

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

MAR 17 2009

By _____ Clerk
_____ Deputy Clerk

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).

III. DISCUSSION

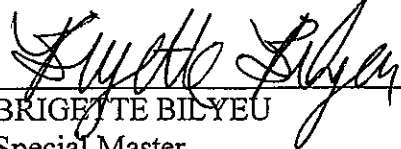
The movant Pat Bennett did not attend the hearing held on March 4, 2009. Claimants Quarter Circle Lazy H. Inc. and Bliss Point Cattle Inc. argued against the *Motion*. The claimants argued that the *Motion* and the proposed *Objection* do not contain a meritorious position. The proposed objection appears to be asking for administrative remedies rather than seeking changes to the elements of these water rights. For example, the proposed *Objection* to 37-514 objects to the quantity element. However, the proposed *Objection* does not seek a different cfs. Rather the *Objection* says “2/3 of stream flow – 1/3 to pat Bennett.” Similarly, the *Objection* to 37-4403 says, “I think a ditch rider would be the only way to make sure we get what water we’re both entitled to.” Thus, the proposed *Objection* appears to seek changes to the manner in which these rights are administered, but does not state a valid objection to the elements of the right. Therefore, the proposed *Objection* fails to state a meritorious position.

IV. FINDINGS

The movant did not show a meritorious position because the *Objection* complains about the manner of administration, not the elements of these water rights. The SRBA court is not the correct forum for seeking administrative remedies.

THEREFORE, the *Motion for Late Objection* is **denied**. There are no remaining objections in these subcases. A *Special Master’s Report and Recommendation* will issue recommending these water rights consistent with the *Director’s Report*.

DATED: March 17, 2009.


BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

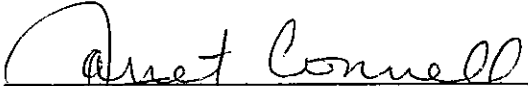
I certify that a true and correct copy of the ORDER DENYING MOTION TO FILE LATE OBJECTION was mailed on March 17, 2009, with sufficient first-class postage to the following:

BLISS POINT CATTLE INC
QUARTER CIRCLE LAZY H INC

Represented by:
CRAIG D. HOBDEY
125 5TH AVE
PO BOX 176
GOODING, ID 83330
Phone: 208-934-4429

PAT BENNETT
PO BOX 113
HILL CITY, ID 83337
Phone: 208-764-2216

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


Deputy Clerk