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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 21-7193

) (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 Steven J. Schuster

My address is 3311 West State Street, P.O. Box 7129, Boise, ID
83707-1129

My phone number is: Work (208) 334-8813 Home _____

I am an attorney representing Idaho Transportation Department

My name is Steven J. Schuster

My address is 3311 West State Street, P.O. Box 7129, Boise, ID
83707-1129

My phone number is (208) 334-8813

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:

There was confusion within the Idaho Transportation
Department as to whether this water right was still
needed by the Department, and whether it had been abandoned.

☐ 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.)

Application for permit to IDWR (2/28/80) and water
right license (4/29/82).

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 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:

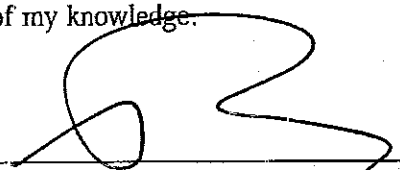
VERIFICATION (Must be completed)

State of Idaho

County of Jefferson

Tom Cole, 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

District 6, District Engineer-Tom Cole

Attorney signing in representative capacity

Subscribed and sworn to before me on _____

June 05, 2006
(Insert Date)



Sandy Hold
Notary Public for

Residing at:

My Commission expires:

ETD

Ry. Id.

10/2008

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 June 15, 2006, ~~1999~~, 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:

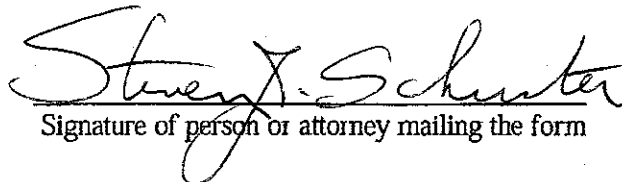
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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

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 21-7193

Date Received:

Receipt No:

Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1 Name of Claimant(s)

STATE OF IDAHO
DEPT OF TRANSPORTATION
DIVISION OF HWYS
PO BOX 97
RIGBY ID USA 83442

Phone: (208) 745-7781

2 Date of Priority: 02/28/1980

3 Source: GROUND WATER Trib. to:

4 Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
09N	42E	35	NW SE	FREMONT	

5 Description of diverting works:

6 Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
COMMERCIAL	1/01	12/31	0.02	1.2

7 Total Quantity Appropriated is:

0.02 C.F.S. and/or 1.2 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
09N	42E	35	NW	SE	COMMERCIAL	

11. Place of use in counties: FREMONT

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

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: 2

For Organizations:

I do solemnly swear or affirm that I am Tom E. Cole of
Title DISTRICT ENGINEER
the Idaho Transportation Dept. that I have signed the foregoing
Organization
document in the space below as Tom E. Cole of
Title DISTRICT ENGINEER
the Idaho Transportation Dept. and that the statements contained in the
Organization
foregoing document are true and correct.

[Signature]
Signature of Authorized Agent

DISTRICT Engr. ITD
Title and Organization

June 5, 2006

Date

State of Idaho)

County of Jefferson)

SS.

Subscribed and sworn (or affirmed) before me this of 5th June 2006

[Signature]
Notary Public

Residing at Logan, Id.

My commission Expires 10/2008

17. Notice of Appearance:

Notice is hereby given that I, Steven J. Schuster 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 Steven J. Schuster

Address 3311 West State Street, P.O. Box 7129,

Boise, Idaho 83707-1129

Date June 15, 2006

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

APPROVED

1. Name of applicant Idaho Transp. Dept., Division of Highways Phone 745-7781
Post office address Box 97, Rigby, Idaho 83442
2. Source of water supply ground water which is a tributary of _____
3. Location of point of diversion is NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 35 Township 9N
Range 42 E.B.M. Premont County, additional points of diversion if any: _____
4. Water will be used for the following purposes:
Amount 05 cfs for Commercial purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated:
a. 05 cubic feet per second and/or b. _____ acre-feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. Pitcher, pump

b. Height of storage dam _____ feet, active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet, materials used in storage dam: _____
Period of year when water will be diverted to storage _____ to _____ inclusive.
(Month/Day) (Month/Day)
c. Proposed well diameter is 6" inches; proposed depth of well is 60 feet.
7. Time required for the completion of the works and application of the water to the proposed beneficial use is 1 years (minimum 1 year - maximum 5 years).
8. Description of proposed uses:
a. If water is not for irrigation:
(1) Give the place of use of water: NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 35 Township 9N
Range 42 E.B.M.
(2) Amount of power to be generated: _____ horsepower under _____ feet of head.
(3) List number of each kind of livestock to be watered _____

(4) Name of municipality to be served _____, or number of families to be supplied with domestic water _____
(5) If water is to be used for other purposes describe: Water is used by travelers using the Ashton Rest Area.

MICROFILMED

WATER RIGHT LICENSE

that he has applied water to a beneficial use; an examination by the Department indicates that the works have a capacity for the diversion of 0.02 cfs of water from a groundwater source tributary to _____, and that the permit holder has applied to a beneficial use and established a right to use water as follows:

Subject, however, to the condition that no more than 0.02 cfs of water be diverted any one time, and that the amount of water so diverted and to which such right is entitled and entitled to be used for the purpose aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed 1.2 acre feet per year, said waters to be diverted within the NW 1/4, Section 34, Twp. 9N, Rge. 42E in the County of Fremont

The image shows a document with a grid pattern. A large, circular, stylized stamp is overlaid on the grid. The stamp contains the text "THE SOURCES" in a bold, sans-serif font, arranged in a circular pattern. The grid has several columns and rows, with some cells containing text like "9N", "42E", and "35". The document appears to be a technical or scientific drawing or map.

Total number of acres irrigated

Commercial use is Ashton Rest Area.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 29th day of April 19 82

NOT YET FILMED
Acting for

Acting for the Director

"ATTACHMENT STATE/TITLE"