

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>72-2151</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 MERRILL SHupe

My address is 183 No. 1100 W. W. Bountiful, Utah

My phone number is: Work _____ Home (801) 292-5715

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:

See attached letter

☐ 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.)

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 \$ 175.00.

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 Feb. 21, 2006 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

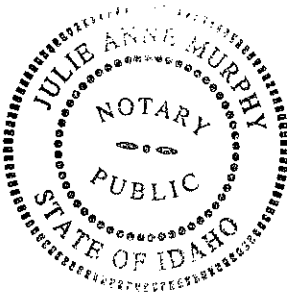
Merrill Shupe, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

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.

Merrill Shupe
Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on November 14, 2006
(Insert Date)



Julie Anne Murphy
Notary Public for Idaho
Residing at: Twin Falls, ID
My Commission expires: 1-26-2011

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 11/14/06, 199 , 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:

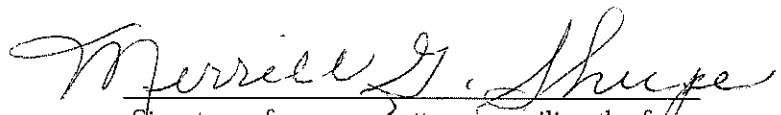
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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

November 10th 2005

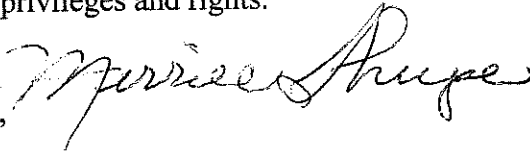
State Of Idaho
Department Of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls, Idaho 83301-3380

RE: Application for water rights

To whom it may concern:

We are filling a late water claim due to a failure to receive any information relative to the 1999 water moratorium in the Snake River Basin Adjudication. We have absolutely no record notifying us of the change in our water rights. These water rights were obtained on April 20th, 1965. Since this time we have continued to use this water and have maintained yearly work and repair on both the head gate and the ditch. We have meticulously search our records and files to see if any notification or communication had been received relative to changes in these specific water rights, and have found none. This water is used annually from the months of April to October to maintain proper care and maintenance of our land and property. It was very disturbing to hear that our rights had been taken from us, especially when no notification of such had been received. Due to the extreme necessity for this water we are re-applying to the Idaho Water Department to restore our original privileges and rights.

Regards,



Merrill G. Shupe, Owen K. Shupe, Verle L. Shupe and James L. Shupe, land owners.

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 72-2151
Date Received: 11/14/2005
Receipt No:
Received By:

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name of Claimant(s)

VERLE L SHUPE Phone: (801)782-9772
246 E ELBERTA DR
NORTH OGDEN UT USA 84414

MERRILL G SHUPE Phone: (801)292-5715
183 N 1100 W
WEST BOUNTIFUL UT USA 84087

OWEN K SHUPE Phone: (435)752-3973
470 E 750 S
LOGAN UT USA 84321

JAMES L SHUPE Phone: (435)563-5553
296 S 250 EAST
HYDE PARK UT USA 84318

2. Date of Priority: 04/20/1965

3. Source: BIG CASINO CREEK Trib. to: SALMON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
11N	14E	32	NE NW	CUSTER	

5. Description of diverting works:

Headgate; 4 ft wide; 3 1/2 ft high Ditch at bottom 3 1/4 ft wide, 3 5/8 at water line, depth of water 3 ft.

The same headgate and ditch has remained the same since 1957. Annual repair and ditch maintenance has been done yearly from 1957 to 2005.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/01	11/01	1.5	225

7. Total Quantity Appropriated is:
1.5 C.F.S. and/or 225 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
11N	14E	20	SW	SW	IRRIGATION	29
					Section Acres	29
11N	14E	29	NW	NW	IRRIGATION	36
			SW	NW	IRRIGATION	10
					Section Acres	46
					Total Acres	75

11. Place of use in counties: CUSTER

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

15. Basis of Claim: License

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: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Mervin J. Anipe Date: 11/14/05

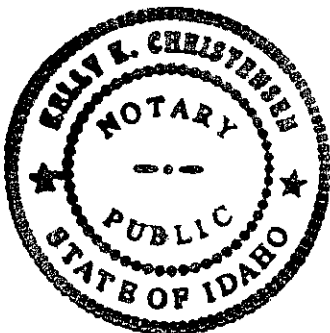
State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 14th day of Nov 2005

Kelly K. Christensen
Notary Public

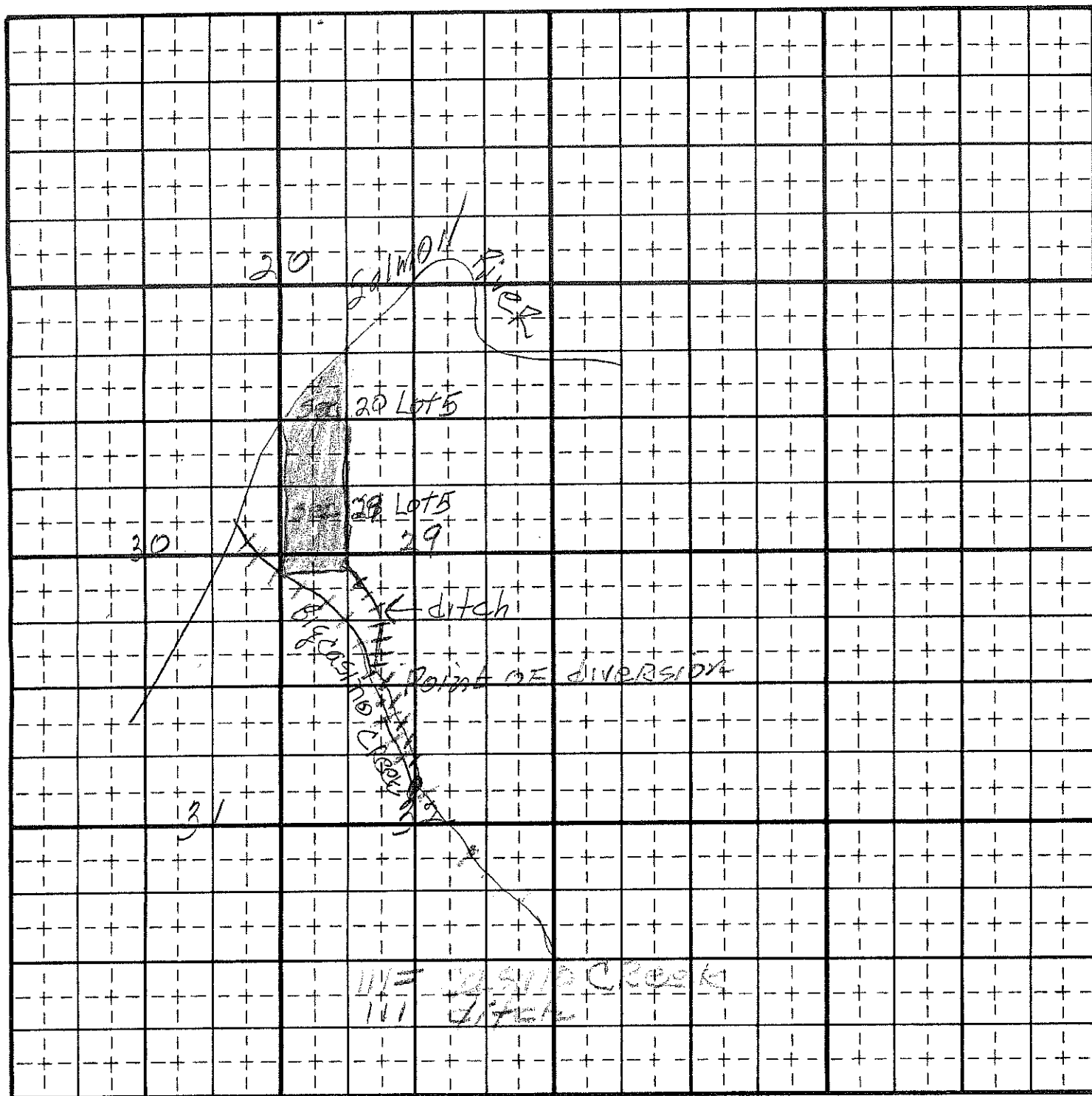
Residing at Twin Falls, ID

My commission Expires 4-2-2010



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

Scale: 2 inches equals 1 mile



Last Name _____ Ident No. _____

Copies: White-State, Yellow-Claimant