

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

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DEPARTMENT OF
WATER RESOURCES

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. 29-11371
_____	)	

I. PROCEDURAL BACKGROUND

On March 22, 2004, a *Partial Decree Pursuant to I.R.C.P. 54(b)* was issued for the above listed water right. On April 8, 2004, the SRBA Court received an *Objection* filed by Connie Rowland regarding water right 29-11371. An *Order of Reference Appointing Brigitte Bilyeu Special Master* was filed on February 7, 2005. A hearing was held March 9, 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 Connie Rowland explained that the claimant failed to timely object to the *Director's Report* because she mistakenly believed her written letter to the Department of Water Resources would preserve her objection. In addition, Rowland asserted that

a larger acreage has historically been irrigated with this right. Thus, Rowland seeks to file a late objection. No parties to the SRBA opposed Connie Rowland's *Motion*, and there is no showing prejudice would result from allowing the late objection.

III. FINDINGS

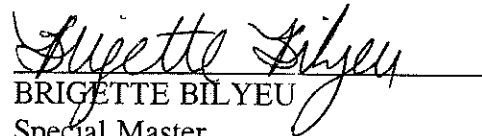
The claimant, Mrs. Rowland, did not file a timely objection to the Director's Report, and the court subsequently issued a *Partial Decree* on March 22, 2004. This Special Master finds "good cause" for the untimeliness of the objection and a meritorious position. There was no opposition to the *Motion*. Therefore, the *Motion to File Late Objection* is **granted**. The *Objection* previously lodged shall be filed and dated March 9, 2005.

IT IS ORDERED that the following deadlines shall govern further proceedings:

April 15, 2005	5:00 pm	Deadline to file Response
April 29, 2005	5:00 pm	Deadline for Claimant to provide additional information to IDWR regarding additional acres.
May 4, 2005	11:00 am	Status Conference Location: Snake River Basin Adjudication 253 3 rd Ave. North Twin Falls, Idaho 83301

Parties may participate by phone by dialing 1-225-383-1099 and when prompted enter participant code 926509.

DATED March 11, 2005 .


BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

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 11, 2005, with sufficient first-class postage to the following:

CONNIE ROWLAND

Represented by:

SCOTT J SMITH

201 E CENTER

PO BOX 1391

POCATELLO, ID 83204-1391

Phone: 208-232-6101

DIRECTOR OF IDWR

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