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APR 08 2014
DEPARTMENT OF
WATER RESOURCES

The Alton & Paula Huyser Trust Under
Trust Agreement Dated 4-1-2001

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

In Re SRBA	)	Subcase Nos. 37-7454 and 37-7602
	)	
Case No. 39576	)	MOTION TO FILE LATE
	)	OBJECTIONS
	)	

MOTION

The Alton & Paula Huyser Trust Under Trust Agreement Dated 4-1-2001(“Huyser”), by and through its counsel of record, Hofstetter Law Office, LLC, hereby moves, pursuant to I.R.C.P. Rule 55(c) and SRBA Administrative Order 1 Section 17(c), for leave to file late Objections to Water Right Nos. 37-7454 and 37-7602. This Motion is supported by the Memorandum below, the proposed Objections filed contemporaneously herewith, and the record.

MEMORANDUM

The Idaho Department of Water Resources (“IDWR”) filed a Notice of Completed Administrative Proceeding (“NCAP”) with Amended Director’s Reports in these Subcases on or about April 2, 2014. This Motion to File Late Objections is based on Administrative Order 1, Section 17(c) which states in pertinent part, “Any party wishing to file an objection to a Amended Director’s Report may do so by filing a *Motion to File a Late Objection* within 21 days following the notice of filing the Amended Director’s Report in the Docket Sheet.”

GOOD CAUSE EXISTS TO GRANT LEAVE TO FILE A LATE OBJECTION

The decision to allow a late objection to be filed in the SRBA, is based on the good cause standard of I.R.C.P. 55(c). The Rule 55(c) standard requires good cause and a meritorious defense. *McFarland v. Curtis*, 123 Idaho 931, 935, 854 P.2d 274, 278 (Ct. App. 1993). The Rule 55(c) standard for setting aside entry of default is less stringent than the Rule 60(b) standard for setting aside default judgment. *Id.* at 935-36, 854 P.2d at 278-79. This approach is consistent with the policy that cases generally should be decided on their merits and that where no judgment has been proven, a liberal approach is appropriate. *Id.* at 936, 854 P.2d at 279. The Rule 55(c) standard has been described as requiring the movant to show some excuse for a failure to answer and that a meritorious defense exists, as the policy of deciding cases on the merits should be recognized. *Id.*

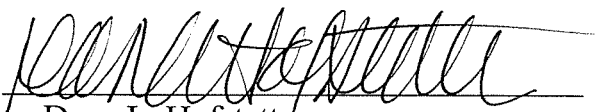
This Motion is consistent with these authorities. This Motion to File Late Objections became necessitated by IDWR's issuance of the NCAP and Amended Director's Reports in these Subcases. This Motion complies with the procedure and timeframe provided in Administrative Order 1, Section 17(c) for such motions. Further, the meritorious claim is apparent from the record, including these two (2) Partial Decrees that were set aside, that did not include combined use remarks with surface water rights.

CONCLUSION

For the reasons stated above, this Motion to File Late Objections should be granted.

RESPECTFULLY SUBMITTED this 7th day of April, 2014.

HOFSTETTER LAW OFFICE, LLC

By 
Dana L. Hofstetter

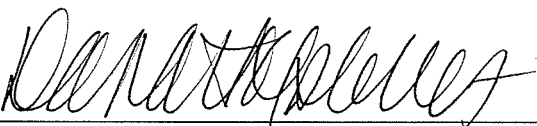
CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of April, 2014, I caused to be served copies of the foregoing **Motion to File Late Objections** by the methods indicated below:

Idaho Department of Water Resources
Document Depository
P. O. Box 83720
Boise, Idaho 83720-0098
☒ U.S. Mail ☐ Fed Ex ☐ Hand ☐ Fax

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P. O. Box 44449
Boise, ID 83711-4449
☒ U.S. Mail ☐ Fed Ex ☐ Hand ☐ Fax

United States Department of Justice
Environment and Natural Resources Division
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Boise, ID 83724
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