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Department of Water Resources
Eastern Region

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Scott H. Martin
Snow, Christensen & Martineau
Counsel for John Miller
10 Exchange Place, 11th Floor
P.O. Box 45000
Salt Lake City, Utah 84145-5000
Telephone: (801) 521-9000
Facsimile: (801) 363-0400

RECEIVED
JUN 19 2000
OFFICE OF THE
ATTORNEY GENERAL

Richard D. Heaton
General Counsel for North Fork
Energy, Inc.
P. O. Box 5405
4414 South Gekeler Lane
Boise, Idaho 83716
Telephone: (208) 342-8901
Facsimile: (208) 338-2215

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

In Re: SNAKE RIVER BASIN
ADJUDICATION

**MOTION TO RESET HEARING
DATE ON MOTIONS TO FILE LATE
NOTICES OF CLAIMS**

CASE NO. 39576
Subcases: 35-07142; 35-00047; and 35-
02014

John Miller, by and through counsel of record, hereby moves this Court to reset the hearing date of the Motions to File Late Notices of Claims in the above-referenced subcases to September 19, 2000, at 1:30 p.m.

MAIL



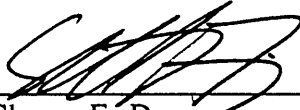
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The hearing was originally scheduled for July 18, 2000. This Court reset this hearing for July 27, 2000, at 1:30 p.m. The July 27, 2000 date presents a scheduling conflict with counsel. Based on conversations with the SRBA Court Clerk, September 19, 2000, is the next mutually convenient date.

Based on the above, John Miller respectfully requests this Court reset the hearing on the motions to file late notices of claim in the above-referenced subcases for September 19, 2000, at 1:30 p.m.

RESPECTFULLY SUBMITTED this 14TH day of June, 2000.

SNOW, CHRISTENSEN & MARTINEAU



Shawn E. Draney
Scott H. Martin
Attorneys for John Miller

CERTIFICATE OF DELIVERY

I certify that a true and correct copy of the MOTION TO RESET HEARING DATE ON MOTIONS TO FILE LATE NOTICES OF CLAIMS was mailed on the 14th day of June, 2000, with sufficient first-class postage as follows:

Director of IDWR
Box 83720
Boise, Idaho 83720-0098

Office of the Attorney General
Peter J. Ampe
Box 83720
Boise, Idaho 83720-0010

United States Department of Justice
Environment and Natural Resources Division
550 West Fort Street, MSC 033
Boise, Idaho 83724

Richard D. Heaton
General Counsel for North Fork Energy, Inc.
Box 5404
4414 South Gekeler Lane
Boise, Idaho 83716

Fifth Judicial District Court
Snake River Basin Adjudication
P.O. Box 2707
253 3rd Avenue North
Twin Falls, Idaho 83303



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Department of Water Resources

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 35-02014

(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 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 \$ 180.00.

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 July 18, 2000 at 1:30 p.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:

VERIFICATION (Must be completed)

State of Utah

County of Salt Lake

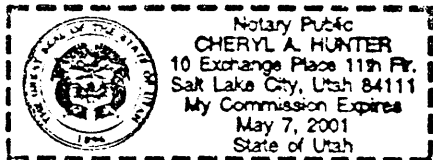
Shawn E. Draney, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

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

Shawn E. Draney
Attorney signing in representative capacity

Subscribed and sworn to before me on 4-12-00.
(Insert Date)



Cheryl A. Hunter
Notary Public for State of Utah
Residing at: "
My Commission expires: May 7, 2001

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.

Bingham County, *
Boone Creek, *
1.3 cubic feet per second *
Irrigation and domestic *
Priority 11-21-1908 *

S T A T E _ O F _ I D A H O _

Water License No. 4177

WHEREAS, On the 21st day of November A.D. 1908, NATHAN TANNER, JR., of Blackfoot, County of Bingham, State of Idaho, duly made application (No. 5873) to me for a permit to use 1.3 cubic feet per second of the waters of Boone Spring, County of Bingham, State of Idaho, for irrigation and domestic purposes; and

WHEREAS, On the 5th day of December, A.D. 1908, Permit No. 4177, was issued to said applicant for the diversion of said water, and providing for the completion of the works of diversion therein described on or before the 5th day of June, A.D. 1909, and for the application to beneficial use of said water on or before the 5th day of June, A.D. 1909, and

WHEREAS, On the 1st day of June A.D. 1909, NATHAN TANNER, JR., the holder of said permit duly made proof of the completion of adequate works for the diversion of 1.3 cubic feet per second of said waters, as evidenced by my Certificate No. 4177, dated June 29, 1909, confirming the completion of works of sufficient capacity for diverting and conveying to the place of intended use 1.3 cubic feet per second of said waters, with date of priority of November 21, 1908, and

WHEREAS, On the 1st day of June A.D. 1909, NATHAN TANNER, JR., the holder of said permit duly made proof of the application to beneficial use of 1.3 cubic feet per second of said water:

NOW, THEREFORE, By virtue of the authority vested in me by the laws of the State of Idaho, I hereby grant and confirm to NATHAN TANNER, JR., of Blackfoot, County of Bingham, State of Idaho, the holder and owner of said Permit No. 4177, a perpetual right, dating from November 21, 1908, to the use of 1.3 cubic feet per second of the waters of Boone Spring, in the County of Bingham, and State of Idaho, or so much thereof as may be necessary for the purposes hereinafter mentioned, to be diverted at a point at a point in the southeast quarter of northeast quarter of section 24, township 4S, range 32 East of the Boise meridian, and conducted to and upon 60 acres in the south half of the southeast quarter of section 24, and 20 acres in the northeast quarter of northwest quarter of section 25, township 4 south, range 32 East Boise meridian, for the purpose of irrigation and domestic use, subject, however, to the laws of the State of Idaho applicable to a license for the use of the waters of the State, and subject also to the local or community customs, rules and regulations which have been or may be adopted from time to time by a majority of the users from a common source of supply, canal or lateral from which such water may be taken, when such rules and regulations have for their object the economical use of such water.

WITNESS, My hand and the seal of my office at Boise, Idaho, this 29th day of June A.D.
Nineteen Hundred and nine.

(SEAL)

RECORDED June 29, 1909

Jas. Stephenson, Jr.
State Engineer

35 2011

WHEN RECORDED, MAIL TO:

John L. Miller
P.O. Box 2260
Napa, California 94558

**SPECIAL WARRANTY WATER RIGHTS DEED,
WELL DEVELOPMENT AND MAINTENANCE AGREEMENT
AND
WELL DEVELOPMENT AND MAINTENANCE EASEMENT**

North Fork Energy, Inc., a corporation organized and existing under the laws of the State of Idaho, with its principal place of business in Bingham County, Idaho, GRANTOR, hereby CONVEYS and WARRANTS to John L. Miller, or nominee, GRANTEE, of Napa County, California, for the sum of TEN DOLLARS and other good and valuable consideration, all right, title and interest in and to the following-described water rights:

Water Right Number ("WRN") 35-07141 for 4.8 cfs for the irrigation of 240 acres, as described in the Water Right License and the Snake River Basin Adjudication Claim Number ("SRBA Claim Number") A35-7141. Grantor believes this right may be reduced through the Snake River Basin General Adjudication to 4.68 cfs for the irrigation of 234 acres. Grantor makes no warranty beyond 4.68 cfs for the irrigation of 234 acres.

Water Right Number ("WRN") 35-07138 for 1.08 cfs for the irrigation of 54 acres, as described in the Water Right License. Grantor believes that SRBA Claim Number A35-07138 may be incorrect. Grantor makes no warranty except as to 1.08 cfs for the irrigation of 54 acres as described in the Water Right License.

WRN 35-00007 for the irrigation of 103 acres, as described in SRBA Claim Number A35-00007. However, Grantor believes the right may be limited to 2.1 cfs in the Snake River Basin General Adjudication. Grantor makes no warranty beyond 2.1 cfs for the irrigation of 103 acres.

WRN 35-00028 for 1.2 cfs for the irrigation of 109 acres, as described in SRBA Claim Number A35-00028.

WRN 35-00029 for .4 cfs for the irrigation of 109 acres, as described in SRBA Claim Number A35-00029.

WRN 35-02016, as described in SRBA Claim Number A35-02016. Grantor believes that the right may be reduced in the Snake River Basin Adjudication to 1.28 cfs for the irrigation of 64 acres. Grantor makes no warranty beyond 1.28 cfs and 64 acres.

WRN 35-02014, as described in the Water Right License for 1.3 cfs for irrigation as described in the Water Right License.

WRN 35-11390 for 20 cfs for fish propagation as described in SRBA Claim Number A35-11390 and as modified by Transfer Number 5055.

WRN 35-11392 for .04 cfs for the domestic use of one home.

WRN 35-11393 for .04 cfs for the domestic use of one home.

WRN 35-00047. Grantor makes no warranty whatsoever regarding WRN 35-0047.

A portion of WRN 35-007142 for the irrigation of 40 acres. Grantor makes no warranty whatsoever regarding WRN 35-007142.

TOGETHER WITH an undivided interest in the following water rights, and subject to the limitations described below:

WRN 35-04271 for 50 cfs for fish propagation as described in SRBA Claim Number A35-04271 and as modified by Transfer Number 5030.

WRN 35-08635 for .72 cfs for fish propagation as described by the Water Right License and as modified by Transfer Number 5030. Grantor believes that SRBA Claim Number A35-08635 may be incorrect. Grantor makes no warranty beyond .72 cfs.

WRN 35-08782 for 4.64 cfs as described in the Water Right License and as modified by pending, unapproved Transfer Number 5345.

WRN 35-09068 for 4.79 cfs for fish propagation or 3.79 cfs for fish propagation and 1. cfs for commercial use under WRN 35-08679.

WRN 35-08679 for 1.0 cfs for commercial use, as modified by Transfer Number 5030.

As to Water Right Numbers 35-04271, 35-08635, 35-08782 and 35-09068, Grantor retains the right to use the described flow for fish propagation purposes only on property retained by the Grantor located in the Northeast Quarter of Section 24, Township 4 South, Range 32 East

of the Boise Meridian, Bingham County, Idaho. Grantor's use of the water under Water Right Numbers 35-04271, 35-08635, 35-08782 and 35-09068 will be virtually non-consumptive.

As to WRN 35-08679, Grantor retains the right to consumptively use up to 1.0 cfs for commercial purposes, or file a transfer to use the water for irrigation or other consumptive purposes, on property retained by the Grantor located in the Northeast Quarter of Section 24 and the Northeast Quarter of the Southeast Quarter of Section 24, Township 4 South, Range 32 East of the Boise Meridian, Bingham County, Idaho.

All flows available for use by Grantor or Grantee under Water Right Numbers 35-04271, 35-08635, 35-08782 and 35-09068, and all flows not consumed by Grantor under WRN 35-08679, shall be discharged to Boom Creek by Grantor at the point where Boom Creek intersects the existing Bingham County road in the Northeast Quarter of Section 24, Township 4 South, Range 32 East of the Boise Meridian, Bingham County, Idaho. All water discharged by Grantor to Boom Creek shall meet all applicable state, federal and local laws, statutes, rules, regulations and ordinances, shall be free from any significant pathogens or disease which might adversely affect fish or wildlife, and shall be fit for the purposes of fish propagation, wildlife, recreation, the natural stream environment and aesthetics.

Grantor hereby conveys to Grantee a partial undivided right in and to Water Right Numbers 35-04271, 35-08635, 35-08782 and 35-09068 and 35-08679 consisting of the right to use the flow discharged by Grantor below the point described for all authorized purposes subject to any required Transfer from the Idaho Department of Water Resources and further subject to the limitations described above.

Neither Grantor nor the Grantee shall file any application for Transfer involving Water Right Numbers 35-04271, 35-08635, 35-08782, 35-09068 and 35-08679 which might in any manner diminish the quantity or quality of water available to the other.

Except as expressly stated otherwise above, Grantor warrants that it is conveying good, marketable, unencumbered title to all of the water rights described above. The same acreage may be an approved place of use for more than one water right. As part of the Snake River Basin General Adjudication, approved flows may be reduced because of this stacking of water rights. Reductions in flow as the result of stacking shall not be considered a breach of Grantor's warranties. As part of the Snake River Basin General Adjudication, small adjustments in approved acreage may be made as the result of the capacity for more precise measurements. Small reductions in acreage as the result of better measurement shall not be considered a breach of Grantor's warranties.

Water Right Number 35-04271, 35-08635, 35-08782, 35-09068 and 35-08679 and Transfer Numbers 5030, 5055 and pending Transfer Number T5345, approved a total of 10 wells to be drilled

11/05/11

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on property retained by Grantor located in the Northeast Quarter of Section 24, Township 4 South, Range 32 East of the Boise Meridian, Bingham County, Idaho. Three of the wells have been completed. Grantor shall continue to develop two (2) additional wells until the total authorized artesian flow from the wells under the described water right numbers and transfer numbers is obtained, or hydro geological data reasonably acceptable to Grantee indicates that additional wells would not result in a net yield from all of the wells of more than 3 cfs. Grantor shall complete the two (2) additional wells on or before August 1, 1999. While Grantor is not obligated to Grantee to develop the full ten (10) wells authorized under the described water rights and transfers, any water developed by Grantor on property belonging to Grantor located in the Northeast Quarter of Section 24, Township 4 South, Range 32 East of the Boise Meridian, Bingham County, Idaho shall first be used to satisfy the water rights and transfers that Grantor and Grantee have undivided interests in as described above before being used for any other purpose. Grantor shall submit any proof required under the described water rights and transfers and shall timely take all other steps which may be reasonable and necessary to keep the described water rights and transfers in good standing. Grantor shall reasonably operate and maintain the wells in a condition which will maximize the flow to which the Grantor and Grantee have a right under the described water rights and transfers.

If for any reason Grantor fails to diligently and timely complete development of the two additional wells as described above, or alternatively, Grantor fails to maintain any wells developed by Grantor which are necessary to satisfy the water rights and transfers that Grantor and Grantee have undivided interests in as described above, Grantee shall have an easement and a right of ingress and egress across the property belonging to Grantor located in the Northeast Quarter of Section 24, Township 4 South, Range 32 East of the Boise Meridian, Bingham County, Idaho for the purpose of developing the two additional wells described above, or maintaining any wells developed by Grantor which are necessary to satisfy the water rights and transfers that Grantor and Grantee have undivided interests in as described above.

All of Grantor's obligations under this Special Warranty Water Rights Deed, Well Development and Maintenance Agreement and Well Development and Maintenance Easement shall run with the land and shall bind Grantors successors and assigns.

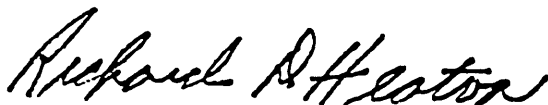
The officers of North Fork Energy, Inc. who sign this Special Warranty Water Rights Deed, Well Development and Maintenance Agreement and Well Development and Maintenance Easement hereby certify that this instrument and the agreements and transfers represented thereby was duly authorized under a resolution duly adopted by the board of directors of North Fork Energy, Inc. at a lawful meeting properly noticed and held, and attended by a quorum.

IN WITNESS WHEREOF, the GRANTOR has caused its corporate name and seal to be hereunto affixed by its duly authorized officers this 23 day of December, 1998.

NORTH FORK ENERGY, INC., Grantor


Ronald C. Yanke, President

ATTEST:



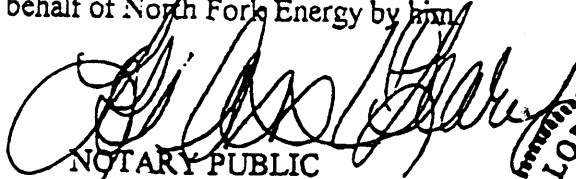
Richard D. Heaton, Secretary

STATE OF IDAHO)

: ss.

COUNTY OF ADA)

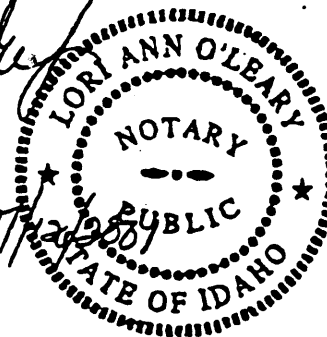
On the 23rd day of December, 1998, personally appeared before me Ronald C. Yanke, who having first been duly sworn by me, did say that he is the President of North Fork Energy, Inc., that he has authority to sign the foregoing Special Warranty Water Rights Deed, Well Development and Maintenance Agreement and Well Development and Maintenance Easement on behalf of North Fork Energy, Inc. by reason of a duly and properly adopted resolution of the board of directors of North Fork Energy, Inc., and that the foregoing instrument was signed on behalf of North Fork Energy by him.


NOTARY PUBLIC

Residing in the State of Idaho

SEAL:

My Commission exp.: 7/24/2001



STATE OF IDAHO)

: ss.

COUNTY OF ADA)

On the 23rd day of December, 1998, personally appeared before me Richard D. Heaton, who having first been duly sworn by me, did say that he is the Secretary of North Fork Energy, Inc., that the President of North Fork Energy, Inc., Ronald C. Yanke, has authority to sign the foregoing Special Warranty Water Rights Deed, Well Development and Maintenance Agreement and Well Development and Maintenance Easement on behalf of North Fork Energy, Inc. by reason of a duly and properly adopted

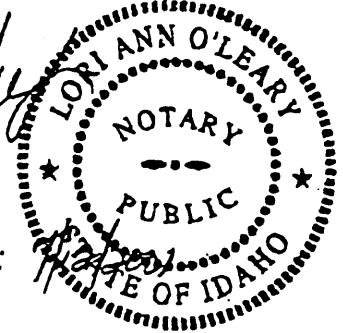
resolution of the board of directors of North Fork Energy, Inc., and that he, Richard D. Heaton, as Secretary of North Fork Energy, Inc., has properly, and pursuant to authority duly granted to him by North Fork Energy, Inc., signed the foregoing instrument attesting that the foregoing instrument was properly signed with authority on behalf of North Fork Energy, Inc.



NOTARY PUBLIC
Residing in the State of Idaho

SEAL:

my commission exp. 11/1/2011





NEW PROPERTY OWNER NOTICE C CHANGE OF WATER RIGHT OWNERSHIP

Please print or type
(see Instructions on back of page)

DATE OF CLOSING: December 23, 1998

LEGAL DESCRIPTION OF PROPERTY: Township 45 Range 32E
Section 24, 25, 26 1/4 of 1/4 of 1/4 Govt. Lot BM.
Lot Block Subdivision/Townsite
If you have additional legal descriptions, please attach separate sheet.

- ☐ Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)
- ☒ Water Right Number(s) 35-07138, 35-00007, 35-00028, 35-00029, 25-02016, 35-02014, 35-11392, 35-11393, 35-11394, 35-00047, 35-007142, 35-04271, 35-08635, 35-11390, 35-08782, 35-09068, and 35-08679
Assigned by IDWR:

☐ Name and Address of Former Owner/Claimant(s)(Seller): North Fork Energy, Inc., Attn: Greg Lansberry
4414 S. Gekeler Lane

☒ New Owner/Claimant (Purchaser): Boise, Idaho 83705

☐ New Mailing Address: John L. Miller

☐ New Mailing Address: P. O. Box 2260
Napa, California 94558

☐ New Telephone Number: (707) 224-6444

☒ Does the change in ownership result in a splitting of the water right owned/claimed? ☒ yes ☐ no
If yes, then describe the portion of the water right that is now owned/claimed by the new owner:

WRN's 35-04271, 35-08635, 35-08782, 35-09068 and 35-08679 are

split pursuant to the attached Special Warranty Deed.

☒ Attach proof of ownership, describe proof attached: See attached Warranty Deed and Special Warranty Water Rights, Well Development and Maintenance Agreement and Well Development and Maintenance Easement
(proof of ownership must describe either the property conveyed or include the claim number. Proof of ownership is not required if this form is signed by the former owner/claimant.)

☒ Signature of New Owner/Claimant(s): John L. Miller Date Dec 28, '98

☒ Signature of Former Owner/Claimant(s): NORTH FORK ENERGY, INC. Date
By: Its: Date

(Signature of former claimant(s) is not required if proof of ownership is attached.)

FOR IDWR USE ONLY
Initial Review and Data-Entry
Date: By:
Further Action Needed
Further Action Taken
Date: By:
Final Review and Data-Entry
Date: By:
Claim Numbers of Split, if any:

Original to be mailed to Idaho Department of Water Resources
Copies to Former Owner and New Owner