

DEPARTMENT OF
WATER RESOURCES

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

NOV 21 2011

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

Case No. 39576

ORDER GRANTING MOTION TO FILE LATE OBJECTION AND SETTING SUBCASE DEADLINE

SUBCASE NO.: 27-12006

I. PROCEDURAL BACKGROUND

A *Motion to File Late Objection* was filed on November 14, 2011 by Natural Guardian Limited Partnership.

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*, Natural Guardian Limited Partnership explained that the *Director's Report* contained certain errors in favor of the claimants which they agree to correct. The priority date was recommended as April 1, 1873 but was based on a prior decree which determined the priority as July 1, 1873. In addition, season of use was recommended as 4/01 – 11/01. However, the standard season of use in that area is 4/01 – 10/31. The claimant seeks to file

the *Objection* to correct the elements of this right. 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 November 18, 2011.

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

December 16, 2011

5:00 pm

Deadline to file Response

DATED: November 21, 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 SUBCASE DEADLINE was mailed on November 21, 2011, with sufficient first-class postage to the following:

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