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APR 28 2009

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
APR 27 2009	
By _____	Clerk Deputy Clerk

**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 ON MOTION TO FILE
	)	LATE OBJECTION AND SETTING
Case No. 39576	)	SUBCASE DEADLINE
	)	
	)	SUBCASE NO.: 22-11460
	)	
_____	)	

I. PROCEDURAL BACKGROUND

A *Motion to File Late Objection* was filed by A.P. Group LC on December 15, 2008 in the above listed water right. A hearing was held on the *Motion* on April 8, 2009.

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 provide 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 1* (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).

III. ANALYSIS

In support of the *Motion*, movant explained that it did not intend to miss the deadline for filing objections. Movant did not realize the date of the deadline because a change in ownership of the water right had not been filed prior to the deadline. Movant explained the basis of the proposed objection.

The *Director's Report* recommended this right for disallowance because IDWR apparently assumed that the license on which this right was based, had been recommended in full to Francis Ripplinger. The original license was for .50 cfs. A ***Partial Decree*** issued in the name of Francis Ripplinger is for .15 cfs. (water right 22-13560) Thus, it appears that the licensed quantity is not entirely decreed. Movant provided a deed which shows that the licensed right was split. Thus, movant showed both "good cause" for the untimeliness and a "meritorious position." No parties to the SRBA opposed the *Motion*, and there is no showing prejudice would result from allowing the late objection.

IV. FINDINGS

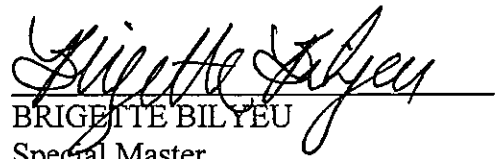
This Special Master finds "good cause" for the untimeliness of the *Objection* and a meritorious position. Therefore, the *Motion to File Late Objection* is **granted**. The *Objection* previously lodged shall be filed and dated April 8, 2009.

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

May 22, 2009	5:00 pm	Deadline to file Response
September 9, 2009	3:30 pm	Status Conference
		Location: Snake River Basin Adjudication 253 3 rd Ave. North Twin Falls, Idaho 83301

Parties may participate by telephone 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: April 27, 2009.


BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER ON MOTION TO FILE LATE OBJECTION AND SETTING SUBCASE DEADLINES was mailed on April 27, 2009, with sufficient first-class postage to the following:

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