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JUN 13 2006

DEPARTMENT OF
WATER RESOURCES

Michael P. Tribe
LING, ROBINSON & WALKER
615 H Street, P. O. Box 396
Rupert, Idaho 83350
Telephone (208) 436-4717
Facsimile (208) 436-6804
ISB No. 6816

**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 No. 36-16403
	)	
Case No. 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 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 October 16, 1997), 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 October 16, 1997).

My name is

My address is

My phone number is: Work:

Home:

I am an attorney representing Jack M. Harman, Kent M. Harman, Shelly Harman, and Tamara Harman

My name is Michael P. Tribe

My address is P. O. Box 396
Rupert, Idaho 83350

My phone number is (208) 436-4717

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:

The license, which was the basis for Water Right No. 36-02061, was issued in two parts: One for 3.2 cfs and one for 1.8 cfs. The Field Examiner found a system capacity of 5.0 cfs. However, only 1.8 cfs was decreed under Water Right No. 36-02061. Therefore, this late claim is to make up for the incorrect decreed amount and to provide the claimants the full amount of water to which they are entitled.

☐ 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.)

1. License and Certificate of Water Right -- Water License No. 20315 for 3.2 cfs dated December 17, 1953, attached as Exhibit "A" to Affidavit of Jack M. Harman;

2. License and Certificate of Water Right – Water License No. 20315 for 1.8 cfs dated July (24), 1955, attached as Exhibit “A” to Affidavit of Jack M. Harman;
3. Letter to Harman Land Ranch, c/o Bob Harman, dated February 8, 2006 from James E. Stanton, a senior water resource agent for the Department of Water Resources, attached to Affidavit of Jack M. Harman as Exhibit “B”; and
4. Partial Decree for Water Right No. 36-02061 signed by Daniel C. Hurlbutt, Jr., presiding judge of the SRBA Court, dated January 15, 1998

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 \$ 100.00.

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 Tuesday, September 19, 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 Minidoka

Michael P. Tribe, duly sworn, upon oath, deposes and says:
(Name of person filing form)

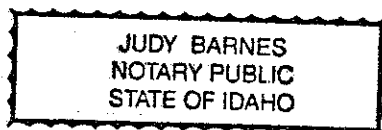
That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. § 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that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

Signature of person filing motion

Michael P. Tribe
Attorney signing in representative capacity

Subscribed and sworn to before me on: _____

June 5, 2006
(Insert Date)



Judy Barnes
Notary Public for State of Idaho
Residing at: Rupert, Idaho
My Commission expires: 2/12/2011

INSTRUCTION FOR MAILING

You must mail the motion, including all attachments, to the Clerk of the Court. **FAX filings will not be accepted by the 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 hereby certify that on the _____ day of June, 2006, I mailed the original and copies of this motion, 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, Idaho 83303-2707

2. Copies to:

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

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 033
Boise, Idaho 83734

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/addresses of parties)

Signature of person or attorney mailing the form

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

In the SENRA)
Case No. 35076)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
WATER RIGHT 36-02061

1978 JAN 15 AM 10:40
FILED
CLERK

NAME & ADDRESS: JACK W. HANCOCK
SHELLEY HANCOCK
JOHN W. HANCOCK
TAMARA HANCOCK
1500 N 445 E
ST 3 BOX 1234
RUPERT ID 83450

SOURCE: GROUNDWATER

QUANTITY: 1.8 CFS
1280.0 AFT

PRIORITY DATE: 02/20/1948

POINT OF DIVERSION: T07S R25E S18 SENESW Within MINIDOKA County
NESESE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE IRRIGATION	PERIOD OF USE Irrigation Season	QUANTITY 1.8 CFS 1280.0 AFT
-------------------------------	------------------------------	------------------------------------	-----------------------------------

PLACE OF USE:	IRRIGATION	Within MINIDOKA County			
	T07S R25E S18	NENE 40	NWNE 40	SWNE 40	SENE 40
		NESE 40	NWSE 40	SWSE 40	SESE 40
	320 ACRES TOTAL				

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


DANIEL C. HURLBUTT, JR.
PRESIDING JUDGE
Snake River Basin Adjudication

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: 36-16403

Date Received: _____

Receipt No : _____

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

1. Name of Claimant(s): Jack M. Harman Phone: (208) 312-4632
Shelley Harman
Kent M. Harman
Tamara Harman

Mailing Address: 465 East, 1500 North, Rupert, ID Zip: 83350

2. Date of Priority (Only one (1) per claim): 02-20-1948

3. Source of water supply (a): groundwater

which is tributary to (b):

4. a. Location of existing point of diversion is: Township 7 S, Range 25 E, Section 18
NE 1/4 of SE 1/4 of SE 1/4, Govt. Lot, _____ B.M., County of Minidoka

Additional points of diversion if any:

Township 7 S Range 25 E Section 18 SE 1/4 of NE 1/4 of SW 1/4,
Govt Lot _____ B.M., County of Minidoka

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 _____

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. _____

Two (2) ground water pumps connected to pivots which irrigate the place of use.

Last Name Harman Ident No. 36-16403

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 3.2 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7 Total quantity claimed: (a) 3.2 (cfs) and/or (b) _____ (acre feet)

8 Total consumptive use claimed is _____ acre feet per annum

9 Non-irrigation uses – Describe fully (e.g., Domestic: Give number of households served; Stockwater: Type and number of livestock, etc.) _____

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 $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				Total
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
7 S	25 E	18	40	40	40	40									40	40	40	40	320

Total number of acres irrigated: 320

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

12 Do you own the property listed above as place of use? Yes ☒ 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.
36-02061 or None ()

14 Remarks: _____

Last Name Harman Ident No. 36-16403

15. Basis of Claim (check one): Beneficial Use ☐ Posted Notice ☐ License ☒ Permit ☐
Decree ☐
If applicable, provide IDWR Water Right Number: _____
Court _____ Case No. _____ Decree Date _____
Plaintiff vs. Defendant: _____

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) <u><i>Shelley Harman</i></u>	Date <u>5/30/06</u>
<u><i>Janet Harman</i></u>	Date <u>5/30/06</u>
<u><i>Shelley Harman</i></u>	Date <u>5/30/06</u>
<u><i>Johny Harman</i></u>	Date <u>5/30/06</u>

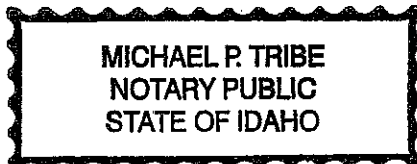
For Organizations: I do solemnly swear or affirm that I am _____ of _____, that I have signed the foregoing document in the space below as _____ of _____ and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____
Title and Organization _____ Date _____

State of Idaho)
) ss.
County of Minidoka)

Subscribed and sworn (or affirmed) before me this 30 day of ^{May}~~April~~, 2006.

[SEAL]



Michael P. Tribe
Notary Public, State of Idaho
Residing at: _____ Rupert, Idaho
My Commission expires: 4/5/2011

17. Notice of Appearance:

Notice is hereby given that I, Michael P. Tribe, will be acting as attorney at law on behalf of the claimants signing the above, and that all notices required by law to be mailed by the director to the claimants signing above should be mailed to me at the address listed below.

Signature *Michael P. Tribe*
Michael P. Tribe
LING, ROBINSON & WALKER
Address P. O. Box 396, Rupert, Idaho 83350-0396
Date May 30, 2006

Last Name Harman Ident No 36-16403