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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 65-22762
) (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 George and Cheryl Colwell

My address is 3990 Highway 52

Payette, Idaho 83661

My phone number is: Work _____ Home (208) 278-3448

I am an attorney representing George and Cheryl Colwell

My name is Dana L. Hofstetter

My address is Hofstetter Law Office, LLC

608 West Franklin Street

Boise, Idaho 83702

My phone number is (208) 424-7800 FAX: (208) 424-8774

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:

The need to claim this instream stock water right was identified in 2002 as a result of a field examination and review by engineer Terry Scanlan.

☐ 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.)

The Affidavit of Terry Scanlan providing the factual basis for this claim is attached.

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 \$ 144.00.

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 May 20, 2003 at 1:30 p.m.
(Insert Date and Time)

at the Lemhi County Commission Annex, 210 Neyman Street, Salmon, 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:

- ☐ I am providing legal and factual documentation to support my amended Notice of Claim. You must describe 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

Dana L. Hofstetter, 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.

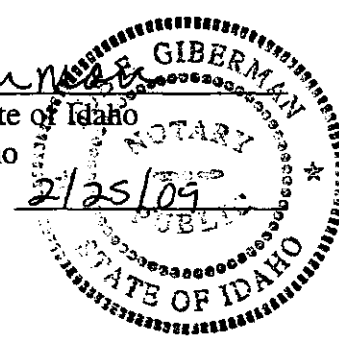
Signature of person filing motion

Dana L. Hofstetter

Attorney signing in representative capacity

Subscribed and sworn to before me on February 27, 2003
(Insert Date)

Sue E. Giber
Notary Public for the State of Idaho
Residing at: Boise, Idaho
My Commission expires: 2/25/09



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 February 28th, 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:

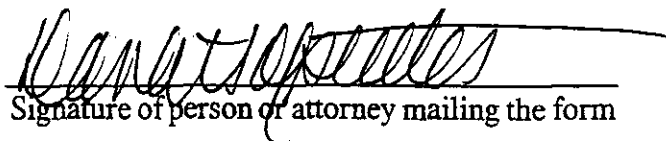
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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

CIVIL CASE NUMBER: 39576

Ident. Number

A65-22762

Date Received

Receipt Number

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) George E Colwell and Cheryl F Colwell Phone (208) 278-3448Mailing Address 3990 Highway 52, Payette, ID Zip 836612. Date of Priority (Only one (1) per claim) April 1, 18903. Source of water supply (a) Big Willow Creekwhich is tributary to (b) Payette River

4. a. Location of existing point of diversion is: Township _____ Range _____ Section _____,

_____ 1/4 of _____ 1/4 of _____ 1/4, Govt. Lot, _____ B.M., County of _____

Additional points of diversion if any: _____

b. If instream flow, beginning point of claimed instream flow is:

Township 8N Range 4W Section 22, _____ 1/4 of SE 1/4 of SW 1/4,Govt. Lot _____ B.M., County of Payetteending point is: Township 8N Range 4W Section 19, _____ 1/4 of NE 1/4 ofNE 1/4, Govt. Lot _____ B.M., County of Payette

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.

6. Water is claimed for the following purposes:

(both dates are inclusive) (cfs) (acre feet)

For stockwater purposes from 1/1 to 12/31 amount 0.44 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.44 (cfs) and/or (b) _____ (acre feet)

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

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) stockwater - 2000 head of range cattle

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
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
8N	4W	17											S	S			S		
		19	S																
		20	S	S															
		21			S			S	S	S					S	S			
		22										S	S	S					

Total number of acres irrigated _____

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

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.

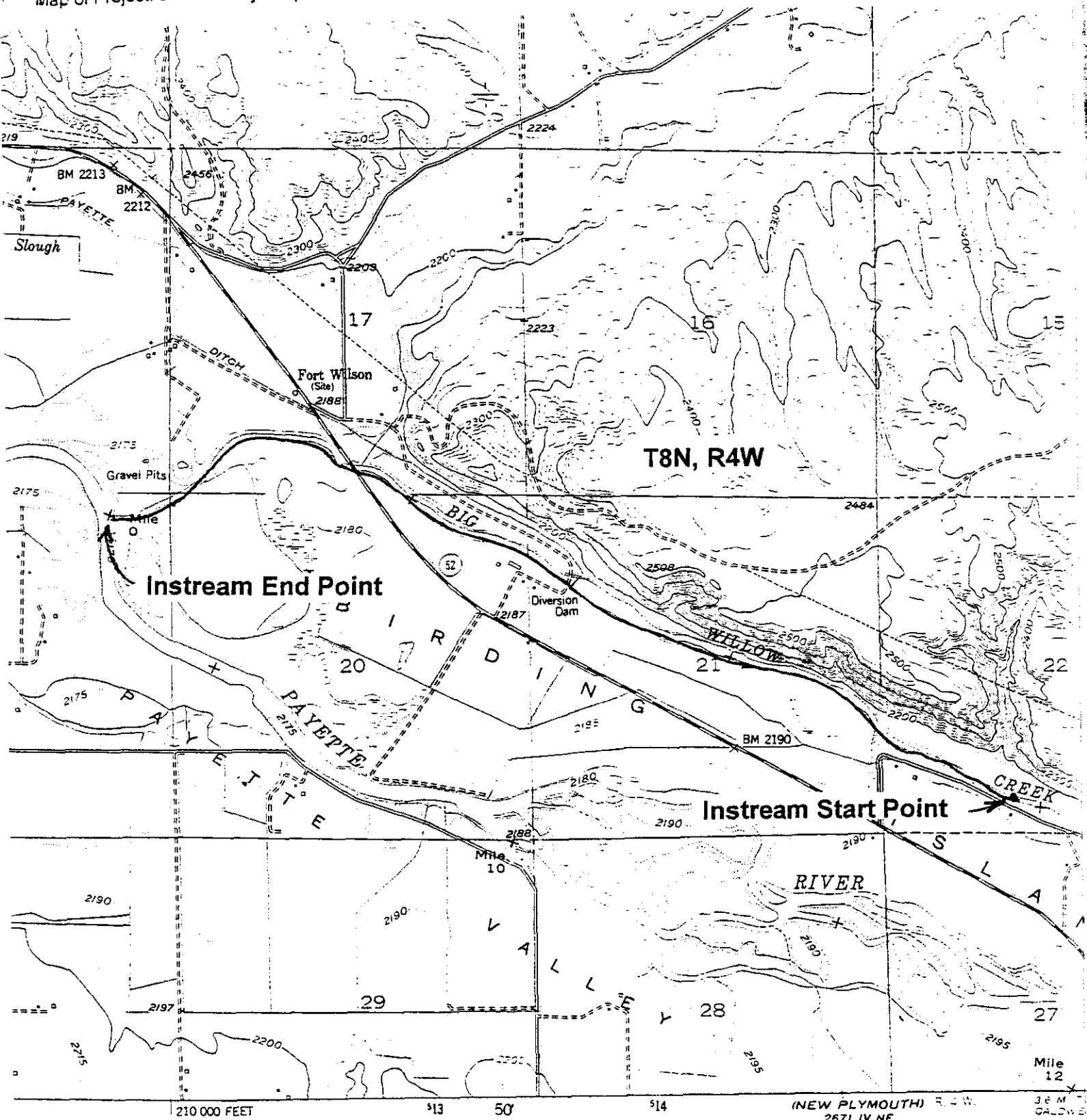
13. Describe any other water rights used at the same place and for the same purposes as described above.
65-7462 or None ()

14. Remarks: This claim is for instream stockwater along Big Willow Creek for
2000 head of range cattle. Priority date is based on the priority date
for irrigation water right 65-3617.

Last Name Colwell Ident No. _____

Copies: White -State, Yellow-Claimant

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



by the Geological Survey

by multiplex methods
erial photographs taken 1950
merican datum
rdinate system west zone

Last Name Colwell Ident No. Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use ☒ 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 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 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 _____, 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 ADA)

SS.

Subscribed and sworn (or affirmed) before me this

15th

day of

JANUARY

2003

SEAL

Notary Public

Residing at

BOISE, ID

My Commission Expires

2-13-2003

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, Dana L. Hofstetter 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

Dana Hofstetter

Address Hofstetter Law Office, LLC, 608 West Franklin St., Boise, Idaho 83702

Date January 17, 2003

Last Name Colwell

Ident. Number _____

Copies White-State, Yellow-Claimant