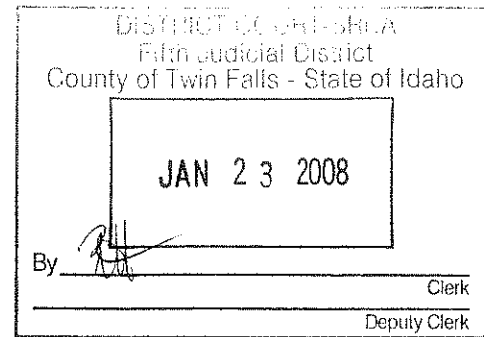




IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA) Subcase 35-2019
Case No. 39576) (Stieglitz)
)
) ORDER GRANTING MOTION
) TO FILE LATE OBJECTION AND
) SETTING SCHEDULING CONFERENCE

On December 6, 2007, claimant Jeffrey B. Stieglitz filed a *Motion to File Late Objection* because “counsel for claimant never received a copy of the notice from IDWR dated April 26, 2007, indicating the recommendation for the above numbered claim had been recommended to be disallowed until November 15, 2007 [emphasis added].” The claimant sought to object to IDWR’s recommendation that the claim¹ be disallowed.²

A hearing on the *Motion* was held by telephone on January 17, 2008. Robert L. Harris appeared for the claimants; objectors Ruth Adams, Steven Adams and Richard Koompin appeared *pro se*; and Andrea L. Courtney appeared for IDWR.

The objectors opposed the *Motion* generally because the claimed water has not been used since 1990. Besides, they all spoke with Mr. Stieglitz soon after IDWR’s recommendation was filed – he knew his claim was recommended as disallowed. Ms. Courtney noted that IDWR mailed notice of its recommendation both to Mr. Stieglitz and

¹ On September 6, 2006, Jeffrey and Bridgette Stieglitz filed a *Notice of Claim to a Water Right* for 2.5 cfs from Upper Spring Creek to irrigate 125 acres in Bingham County from April 1 to October 31 with a priority date of May 23, 1910, based on a license.

² The Director of the Idaho Department of Water Resources filed his *Director’s Report for Late Claims, Irrigation & Misc. Claims* on April 27, 2007. He recommended the claim be disallowed: “Forfeited / abandoned due to non-use from 2002 to 2006.”

his attorney³ in a timely manner. Mr. Harris argued that despite this apparent oversight in filing a timely objection, the Stieglitz' say the water right was developed and they want to pursue their claim.

In other subcases, SRBA Presiding Judge John M. Melanson admonished the Special Master that "doubtful cases be tried on their merits."⁴ Where a partial decree has not been entered, like here, the less stringent standard of I.R.C.P. 55(c) must be applied to determine good cause for filing a late objection.

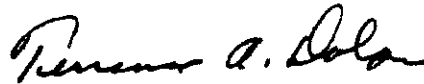
In this subcase, the Stieglitz' have shown good cause to file a late objection in light of the apparent disruption caused by the transition from the attorney who helped them file the *Notice of Claim* to a new attorney. It would not be fair to punish the clients for a minor oversight by their legal counsel.

THEREFORE, IT IS ORDERED that:

1. The Stieglitz' *Motion to File Late Objection* in subcase 35-2019 is **granted**; and
2. A scheduling conference shall be held by telephone on **Thursday, February 21, 2008, 10:00 a.m.** The parties may participate by calling 1-225-383-1099 and entering participant code 654400.

IT IS SO ORDERED.

DATED January 23, 2008



TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

³ The Stieglitz' attorney at the time was Kent W. Foster of the law firm of Holden, Kedwell, Hahn & Crapo. Mr. Foster retired in December, 2007, and turned over the Stieglitz' file to his associate, Robert L. Harris.

⁴ *Order on Permissive Review and Order of Recommitment*, subcases 45-12475, *et al.*, August 3, 2005, at 8 and 11.

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTION TO FILE LATE OBJECTION AND SETTING SCHEDULING CONFERENCE was mailed on January 23, 2008, with sufficient first-class postage to the following:

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