

RECEIVED

AUG 31 2005

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 A72-04059

(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 Steven J. Schuster

My address is 3311 W. State Street, P.O. Box 7129, Boise, Idaho 83707-1129

My phone number is: Work 208.334-8813 Home

I am an attorney representing Idaho Transportation Department

My name is Steven J. Schuster

My address is 3311 W. State Street, P.O. Box 7129, Boise, Idaho 83707-1129

My phone number is 208.334-8813

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 land to which the right is appurtenant was granted to the Challis School District in 1981 on condition that it consummate a land exchange to the BLM. The land exchange was not consummated and the land was transferred back to ITD. The school district did not file a notice of claim before the land was granted back to ITD.

☐

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.)

Claim to a Water Right (1/28/80)

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 \$ 50.00.
- ☐ 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 November 15, 2005 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:

☐

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:

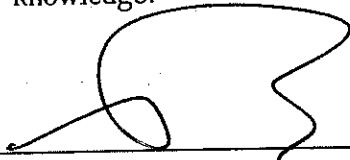
VERIFICATION (Must be completed)

State of Idaho

County of Jefferson

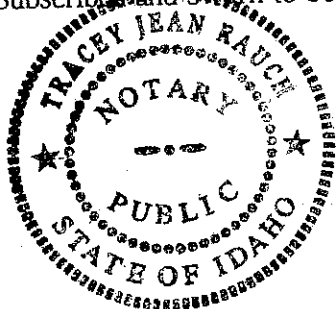
Tom Coles, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

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
District 6, District Engineer Tom Cole

Attorney signing in representative capacity

Subscribed and sworn to before me on August 18, 2005
(Insert Date)



Tracey Jean Rauch
Notary Public for Idaho
Residing at: Pagle, Idaho
My Commission expires: 3-30-2010

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 August 30, 2005, 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)

Stephen W. Shyne
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 A72-04059

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) State of Idaho Idaho Transportation Department Phone (208) 334-8000

Mailing Address P.O. Box 7129, Boise Idaho Zip 83707-1129

2. Date of Priority (Only one (1) per claim) 09/01/1940

3. Source of water supply (a) Groundwater
which is tributary to (b)

4. a. Location of existing point of diversion is: Township 15N Range 20E Section 18
1/4 of SE 1/4 of NW 1/4, Govt. Lot, 3 B.M., County of Custer

Additional points of diversion if any:

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

Township Range Section , 1/4 of 1/4 of 1/4,

Govt. Lot B.M., County of

ending point is: Township Range Section , 1/4 of 1/4 of

1/4, 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. Pitcher pump in a 90' deep well. Depth of
casing 35' located 151 feet from the Salmon River and 100 feet from sealed vault toilets.
Well has water tight seal at top of casing. The height of casing is 1'8".

Remarks: The water is used by the public at the Watts Bridge Rest Area. This Rest Area is next to US-93 at the Salmon River Crossing, 10 miles North of Challis, with frontage on the Salmon River being located on 3.513 acres. Day use and overnight camping

(X) or None

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.

Total number of acres irrigated

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.

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

For Domestic	purposes from	1/1	to	12/31	amount	0.05	or
For	purposes from		to		amount		or
For	purposes from		to		amount		or
For	purposes from		to		amount		or

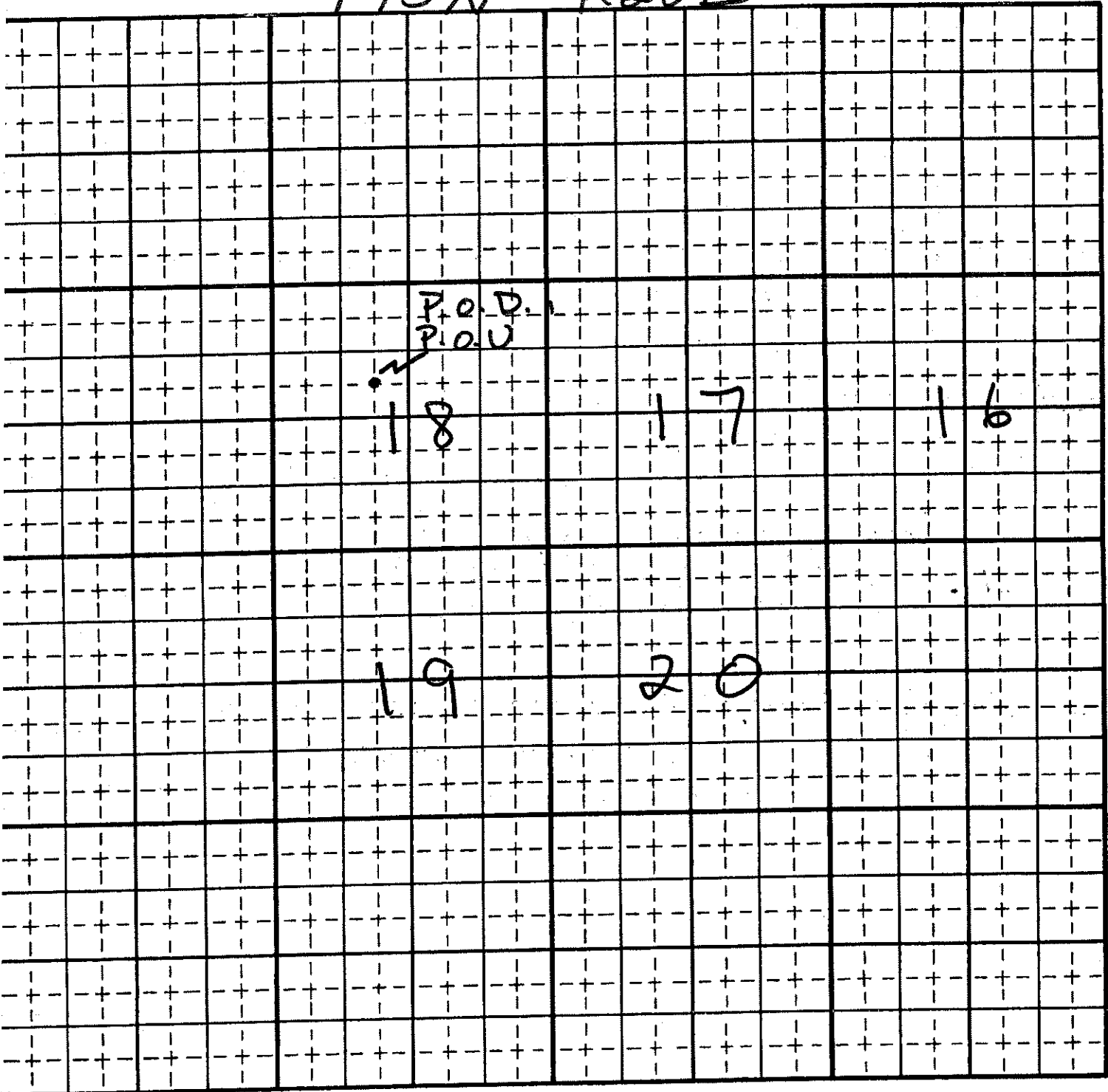
6. Water is claimed for the following purposes:

(both dates are inclusive)	(cfs)	(acre feet)
1950-1951	1,000	100
1951-1952	1,000	100
1952-1953	1,000	100
1953-1954	1,000	100
1954-1955	1,000	100
1955-1956	1,000	100
1956-1957	1,000	100
1957-1958	1,000	100
1958-1959	1,000	100
1959-1960	1,000	100
1960-1961	1,000	100
1961-1962	1,000	100
1962-1963	1,000	100
1963-1964	1,000	100
1964-1965	1,000	100
1965-1966	1,000	100
1966-1967	1,000	100
1967-1968	1,000	100
1968-1969	1,000	100
1969-1970	1,000	100
1970-1971	1,000	100
1971-1972	1,000	100
1972-1973	1,000	100
1973-1974	1,000	100
1974-1975	1,000	100
1975-1976	1,000	100
1976-1977	1,000	100
1977-1978	1,000	100
1978-1979	1,000	100
1979-1980	1,000	100
1980-1981	1,000	100
1981-1982	1,000	100
1982-1983	1,000	100
1983-1984	1,000	100
1984-1985	1,000	100
1985-1986	1,000	100
1986-1987	1,000	100
1987-1988	1,000	100
1988-1989	1,000	100
1989-1990	1,000	100
1990-1991	1,000	100
1991-1992	1,000	100
1992-1993	1,000	100
1993-1994	1,000	100
1994-1995	1,000	100
1995-1996	1,000	100
1996-1997	1,000	100
1997-1998	1,000	100
1998-1999	1,000	100
1999-2000	1,000	100
2000-2001	1,000	100
2001-2002	1,000	100
2002-2003	1,000	100
2003-2004	1,000	100
2004-2005	1,000	100
2005-2006	1,000	100
2006-2007	1,000	100
2007-2008	1,000	100
2008-2009	1,000	100
2009-2010	1,000	100
2010-2011	1,000	100
2011-2012	1,000	100
2012-2013	1,000	100
2013-2014	1,000	100
2014-2015	1,000	100
2015-2016	1,000	100
2016-2017	1,000	100
2017-2018	1,000	100
2018-2019	1,000	100
2019-2020	1,000	100
2020-2021	1,000	100
2021-2022	1,000	100
2022-2023	1,000	100
2023-2024	1,000	100
2024-2025	1,000	100
2025-2026	1,000	100
2026-2027	1,000	100
2027-2028	1,000	100
2028-2029	1,000	100
2029-2030	1,000	100
2030-2031	1,000	100
2031-2032	1,000	100
2032-2033	1,000	100
2033-2034	1,000	100
2034-2035	1,000	100
2035-2036	1,000	100
2036-2037	1,000	100
2037-2038	1,000	100
2038-2039	1,000	100
2039-2040	1,000	100
2040-2041	1,000	100
2041-2042	1,000	100
2042-2043	1,000	100
2043-2044	1,000	100
2044-2045	1,000	100
2045-2046	1,000	100
2046-2047</		

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

Scale: 2 inches equals 1 mile

T15N R20E



15. Basis of Claim (check one) Beneficial Use Posted Notice 1/28/80 License Permit

If applicable provide IDWR Water Right Number

Decree

Court

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 (1) One.
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

Tom Cole

Title

of Idaho TRANSPORTATION DEPARTMENT, that I have signed the foregoing

Organization

Title

document in the space below as District Eng. of Dist. 6, Idaho Transportation Dept

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

Signature of Authorized Agent

Title and Organization

District 6, District Engineer Date 8/18/05

Idaho Transportation Department

State of Idaho/or

Idaho

SS.

County of

Jefferson

Subscribed and sworn (or affirmed) before me this

18th

day of

August

2005

Notary Public

State of Idaho

Residing at

Logan, Idaho

My Commission Expires

March 30, 2010

Please Print Name

Steven J. Schuster

17. Notice of Appearance
Notice is hereby given that Steven J. Schuster 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

P.O. Box 7129, Boise, Idaho 83707-1129

Date

August 29, 2005

Last Name

State/ITD

Ident. Number

CLAIM TO A WATER RIGHT

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Box 97, Righy, Idaho (Name of Claimant)
(Mailing Address) 03442 Telephone No. 745-7781
(Zip Code)

(1) Date of priority: (When was the water first applied to a beneficial use) September 1, 1940

(2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)

(3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

(cfs, gpd, AFA) (Domestic, Irrigation, Stock, Etc.) (Both dates inclusive)

05 cfs Use Commercial (Mo., Day) (Mo., Day)

Quantity 05 cfs Use Commercial Period of Use From 1-1 To 12-31
 Quantity Use Period of Use From 1-1 To 12-31

Quantity Use Period of Use From 1-1 To 12-31
Quantity Use Period of Use From To

Quantity	Use	Period of Use From	To
Quantity	Use	Period of Use From	To

Quantity .05 cfs Use _____ Period of Use From _____ To _____
 TOTAL QUANTITY USED _____ Period of Use From _____ To _____

(1) .05 cfs

(5) A) Point of diversion: (Location of point where water is diverted from its source)
SE % NW % Sec. 10 Twp. 15 N. Rge. 20 E., B.M., County of Costa
Additional points of diversion:

8) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and head, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. Pitcher pump in a 90' deep well. Depth of casing is 35'.

151 A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

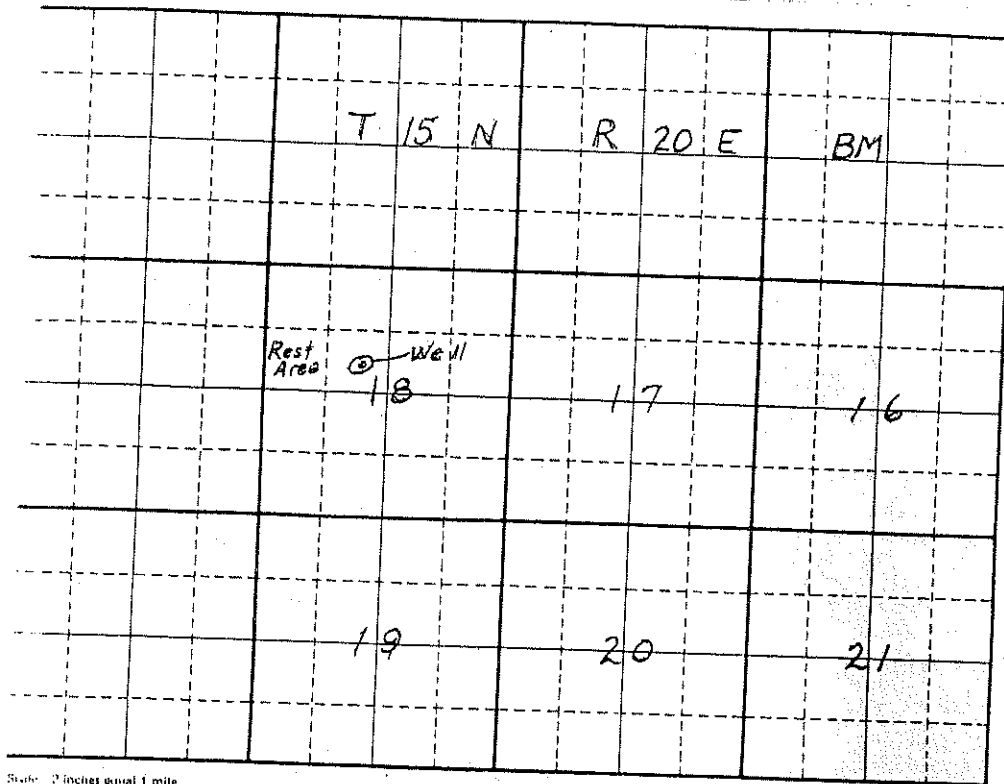
[illegible]

No. of acres _____

B) If water is used for other than irrigation, fully describe that use, being as specific as possible:
The water is used by the public at the Watts Bridge Rest Area. This R.A. is
next to U.S. 93 at the Salmon River crossing north of Challis.

NOTE: Include here the type and number of stock watered:
If you are claiming:

(7) If you are claiming water as a member of an organization, list name of organization:



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of Jefferson) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Sworn to before me this 28 day of January, 1980.
B. J. Frank Acting District Engr.
(Claimant)
P. A. Binkshalter
Notary Public
Residing at Idaho Falls

My commission expires 7-25-81

FOR DEPARTMENT USE ONLY

Received by ADM Date 2/3/80 Exception filed by: Forwarded to Date
Prelim. check by ADM Date 2/11/80
\$20.00 fee received by ADM Date 2/11/80 #13880 3/3/80
Published in Boise Star February 10, 1980
Dates 2/11/80

THIS INSTRUMENT, made this 17th day of September

In the year of our Lord one thousand nine hundred and thirty six, between
 Emil Kleupher and George Santee, Bachelors
 of Challis, County of Custer, State of Idaho,
 the parties of the first part, and

STATE OF IDAHO

of the party of the second part.

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of One Hundred Sixty-two and 50/100 (\$162.50)

DOLLARS, lawful money of the United States of America, to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, have granted, bargained and sold, and by these presents do grant, bargain, sell, convey and confirm unto the said party of the second part, and to their heirs and assigns forever, all of the following described real estate, situated in County of Custer, State of Idaho, to-wit:

An irregular strip of land lying situate on the northerly side of the center line of the highway as surveyed and shown on the official plot of the Sawtooth Park (F. A. P. 56-E) Highway Survey on file in the office of the Department of Public Works of the State of Idaho, and lying in Lot Three (3), of Section Eighteen (18), Township Fifteen (15) North, Range Twenty (20) East, Boise Meridian, more particularly described as follows, to-wit:

Beginning at a point in the northerly right of way boundary of said highway, which point bears North 10° 08' West 40 feet from Highway Station 572/82.1, which station is approximately 40 feet north and 1410 feet East from the West Quarter corner of Section Eighteen (18), Township Fifteen (15) North, Range Twenty (20) East; thence North 79° 49' East, along said northerly right of way boundary of said highway for 360.15 feet; thence North 14° 29' West for 210.18 feet; thence North 17° 44' East for 198.19 feet; thence North 33° 59' East for 119.10 feet; thence North 5° 15' East for 175.18 feet; thence North 84° 42' West for 267.99 feet; thence South 3° 26' East for 334.68 feet; thence South 11° 05' West for 77.93 feet; thence South 28° 40' West for 388.55 feet to the point of beginning, containing 3.513 acres more or less, said location being shown on the attached print which is made a part hereof,

34 23 added
 Page 3/2
 Print # - 43959

TOGETHER, With all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all estate, right, title and interest in and to the said property, as well in law as in equity, of the said parties of the first part.

TO HAVE AND TO HOLD, All and singular the above mentioned and described premises, together with the appurtenances, unto the party of the second part, and to its heirs and assigns forever, and the said parties of the first part, and their heirs, the said premises in the quiet and peaceable possession of the said party of the second part, its heirs and assigns, against the said parties of the first part, and their heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same shall and will WARRANT and by these presents forever DEFEND.

IN WITNESS WHEREOF, The said parties of the first part have hereunto set their hand and seal the day and year first above written.

SIGNED, SEALED AND DELIVERED IN PRESENCE OF

_____ [Seal]
_____ [Seal]
_____ [Seal]
_____ [Seal]

STATE OF IDAHO,
County of Custer ss.

On this 17th day of September in the year 1936, before me
Emmett Donahue, Clerk of the District Court Notary Public
in and for said State, personally appeared Emil Klupphaus and George Sauter

known to me to be the persons whose name are subscribed to the within 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 in this certificate first above written.

Emmett Donahue, Clerk of the District Court
Notary Public for the State of Idaho,
Residing at Challis, Idaho.

By J. L. Boyd, Dep.

No. _____

WARRANTY DEED

—TO—

Dated _____, 19____

STATE OF IDAHO, } ss.
County of _____

I hereby certify that this instrument was filed for record at request of _____

at _____ minutes past _____ o'clock _____ M., this _____ day of _____ A. D. 19____

in my office, and duly recorded in Book _____ of _____ at page _____

Ex-Officio Recorder.

By _____ Deputy.

Fees: \$ _____

Mall to _____

Check _____

61-A

