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DEPARTMENT OF
WATER RESOURCES

2006 SEP 29 PM 12: 56

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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.: EXHIBIT A
	)	
_____	)	

I. PROCEDURAL BACKGROUND

A *Motion to File Late Objection* was filed on September 5, 2006, in the above listed water rights. A hearing was held September 27, 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 *Affidavits* explaining why each objection was late. In addition, the movants explained that the late objections relate to a common issue. All of the objectors divert from the Curr ditch, but the group has never organized or formed a canal company. The movants contend the quantity calculated for individual water users may be insufficient when

combined to reach the end of the ditch.

No parties to the SRBA opposed the *Motion*, and the Initial hearings for Basin 21 have not been held. There is no showing prejudice would result from allowing the late objection. Additionally, IDWR recommended that the water users file these late objections.

IV. FINDINGS

This Special Master finds “good cause” for the untimeliness of the *Objections* and a meritorious position. Therefore, the *Motions to File Late Objections* are **granted**. The *Objections* previously lodged shall be filed and dated September 27, 2006.

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

October 27, 2006

5:00 pm

Deadline to file Response

DATED September 29, 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 September 29, 2006, with sufficient first-class postage to the following:

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EXHIBIT A

Subcase Nos:

21-00028
21-00033C
21-00039G
21-00039H
21-00060C
21-00060E
21-00131B
21-10587
21-10588
21-11035
21-12871
21-12872
21-12941
21-13011