

COPY

**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 No. <u>61-12053</u>
	)	(Insert Water Right Number)
	)	
	)	STANDARD FORM 4
Case No. 39576	)	
	)	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 State of Idaho, Department of Lands

My address is 700 W. Jefferson, Room 210, P.O. Box 44449, Boise, Idaho 83711-4449

My phone number is: Work (208) 334-2200 Home Not Applicable

I am an attorney representing State of Idaho, Department of Lands

My name is David J. Barber, Deputy Attorney General

My address is 700 W. Jefferson, Room 210, P.O. Box 44449, Boise, Idaho 83711-4449

My phone number is (208) 334-2400

MOTION TO FILE 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:

This claim is for a stockwatering use on State Endowment lands that was subject to the order of the court that allowed the claim to be deferred. The lessee of the State Endowment land notified the Idaho Department of Lands that it desired that the claims be determined in the SRBA. In response to this request, the Idaho Department of Lands determined to file the claims in the name of the State of Idaho, Department of Lands.

☐ 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 described 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.)

The attached Notice of Claim describes the diversion works for the water right and includes a photograph of the site. The State of Idaho, Department of Lands, acquired ownership of the real property from the United States under one of the various endowments established by the Idaho Admission Act of July 3, 1890, ch. 656, 26 Stat. 215. Attached as Attachment II is a true and correct copy of Clear List No. that evidences this transfer of ownership to the State of Idaho, Department of Lands.

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 receipt showing payment to the State of Idaho Department of Water Resources in the amount of \$800.⁰⁰ for 32 Notices of Claim. The State of Idaho, Department of Lands, filed the 32 Notices of Claim on January 14, 2004. Twenty-seven Notices of Claim were within Basin 37, and IDWR accepted them as timely. Five notices of claim were within Basin 61, and IDWR returned these five and advised that a Motion to File Late Notice of Claim was necessary for each of the five.

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 Tuesday, June 15, 2004 at 1:30 p.m.

(Insert Date and Time)

at the Nez Perce County Courthouse, 1225 Idaho Street, Lewiston, Idaho.

MOTION TO FILE 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:

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

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

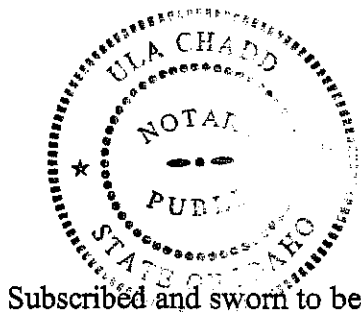
County of Ada

Tracy Behrens, 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 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.

Tracy Behrens
Signature of person filing motion

Attorney signing in representative capacity



Subscribed and sworn to before me on March 1, 2004
(Insert Date)

Ula Chadd
Notary Public for _____
Residing at: Caldwell
My Commission expires: 9-22-06

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 3rd day of March, 2004, 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:

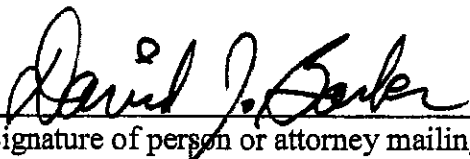
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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

Not Applicable

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

Idaho Department of Water Resources Receipt

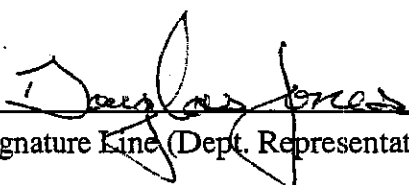
Receipt ID S026400

Payment Amount Date Received Region Status
Payment Type Check Number

Payer Comment

Fee Detail

Amount	Description	Fund	FD	PCA	SO
\$800.00	ADJUDICATION FILING FEE	0337		44503	1155



Signature Line (Dept. Representative)

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

61

CIVIL CASE NUMBER:

39576

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

Identification No. 61-12053
Date Received _____
Receipt Number ~~\$26.00~~ \$25

**NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW
For Domestic and/or Stockwater Purposes
Where Daily use is less than 13,000 gallons per day.**

RECEIVED

JAN 14 2004

Department of Water Resources
TWIN FALLS, IDAHO

Filing Fee \$25

Please type or print clearly

1. Name of Claimant (s) State of Idaho, Department of Lands Phone (208) 334-2400
Mailing Address 700 W. Jefferson, Room 210, P.O. Box 44449, Boise, Idaho Zip 83711-4449
2. Date of Priority (Only one per claim) December 15, 1919 Month/Day/Year
3. Source of water supply (Check one) () Groundwater or Other (X) (a) Unnamed stream
Name or kind of source _____
which is tributary to (b) Deer Heaven Creek
4. Location of point of diversion is: Township 2 South Range 11 East
Section 31, NW 1/4 of SW 1/4 of SE 1/4, Govt. Lot _____, B.M.,
County of Elmore
Additional points of diversion if any: _____
5. Description of existing diversion works (Ditches, Wells, Pumps, Pipelines, Headgate Etc.), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. A dam collects water in a small reservoir, which was designated as Waypoint 10. The capacity of the reservoir is reduced because the dam is partially washed out. See attached photograph of Waypoint 10, which was taken on 6/18/2003.
6. Water is claimed for the following: (limited to Domestic and/or Stockwater only. See Instructions.)
Month/Day Month/Day (cfs)
For StockWater purposes from January 1 to December 31 amount 0.02
(Both dates are inclusive)
For _____ purposes from _____ to _____ amount _____
7. Total quantity claimed 0.02 (cfs)
8. Total consumptive use claimed is de minimis
9. Non-irrigation uses. Describe fully. (Domestic: give number of households served if single ownership; Stockwater: Type and Number of livestock) The lands described in this claim are leased under State Land Lease, Lease No. 7601 (Grazing). This lease authorizes a total of 730 animal unit months on 5,913.8 acres of State endowment land.

10. Place of use is: Township: 2 South Range 11 East

Section 31, SW $\frac{1}{4}$ of SE $\frac{1}{4}$ Govt. Lot B.M.,

County of Elmore for (Circle One)

Domestic

Stock

Domestic and Stock

Additional places of use, if any: Not applicable

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

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 described above.

14. Remarks:

15. Basis of Claim (Circle One)
Decree

Beneficial use

Posted Notice

License

Permit

Court Decree Date Plaintiff vs Defendant

If applicable provide IDWR Water Right Number

16. Signature (s)

(a) By signing below, I/We acknowledge that I/We have received, read and understood the form entitled "How you will receive notice in the Snake River Basin Adjudication". (b) I/We do not wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of Attachments = 1

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

Signature of Claimant (s) Date

For Organizations: I do solemnly swear or affirm that I am Range Program Manager
Title
of the Idaho Department of Lands, that I have signed the foregoing document in the space below as Range Program Manager of the Idaho Department of Lands and that the statements contained in the foregoing document is true and correct.

Signature of Authorized Agent Tracy Behrens Date 1/6/2004

Title and Organization Range Program Manager Idaho Department of Lands

State of Idaho)

County of Ada) ss

Subscribed and sworn (or affirmed) before me this 26th day of January 2004

Notary Public Ula Chadd

Residing at Caldwell

My Commission Expires 9-22-06

Last Name Ident No.



PHOTO RECORD

*South Central Office
Gooding, Idaho*

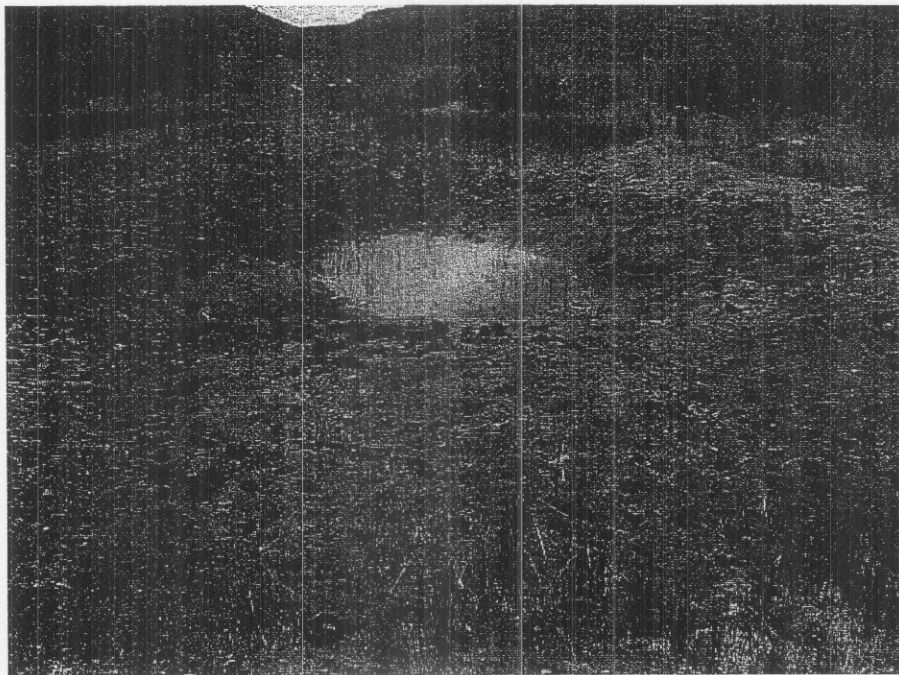
Lease Number: G-7601

Location: 2S 11E Sec. 31 NWSWSE

Waypoint 10

Date: 6/18/2003

Taken By: Brian Sewell



Minimal storage capacity due to partially washed out dam.