

GIVENS PURSLEY LLP

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PO Box 2720, Boise, Idaho 83701
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WEBSITE: www.givenspursley.com

October 31, 2003

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

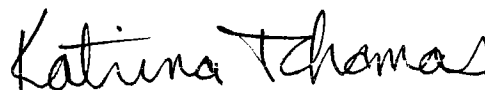
Re: Subcase No. 29-4491
Our File No. 6849-1

Dear Clerk:

Enclosed for filing in the above referenced matter please find the original and one copy each of the following documents: (1) Standard Form 4 – Motion to File Amended Notice of Claim and (2) Amended Notice of Claim to a Water Right. These documents were filed with the Court via facsimile on October 31, 2003. Please conform the copy of each document and return them to our office in the enclosed self-addressed, stamped envelope.

Thank you for your assistance with this matter. If you have any questions or require any additional information please call.

Sincerely,



Katrina Thomas
Legal Secretary

Enclosures

cc: Allen Rueberry, IDWR Eastern Regional Office (w/enclosure)

:kdt \SACLIENTS\6894\INVT Lit to Clerk re Filing SF-4.DOC

RECEIVED

NOV - 6 2003

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James A. McClure
Stephanie C. Westermeier
OF COUNSEL

John A. Miller, LL.M. *
TAX CONSULTANT
*Licensed in Kentucky only

FILED
OCT 11 1996
CLERK OF DISTRICT COURT

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	)	Subcase <u>29-4491</u>
	)	(Insert water right number)
	)	
Case 39576	)	STANDARD FORM 4
	)	
	)	MOTION TO FILE:
	)	☐ LATE NOTICE OF CLAIM
	)	☒ AMENDED NOTICE OF CLAIM

INSTRUCTIONS

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even-number pages upside down.

The water right number for your late or amended claim must be indicated above in the blank space following "Subcase." You must use a **separate form for each** late or amended Notice of Claim.

This form has been adopted by the court in **SRBA Administrative Order 1, Rules of Procedure** (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

By filing a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

☒ I have read **SRBA Administrative Order 1, Rules of Procedure** (amended Sept. 30, 1996).

My name is _____

My address is _____

My phone number is: Work _____ Home _____

I am an attorney representing Jennie L. Winter and Charles E. Winter

My name is Deborah E. Nelson

My address is Givens Pursley LLP, 601 West Bannock Street, Boise, Idaho 83702

My phone number is (208) 388-1200

MOTION TO FILE A LATE NOTICE OF CLAIM

A Motion to File a Late Notice of Claim will require a hearing before the Presiding Judge.

☐ I did not file a Notice of claim to the use of water in the SRBA because:

☐ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or stock watering use. I desire to reinstate my Notice of Claim for domestic or stock watering use.

☐ I am providing legal and factual documentation for my claimed use of water. You must describe these documents and attach a readable copy. (You do not need to fill this out if you are reinstating a Notice of Claim for domestic or stock watering use, but you **must** attach a copy of your Notice of Claim.)

I have attached:

- ☐ A fully completed Notice of Claim (available from IDWR).
- ☐ A claim filing fee for a domestic and stock watering use. IDWR may charge this fee pursuant to I.C. § 42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ _____.
- ☐ A claim filing fee and a late claim fee for those claims other than a domestic or stock watering use for which a notice of claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ _____.

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:

This motion will be heard on _____
(Insert Date and Time)
at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

A Motion to File an Amended Notice of Claim may require a hearing before the Presiding Judge or Special Master or may be granted by leave of the court or by written consent of the parties and the Idaho Department of Water Resources. Leave to amend a claim shall be freely given when justice so requires.

- ☒ I must amend my Notice of Claim to the use of water in the SRBA because:

The original Notice of Claim misstated the priority date, which should be June 20, 1916, the date
of the original mortgage on the property. The Amended Notice of Claim also corrects the
irrigation quantity claimed. Claimant was not represented by counsel at the time the original
Notice of Claim was submitted or until after the Director's Report recommending this claim was
filed with the court.

- ☒ I am providing legal and factual documentation to support my amended Notice of Claim. You must describe these documents and attach a readable copy.

Submitted with this motion is the Amended Notice of Claim. Extensive documentation supporting the Amended Notice of Claim previously has been submitted to IDWR.

I have attached:

- ☒ An amended Notice of Claim (available from IDWR).
- ☐ Payment of the following additional fees required by IDWR:

VERIFICATION (Must be completed)

State of Idaho

County of Ada

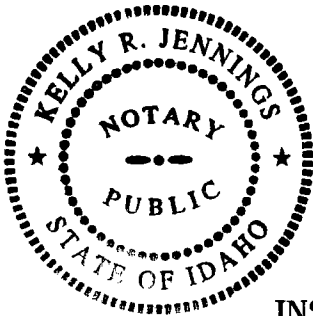
Deborah E. Nelson, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

Signature of person filing motion

Deborah E. Nelson
Attorney signing in representative capacity

Subscribed and sworn to before me on October 17, 2003
(Insert Date)



Kelly R. Jennings
Notary Public for Idaho
Residing at: Boise, ID
My Commission expires: 5/29/09

INSTRUCTIONS FOR MAILING

You must mail this form, including all attachments, to the Clerk of the SRBA Court. **FAX filings will not be accepted by the SRBA Clerk of the Court.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on October 31st, 2003, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

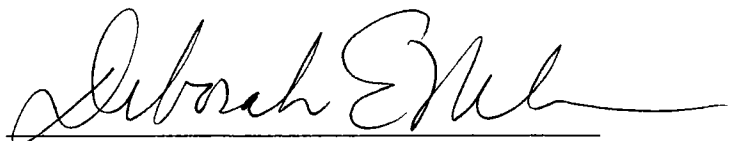
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

3. If you are filing an amended Notice of Claim in a subcase being heard before the Presiding Judge or a Special Master, you must serve a copy on all parties to that subcase.

(Insert Names/address of parties)



Signature of person or attorney mailing the form

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

IN RE THE GENERAL ADJUDICATION
OF RIGHT TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number _____

Date Received _____

Receipt Number _____

AMENDED
NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED
JUN 20 1916
TWIN FALLS, IDAHO
Fifth Judicial District

Please type or print clearly

1. Name of Claimant(s) Jennie L. Winter and Charles E. Winter Phone (208) 435-4466
Mailing Address 4297 Lower Fords Creek Road, Orofino, Idaho 83544 Zip 83544
2. Date of Priority (only one (1) per claim) June 20, 1916
3. Source of water supply (a) Unnamed stream
which is tributary to (b) Sinks
4. a. Location of existing point of diversion is: Township 7S Range 36E Section 26,
SW 1/4 of NW 1/4 of NW 1/4, Govt. Lot, _____ B.M., County of Bannock
Additional points of diversion if any: _____
b. If instream flow, beginning point of claimed instream flow is:
Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,
Govt. Lot _____ B.M., County of _____
ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of
_____ 1/4, Govt. Lot _____ B.M., County of _____
5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
Including the dates of any changes or enlargement in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well. _____
Headgate to gravity ditches.

6. Water is claimed for the following purposes

			(both dates are inclusive)			(cfs)		(acre feet)
For	Irrigation	purposes from	4/1	to	10/31	amount	.06	or
For	Stockwater	purposes from	1/1	to	12/31	amount	.02	or
For		purposes from		to		amount		or
For		purposes from		to		amount		or

7. Total quantity claimed (a) .08 (cfs) and/or (b) (acre feet)

8. Total consumptive use claimed is N/a acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number Of livestock Etc.) 10 horses

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic)

in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
7S	36E	26						2											2
7S	36E	26						S											

Total number of acres irrigated 2

11. In which county(ies) are lands listed above as place of use located? Bannock

12. Do you own the property listed above as place of use? Yes X No

If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as describe above.

or None (X)

14. Remarks:

Documents to support this (Amended) Notice of Claim include the same documents filed with the original Notice of Claim and all documents subsequently submitted to IDWR for inclusion in this water right file. These documents include the original mortgage for the property (dated June 20, 1916), subsequent deeds showing ownership, and affidavits regarding water use.

Last Name Winter Ident. No.

Scale: 2 inches equals 1 mile

N W N W

Approx. POU

POD

Approx. POU

POD

Ident. No.

15. Basis of Claim (check one) Beneficial Use ☒ X Posted Notice _____ License _____ Permit _____
Decree _____

If applicable provide IDWR Water Right Number 29-4491

Court _____ Case Number _____ Decree Date _____

Plaintiff vs Defendant _____

16. Signature(s)

(a.) by signing below, I/We acknowledge that I/We have received, read, and understand the form entitled

"How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not ☒ X

wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments 0

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s)

James R. Winter
Charles B. Winter

Date 21 October '03

Date 21 Oct 03

For Organizations: I do solemnly swear or affirm that I am _____

Title

of _____, that I have signed the foregoing

Organization

document in the space below as _____

Title

of _____

Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization _____

Date _____

State of Idaho/or _____

County of _____

Subscribed and sworn to (or affirmed) before me this _____

21st

day of

OCTOBER

2003

Notary Public

Residing at _____

My Commission Expires _____

Janet R. Montambo

OROFINO, Idaho

9/9/2009

17. Notice of Appearance:

Please Print Name

Notice is hereby given that I, Deborah E. Nelson will be acting as attorney at law on behalf

of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing

above should be mailed to me at the address listed below.

Signature

Deborah E. Nelson

Address 601 W. Bannock Street, Boise, Idaho 83701

Date

10/31/03

Last Name Winter

Ident. Number _____