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SEP 17 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 21-10015
) (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 Lana Esplin, Past Secretary NHLHA

My address is 3897 Teton Road

Island Park, ID 83429

My phone number is: Work _____ Home 208-558-7214 Cell 435-669-3674

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:

☐ 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 \$ _____.

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.

- ☒ I must amend my Notice of Claim to the use of water in the SRBA because:
North Henry's Lake Homeowners Association, Inc. was given bad advice when they combined their two water rights in 1988. Carter Fritschle from the Adjudication Office in Boise has suggested this claim needs to be changed to municipal and public use.

☒ I am providing legal and factual documentation to support my amended Notice of Claim, You must describe these documents and attach a readable copy.

1. Letter from the Idaho District Seven Health Department showing we are a Public Water System and subject to the regulatory requirements for public water systems.
2. Copy of Grant Deed of two water rights: Howe Springs for ½ c.f.s. and Unnamed Creek (known as Pittsburg Creek) for 1 c.f.s. and deeded to NHLHA, Inc. in 1979.
3. Copy of page one of Notice of Claim To A Water Right, dated September 9, 1988

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 Utah

County of Washington

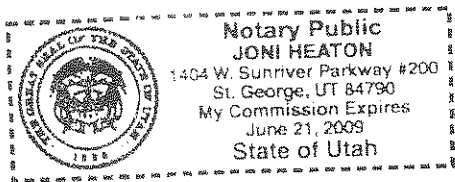
Lana Espin, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

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.

Lana Espin
Signature of person filing motion
past secretary, Nt/LHA

Attorney signing in representative capacity

Subscribed and sworn to before me on May 1, 2006
(Insert Date)



Joni Heaton
Notary Public for State of Utah
Residing at: St. George, UT 84790
My Commission expires: 6/21/09

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 May 2, ~~199~~2006 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)

Lana Esplin
Signature of person or attorney mailing the form

05/01/2006

IDAHO DEPARTMENT OF WATER RESOURCES
Amended Notice of Claim

WATER RIGHT NO. 21-10015

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	NORTH HENRYS LAKE HOMEOWNERS ASSN., INC. C/O LANA ESPLIN , PAST SECRETARY 3897 TETON RD ISLAND PARK, ID 83429 (208)558-7214

Priority Date: 09/15/1904
Basis: Decreed
Status: Active

<u>Sources</u>	<u>Tributary</u>
a. HOWE SPRINGS	PITTSBURG CREEK
b. STREAM (PITTSBURG CREEK)	PITTSBURG CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
Municipal and Public	1/01	12/31	1.5 CFS	
Total Diversion			1.5 CFS	

Location of Point(s) of Diversion:

SESE	Sec. 33	Township 16N	Range 43E	FREMONT County
SWSW	Sec. 34	Township 16N	Range 43E	FREMONT County

Place(s) of use:

Place of Use Legal Description: MUNICIPAL FREMONT County:

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot
15N	43E	4		NENE	2				
16N		33		SWSE	5		SESE	30	
		34		SWSW	3				

Total Acres: 40

REMARKS: THIS RIGHT COMBINES THE 2 WATER RIGHTS IN THE DECREE OF HENRY'S LAKE LODGE VS. ALL UNKOWN CLAIMANTS. WATER RIGHTS WHICH WERE DEEDED TO NORTH HENRY'S LAKE HOMEOWNERS ASSOC. BY HENRY'S LAKE LODGE WITH GRANT DEED #360658 FREMONT COUNTY, DATED JULY 30, 1979. POINT OF DIVERSION - HOWE SPINGS, SEC 34, T.16 N. R.43 E. " " " - STREAM, SEC 33, T.16 N, R.43 E. THE INDIVIDUAL LOT OWNERS ARE MEMBERS OF THE NORTHHENRY'S LAKE HOMEOWNERS ASSOC. PRIOR WATER RIGHT NUMBERS 21-00168 AND 21-00169.



DISTRICT SEVEN HEALTH DEPARTMENT

PROMOTING THE HEALTH OF PEOPLE AND THEIR ENVIRONMENT

Main Office

254 E Street
Idaho Falls, ID 83402-3597
Phone: (208) 522-0310
Fax: (208) 525-7063
<http://www2.state.id.us/phd7>

25 April 2006

To: Lana Esplin
The North Henry's Lake Homeowner's Association
4317 South Windsong Way
St. George UT 84790

John Wagner
The North Henry's Lake Homeowner's Association
3877 Teton Road
Island Park ID 83429

Subject: Status of Regulatory Compliance at the North Henry's Lake Homeowner's Association; Public Water System No. ID 7220033

As far as our records indicate, the subject water system is in compliance with current established State of Idaho regulatory requirements for public water systems. The system tested positive for coliform bacteria in 2001; however, there have been no issues with the system since that time. There are no current violations to report.

The last bacteria sample was submitted in March of 2006, and was absent any bacteria contamination.

The last Nitrate sample was collected in October 2005, and the sample indicated the water contained nitrates at well below the standard set by the State of Idaho.

The system is also current with its State of Idaho drinking water fees.

John Moss
Senior REHS

Microfilm No. 360658 July 30, 1979
Darlene M. Calonge Fremont Co. Recorder
Fee \$4:00 Belva Hill Deputy
Recorded at Request of
Harry Landreth

GRANT DEED

THIS INDENTURE, Made this 5th day of June, 1979 by and between HENRY'S LAKE LODGE, INC., an Idaho corporation, with its principal office at Macks Inn, Idaho 83433, the party of the first part, and NORTH HENRY'S LAKE HOMEOWNERS ASSOCIATION, INC., an Idaho corporation, with its principal office at Macks Inn, Idaho 83433, the party of the second part,

WITNESSETH:

That the said party of the first part, for and in consideration of the sum of Ten Dollars and other valuable consideration to it in hand paid by the said party of the second part, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell, convey and confirm unto the said party of the second part, and to its successors and assigns, forever, the following described water rights located in Fremont County, State of Idaho, to-wit:

One-half c.f.s. of the waters of Howe Springs located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 34, Township 16 North, Range 43 East, Boise Meridian, with a priority date of September 15, 1904, at a point of diversion within said SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 34, Township 16 North, Range 43 East, Boise Meridian, and this right includes within it State of Idaho water License no. 844, now renumbered on the records of the Idaho Department of Water Resources as License No. 21-2006, and one c.f.s. of the waters of an unnamed creek flowing from Pittsburg Canyon in Fremont County, Idaho, with a priority date of September 15, 1904, with points of diversion at various places within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said 34, Township 16 North, Range 43 East, Boise Meridian to use for domestic purposes, including the watering of livestock, fishponds, and in the irrigation of the following described property located in Fremont County Idaho, to wit:

Beginning at a point 349 feet East of the Northwest corner of the South Half of the Southeast Quarter of Section , 33, Township 16 North, Range 43 East, Boise Meridian, and running thence south 48 degrees 15' East 334 feet; thence South 32 degrees 50' West 404 feet thence Southeasterly along the highwater line of Henry's Lake to a point that is South 89 degrees 50; West 1106 feet from the Southeast corner of Section 33, Township 16 North, Range 43 East, Boise Meridian; thence South 63 degrees 38' East 788.5 feet; thence North 89 degrees 50' East 1320 feet; thence North 1320 feet; thence West 3611 feet to the point of beginning, less the highway right of way.

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: A21-10015
Date Received: 10/8/1988
Receipt No: K003211
Received By: TO

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: NORTH HENRY'S LAKE HOMEOWNERS ASSOC. 208-558-7244
Address: H.C. 66, BOX 49
ISLAND PARK, ID 83429

2. Date of Priority: SEP 15, 1904

3. Source: HOWE SPRINGS Stream Trib. to: PITTSBURG CREEK
PITTSBURG CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
16N	43E	33	SE	SE			FREMONT
		34	SW	SW			FREMONT

5. Description of diverting works:
PIPELINE TO PUMP TO PLACE OF USE.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
DOMESTIC	01/01	12/31	1.500		
IRRIGATION	04/15	10/15	1.500		

7. Total Quantity Appropriated is:
1.500 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 60.0 Acre Feet Per Annum. FOR
IRRIGATION PURPOSES.

9. Non-irrigation uses:
DOMESTIC USE FOR 211 HOMES.

A21-10015

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OCT 13 1988

Department of Water Resources
Eastern District Office

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Date: 09/15/88

MICROFILMED

OCT 21 1992

