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APR 12 2006

DEPARTMENT OF
WATER RESOURCES

IDAHO FALLS OFFICE

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SUITE 203A
IDAHO FALLS, ID 83402
TELEPHONE: (208) 528-6101
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*ALSO MEMBER WY & IL BARS

**ALSO MEMBER UT BAR

†ALSO MEMBER D. C. BAR

††ALSO MEMBER MO BAR

†††ALSO MEMBER IL BAR

‡ALSO MEMBER CA BAR

LOUIS F. RACINE (1917-2006)
WILLIAM D. OLSON
W. MARCUS W. NYE
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODELL*
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JUSTIN R. ELLIS
JOSHUA D. JOHNSON†††
JONATHAN S. BYINGTON

April 10, 2006

Clerk of the District Court
Snake River Basin Adjudication
P.O. Box 2707
Twin Falls, Idaho 83303-2707

Re: Subcase 35-13553 and 35-13554/Underwood

Dear Clerk:

Enclosed please find the following for filing in the above-referenced matter:

1. Original and copy of Motion to File Late Notice of Claim with attached Notice of Claim to a Water Right pertaining to No. 35-13553.
2. Original and copy of Motion to File Late Notice of Claim with attached Notice of Claim to a Water Right pertaining to No. 35-13554.
3. Duplicate originals and extra copy of Supporting Affidavit of Jeff Underwood (one original to be filed in each subcase).
4. Checks for filing fees as follows: 35-13553: \$202
35-13554: \$169
5. Stamped and addressed return envelope.

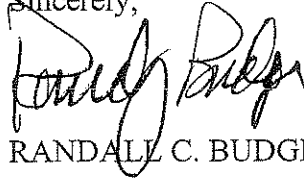
Please file the originals and conform stamp and return the extra copies in the enclosed stamped and addressed return envelope.

April 3, 2006
Page 2

Please note the hearing dates set forth in the Motions on the Court's calendar.

If you have any questions please contact me or paralegal Pam Mottishaw.

Sincerely,

A handwritten signature in black ink, appearing to read "Randall C. Budge". The signature is stylized with a large, looped "R" and a cursive "Budge".

RANDALL C. BUDGE

RCB:rr

Enclosures

cc: Service List (w/encls.)
Jeff Underwood (w/encls.)

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APR 12 2006

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>35-13553</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 Jeff Underwood, Personal Representative for the
Robert F. Underwood Estate

My address is 360 Kurtwood Place, Pocatello, ID 83204

My phone number is: Work _____ Home 208-232-2837

I am an attorney representing Jeff Underwood

My name is Randall C. Budge

My address is P.O. Box 1361, Pocatello, ID 83204-1362

My phone number is 208-232-6101

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:

Inadvertent oversight of decedent, Robert F. Underwood,
due to advanced age and failing health. See supplemental
affidavit of Jeff Underwood.

☐ 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 \$ 202.00.

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, 2006 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 Bannock

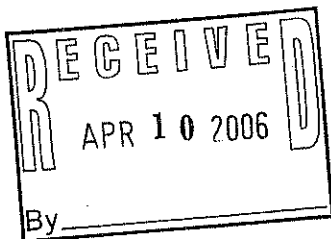
Jeff Underwood, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

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.

Jeff Underwood
Signature of person filing motion

Russell C. Budge
Attorney signing in representative capacity

Subscribed and sworn to before me on April 7th, 2006
(Insert Date)



Robert Ruckelshaus
Notary Public for Idaho
Residing at: Pocatello
My Commission expires: 8/18/2006

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 April 10, ²⁰⁰⁶~~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)

Randall C. Bridger
Signature of person or attorney mailing the form

IN THE DISTRICT 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 38-13503

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) **Robert F. Underwood Estate c/o Jeff Underwood, Personal Representative**
Phone **208-232-2837**
Mailing Address **360 Kurtwood Place, Pocatello, Idaho Zip 83204**
2. Date of Priority (only one (1) per claim) **5-15-1948**
3. Source of water supply (a) **Ground water**
Which is tributary to (b)
4. a. Location of existing point of diversion is: Township **5S** Range **31E** Section **4**
¼ of SW ¼ of SW ¼, gov't lot B.M., County of Bingham
Additional points of diversion if any:

b. If instream flow, beginning point of claimed instream flow is:
Township Range Section , ¼ of ¼ of ¼
Gov't lot B.M., county of
Ending point is:
Township Range Section , ¼ of ¼ of ¼
Gov't 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.
30 hp electric motor and centrifugal pump into open ditches, flood irrigated with canvas portable dams.

6. Water is claimed for the following purposes:

For **irrigation** purposes from 4/1 to 11/1 amount **2.67** cfs or **4** acre-feet per acre

7. Total quantity claimed (a) **2.67** cfs and/or (b) **4** acre-feet per acre

8. Total consumptive use claimed is ^{407.2}~~271.8~~ acre-feet per annum.

9. Non-irrigation uses; described fully (eg. Domestic: give number of households served; stockwater: type and number of livestock, etc)

Stockwater - 50 head of beef cows and calves

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.

TWP	RNG	SEC	NE ¼				NW ¼				SW ¼				SE ¼				TOTALS
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NE ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
5S	31E	4											40.9 S				30 S	30.9 S	101.8

Total number of acres irrigated **101.8**

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

12. Do you own the property listed above as place of use? Yes ☒ No ☐

13. Describe any other water rights used at the same place and for the same purposes as described above.

None

14. Remarks:

See supporting Affidavit of Jeff Underwood, son and personal representative of Robert F. Underwood, deceased.

Last Name Underwood Ident No. 35-13553

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 Underwood Ident No. 35-13584

Powerline Rd

2800 West Rd

Wood Loop Rd

2700 West Rd

Crater Sub Rd

P/D = SWSW
Sec. 4, T.5S. R.31E.

P/D = 40.90 AC NW NW
60.90 AC S 1/2 S 1/2
Sec. 4 T.5S. R.31E

78.30

6.30

3.70

12.60

40.90

19.79

3.90

5.60

7.80

4.50

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15. Basis of claim (check one) Beneficial use ☒ Posted Notice ☐ License ☐ Permit ☐ Decree ☐
If applicable provide IDWR Water Right Number
Court Case Number Decree Date
v.

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

Signature of Claimant (s) Jeff Underwood Date 4/7/06

Date _____

For Organizations:

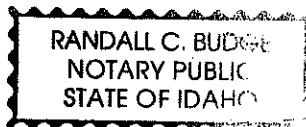
I do solemnly swear or affirm that I am _____ of _____, that I have signed the foregoing document in the space below as _____ of _____ and that statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization _____ Date _____

State of Idaho)
County of Bannock)
SS

Subscribed and sworn (or affirmed) before me this 7th day of April 2006



Notary Public Randall C. Budget
Residing at Pocatello, ID
My Commission Expires 10/11/2006

17. Notice of Appearance
Notice is hereby given that I, Randall C. Budget 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 Randall C. Budget

Address P.O. Box 1391 Pocatello, ID 83201

Date 4/7/06

Last Name Underwood Ident No. 35-13553