

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
FEB 23 2012	
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 DEADLINES

SUBCASE NO.: 31-12181

I. PROCEDURAL BACKGROUND

A *Motion to File Late Objection* was filed by the State of Idaho, Department of Lands on December 16, 2011. A hearing was held on the *Motion* on February 22, 2012.

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 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 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 Objections 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).

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 State of Idaho explained that the conveyance or ditch system associated with this water right is located, in part, on State land. However, the State of Idaho did not know of the location of the conveyance system until notified recently by the claimant. It immediately filed this late objection.

A meritorious position was alleged because both the State of Idaho and the claimant confirmed that the conveyance system goes onto State land, and that there is not an easement in place at the current time.

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**. IT IS ORDERED that the following dates shall govern further proceedings:

March 23, 2012	5:00 pm	Deadline to file Response to Objection
May 16, 2012	10:30 am	<u>Status Conference</u> Location: Snake River Basin Adjudication 253 3 rd Ave. North Twin Falls, Idaho 83301
June 13, 2012	9:30 am	<u>Pretrial Conference</u> Location: Snake River Basin Adjudication 253 3 rd 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: February 23, 2012.


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 DEADLINES was mailed on February 23, 2012, with sufficient first-class postage to the following:

MUD LAKE WATER USERS INC

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STATE OF IDAHO DEPT OF LANDS

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UNITED STATES OF AMERICA

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