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DEPARTMENT OF
WATER RESOURCES

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

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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 DEADLINE
	)	
	)	SUBCASE NOS.: 22-2303B, 22-7032,
	)	22-7198, 22-7225, 22-7324, 22-7593,
	)	22-7672, 22-13505, and 22-13506

I. PROCEDURAL BACKGROUND

A *Motion to File Late Objection* was filed on May 26, 2006, in the above listed water rights. A hearing was held June 28, 2006.

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 I (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).

III. ANALYSIS

In support of the *Motion*, movants submitted the *Affidavit of Dale Swenson* and explained that movants have been negotiating with IDWR and working on a plan of administration relating to these water rights in Basin 22. At the same time, movants were also negotiating with IDWR regarding claims in Basin 21. Movants calendared the deadline for objections in Basin 21 (May 26,

2006) and set the same date for their objections in Basin 22. They assumed this would be before the Basin 22 deadline since the *Director's Report* for Basin 22 was filed after the *Director's Report* for Basin 21. However, the deadline for Basin 22 was actually earlier than that for Basin 21, and the objections were late when filed.

However, given the ongoing negotiations, and confusion caused by different basin deadlines, the lateness of the *Objections* was not willful. "Good cause" exists for the untimeliness of these *Objections*.

No parties to the SRBA opposed the *Motion*, and there is no showing prejudice would result from allowing the late objection.

IV. FINDINGS

This Special Master finds "good cause" for the untimeliness of the *Objection* and a meritorious position. Therefore, the *Motions to File Late Objections* are **granted**. The *Objections* previously lodged shall be filed and dated June 28, 2006.

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

July 28, 2006

5:00 pm

Deadline to file Response

DATED July 6, 2006.


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 DEADLINE was mailed on July 06, 2006, with sufficient first-class postage to the following:

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