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OCT 28 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 <u>45-487A</u>
	)	(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 _____

My address is _____

My phone number is: Work _____ Home _____

I am an attorney representing TUGAW RANCH

My name is TRAVIS L. THOMPSON

My address is P.O. BOX 485
TWIN FALLS, ID 83303-485

My phone number is (208) 733-0700

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:

SEE ATTACHED AFFIDAVIT OF JOSEPH E TUGAW IN SUPPORT OF MOTION
TO FILE LATE NOTICE CLAIM AND MEMORANDUM IN SUPPORT OF MOTION
TO FILE LATE NOTICE CLAIM

☐ 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.)

SEE ATTACHED AFFIDAVIT OF JOSEPH E. TUGAW IN SUPPORT OF MOTION
TO FILE LATE NOTICE CLAIM AND MEMORANDUM IN SUPPORT OF MOTION
TO FILE LATE NOTICE OF CLAIM

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 \$ 50.00.

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 DECEMBER 20, 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 TWIN FALLS

TRAVIS L. THOMPSON

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

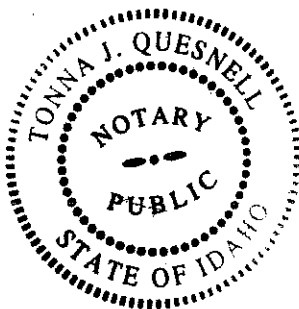
That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

Signature of person filing motion

[Signature]

Attorney signing in representative capacity

Subscribed and sworn to before me on October, 27 2005
(Insert Date)



[Signature]
Notary Public for State of Idaho
Residing at: Kimberly, ID
My Commission expires: 9/28/11

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 October 27th, 2004⁵, 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

RECEIVED

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

OCT 28 2005

DEPARTMENT OF
WATER RESOURCESIN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER:

39576

Ident. Number

45-487A

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) TUGAW RANCH Phone (208) 734-7511Mailing Address c/o Joe Tugaw, 3277 Woodridge Dr., Twin Falls, ID Zip 833012. Date of Priority (Only one (1) per claim) 3/1/18793. Source of water supply (a) Dry Creekwhich is tributary to (b) Snake River4. a. Location of existing point of diversion is: Township 12S Range 19E Section 24,
1/4 of NW 1/4 of NW 1/4, Govt. Lot, B.M., County of Cassia

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.A ditch diverts water from Dry Creek into a holding pond that distributes the
water through a booster pump and gravity system.

6. Water is claimed for the following purposes:

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

For irrigation purposes from 3/15 to 11/15 amount 0.56 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.56 (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.) N/A

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.

PLACE OF USE:

IRRIGATION Within CASSIA County

T12S R19E S01 Lot 2	NWNE	34.0	T12S R19E S01	SWNE	38.0
T12S R19E S01 Lot 3	NENW	38.0	T12S R19E S01	SENE	38.0
T12S R19E S01	NESW	38.0	T12S R19E S01	SESW	36.0
T12S R19E S01	NWSE	24.0	T12S R19E S01	SWSE	6.5
T12S R19E S12	NWNE	5.2	T12S R19E S12	SWNE	6.1
T12S R19E S12	NENW	36.0	T12S R19E S12	SENE	34.0
T12S R19E S12	NESW	38.0	T12S R19E S12	SESW	31.0

Total number of acres irrigated 402.8

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

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.

45-487B; 45-491; 45-492; 45-493; 45-495; 45-496B; 45-2449; 45-2486; 45-13622 or None ()

14. Remarks:

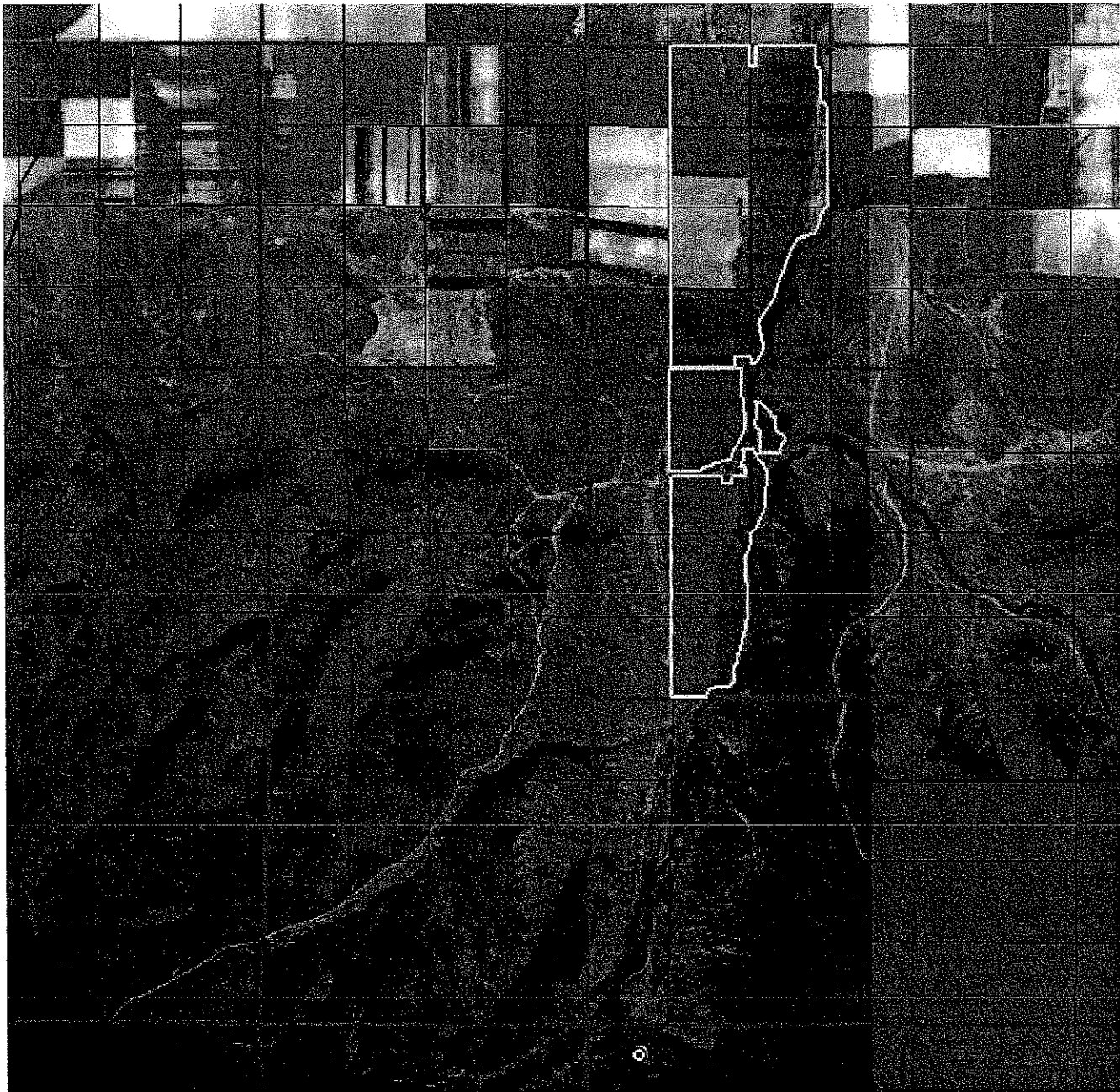
Use of this right with Right No. 45-13622 is limited to the irrigation of a combined total of 102.5 acres in a single irrigation season within the permissible place of use above.

Last Name TUGAW Ident No. 45-487A

Idaho Department of Water Resources

**RIGHTS: 45-487B, 45-491, 45-492,
45-493, 45-496B, 45-13622**

**RECOMMENDED PLACE OF DIVERSION
TWP 12S, RNG 19E,**



0 2640 5280 7920 10560 13200 Feet

© RECOMMENDED POINT OF DIVERSION

http://www.idwr.idaho.gov/apps/ExtSearch/DocsImages/360901_.TIF

10/25/2005

NAME: TUGAW

Ident. No. 45-487A

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License _____ Permit _____
Decree X
If applicable provide IDWR Water Right Number 45-487A
Court Twin Falls District Court Case Number 7475 Decree Date Mar. 28, 1942
Plaintiff vs Defendant Stone v. Willhite

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 X
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.

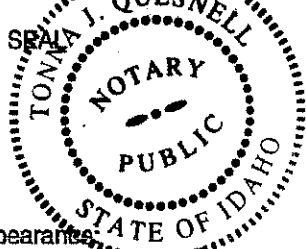
Signature of Claimant (s) Joe Tugaw on behalf of Tugaw Ranch Date _____
Date _____

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 _____ of _____
Title 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 Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 27 day of October 2005
Notary Public [Signature]
Residing at Kimberly, ID
My Commission Expires 9/28/11
Please Print Name



17. Notice of Appearance
Notice is hereby given that I, Travis L. Thompson 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 [Signature]
Address P.O. Box 485 Twin Falls, ID 83303-485
Date 10/27/05

Last Name TUGAW Ident. Number 45-487A