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DEPARTMENT OF
WATER RESOURCES

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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

Case No. 39576

) ORDER GRANTING MOTION TO
) FILE LATE OBJECTION AND
) SETTING DEADLINES

) SUBCASE NOS.: 21-41G, 21-51B, and
) 21-12978

I. PROCEDURAL BACKGROUND

Objections were filed on August 2, 2006 by Lynn Loosli. The SRBA District court treated the *Objections* as *Motions to File Late Objections*. A hearing was held on the *Motions* on November 16, 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 set forth 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).

The SRBA has recently affirmed the legal standard of what must be shown to satisfy "good cause" and "meritorious position." The legal standard for "good cause" for untimeliness of an objection is determined under the standard for setting aside the entry of a default under I.R.C.P. 55(c). The "good cause" standard under Rule 55(c) is more lenient than the standard under Rule

60(b). The I.R.C.P. 55(c) standard takes into account the following factors:

- 1) whether the default was willful;
- 2) whether setting aside the judgment would prejudice the opponent; and
- 3) whether a meritorious position has been presented.

Order on Motion to Set Aside Partial Decrees and File Late Objections (A.L. Cattle) (Jan. 31, 2001).

In support of the *Motions*, counsel for the movant explained that the Looslis were out of state at the time the objections were due, and they inadvertently missed the deadline. The Looslis seek to object to the quantity elements because they assert the division of quantity from a previous water right was in error. The lateness of the objections were therefore, not willful. No parties to the SRBA opposed the *Motions*, and there is no showing prejudice would result from allowing the late objections.

III. FINDINGS

Mr. Loosli failed to file timely *Objections* to the *Director's Reports* because it was inadvertently overlooked. Mr. Loosli asserted a meritorious position. There was no opposition to the *Motions*. Therefore, the *Motions to File Late Objection* are **granted**. The *Objections* will be filed with the court dated November 16, 2006.

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

December 28, 2006	5:00 pm	Deadline to file Response to Objections
April 11, 2007	9:30 am	Status Conference
Location: Snake River Basin Adjudication 253 3 rd Ave. North Twin Falls, Idaho 83301		

DATED: November 30, 2006.


BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTION TO FILE LATE OBJECTION AND SETTING DEADLINES was mailed on November 30, 2006, with sufficient first-class postage to the following:

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