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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	)	ORDER ON MOTION TO FILE
	)	LATE OBJECTION AND SETTING
Case No. 39576	)	SUBCASE DEADLINES
	)	
	)	SUBCASE NOS. 23-10165
_____	)	

I. PROCEDURAL BACKGROUND

The SRBA District Court issued a *Final Order Disallowing Water Right Claim* for this claim on October 25, 2004. On January 14, 2005, the SRBA Court received a *Motion for Relief from Partial Decree* and a *Motion to File Late Objection* filed by William T. Holden regarding water right claim 23-10165. An *Order of Reference Appointing Brigitte Bilyeu Special Master* was filed on January 14, 2005. A hearing was held March 2, 2005.

II. STANDARD OF REVIEW

The SRBA Administrative Orders do not provide a standard to be applied for filing late objections. However, the court's administrative rules provide that *Motions to File a Late Notice of Claim* are to be reviewed under the criteria of I.R.C.P. 55(c) and 60(b). *SRBA Administrative Order 1 (AO1)* § 4 (d)(2)(d).

According to case law and the Rules of Civil Procedure, a court applies the criteria of I.R.C.P. 55(c) when determining whether to allow the filing of a late answer. Motions for Late Objection have been reviewed in the SRBA under the same criteria of Rule 55(c). The proponent of a Motion for Late Objection, like a party seeking to file an untimely answer, must show both "good cause" for untimeliness and the existence of a "meritorious position." I.R.C.P. 55(c).

In support of the *Motion*, counsel for Mr. Holden explained that the claimant failed to timely object to the *Director's Report* disallowing this water claim because of family difficulties in

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER ON MOTION TO FILE LATE OBJECTION AND SETTING SUBCASE DEADLINES was mailed on March 04, 2005, with sufficient first-class postage to the following:

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