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DEPARTMENT OF
WATER RESOURCES

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

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

MAY 28 2010

By _____ Clerk
Deputy Clerk

In Re SRBA

Case No. 39576

) ORDER ON MOTION TO FILE
) LATE OBJECTION AND SETTING
) DEADLINE, STATUS CONFERENCE
) AND TRIAL DATE

) SUBCASE NO.: 22-13790
)

I. PROCEDURAL BACKGROUND

An *Objection* was filed on February 11, 2010 by the City of Rexburg. The court treated the *Objection* as a *Motion to File Late Objection*. A hearing was held on the *Motion* on May 19, 2010.

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*, the City of Rexburg explained that it has been working with IDWR for some time to understand how IDWR had recommended the water rights for two wells. One of the wells had a license, but the first well existed prior to the time licenses were required. Ultimately, the City of Rexburg was confused by how the first well was recommended in connection to the second well. The objection was filed as soon as the City of Rexburg understood the recommendation. The City of Rexburg, thus, also asserted 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 May 19, 2010.

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

June 25, 2010	5:00 pm	Deadline to file Response
August 25, 2010	3:00 pm	<u>Status Conference</u> Location: Snake River Basin Adjudication 253 3 rd Ave. North Twin Falls, Idaho 83301
June 15-16, 2011	10:00 am	<u>Trial (2 days)</u> 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 1-215-446-0193 and when prompted enter participant code 926509. Any questions regarding telephone participation, please contact the Clerk's office at (208) 736-3011.

DATED: May 28, 2010.


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 DEADLINE ,STATUS CONFERENC AND TRIAL DATE was mailed on May 28, 2010, with sufficient first-class postage to the following:

CITY OF REXBURG

Represented by:

JERRY R. RIGBY

25 N 2ND E

PO BOX 250

REXBURG, ID 83440-0250

Phone: 208-356-3633

DIRECTOR OF IDWR

PO BOX 83720

BOISE, ID 83720-0098