

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

JAN 11 2011

By _____ Clerk

Deputy Clerk

SUBCASE NO.: 37-906

A *Motion to File Late Objection* was filed by the City of Hailey on January 4, 2011. A hearing was held on the *Motion* on January 5, 2011.

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)*.

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*, the City of Hailey explained that it filed the late *Objections* as soon as it was aware of the deadline.

A meritorious position was alleged because the City of Hailey believes it can show it has a meritorious purpose of use which could impact other elements of the right. 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**. A *Response* deadline was previously set for January 14, 2011.

Please be advised that Special Master Brigitte Bilyeu has set the following deadlines in the above subcase:

March 11, 2011	5:00 pm	Deadline to Join Parties or Amend Pleadings Deadline for Motion to Consolidate Deadline for Completed Discovery
March 21, 2011	5:00 pm	Deadline to File Motion for Summary Judgment
April 4, 2011	5:00 pm	Deadline to File 706 Supplemental Report
April 18, 2011	1:30 pm	<u>Summary Judgment Hearing / Status Conference</u> Location: Snake River Basin Adjudication 253 3 rd Ave. North Twin Falls, Idaho 83301
May 25, 2011	10:00 am	<u>Pretrial Conference</u> Location: Snake River Basin Adjudication 253 3 rd Ave. North Twin Falls, Idaho 83301

Trial Briefs Due.

June 8-9, 2011

10:00 am

Trial (2 days)

Location: Snake River Basin Adjudication
253 3rd Ave. North
Twin Falls, Idaho 83301

Parties may participate by telephone for the Status Conference and Pretrial 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: January 11, 2011.


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 AND SETTING TRIAL SCHEDULE was mailed on January 11, 2011, with sufficient first-class postage to the following:

BIG WOOD CANAL COMPANY

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

HIAWATHA CANAL WATER USERS

Represented by:
HAEMMERLE, FRITZ X.
PO BOX 1800
HAILEY, ID 83333
Phone: 208-578-0520

CITY OF HAILEY

Represented by:
PATRICK D BROWN
HUTCHINSON & BROWN LLP
104 LINCOLN ST
PO BOX 207
TWIN FALLS, ID 83303-0207
Phone: 208-733-9300

DIRECTOR OF IDWR

PO BOX 83720
BOISE, ID 83720-0098