

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

85-15525

) (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 Connie L. Kelly

My address is 2520 6th St., Lewiston, ID 83501

My phone number is: Work \_\_\_\_\_ Home 208-746-9766

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 purchased property in November 2004 and didn't  
know I needed to file, or could file until now

☐ 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.)

Well Drilling report & Warranty Deed

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 \$ 25<sup>00</sup>.
- ☐ 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:

---

---

---

- ☐ 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 Ney Rice

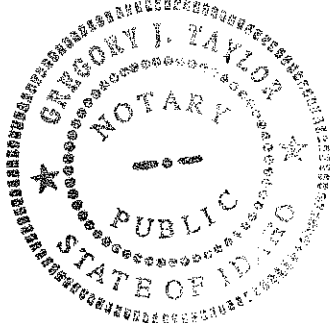
Connie L. Kelly, being first duly sworn, upon oath, deposes and says:  
(Insert name of person filing form)

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.

Connie L. Kelly  
Signature of person filing motion

\_\_\_\_\_  
Attorney signing in representative capacity

Subscribed and sworn to before me on February 2, 2005  
(Insert Date)



Greg J. Taylor  
Notary Public for State of Idaho  
Residing at: Lewiston, ID  
My Commission expires: 4-28-2010

**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 Feb. 2, ~~199~~<sup>2005</sup>, 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:

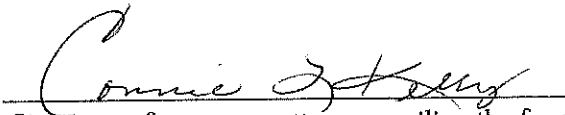
IDWR Document Depository  
PO Box 83720  
Boise, ID 83720-0098

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

Identification No. 85-15525

Date Received \_\_\_\_\_

Receipt Number \_\_\_\_\_

# 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.

Filing Fee \$25

Please type or print clearly

1. Name of Claimant (s) Richard K. or Connie L. Kelly Phone (208) 746-9766

Mailing Address 2520 6th St. Lewiston ID Zip 83501

2. Date of Priority (Only one per claim) 10-27-2004 Month/Day/Year

3. Source of water supply (Check one) (☒ Groundwater or Other ( ) (a) \_\_\_\_\_  
which is tributary to (b) \_\_\_\_\_ Name or kind of source

4. Location of point of diversion is: Township 35N Range 5W  
Section 29 1/4 of SE 1/4 of SW 1/4, Govt. Lot \_\_\_\_\_, BM.,  
County of NEE PERCE

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. 530' well 8" w/ submersible pump

6. Water is claimed for the following: (limited to Domestic and/or Stockwater only. See Instructions.)

For Domestic purposes from 11 Month/Day to 12/31 Month/Day amount .07 (cfs)  
(Both dates are inclusive)  
For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_

7. Total quantity claimed .07 (cfs)

8. Total consumptive use claimed is de minimus

9. Non-irrigation uses. Describe fully. (Domestic: give number of households served if single ownership; Stockwater: Type and Number of livestock) Domestic, 1 home;

10. Place of use is: Township: 35N Range 5W  
Section 29, SE 1/4 of SW 1/4, Govt. Lot \_\_\_\_\_, B.M.,  
County of Nez Perce for (Circle One) Domestic Stock Domestic and Stock  
Additional places of use, if any \_\_\_\_\_

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

12. Do you own the property listed above as place of use? Yes ☒ 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) Beneficial Use Posted Notice License Permit Decree

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 \_\_\_\_\_ 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) X Connie L Kelly Date X 2/2/05  
\_\_\_\_\_  
\_\_\_\_\_ Date \_\_\_\_\_

For Organizations: I do solemnly swear or affirm that I am \_\_\_\_\_

of \_\_\_\_\_, Title \_\_\_\_\_ that I have signed the foregoing  
document in the space below as \_\_\_\_\_ of \_\_\_\_\_  
Title \_\_\_\_\_ Organization \_\_\_\_\_

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

Signature of Authorized Agent \_\_\_\_\_ Date \_\_\_\_\_

Title and Organization \_\_\_\_\_

State of Idaho/or \_\_\_\_\_ }  
County of NEZ PERCE } SS.

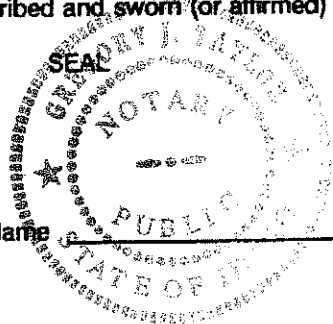
Subscribed and sworn (or affirmed) before me this 2nd day of February 2005

Notary Public [Signature]

Residing at Lewiston ID

My Commission Expires 4-28-2010

Last Name \_\_\_\_\_ Ident No. 85-15525



**SNAKE RIVER BASIN ADJUDICATION  
CHANGE IN ADDRESS OF NOTICE OF CLAIM**

Claim Number(s): 85-15525

Previous Mailing Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

New Mailing Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone Number: (     ) \_\_\_\_\_

Signature of Claimant(s): \_\_\_\_\_  
\_\_\_\_\_

**Please return this completed form to:**

~~Adjudication Bureau  
Idaho Dept. of Water Resources  
1301 N. Orchard St.  
Boise, ID 83706-2237  
Ph. 1/800/451-4129 or  
FAX 208/327-5400~~

~~Adjudication Bureau  
Idaho Dept. of Water Resources  
2735 Airport Way  
Boise, ID 83705-5082  
Ph. 208/334-2190 or  
FAX 208/334-2348~~

~~Adjudication Bureau  
Idaho Dept. of Water Resources  
1341 Fillmore St., Ste. 200  
Twin Falls, ID 83301-3380 or  
FAX 208/736-3037~~

~~Adjudication Bureau  
Idaho Dept. of Water Resources  
900 N. Skyline, Ste. A  
Idaho Falls, ID 83402-3653 or  
FAX 208/525-7177~~

SS  
ADDRESS FM  
Revised 12/13/1999

IDWR Use Only:  
Data Entry: \_\_\_\_\_

Date: \_\_\_\_\_

IDWR  
322 E. Front St  
Boise, ID 83720

BOISE ID 83720-0098

## Well Proof Report

Permit No. 825741  
Metal Tag No. D0035512,  
Well ID # 396370  
Water Right No.

Relationship: Owner/Operator  
Name: RICK KELLY Phone:(208) 746-9766  
Address: 2520 6TH ST  
LEWISTON ID 83501

Permit Status: Closed

Well Location: Township 35N, Range 05W, Section 29, SE, SW  
COUNTY NEZ PERCE

Address of Well Site: SEE MAP  
LEWISTON ID

Use of Well: Domestic-Single Residence

Activity: New Well

Region: Northern

Construction Method: Air Rotary

Const Start Date: Oct 27 2004 Const End Date: Oct 27 2004

Well Drilling Company: NAIL AND SONS WELL DRILLING (No. 616)

Card Hold Name: MARK NAIL Phone:(208)983-2129 (No. 4603)

Certifying Official: MARK NAIL Phone:(208)983-2129 (No. 4603)

Date Received: Nov 23 2004

Date Approved: Oct 27 2004

Date Inspected:

Completed Depth: 530 FT Drilled Depth: 530 FT Surface Diameter: 8 inches

Primary Flow Depth: Overall Temp: 56 Static Water Level: 350

Head Pipe Length: Tail Pipe Length Production Rate: 75 GPM

Closed in Pressure: Bottom Hole Temp: Low Temp Geothermal: NO

Control Device Desc:

Access Port Desc:

### Casing

| From | To  | Diam | Type   | Gauge | Join Type | Material |
|------|-----|------|--------|-------|-----------|----------|
| 1    | 297 | 8    | Casing | 0.25  | Welded    | STEEL    |
| -10  | 530 | 6    | Liner  | 0.25  | Welded    | PVC      |

**Seal**

| From | To | Material  | Amount | Method   |
|------|----|-----------|--------|----------|
| 0    | 56 | BENTONITE | 660#   | OVERBORE |

**Screen**

| From | To  | Dia | Type        | Slot<br>Size | # of<br>Slots | Material | Perforation<br>Meth | Screen Type |
|------|-----|-----|-------------|--------------|---------------|----------|---------------------|-------------|
| 470  | 530 | 6   | Perforation | .25          | 79            | PVC      | Circular saw        |             |

**Lithologic Layer**

| From | To | Diam | Water | Color | Material | Texture |
|------|----|------|-------|-------|----------|---------|
|------|----|------|-------|-------|----------|---------|

**Drive Shoe**

| Depth | Test Description |
|-------|------------------|
|-------|------------------|

Parcel II

RP 35 N 05 W  
292400 A

142514  
711682

## WARRANTY DEED

For Value Received, KARL VAN BUREN FARM CO., an Idaho corporation, as Grantor, does hereby grant, bargain, sell and convey unto RICHARD K. KELLY and CONNIE L. KELLY, husband and wife, the Grantees, whose current address is 2520-6<sup>th</sup> Street, Lewiston, Idaho 83501, all of its interest in the following described premises situate in the County of Nez Perce, State of Idaho, to-wit:

That part of Section 29 of Township 35 North, Range 5 West, Boise Meridian, Nez Perce County, Idaho, more particularly described as follows:

Commencing at the North Quarter corner of said Section 29; thence South 0°17' East, 4,490.47 feet to the TRUE PLACE OF BEGINNING, said point being on the centerline of Volmer Road; thence continue South 0°17' East, along said centerline 280.00 feet; thence South 89°31' West, 779.77 feet; thence North 0°17' West, 280.00 feet; thence North 89°31' East, 779.77 feet to the TRUE PLACE OF BEGINNING.

SUBJECT TO all rights of way for public utilities and public roads as the same now exist over and across the herein described property.

SUBJECT TO the following condition precedent: Grantees shall erect a partition fence along the boundary lines of the above-described real property where it joins real property presently owned by the Grantor. The fence shall be constructed of comparable fencing materials and comparable design as the fencing now existing on the Grantor's adjoining property (i.e. steel posts with multiple strands of barbed wire or livestock grade vinyl fencing). The fence shall be of sufficient strength and quality to be capable of turning livestock such as cattle and horses along the boundary of the premises conveyed. Grantees shall maintain in good condition and, when necessary, repair the fences. Any repair or rebuilding of the fence shall be of the same quality or similar material as that used in the original fence. Grantees specifically waive the requirements and provisions of Idaho Code Sections 35-101, et. seq., and any other applicable provision of law which may otherwise impose liability and/or partial liability on the Grantor to erect or maintain a partition fence.

TO HAVE AND TO HOLD the said premises with their appurtenances unto the said Grantees, their heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantees that it is the owner in fee simple of said premises; that they are free from all encumbrances except those set forth above, and taxes, levies and assessments for 2004 and thereafter; and that it will warrant and defend the same from all lawful claims whatsoever.

IN WITNESS WHEREOF, the said Grantor has hereunto set its seal this 17<sup>th</sup> day of November, 2004.

GRANTORS:

KARL VAN BUREN FARM CO., an Idaho corporation

By Donald Van Buren  
DONALD VAN BUREN, President

Grantees have reviewed the above Warranty Deed and agree to the condition precedent set forth therein:

GRANTEES:

Richard K. Kelly  
RICHARD K. KELLY  
Connie L. Kelly  
CONNIE L. KELLY

INST. NO. 711682  
FILED FOR RECORD  
FEE 900 REG. BY LAND TITLE

2004 NOV 18 P 2:01

PATTY O. WICKS  
RECORDER, NEZ PERCE CO ID

By Cheryl Cook DEPUTY

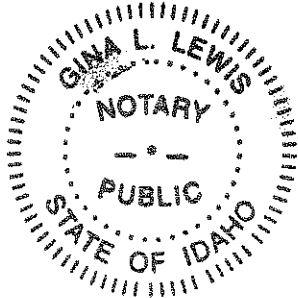
STATE OF IDAHO )

: ss

County of Nez Perce )

On this 24<sup>th</sup> day of November, 2004, before me, the undersigned, a Notary Public in and for the State of Idaho, personally appeared DONALD VAN BUREAN, known or identified to me to be the President of KARL VAN BUREN FARM CO., the corporation that executed the within and foregoing instrument, or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



*Gina L. Lewis*  
 Notary Public in and for the State of Idaho,  
 residing at Wilson.

My commission expires 6/15/2006

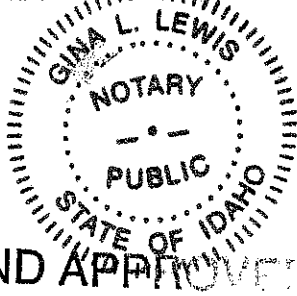
STATE OF IDAHO )

: ss

County of Nez Perce )

On this 17<sup>th</sup> day of November, 2004, before me, the undersigned, a Notary Public in and for the State of Idaho, personally appeared RICHARD K. KELLY and CONNIE L. KELLY, known or identified to me to be the persons whose names are subscribed to the within and foregoing instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



*Gina L. Lewis*  
 Notary Public in and for the State of Idaho,  
 residing at Wilson.

My commission expires 6/15/2006

READ AND APPROVE