the Director issue an expedited *Late Claim Director's Report* for the above-captioned water right claim, 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 claim 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**.

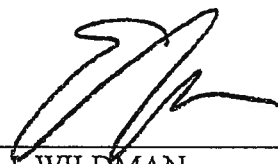
3. Deadline for the filing of responses to objections to *Late Claim Director's Report*: Responses to objections to the *Late Claim Director's Report* must be filed on or before **August 15, 2014**.

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 certify that a true and correct copy of the ORDER GRANTING LATE NOTICE OF CLAIM / ORDER FOR EXPEDITED CLAIM DIRECTOR'S REPORT AND SETTING PROCECURES/DEADLINES was mailed on May 21, 2014, with sufficient first-class postage to the following:

W-DIAMOND RANCHES LLC

Represented by:

JERRY R RIGBY

25 N 2ND E

PO BOX 250

REXBURG, ID 83440-0250

Phone: 208-356-3633

W-DIAMOND RANCHES LLC

Represented by:

ROBERT H WOOD

RIGBY ANDRUS RIGBY CHARTERED

25 NORTH 2ND EAST

PO BOX 250

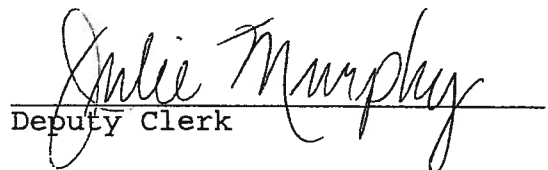
REXBURG, ID 83340

Phone: 208-356-3633

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".