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DEPARTMENT OF
WATER RESOURCES

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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,
Case No. 39576	)	SUBSTITUTING PARTY AND
	)	SETTING DEADLINE
_____	)	SUBCASE NO.: 37-114C

I. PROCEDURAL BACKGROUND

A *Motion to File Late Objection* was filed by Michael A. Harris and Pepin Corso-Harris on February 6, 2008. A hearing was held on the *Motion* on July 16, 2008. Cattle Lack Ranch Homeowners Association was substituted as the objector in place of Mr. Harris and Ms. Corso-Harris.

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*, Cattle lack Ranch Homeowners Association explained that an objection was timely filed by the predecessor objectors, but the wrong suffix was inadvertently identified. Therefore, a timely objection to quantity and period of year was filed under the number 37-114B instead of the correct number, 37-114C. Thus, this court finds good cause for the untimeliness of the objection and also finds a meritorious position was alleged. 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 July 16, 2008.

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

August 22, 2008

5:00 pm

Deadline to file Response to Objection

Dated: July 24, 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, SUBSTITUTING PARTY AND SETTING DEADLINE was mailed on July 25, 2008, with sufficient first-class postage to the following:

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