

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>29-07489A</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 **Phil Adams - Diamond T Ranch, L.L.C.**

My name is **Randall C. Budge**

My address is **Racine Law Office, P.O. Box 1391**
Pocatello, ID 83204-1391

My phone number is **208-232-6101**

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 August 18, 2004 at 9:00 a.m.
(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:
- Water Right Nos. 29-04277, and 29-07489A are separate**
ground water rights which are interconnected to irrigate by center
pivots a combined total of 308 acres. The combined quantity under
these rights has historically been pumped from three interconnected
wells and beneficially used to irrigate the combined 308 acres.

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

See attached Supporting Affidavit of Virgil Jahnke
and Supporting Affidavit of Forrest Cagle.

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 Bannock

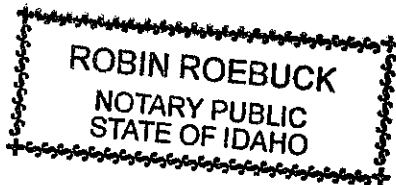
Randall C. Budge, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

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

Randall C. Budge
Attorney signing in representative capacity

Subscribed and sworn to before me on July 21, 2004
(Insert Date)



Robin Roebuck
Notary Public for Idaho
Residing at: Pocatello
My Commission expires: 8/18/06

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 July 21, ~~199~~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:

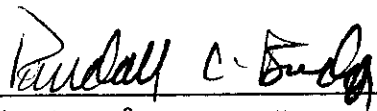
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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

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

Randall C. Budge, ISB No. 1949
RACINE, OLSON, NYE, BUDGE
& BAILEY, CHARTERED
P.O. Box 1391; 201 E. Center Street
Pocatello, Idaho 83204-1391
Telephone: 208-232-6101
Fax: 208-232-6109

**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. 29-07489A,
	)	29-2433, 29-04277
	)	
Case 39576	)	SUPPORTING AFFIDAVIT
	)	OF FORREST CAGLE
	)	
	)	

STATE OF IDAHO)
 : ss
County of Bannock)

FORREST CAGLE, being first duly sworn under oath deposes and states that the following is true and correct to the best of his knowledge, information and belief:

1. I am a resident of the State of Idaho and reside at 20585 S. Tool Road, Downey, Idaho. I was a well driller in business from the mid-1950s until I retired in 2001.
2. In approximately 1960, I drilled two wells on a farm in south Bannock County near Downey located in Sections 17 and 20, Township 11 South, Range 37 East, commonly known as the Virgil Jahnke place. I drilled the wells for the owner, who was before Virgil Jahnke acquired the property. After the wells were drilled, pumps and diesel engines were connected to pump the wells to provide irrigation water to the property. Some years later I believe the wells were changed over to an electric motor and pump. As I recall, the wells were interconnected by portable main lines

so they could be used in combination.

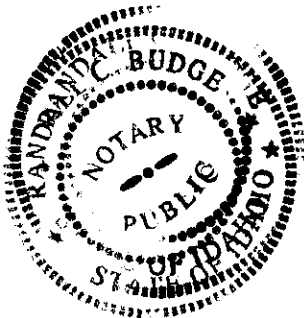
3. As I live in Downey, I have been able to observe that these wells have been continuously pumped to provide irrigation water. The hand lines have been replaced by center pivots, either by Virgil Jahnke or his predecessor. The wells and center pivots are still being used by the current owner, who I understand is Diamond T Ranch, L.L.C., who acquired the property from Mr. Jahnke.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this 8 day of July, 2004.

Forrest Cagle
FORREST CAGLE

SUBSCRIBED AND SWORN TO before me this 8th day of July, 2004.



R. Budge
NOTARY PUBLIC FOR IDAHO,
Residing at Coateville, TX
My Commission Expires: 10/11/2006

Randall C. Budge, ISB No. 1949
RACINE, OLSON, NYE, BUDGE
& BAILEY, CHARTERED
P.O. Box 1391; 201 E. Center Street
Pocatello, Idaho 83204-1391
Telephone: 208-232-6101
Fax: 208-232-6109

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. 29-07489A,
	)	29-2433, 29-04277
	)	
Case 39576	)	SUPPORTING AFFIDAVIT
	)	OF VIRGIL JAHNKE
	)	
	)	

STATE OF IDAHO)
 : ss
County of Power)

VIRGIL JAHNKE, being first duly sworn under oath deposes and states that the following is true and correct to the best of his knowledge, information and belief:

1. I am a resident of the State of Idaho and reside at 2747 Fairgrounds Road, American Falls, Idaho 83211.

2. I previously owned and operated certain farm land in south Bannock County near Downey located in Sections 17 and 20, Township 11 South, Range 37 East. I acquired this property in approximately 1986 and sold it in approximately 1996 to the current owner, Diamond T Ranch, L.L.C., owned by Phil Adams. During the period of time I owned and operated this property, there were a total of 308 acres irrigated by three separate wells under Water Right Nos. 29-04277, 29-02433, and 29-07489A.

3. At the time I purchased the property the wells were interconnected by some portable main lines so that the wells could be used in combination to irrigate by center pivots the 308 acres. A few years after I acquired the property, I converted the portable main line to buried main line interconnecting the three wells providing water to the center pivots.

4. From my discussions with the previous owner, the wells were interconnected and used in the same fashion for a number of years before I acquired the property.

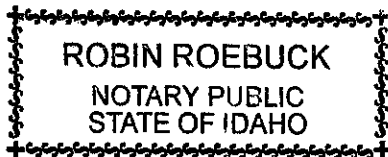
FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this 21 day of June, 2004.



VIRGIL JAHNKE

SUBSCRIBED AND SWORN TO before me this 21 day of June, 2004.





NOTARY PUBLIC FOR IDAHO,
Residing at Polatillo
My Commission Expires: 8/18/2006

SUPPORTING AFFIDAVIT OF VIRGIL JAHNKE - 3

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 RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 29-7489A
Date Received: 8/27/1992
Receipt No: X999999
Received By:

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

1. Name of Claimant(s)

DIAMOND T RANCH LLC Phone: (435)723-5474
1705 N HWY 38
BRIGHAM CITY UT USA 84302

2. Date of Priority: 10/11/1985

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
11S	37E	20	SW NE	BANNOCK	
11S	37E	20	NE SE	BANNOCK	
11S	37E	20	NW SE	BANNOCK	

5. Description of diverting works:

ONE WELLS, MAINLINE SPRINKLER SYSTEM

6. Water is used for the following purposes:

Purpose	From To	C.F.S.	(or) A.F.A.
IRRIGATION	4/01 11/01	2.02	402.5

7. Total Quantity Appropriated is:
2.02 C.F.S. and/or 402.5 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
11S	37E	17	SE SW	IRRIGATION	36

					Section Acres	36
11S	37E	20	NW	NE	IRRIGATION	34
			SW	NE	IRRIGATION	34
			NE	NW	IRRIGATION	34
			SE	NW	IRRIGATION	34
			NE	SE	IRRIGATION	34
			NW	SE	IRRIGATION	34
			SW	SE	IRRIGATION	34
			SE	SE	IRRIGATION	34
					Section Acres	272
					Total Acres	308

11. Place of use in counties: BANNOCK

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used: 29-4277

14. Remarks: This claim is the irrigation of 115 acres of the place of use described above.

15. Basis of Claim: License

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

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am Attorney For of
Title

DIAMOND T RANCH LLC, that I have signed the foregoing
Organization

document in the space below as Attorney of
Title

DIAMOND T RANCH LLC and that the statements contained in the
Organization

foregoing document are true and correct.

Randall C Budge
Signature of Authorized Agent

Attorney
Title and Organization

7/21/09
Date

State of Idaho)
County of Bannock) SS.

Subscribed and sworn (or affirmed) before me this 21 of July 2004

Robin Roebuck
Notary Public

Residing at Postville

My commission Expires 8/18/2006

