

AUG 29 2008
DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

In Re SRBA	)	ORDER GRANTING MOTION TO
	)	FILE LATE OBJECTION, SETTING
Case No. 39576	)	DEADLINE, AND STATUS
	)	CONFERENCE
_____	)	SUBCASE NOS.: 22-193A and 22-326G

II. STANDARD OF REVIEW

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).

ORDER GRANTING MOTION TO FILE LATE OBJECTION,
SETTING DEADLINE, AND STATUS CONFERENCE
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- 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*, Mrs. Jardine explained that the lateness of the *Objection* was not willful. The Jardines were not aware of an error in the tax lot relating to this water right until after the objection deadline. The tax lot error also created inconsistencies in the legal description and acreage.

A meritorious position was alleged by claimant based on corrected information on the legal description and acreage which will assist IDWR in creating a new shape file. 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 *Motions*. Therefore, the *Motions to File Late Objections* are **granted**. The *Objections* will be filed with the court dated August 20, 2008.

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

September 29, 2008	5:00 pm	Deadline to file Response to Objection
October 8, 2008	3:00 pm	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: August 28, 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 OBEJCTION, SETTING DEADLINE, AND STATUS CONFERENCE was mailed on August 28, 2008, with sufficient first-class postage to the following:

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

BELLE JARDINE
DONALD W JARDINE
354 N 800 W
TETONIA, ID 83452
Phone: 208-456-2827

GARRY & MAEDENE JARDINE
GARRY W JARDINE
MAEDENE JARDINE
358 N 800 W
TETONIA, ID 83452
Phone: 208-456-2637