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JUL 28 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 NO: 27-12003

Case No. 39576

STANDARD FORM 4

MOTION TO FILE:

LATE NOTICE OF CLAIM

AMENDED NOTICE OF CLAIM

COPY

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:

My address is:

My phone number is: Work: Home

I am an attorney representing:

MOTION TO FILE A LATE NOTICE OF CLAIM

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 stockwatering 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 (IDWR) 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 _____.

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:

The priority date should have been
10/11/1886. Also added POD's.

I am providing legal and factual documentation to support my amended Notice of Claim.

You must describe these documents and attach a readable copy.

Copy of Posted Notice.

I have attached:

An amended Notice of Claim (available from IDWR).
Payment of the following additional fees required by IDWR.

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 7-26, 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
P. O. Box 2707
Twin Falls, Idaho 83303-2707

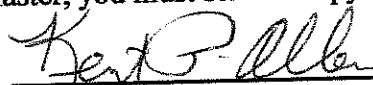
2. Copies to:

IDWR Document Depository
P. O. Box 83720
Boise, Idaho 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 Resources Division
General Litigation Section
550 West Fort Street, MSC 033
Boise, Idaho 83724

3. If you are filing an amended Notice of Claim in a subcase being heard before the Presiding Judge or Special Master, you must serve a copy on all parties to that subcase.



Signature of person or attorney mailing the form

Recorder.

Transcribed from Book C of Water Locations Page 158 Records of Bingham County, Idaho.
Transcribed from Bannock County Records, Water Location Record No. 1, page 365

AFTER LOCATION OF LAUDON J. CLARK ET AL)

Notice is hereby given the undersigned citizens of the United States hereby claim and appropriate all the waters of Slug Creek and Duck Creek Springs situated in the lower Blackfoot Valley Bear Lake or Bingham County Idaho Territory. Said appropriation of Slug Creek is made by means of a dam already constructed across said Slug Creek at the point where this notice is posted and a monument of wood erected and at the point of diversion of said waters in a ditch now completed of the following dimensions to-wit. Six feet wide in the bottom, eight feet wide on top, two feet deep, with a fall of $\frac{1}{2}$ of an inch to the rod. Said appropriation of Duck Springs is made by means of a dam thrown across said stream at the point where this notice is posted and a monument of wood four feet high erected and at the point of diversion of said waters in a ditch already constructed of the following dimensions, six feet wide in the bottom, eight feet wide on the top and one foot deep with a fall of $\frac{1}{2}$ of an inch to the rod. The waters of said streams are conducted by the means aforesaid on the following described tracts of land for agricultural and irrigation purposes to-wit: W² Sec. 31 W² Sec. 30 Tp. 8 South R. 44 E E² Sec. 25, SW⁴ & S² NW⁴ of NW⁴ of Sec. 24, NE⁴ & E² SE⁴ Sec. 23, N.² & SE⁴ & N² & SE⁴ SW⁴ Sec 14 W² & W² of E² sec 11 W² & E² Sec. 2 Tp. 8 South of R. 43 E.B.M. Dated October 11th A. D. 1886

Landen J. Rich
Ghas J. Oakley
Joseph S. Clark
Christian Wallantine
James S. Nye
Solon W. Robison
Minerva M. Woolley.

TERRITORY OF IDAHO COUNTY OF BEAR LAKE) SS I hereby certify that I did on the 11th day of October 1886 at the point indicated in the foregoing post up a notice of which the within are true copies.
J. C. Rich

Recorded at the request of C. Wallantine Oct. 12. 1886 at 5.50 P. M. J. Hasenfratz Co. Recorder, By J. W. Stucki Deputy

TERRITORY OF IDAHO COUNTY OF BEAR LAKE) SS I hereby certify that the following is a full, true and correct copy of a water location recorded in Book 1 Page 92 of Miscellaneous Records of said County. Witness my hand and Official seal at Paris, Idaho, this 21st day of October A. D. 1889 (Seal) T. L. Montonya Co. Recorder

Recorded at the request of Jas. H. Hawley May 19th 1890, at 9:45 A.M. Geo. A. Robethan, Recorder.

Transcribed from Book C of Water Locations Pages 159 & 160 Records of Bingham County, Idaho.
Transcribed from Bannock County Records, Water Location Record No. 1, page 367

AFTER LOCATION OF JOSEPH W. LINDFORD)

Notice is hereby given that the undersigned a citizen of the United States hereby claims and appropriates so much of the waters of Diamond Creek in the upper Blackfoot Valley, Bear Lake or Bingham County, Idaho Territory as will flow through a ditch already constructed of the following dimensions, to-wit: Eight feet wide in the bottom, ten feet wide on the top and two feet x with a fall of one inch to the rod. Said appropriation is made by

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[illegible]

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 27-12003
Date Received: 4/14/2004
Receipt No:
Received By:

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

1. Name of Claimant(s)

PRESTON R ALLEN & SONS PARTNERSHIP Phone: (208) 349-5599

2601 E 300 S
DECLO ID USA 83323

2. Date of Priority: ~~05/01/1931~~ 10/11/1886

3. Source: SLUG CREEK Trib. to: BLACKFOOT RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
~~08S~~	~~43E~~	~~2~~	~~NE NW~~	~~CARIBOU~~	
~~08S~~	~~43E~~	~~2~~	~~NW NE~~	~~CARIBOU~~	
08S	43E	14	SE NE	CARIBOU	
08S	43E	13	NW SW	CARIBOU	
~~08S~~	~~43E~~	~~14~~	~~NW NE~~	~~CARIBOU~~	
~~08S~~	~~43E~~	~~2~~	~~SE NW~~	~~CARIBOU~~	
~~08S~~	~~43E~~	~~13~~	~~SW SW~~	~~CARIBOU~~	
~~08S~~	~~43E~~	~~24~~	~~SW NE~~	~~CARIBOU~~	
<u>08S</u>	<u>43E</u>	<u>24</u>	<u>NE SE NW</u>	<u>CARIBOU</u>	

5. Description of diverting works:

DAM & DITCHES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	4/01	11/01	26.68	
STOCKWATER	1/01	12/31	0.24	

7. Total Quantity Appropriated is:
26.92 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
08S	43E	2	NW	NE	IRRIGATION	20
			SE	NE	IRRIGATION	20
			NE	NW	IRRIGATION	40
			SE	NW	IRRIGATION	20
			NE	SE	IRRIGATION	35
Section Acres						135
08S	43E	11	SW	SE	IRRIGATION	15
			SE	SE	IRRIGATION	40
Section Acres						55
08S	43E	13	NW	NW	IRRIGATION	40
			SW	NW	IRRIGATION	40
			NW	SW	IRRIGATION	40
			SW	SW	IRRIGATION	40
Section Acres						160
08S	43E	14	NE	NE	IRRIGATION	40
			NW	NE	IRRIGATION	15
			SW	NE	IRRIGATION	15
			SE	NE	IRRIGATION	40
			NE	SW	IRRIGATION	20
			NE	SE	IRRIGATION	40
			NW	SE	IRRIGATION	35
			SW	SE	IRRIGATION	6
			SE	SE	IRRIGATION	30
Section Acres						241
Total Acres						591

11. Place of use in counties: CARIBOU

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

13. Other Water Rights Used:

14. Remarks:

15. Basis of Claim: Statutory Claim

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 Organizations:

I do solemnly swear or affirm that I am Co-owner & Partner of _____
Title

Preston R Allen's Son Partnership that I have signed the foregoing
Organization

document in the space below as Co-owner & Partner of _____
Title

Preston R Allen's Son Partnership and that the statements contained in the
Organization

foregoing document are true and correct. Kend G Allen
Signature of Authorized Agent

Partner
Title and Organization

7-26-06
Date

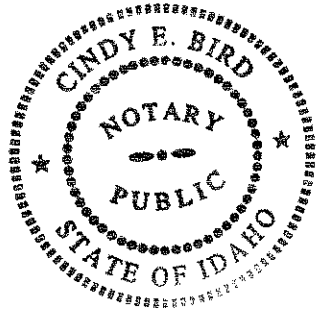
State of Idaho)
County of Bannock) SS.

Subscribed and sworn (or affirmed) before me this 26th day of July, 2006

Cindy E Bird
Notary Public

Residing at Lava Hot Springs

My commission Expires May 1, 2007



VERIFICATION (Must be completed)

State of Idaho

County of Bannock

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

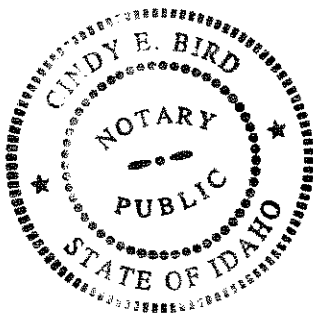
That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that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

Kent Allen
Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on 26th day of July, 2006.

Cindy E Bird



Notary Public for FDWR.

Residing at: Lava Hot Springs

My Commission expires: May 1, 2007.