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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

In Re SRBA

Case No. 39576

) Subcases: 34-00062A; 34-00504A;
) 34-00505; and 34-02397B
)
) ORDER GRANTING MOTIONS TO
) FILE LATE OBJECTIONS
)

On March 14, 1996, a *Motion to File Late Objection* and proposed Objection were lodged with the court for the above water rights by claimants, Seth & Shirley Beal. The Objection indicates the claimants seek to object to the remarks on the recommended diversion rate in the Director's Report.

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 *Motions* was held July 19, 1996. No objections were made to the *Motions*.

Therefore, based on the hearing and the records for the above water rights, the court finds good cause and a meritorious position exist. Therefore, IT IS ORDERED that the *Motions to File*

Late Objection are **GRANTED** and the Objections previously lodged with this court shall be deemed filed as of July 19, 1996. IT IS FURTHER ORDERED that Responses to the Objections shall be filed on or before August 19, 1996.

DATED July 25, 1996.

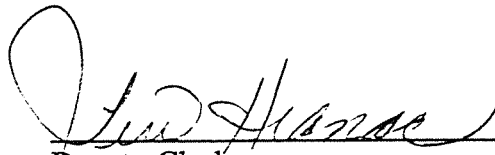

BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the **ORDER GRANTING MOTIONS TO FILE LATE OBJECTIONS** was mailed on July 25, 1996, with sufficient first-class postage to the following:

Director of IDWR
P.O. Box 83720
Boise, ID 83720-0098

Seth & Shelley Beal
2827 North 3375 West
Moore, ID 83255


Deputy Clerk