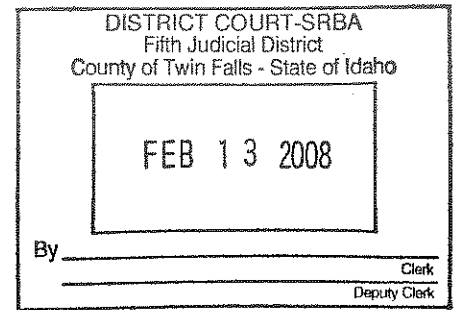




IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	ORDER GRANTING MOTION TO
	)	FILE LATE OBJECTION AND
Case No. 39576	)	SETTING DEADLINES
	)	
_____	)	SUBCASE NO.: 37-22155

I. PROCEDURAL BACKGROUND

An *Objection* was lodged on November 14, 2007 by Tom O’Gara, John F. Stevenson, Bill Molyneux, Pete Van Der Meulen, Grace Eakin, Rocky Sherbine, Gerald Bashaw, Pepin Corso-Harris, and the Big Wood Canal Company. Since the deadline for objections for this subcase was July 6, 2007, the SRBA Court treated the *Objection* as a *Motion to File Late Objection*. A hearing was held on the *Motion* on February 1, 2008.

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 *Motion*, the movants explained that they tried to monitor all water claims in Blaine County for Redstone Partners LP. Redstone Partners LP has multiple claims on contiguous or nearby property. Those other claims were reported by IDWR in Basin 37 Part III with a November 14, 2008 deadline. This water right, however, was reported in a *Late Claims Director’s Report*, and had a different, earlier deadline than the other Redstone Partners LP claims. Therefore, it was confusing to the movants to keep track of the numerous deadlines. The movants also explained that their Objection is to the combined quantity for numerous Redstone water rights used together.

Redstone Partners LP objected to the *Motion*. Redstone Partners LP argued that the United States Bureau of Land Management filed a timely *Objection* and other parties could have been timely as well. In addition, Redstone Partners LP argued that an SF5 settlement agreement was executed by the parties prior to the late objections.

III. FINDINGS

This subcase has a different procedural history than many for which *Motions to File Late Objections* have been granted. Specifically, the existing parties had settled and submitted an SF5 settlement agreement. Nevertheless, the confusion caused by the timing of objection deadlines in Basin 37 Parts II and III together with a separate deadline for the *Late Claims Director’s Report* constitutes “good cause.” It cannot be said that the movants failure to timely file an objection was willful.

The Court finds good cause for the untimeliness of the *Objection*. In addition, the Court finds a meritorious position was alleged. The *Objection* will be filed with the court dated February 1, 2008. The *Response* filed by Sinclair Oil Corporation will be filed February 1, 2008 as well.

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

March 21, 2008

5:00 pm

Deadline to file Response to Objection

June 25, 2008

11:00 am

Status Conference

Location: Snake River Basin Adjudication
253 3rd Ave. North
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. Any questions regarding telephone participation, please contact the Clerk's office at (208) 736-3011.

Dated: February 12 2008.


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 February 13, 2008, with sufficient first-class postage to the following:

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