

2007 SEP 21 PM 12: 29

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 GRANTING MOTION TO |
|                | ) | FILE LATE OBJECTION AND  |
| Case No. 39576 | ) | SETTING DEADLINE         |
|                | ) |                          |
|                | ) | SUBCASE NO.: 37-570B     |
|                | ) |                          |

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**I. PROCEDURAL BACKGROUND**

An *Objection* was filed on July 10, 2007 by Jenna Rovig. The SRBA Court treated the *Objection* as a *Motion to File Late Objection*. A hearing was held on the *Motion* on September 19, 2007.

**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 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).

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 *Motion*, Jenna Rovig explained that the lateness of the objection was not willful and that the objection to quantity is based on acreage and her understanding of past irrigation practices. No parties to the SRBA opposed the *Motion*, and there is no showing prejudice would result from allowing the late objection.

### III. FINDINGS

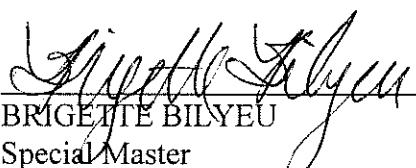
There was no opposition to the *Motion*. Therefore, the *Motion to File Late Objection* is **granted**. The *Objection* will be filed with the court dated September 19, 2007.

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

|                          |                 |                                                                                                              |
|--------------------------|-----------------|--------------------------------------------------------------------------------------------------------------|
| <b>October 26, 2007</b>  | <b>5:00 pm</b>  | Deadline to file Response to Objection                                                                       |
| <b>November 21, 2007</b> | <b>10:30 am</b> | Status Conference                                                                                            |
|                          |                 | <b>Location:</b> Snake River Basin Adjudication<br>253 3 <sup>rd</sup> Ave. North<br>Twin Falls, Idaho 83301 |

**Parties may participate by phone for the Status Conference by dialing 1-225-383-1099 and when prompted enter participant code 926509.**

Dated: September 21, 2007.

  
BRIGETTE BILYEU  
Special Master  
Snake River Basin Adjudication

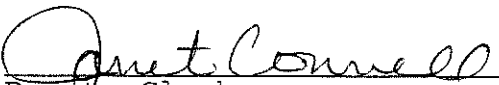
CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTION TO FILE LATE OBJECTION AND SETTING DEADLINE was mailed on September 21, 2007, with sufficient first-class postage to the following:

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Deputy Clerk