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Department of Water Resources

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

In Re SRBA

) Subcase No: 34-00965A

Case No. 39576

)
) ORDER GRANTING MOTION TO
) FILE LATE OBJECTION
)

96-03-0068

On December 18, 1995, a proposed Objection was lodged with the court for the above water right by claimants, Steven and Joyce Tibbits. The Objection indicates the claimants seek to object to the quantity and place of use recommended in the Director's Report. The court shall treat the proposed Objection and explanation contained in the attachment as a *Motion to File Late Objection*.

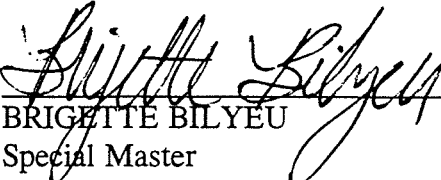
The SRBA Administrative Orders do not provide a standard to be applied for filing late objections. However, the court's administrative rules set forth that *Motions to File a Late Notice of Claim* are to be reviewed under the criteria of I.R.C.P. 55(c) and 60(b). *SRBA Administrative Order 1 (A.O.1)*, § 4A(c)(4)(b). All SRBA pleadings are generally required to conform to the IDAHO RULES OF CIVIL PROCEDURE. *A.O.1*, § 3a.

According to case law and the Rules of Civil Procedure, a court applies the criteria of I.R.C.P. 55(c) where it is determining whether to allowing the filing of a late answer. *Motions for Late Objections* shall be reviewed under the same criteria of Rules 55(c) and 60(b). 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); *Reeves v. Wisenor*, 102 Idaho 271, 629 P.2d 667 (1981); *McFarland v. Curtis*, 123 Idaho 931, 854 P.2d 274 (App. 1993). A hearing on the *Motion* was held March 21, 1996. No objections were made to the *Motion*.

Therefore, based on the hearing and the record for this water right, the court finds good cause and a meritorious position exist. IT IS ORDERED that the *Motion to File Late Objection*

is **GRANTED** and the Objection previously lodged with this court be deemed filed as of March 21, 1996. IT IS FURTHER ORDERED that Responses to the Objection shall be filed on or before April 22, 1996.

DATED March 22, 1996.


BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

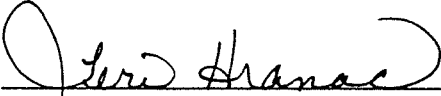
I certify that a true and correct copy of the **ORDER GRANTING MOTION TO FILE LATE OBJECTION** was mailed on March 22, 1996, with sufficient first-class postage to the following:

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