

RECEIVED

APR 11 2002

Department of Water Resources

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>57-11572</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 that 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: Tom Hook, General Partner, Hook Family Limited Partnership

My address is: HC 88, Box 1095, Murphy, Idaho 83650

My phone number is: Work: (208) 495-2712 Home: (208) 495-2712

I am an attorney representing: _____

My name is: _____

My address is: _____

My phone number is: _____

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 at the status conference scheduled for May 1, 2002 at 1:30 p.m. at the Owyhee County Courthouse, Murphy, 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 claim correctly showed the place of use to be the SW¼ SW¼, Sec. 36, T1N, R3W, B.M. on the map that is part of the claim but incorrectly described the place of use as being in the NE¼ SW¼, Sec. 36, T1N, R3W, B.M. This amendment makes the written description of the place of use match the map.

☒ I am providing legal and factual documentation to support my amended Notice of Claim.

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

A copy of the original map is made a part of the amended claim. A copy of the underlying right, 57-2041, with correct place of use is attached. A copy of the deed transferring the property to the Hook Family Limited Partnership is attached.

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 Canyon

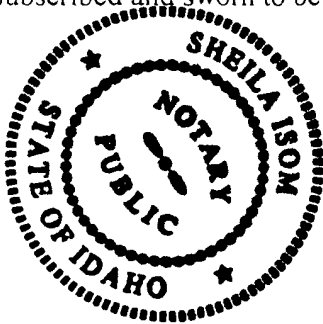
Tom Hook, duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

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.

John H. L. [Signature]
Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on: 3/16/02
(Insert Date)



[Signature]
Notary Public for [Signature]
Residing at [Signature]
My Commission expires: 6-30-02

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 June 9th, 2002 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, MCS 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

Water Right Report

[Close](#)

04/09/2001

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 57-2041

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	ALVIN BENSON
Current Owner	THOMAS BENSON
	HC 79 BOX 94
	MELBA, ID 83641
	(208)495-2228
Original Owner	WILLARD H AUSTIN
	WILSON, ID

Priority Date: 09/26/1911

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
REYNOLDS CREEK	SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	3/15	11/15	0.7 CFS	
STOCKWATER	1/01	12/31	0.03 CFS	
Total Diversion			0.7 CFS	

Location of Point(s) of Diversion:

REYNOLDS CREEK	SESESE	Sec. 10	Township 01S	Range 03W	OWYHEE County
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IRRIGATION Use:

Acre Limit: 35

Place(s) of use:

Place of Use Legal Description: IRRIGATION OWYHEE County

Place of Use Legal Description: STOCKWATER same as IRRIGATION

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
01N	03W	36		SWSW	35									

Total Acres: 35

Conditions of Approval:

1.	N05	THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.
2.	N08	THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
3.	W09	USE OF THIS RIGHT IS COMBINED WITH WATER FROM WEST REYNOLDS IRRIGATION DISTRICT.

Remarks:

1.	Explanatory	THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 57-00271, 57-00272 STOCKWATER, 100 DAIRY CATTLE
----	-------------	--

Dates:

Licensed Date:

Decreed Date: 12/15/1997

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: 57J

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close

102111

JBL
8.4.

WARRANTY DEED

FOR VALUE RECEIVED ALVIN B. BENSON, A SINGLE PERSON AS TO AN UNDIVIDED 1/3 INTEREST AS TO PARCEL I AND II AND THOMAS EDWARD BENSON and JACQUELINE L. BENSON, HUSBAND AND WIFE AS TO AN UNDIVIDED 2/3 INTEREST AS TO PARCEL I AND II AND ALL INTEREST AS TO PARCEL III

the Grantors, do hereby grant, bargain, sell and convey unto HOOK FAMILY LIMITED PARTNERSHIP, AN IDAHO LIMITED PARTNERSHIP

the Grantees, whose address is HCR 88, BOX 1095, MURPHY, ID 83650

the following described premises, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF BY THIS REFERENCE:

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees, their heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantees, that they are the owners in fee simple of said premises: that said premises are free from all encumbrances; except for general taxes and assessments for the year 1998 and subsequent years, covenants, conditions, restrictions and easements of record; and that they will warrant and defend the same from all lawful claims whatsoever

DATED: October 11, 1998

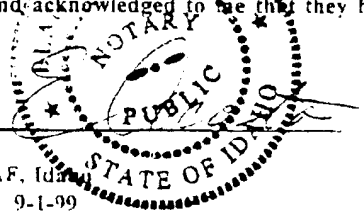
Alvin B. Benson
ALVIN B. BENSON

Thomas Edward Benson
THOMAS EDWARD BENSON

Jacqueline L. Benson
JACQUELINE L. BENSON
STATE OF IDAHO
COUNTY OF CANYON

On this 12 day of October, 1998, before me a notary public, personally appeared ALVIN B. BENSON, THOMAS EDWARD BENSON AND JACQUELINE L. BENSON, known or identified to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they have executed the same.

Theresa
Notary Public
Residing at GREENLEAF, Idaho
My commission expires: 9-1-99



REQUEST OF
DEED
FEE
900

226306

PIONEER TITLE COMPANY
OF CANYON COUNTY

100 10TH AVE SOUTH
NAMPA, IDAHO 83651

423 SOUTH KIMBATT
CALDWELL, ID 83605

OFFICIAL COUNTY OF IDAHO
CLERK
JULIA L. BROWN

56 OCT 15 1998

FILED - RECORD

The land referred to in this commitment/policy is situated in the State of Idaho, County of Owyhee and is described as follows:

PARCEL I

IN TOWNSHIP 1 SOUTH, RANGE 3 WEST, B. M., OWYHEE COUNTY, IDAHO

Section 2: Lots 1 and 2, SE1/4 NE1/4, NE1/4 SE1/4,

LESS the following described tract:

BEGINNING at the Southeast corner of Section 2, T1S, R3W, B. M.; thence West 1320 feet; thence North 2350 feet; thence North 43°05' East 127.3 feet to the TRUE POINT OF BEGINNING; thence North 43°05" East 225 feet; thence South 24°49' East 210 feet; thence South 43°05' West 225 feet; thence North 24°49" West 210 feet to the TRUE POINT OF BEGINNING.

ALSO LESS THE FOLLOWING:

A portion of the NE1/4 SE1/4 of Section 2 Township 1 South, Range 3 West of the Boise Meridian and is more particularly described as follows:

Beginning at the southwest corner of said NE1/4 SE1/4;

thence North 0°37'35" East along the west boundary of said NE1/4 SE1/4 a distance of 603.26 feet to a point on the southwesterly right-of-way boundary for Idaho State highway 78;

Thence South 33°55'28" East along said boundary a distance of 689.85 feet;

thence southeasterly 43.35 feet continuing along said boundary following the arc of a curve to the right having a central angle of 1°46'30", a radius of 1399.40 feet and a long chord which bears South 33°04'30" East a distance of 43.35 feet to a point on the south boundary of said NE1/4 SE1/4;

thence North 39°14'17" West along said south boundary a distance of 415.30 feet to the POINT OF BEGINNING.

PARCEL II

IN TOWNSHIP 1 NORTH, RANGE 3 WEST, B. M., OWYHEE COUNTY, IDAHO

Section 35: SE1/4 SE1/4

Section 36: SW1/4 SW1/4

continued

PARCEL III

IN TOWNSHIP 1 SOUTH, RANGE 3 WEST, BOISE MERIDIAN, OWYHEE COUNTY, IDAHO

BEGINNING at the Southeast corner of Section 2, T1S, R3W, B. M., Owyhee County, Idaho; thence
West 1320 feet; thence

North 2350 feet; thence

North 43°05' East, 127.3 feet to the TRUE POINT OF BEGINNING; thence

North 43°05' East, 225.0 feet; thence

South 24°49' East, 210.0 feet; thence

South 43°05' West, 225.0 feet; thence

North 24°49' West, 210.0 feet to the TRUE POINT OF BEGINNING.

A B
T E B
J. F. B.

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 A57-11572

Date Received _____

Receipt Number _____

*Should questions arise during the processing of this application please contact:
David Shaw - ERO Resources Corp. (208) 373-7983*

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

Please type or print clearly

1. Name of Claimant(s) Hook Family Limited Partnership Phone (208) 495-2712
Mailing Address HC 88, Box 1095, Murphy, Idaho Zip 83650
2. Date of Priority (Only one (1) per claim) 9/21/1911
3. Source of water supply (a) Reynolds Creek
Which is tributary to (b) Snake River
4. a. Location of point of diversion is: Township 1S Range 3W Section 10, SE ¼ of SE ¼ of SE ¼, Govt. Lot _____, B.M., County of Owyhee
Additional points of diversion if any: None
b. If instream flow, beginning point of claimed instream flow is:
township _____ Range _____ Section _____, _____ ¼ of _____ ¼ of _____ ¼, 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 enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. Water is diverted from Reynolds Creek through commonly owned ditches to the place of use. Water is distributed to the irrigated lands through open ditches and pipelines.

6. Water is claimed for the following purposes:

(both dates are inclusive) (cfs) (acre feet)
For Irrigation purposes from 2/1 to 7/15 amount 2.1 or 122.5

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 2.1 (cfs) and/or (b) 122.5 (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses; describe fully. (Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.) N/A

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 ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
			¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	
1N	3W	36											35						35

Total number of acres irrigated 35

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

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

57-2041

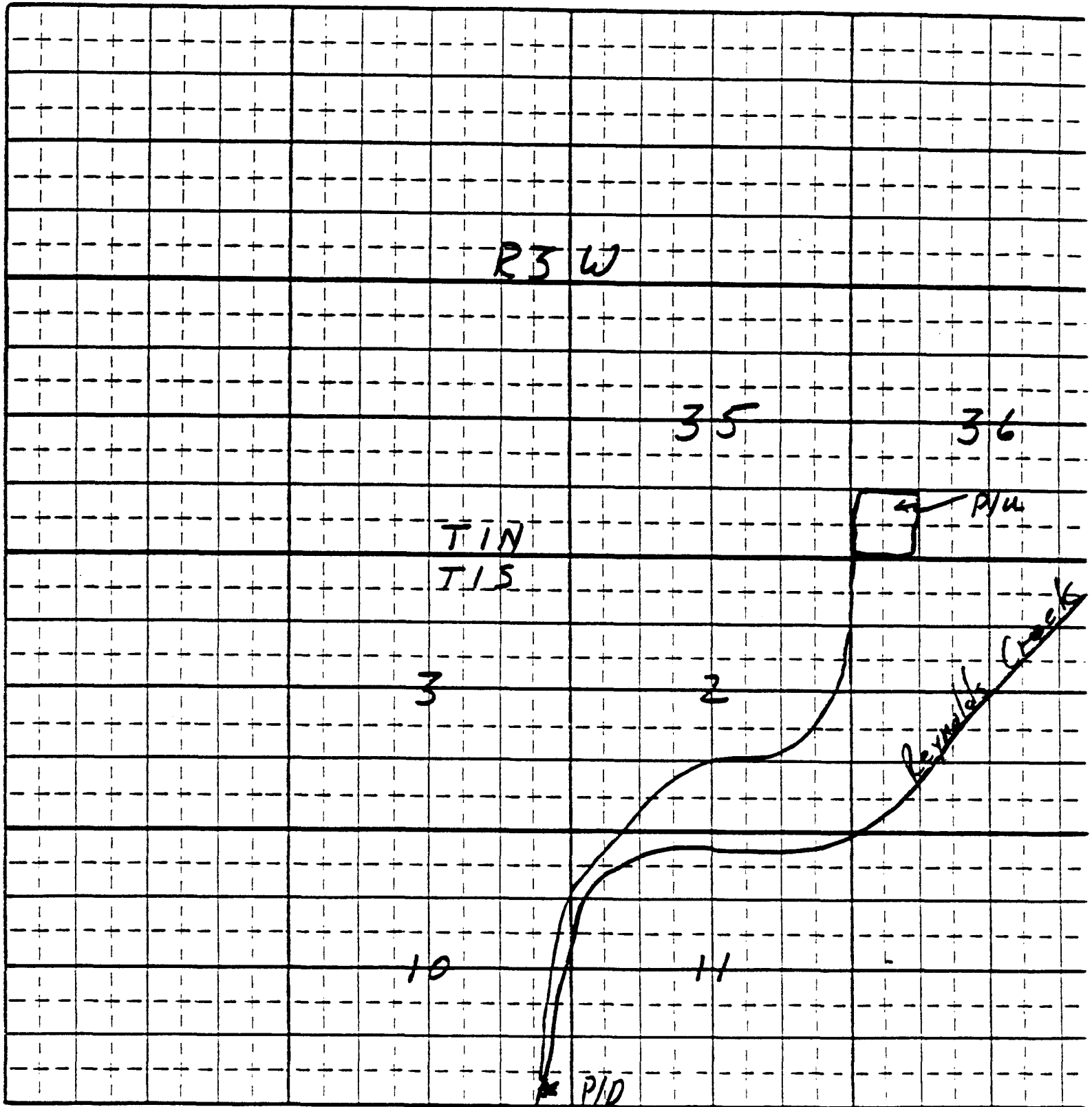
or None ()

14. Remarks:

This water right is based on the historical diversion and use of the high flows that normally occur briefly in the upper Reynolds Creek basin. Use of this right may occur prior to the beginning of the normal irrigation season since the claimant must take advantage of the high flows as they occur. This right is for the diversion and use of up to 3.5 acre feet per acre annually.

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile.



15. Basis of Claim (Check One) Beneficial Use XX Posted Notice _____ License _____ Permit _____

Decree _____

If applicable provide IDWR Water Right Number _____

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 received notice in the Snake River Basin Adjudication." 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 Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s) _____ Date _____

_____ Date _____

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

of _____ Organization _____ that I have signed the foregoing

document in the space below as _____ Title _____ of _____ Organization _____

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

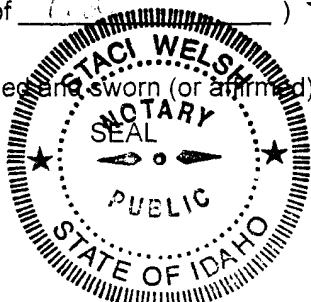
Signature of Authorized Agent _____

Title and Organization _____ Date _____

State of Idaho/or _____)

County of _____) SS.

Subscribed and sworn (or affirmed) before me this _____ day of _____ 20 _____



Notary Public _____

Residing at _____

My Commission Expires _____

17. Notice of Appearance:

Please Print Name

Notice is hereby given that I, _____ 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 _____

Address _____

Date _____