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OCT 13 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    | ) | A. Subcase <u>45-90</u>                                     |
|                | ) |                                                             |
| Case No. 39576 | ) | STANDARD FORM 4                                             |
|                | ) |                                                             |
|                | ) | MOTION TO FILE:                                             |
|                | ) | <input type="checkbox"/> LATE NOTICE OF CLAIM               |
|                | ) | <input checked="" type="checkbox"/> AMENDED NOTICE OF CLAIM |
|                | ) |                                                             |

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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.

X I have read **SRBA Administrative Order 1, Rules of Procedure** (amended Sept. 30, 1996).

My name is \_\_\_\_\_

My address is \_\_\_\_\_

My phone number is: Work \_\_\_\_\_ Home \_\_\_\_\_

I am an attorney representing Manning Ranches, Inc.

My name is Randolph C. Stone

MY address is P.O. Box 910 Burley, ID 83318

MY phone number is (208)878-8382

### **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:

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☐ 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.)

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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 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.

X I must amend my Notice of Claim to the use of water in the SRBA because:

The corporate name has changed from "Matthews Brothers, Inc." to "Manning Ranches, Inc." The original claim specified an incorrect season of use; incorrectly identified places of use; and overstated or understated acreage.

- ☐ 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:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

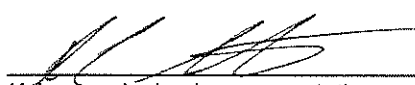
**VERIFICATION (Must be Completed)**

State of Idaho                    )  
                                          )ss.  
County of Cassia                )

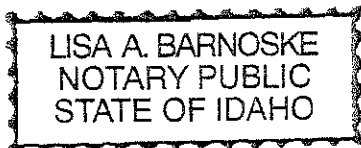
R.C. Stone \_\_\_\_\_, duly sworn, upon oath, deposes and says:  
(Name of person filing form)

That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2), as defined by I.C. §§ 42-1401 A(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)

  
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: October 12, 2005.



Lisa A. Barnoske  
Notary Public for Idaho  
Residing at: Burley  
My commission Expires: 09/28/10

## INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the 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 October 12, 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  
P.O. Box 2707  
Twin Falls, ID 83303-2707

2. Copies to:

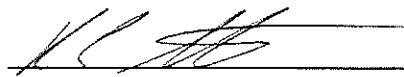
IDWR Document Depository  
P.O. Box 83720  
Boise, ID 83720-0098

Chief, Natural Resources Division  
Office of Attorney General  
State of Idaho  
P.O. 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. N/A (at this point)

PARSONS, SMITH & STONE, LLP



R.C. Stone

Attorneys for Manning Ranches, Inc.

# STATE OF IDAHO

## DEPARTMENT OF WATER RESOURCES

### AMENDED

### CLAIM TO A WATER RIGHT

Under the provisions of Section 42-243, *Idaho Code*, any person claiming a water right established by diversion and application of water to beneficial use must file a claim with the Department of Water Resources. **The filing of this claim does not confirm the water right claimed.** Water rights represented by a valid permit, license, decree, or previous claim are exempt from this requirement, as are uses of water for domestic purposes as defined in Section 42-111, *Idaho Code*. A filing fee must be submitted with this claim. See the instruction sheet to determine the appropriate fee.

Notice is hereby given that Manning Ranches, Inc.

(Name of Claimant)  
2233 Birch Creek Road, Oakley, ID 83346 Telephone No: (208)862-3884  
(Mailing Address) (Zip Code)

claims a right to the diversion and beneficial use of surface or ground water. The extent and nature of said claim is as follows:

1. Date of Priority: (When the water was first applied to beneficial use) 12/01/1882  
**A claim is not acceptable for the use of surface water with a priority later than May 20, 1971. A claim is not acceptable for the use of ground water with a priority date later than March 25, 1963, unless the water is used for domestic purposes as defined in Section 42-111, Idaho Code.**

2. Describe the source of water: (Name of stream, lake, spring, etc., or ground water)  
Birch Creek tributary to Goose Creek

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 or af)             | (Irrigation, Domestic, Stock, Etc.) | (Both dates inclusive)         |                 |
|-------------------------|-------------------------------------|--------------------------------|-----------------|
|                         |                                     | (MM/DD)                        | (MM/DD)         |
| Quantity <u>1.0 cfs</u> | Use <u>Irrigation</u>               | Period of Use From <u>2/25</u> | to <u>11/15</u> |
| Quantity _____          | Use _____                           | Period of Use From _____       | to _____        |
| Quantity _____          | Use _____                           | Period of Use From _____       | to _____        |
| Quantity _____          | Use _____                           | Period of Use From _____       | to _____        |

4. 1.4 cfs TOTAL QUANTITY USED.  
(cfs or af)

5. A) Location of point of diversion is SE  $\frac{1}{4}$  of SE  $\frac{1}{4}$  of SE  $\frac{1}{4}$ , Govt. Lot \_\_\_\_\_  
Sec. 14 Township 14 S Range 22 E B.M., Cassia County;  
additional points of diversion, if any: SESWNW T.14S R22E S24, Cassia County

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch etc.).  
Give sizes and capacities. Be specific. Describe any changes in the system and give the date of the change.

Headgates and ditches  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. A) Describe the place of use within each 40-acre tract in the appropriate box using the symbols listed below. If the use is for irrigation, describe the location by listing the number of irrigated acres within each 40-acre tract.

D - domestic, S - stockwater, M - municipal, C - Commercial, I - Industrial, X - other

| Twp | Rge | Sec | NE1/4 |    |    |    | NW 1/4 |    |    |    | SW1/4 |    |    |    | SE1/4 |    |    |    | TOTAL ACRES |
|-----|-----|-----|-------|----|----|----|--------|----|----|----|-------|----|----|----|-------|----|----|----|-------------|
|     |     |     | NE    | NW | SW | SE | NE     | NW | SW | SE | NE    | NW | SW | SE | NE    | NW | SW | SE |             |
| 13S | 22E | 34  |       |    |    |    |        |    |    |    |       |    |    |    | 40    |    |    | 40 | 80          |
| 14S | 22E | 02  |       |    |    |    |        |    | 15 | 15 | 40    | 40 | 35 | 40 |       |    |    |    | 185         |
| 14S | 22E | 03  | 39    | 18 |    | 35 |        |    |    |    |       |    |    |    |       |    |    |    | 92          |
| 14S | 22E | 11  |       |    |    |    |        |    |    |    | 20    |    |    | 1  | 40    | 40 | 40 | 40 | 181         |
| 14S | 22E | 14  | 40    | 30 | 5  | 8  |        |    |    |    |       |    |    |    | 20    | 30 |    | 5  | 138         |

TOTAL ACRES 676

B) If water is used for purposes other than irrigation, fully describe the use. Be specific. \_\_\_\_\_

NOTE: Include here the type and number of stock watered: \_\_\_\_\_

7. Remarks: \_\_\_\_\_

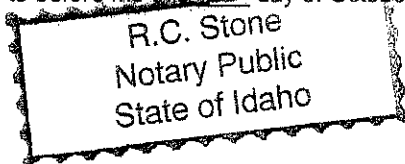
8. Map -- Attach an 8½"x11" map clearly identifying the point of diversion and the place of use by 40-acre subdivisions, section, township and range of the public land survey system. (A photocopy of a USGS 7½ minute topographic quadrangle map is preferred.) Attach an aerial photograph of the place of use if available.

State of Idaho )  
 ) ss.  
County of Cassia )

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the forgoing 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.

Robert Manning Pres.  
Claimant's Signature (and title if claim is for an organization)

Sworn to before me this 12 day of October 2005.

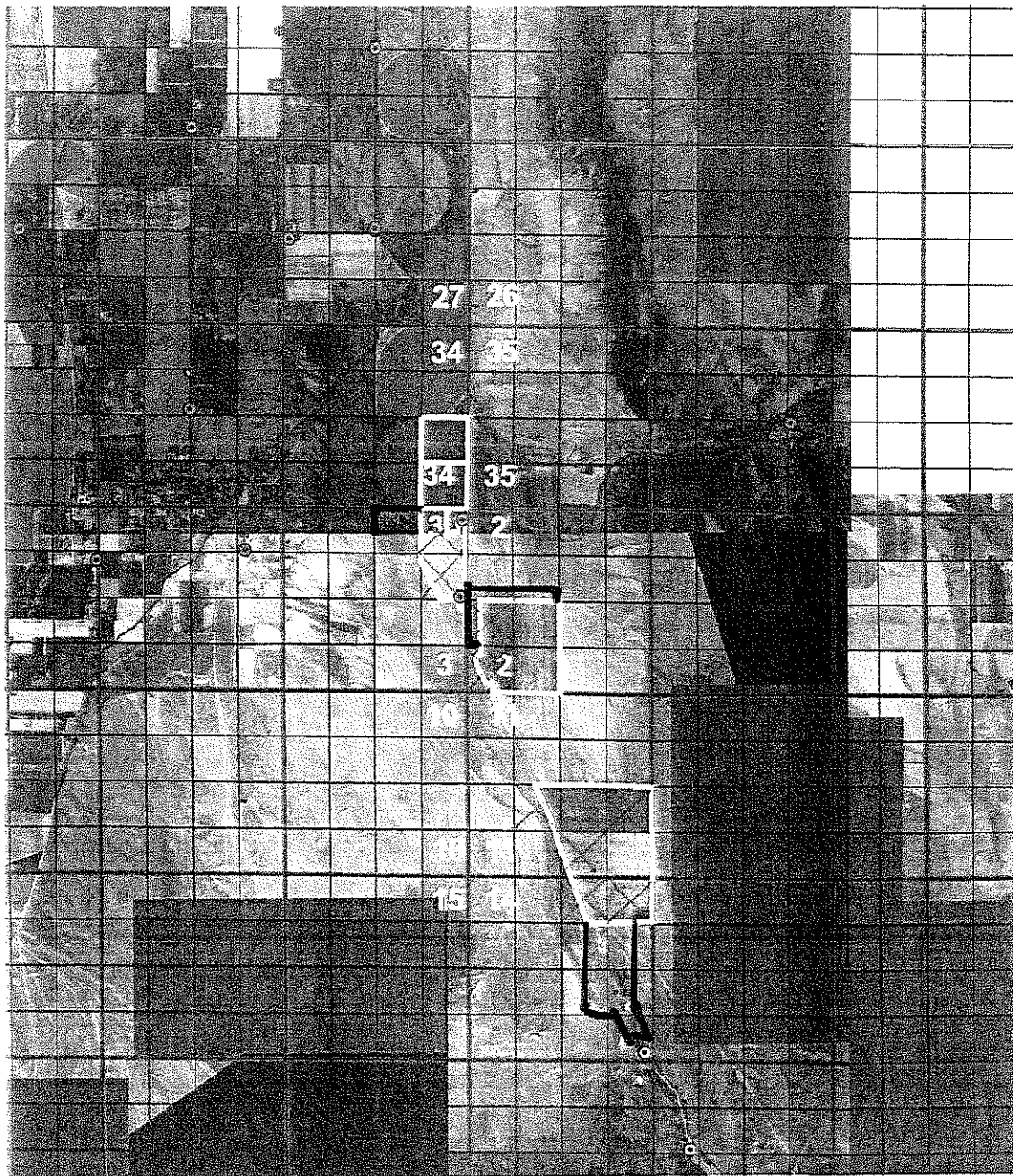


[Signature]  
Notary Public  
Residing at: Burley  
My commission expires: 8/15/06

#### FOR DEPARTMENT USE ONLY

|                           |            |                                         |
|---------------------------|------------|-----------------------------------------|
| Received by _____         | Date _____ | Published in _____                      |
| Prelim. check by _____    | Date _____ | Publication dates _____                 |
| Fee _____ Receipt # _____ |            | Publication checked by _____ Date _____ |
| Receipt prepared by _____ | Date _____ | Exceptions filed by _____               |

45-90



0 1320640 Feet



RECOMMENDED PLACE OF USE  
DATA ENTRY ON OCT. 22, 2002  
TWP 13S, RNG 22E, SEC. 34  
TWP 14S, RNG 22E, SEC. 2, 3, 11, & 14



- Point of diversion
- Place of use
- Quarter-quarter lines
- Section lines

Gis Place of Use Presentation  
1987/1988 Napp Photography  
Prepared by Jeanie Robertson