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DEC 14 1995

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

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DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

FILED _____

**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

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Subcase No. 36-02080

**ORDER DEEMING NOTICE OF
APPEAL AND OBJECTIONS AS A
MOTION FOR PERMISSIVE
REVIEW**

95-12-0045

On August 21, 1995, the Special Master entered an *Order Denying Motion for Leave to File Late Objection* in the above subcase.

In response, on September 5, 1995, the Magic Valley Underground Pumpers Association, Inc. (Association) filed its *Notice of Appeal* pursuant to I.R.C.P. 83 (f). Alternatively, the Association filed its *Objections to Special Master's Order Denying Motion for Leave to File Late Objection (Objections)* pursuant to I.R.C.P. 53 (e)(2). According to the Association, both the *Notice of Appeal* and *Objections* were filed "due to the unestablished means of appealing a Special Master's decision in the SRBA." To date, no party has responded to the pleadings and no action has been taken.

SRBA Administrative Order I, section 11d provides:

A special master or a party to a subcase may seek permissive review of the special master's interlocutory determination by the Presiding Judge where the interlocutory determination involves a controlling question of law as to which there are substantial grounds for difference of opinion and in which immediate consideration of the determination may advance the orderly resolution of the litigation. A party to a subcase seeking permissive review by the Presiding Judge shall file a "Motion for Permissive Review" and follow the *General Docket Sheet Procedure*. The special master shall review the motion and recommend, with findings, whether it should be granted or denied. The motion and the special master's recommendation


shall be forwarded to the Presiding Judge for determination. Any party to the adjudication may file a response to the *Motion for Permissive Review*. The response must be filed within 30 days after publication of the filing of the motion in the docket sheet.

The Special Master will consider the *Notice of Appeal* and *Objections* together as a *Motion for Permissive Review* and this subcase will proceed in accordance with *SRBA Administrative Order I*, section 11d.

Therefore, IT IS ORDERED that:

1. The *Notice of Appeal* and *Objections* filed by the Association are deemed to be a *Motion for Permissive Review*.
2. The Clerk of the SRBA District Court shall docket the *Notice of Appeal* and *Objections* together as a *Motion for Permissive Review* filed as of the date of this Order.
3. The *Motion for Permissive Review* and any responses thereto shall follow *SRBA Administrative Order I*, section 11d.
4. The Clerk of the SRBA District Court shall return to the Association all fees tendered under the *Notice of Appeal*.

DATED: December 14, 1995.



TERRENCE A. DOLAN
Special Master, Reporting Area 3
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the **ORDER DEEMING NOTICE OF APPEAL AND OBJECTIONS AS A MOTION FOR PERMISSIVE REVIEW** was mailed on December 19, 1995, with sufficient first-class postage to the following:

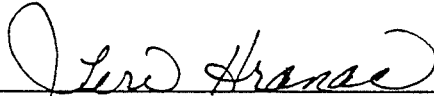
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Deputy Clerk

