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Department of Water Resources

Movant's Name:

UNITED STATES OF AMERICA

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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

In Re SRBA	)	Sub-case No.: 57-02368
	)	
Case No. 39576	)	UNITED STATES' MOTION FOR LATE
	)	OBJECTION
_____	)	

96-05-0033

Descriptive Summary

This is the United States' motion for late objection to water right number 57-02368.

Motion

A. Standard of Review

Although Administrative Order No. 1 does not explicitly set forth the test to be applied for admitting late objections, the Court has applied the test set forth in A.O. #1 for admitting late claims to requests for late objections. Motions for late objections are reviewed under the same criteria set forth in I.R.C.P. 55(c) and 60(b). These rules provide that a proponent

of a Motion for Late Objection must show both good cause and a meritorious position. Schraufnagel v. Quinowski, 113 Idaho 753, 755, 747 P.2d 775 (Idaho App. 1987); Reeves v. Wisenor, 102 Idaho 271, 629 P.2d 667 (1981).

B. Good cause is shown by the United States.

The United States has good cause for the late filing of this objection. The United States recently became aware of the need to file for late objection to this water right in the course of resolving its objection to subcase number 57-07341. During discussions with IDWR regarding subcase 57-0741, in which the United States has a pending objection, it became apparent that modifications to water right recommendation 57-02368 were necessary. Attorney for IDWR, Charles Huntsinger, has agreed to the proposed changes to water right 57-02368.

The need to modify the Director's recommendation was not realized prior to the United States' and the Department's attempts to resolve the dispute in 57-07341. Further, the granting of this late objection will enable the United States and the Department to completely resolve the matter with the submission of Standard Forms No. 5 for 57-02368 and the companion sub-case 57-07341.

C. The United States' position is meritorious.

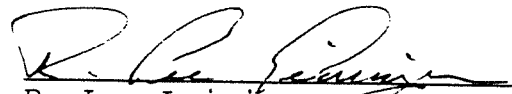
Water rights 57-02368 and 57-07341 are based on two licenses to the same stockwatering reservoir. IDWR did not recommend water right 57-07341 because it appeared to be duplicative of water right 57-02368. Following discussions with the Department, it was agreed that the water rights were not

duplicative, providing certain elements of both claims were modified. The Standard Forms No. 5 the United States intends to file for these two subcases will resolve the dispute consistent with the stipulated priority and beneficial use at the reservoir site.

Conclusion

WHEREFORE, the United States has shown good cause and a meritorious position for the filing of a late objection to water right no. 57-02368, the United States respectfully asks that its motion for late objection be granted.

Respectfully submitted this 24th day of May, 1996.


R. Lee Leininger
Attorney
General Litigation Sec.
U.S. Dept. of Justice

CERTIFICATE OF SERVICE

I certify that on the 24th day of May, 1996, I served a true and correct copy of the foregoing United States' Motion for Late Objection via first-class U.S. mail upon the following individuals:

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