

2008 MAY 13 PM 2:34

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, SETTING
Case No. 39576	)	DEADLINE, AND STATUS
	)	CONFERENCE
_____	)	SUBCASE NOS.: 37-4323 and 37-4325

I. PROCEDURAL BACKGROUND

A *Motion to File Late Objection* was filed by Clare Olsen on January 2, 2008. A hearing was held on the *Motion* on May 7, 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*, Mr. Olsen explained that the lateness of his objection was not willful. Mr. Olsen did not own the property at the time objections were due, but the sale was in progress at the time. The lateness of the *Objection* was not willful. A meritorious position was alleged by claimant based on deeds of the property going back to the 1920s. Thus, claimant has evidence of an earlier priority than the date recommended. No parties to the SRBA opposed the *Motion*, and there is no showing prejudice would result from allowing the late objection.

III. FINDINGS

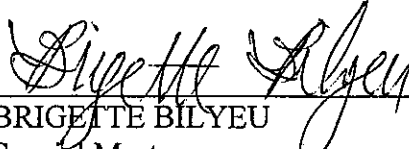
There was no opposition to the *Motion*. Therefore, the *Motion to File Late Objection* is granted. The *Objection* will be filed with the court dated May 7, 2008.

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

June 26, 2008	5:00 pm	Deadline to file Response to Objection
August 6, 2008	11:30 am	Status Conference
		Location: Snake River Basin Adjudication 253 3 rd 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: May 13, 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, SETTING DEADLINE AND STATUS CONFERENCE was mailed on May 13, 2008, with sufficient first-class postage to the following:

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