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DEPARTMENT OF
WATER RESOURCES

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 NO. 29-13728
_____	)	

I. PROCEDURAL BACKGROUND

An *Objection* was filed by Leo D. Lewis on July 17, 2007. The court treated the *Objection* as a *Motion to File Late Objection*. A hearing was held October 29, 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 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 Objections 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*, Leo Lewis explained that he did not receive notice of the filing of the late claim. In addition, Mr. Lewis asserted that he has a Sr. priority right and wishes to have what he's entitled to. Thus, Mr. Lewis seeks to file a late objection. No parties to the SRBA opposed the *Motion*, and there is no showing prejudice would result from allowing the late objection.

III. FINDINGS

Mr. Lewis did not file a timely objection to the *Late Claims Director's Report*. 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 October 29, 2007.

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

November 28, 2007 **5:00 pm** - Deadline to file Response

DATED November 8, 2007.


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 November 08, 2007, with sufficient first-class postage to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

LARUE WHITWORTH
MAX T WHITWORTH
73 S INDIAN CREEK RD
INKOM, ID 83245
Phone: 208-775-3738

MAX & LARUE WHITWORTH
73 SOUTH INDIAN CREEK RD
INKOM, ID 83245
Phone: 208-775-3738

LEO D LEWIS
90 N INDIAN CREEK RD
INKOM, ID 83245
Phone: 208-233-4690