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SEP 08 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

Case No. 39576

A. Subcase 35-2019
(Insert water right number
From the Objection Form)

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 file 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 _____ Jeffrey B. & Bridgette Stieglitz _____

My name is _____ Kent W. Foster _____

My address is _____ PO Box 50130, Idaho Falls, ID 83405-0130 _____

My phone number is _____ 208-523-0620 _____

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:

Mr. & Mrs. Stieglitz acquired this property from Mrs. Donnetta Nelson two years ago and understood that the water right was valid at the time. It was only recently discovered that no SRBA Claim had ever been filed and Mrs. Nelson had no idea that it was necessary to file a claim or why one was not filed. Her husband passed away in 2003; they were an elderly couple and Mrs. Nelson has no recollection of having ever seen any notices or other written documents requiring the filing of a claim. See attached affidavits.

☐ 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 a 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 you Notice of Claim.)

This right was a licensed right. See attached Affidavit of Mrs. Donnetta Nelson

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 \$ 225.00.

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, November 21, 2006, at 1:30 p.m.
(Insert Date and Time)
at the SRBA Court 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:

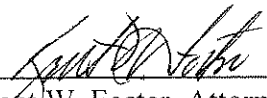
- ☐ An amended Notice of Claim (available from IDWR).
- ☐ Payment of the following additional fees required by IDWR:

VERIFICATION

State of Idaho)
)ss:
County of Bonneville)

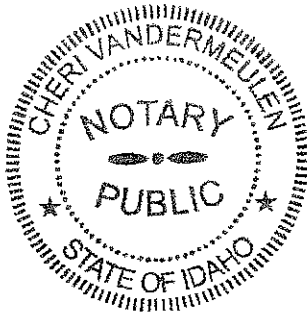
Kent W. Foster, being first duly sworn, upon oath, deposes and says:

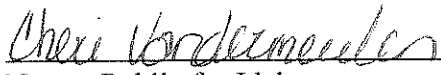
That I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.



Kent W. Foster, Attorney

Subscribed and sworn to before me on this 5th day of September, 2006.





Notary Public for Idaho
Residing at: Idaho Falls, Idaho
My Commission expires: July 7, 2009

CERTIFICATE OF MAILING

I certify that on this 5th day of September, 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, ID 83303-2707

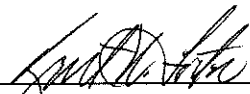
2. Copies to:

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, 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 amend 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.



Kent W. Foster, Attorney

G:\WPDATA\KWF\13886 Stieglitz, Jeff\Motion to File Late Claim wpd

**AFFIDAVIT OF
DONNETTA M. NELSON**

STATE OF IDAHO)
)ss
County of Bingham)

Donnetta M. Nelson being first duly sworn on her oath, deposes and says:

1. I am eighty-three (83) years of age, having been born December 13, 1922, a citizen of the United States, residing at 757 Aspen Drive, Shelley, Idaho 83274, and make this affidavit of my own personal knowledge.
2. I was married to the late Merland E. Nelson who was born July 21, 1920, and died July 28, 2003, at the age of eighty-three (83). During our marriage, we acquired approximately 160 acres of land in Bingham County, Idaho, from my husband's mother in about 1971. The land was described as:

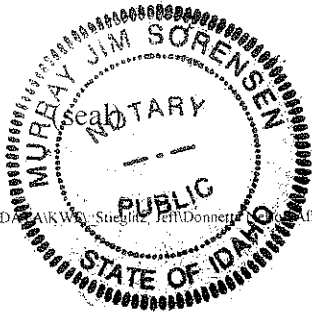
T4N. R32E., Sec. 20: NE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$

- The above land had been owned by my husband's parents prior to our purchase from his mother. His father, Ed Nelson, passed away in about 1969. After we acquired the land, my husband installed a pump in Upper Spring Creek at the point of diversion, with mainline to a sprinkling system, and irrigated the land by means of the sprinkler system every year until his health prevented him from doing so, until sometime before his death. My husband had open heart surgery in 1985 and although he continued to irrigate the land, his health was never very good after the surgery.
3. My husband always did the irrigating and took care of matters related to the water rights. I have been informed that no claim was ever filed in the Snake River Basin Adjudication Proceeding, but I do not know why. I personally do not remember ever having been aware that such a claim might have been required.
 4. In 2004, I sold the property to Jeffrey B. and Bridgette Stieglitz. In connection with the sale, someone checked on the water right and obtained a record showing the water right license was active. I have given that and other papers to Mr. Stieglitz. We assumed from the record that the water right was valid and never knew that anything else might have been required.

DATED this 23 day of August, 2006.

Donnetta Nelson
Donnetta Nelson

SUBSCRIBED AND SWORN TO before me this 23 day of August, 2006.



G:\WPDI\AKW\Stuegitz, Jeff\Donnetta Affidavit.wpd.cdv

[Signature]
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My commission expires: 8-21-06

**AFFIDAVIT OF
JEFFREY B. STIEGLITZ**

STATE OF IDAHO)
)ss
County of Bonneville)

Jeffrey B. Stieglitz being first duly sworn, on his oath deposes and says:

1. I am over the age of eighteen (18) years, a citizen of the United States, residing at 646 US. Highway 91, Firth, Idaho 83236, and make this affidavit of my own personal knowledge.
2. On or about April of 2004, my wife, Brigitte Stieglitz, and I, purchased from Mrs. Donnetta M. Nelson, the following described real property situate in the County of Bingham, State of Idaho, to wit:

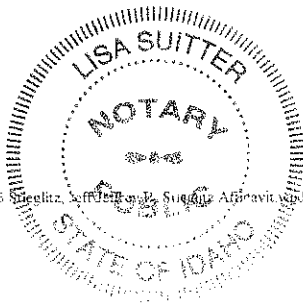
T4S., R32E.B.M., Sec. 20 NE $\frac{1}{4}$ NW $\frac{1}{4}$; W $\frac{1}{2}$ NE $\frac{1}{4}$; NW $\frac{1}{4}$ SE $\frac{1}{4}$.
3. During the time we were considering the purchase of said land, I became aware that the land had a sprinkling system thereon and had previously been irrigated. When I sought to learn whether there was a water right appurtenant to the land, we were informed that there was and Mrs. Nelson provided some documents relating to a water right, copies of which are attached hereto. From this information, I understood there was a licensed water right number 35-2019, and since the documents indicated the water right was active, I assumed there was no further action needed with respect to the water right. In fact, I checked some information on the Internet which also disclosed that Water Right License No. 35-2019 was active and based on that confirmation, I concluded that the water right was in satisfactory condition and completed the purchase of the land.
4. After the purchase of the land, I prepared and filed a Notice of Change of Ownership form with the Idaho Department of Water Resources and enclosed with that notice the computer generated record I obtained confirming that the license was still active, assuming that was all that was necessary.
5. I have recently been informed that our predecessors in interest never filed an SRBA claim claiming the referenced water right in the adjudication proceeding and that such a claim needed to have been filed.

DATED this 31 day of August, 2006.

Jeffrey B. Stieglitz

SUBSCRIBED AND SWORN TO before me this 31 day of August, 2006.

(seal)



Lisa Sutter
Notary Public for Idaho

Residing at Idaho Falls, Idaho

My commission expires: 03-27-2008

G:\WPDATA\KWF\13886 Stieglitz, Jeffrey B. Sutter Affidavit and cv

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 35-2019

Date Received _____

Receipt Number _____

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s) Jeffrey B. & Bridgette Stieglitz Phone (208) 346-6566

Mailing Address 646 US Hwy. 91, Firth, ID Zip 83236

2. Date of Priority (Only (1) per claim) May 23, 1910

3. Source of water supply (a) Upper Spring Creek

which is tributary to (b) Spring Creek

4.a. Location of existing point of diversion is:

Township 4S Range 32E Section 20, 1/4 of NW 1/4 of NE 1/4, Govt. Lot ,

County of Bingham

Additional points of diversion if any: _____

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 _____

ending point 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. Pump in Spring Creek at point of diversion with mainline to irrigated land which replaced Owen headgate and Ditch in about 1971.

6. Water is claimed for the following purposes: _____ (Both dates are inclusive) (cfs) (acre feet)

For Irrigation purposes from 04/01 to 10/31 amount 2.5 cfs or _____

7. Total quantity claimed (a) 2.5 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

COPY

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) _____
10. Description of place of use:
- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
 - If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instruction for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TLS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4S	32E	20		40	40		25									20			125

Total number of acres irrigated 125

11. In which county(ies) are lands listed above as place of use located? Bingham
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.
_____ or None (☒)
14. Remarks: _____
15. Basis of Claim (Check one) Beneficial Use ☐ Posted Notice ☐ Permit ☐ Decree ☐ License ☒
If applicable provide IDWR Water Right Number 35-2019
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

16. Signature(s)

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

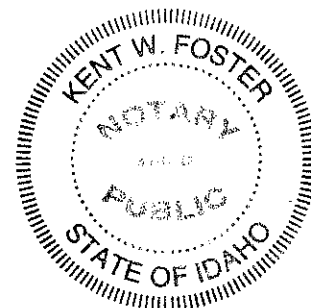
Signature of Claimant(s) [Signature] Date 9.5.06

Date _____

State of Idaho)
) SS.
County of Bonneville)

Subscribed and sworn (or affirmed) before me this 5th day of September, 2006.

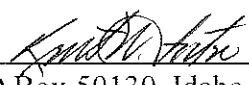
[Signature]
Notary Public Idaho
Residing at IDAHO FALLS
My Commission Expires 11/20/2010



Last Name Stieglitz, Jeffrey B. & Brigitte Ident. Number 35-2019

17. Notice of Appearance:

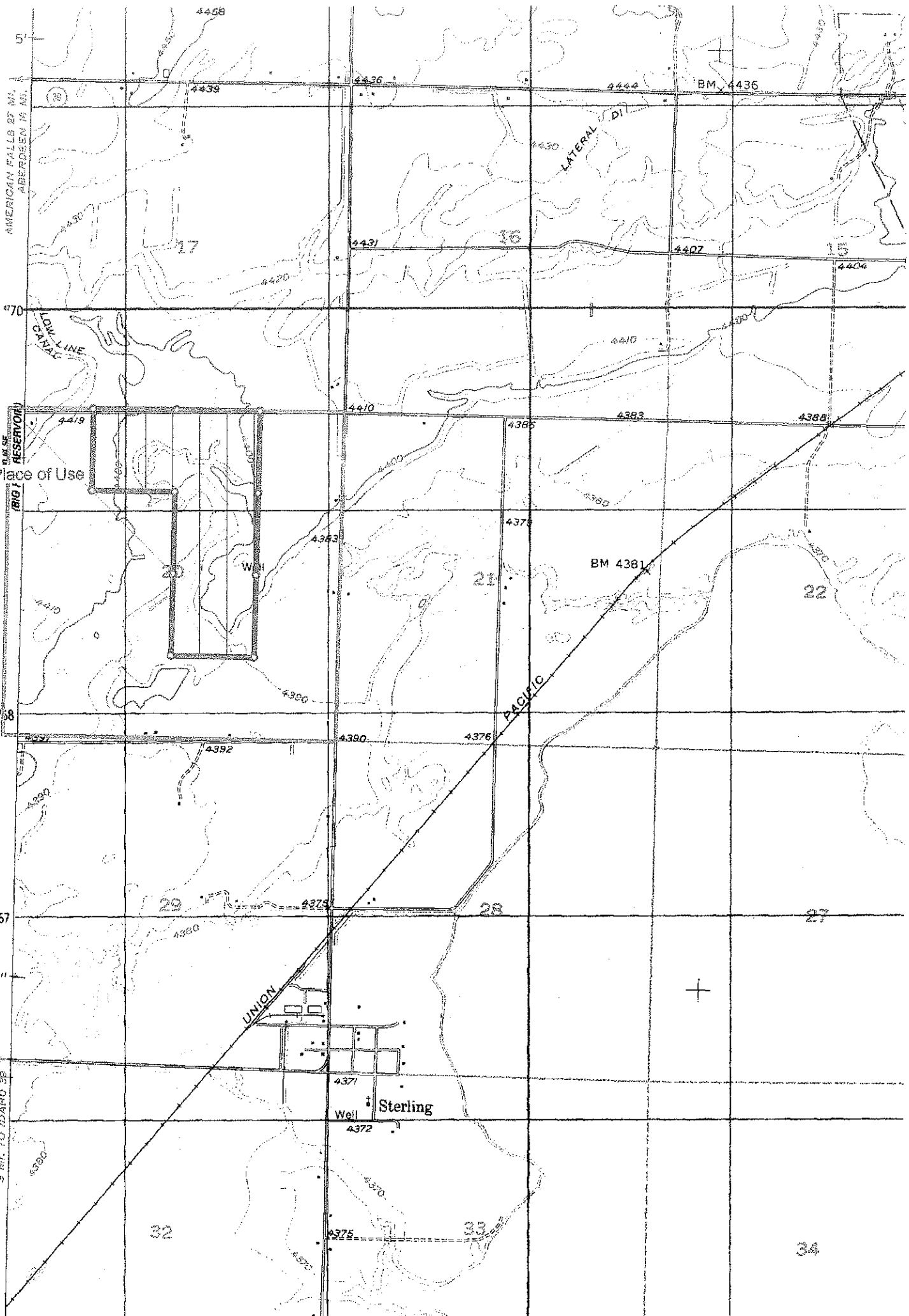
Notice is hereby given that I, Kent W. Foster will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature 

Address: PO Box 50130, Idaho Falls, ID 83405-0130

Date 9/5/16

G:\WPDATA\KWF\13886 Stieglitz, Jeff\Claim wpd.cdv



35-2019 Place of Use

2'30"

Sterling

Well

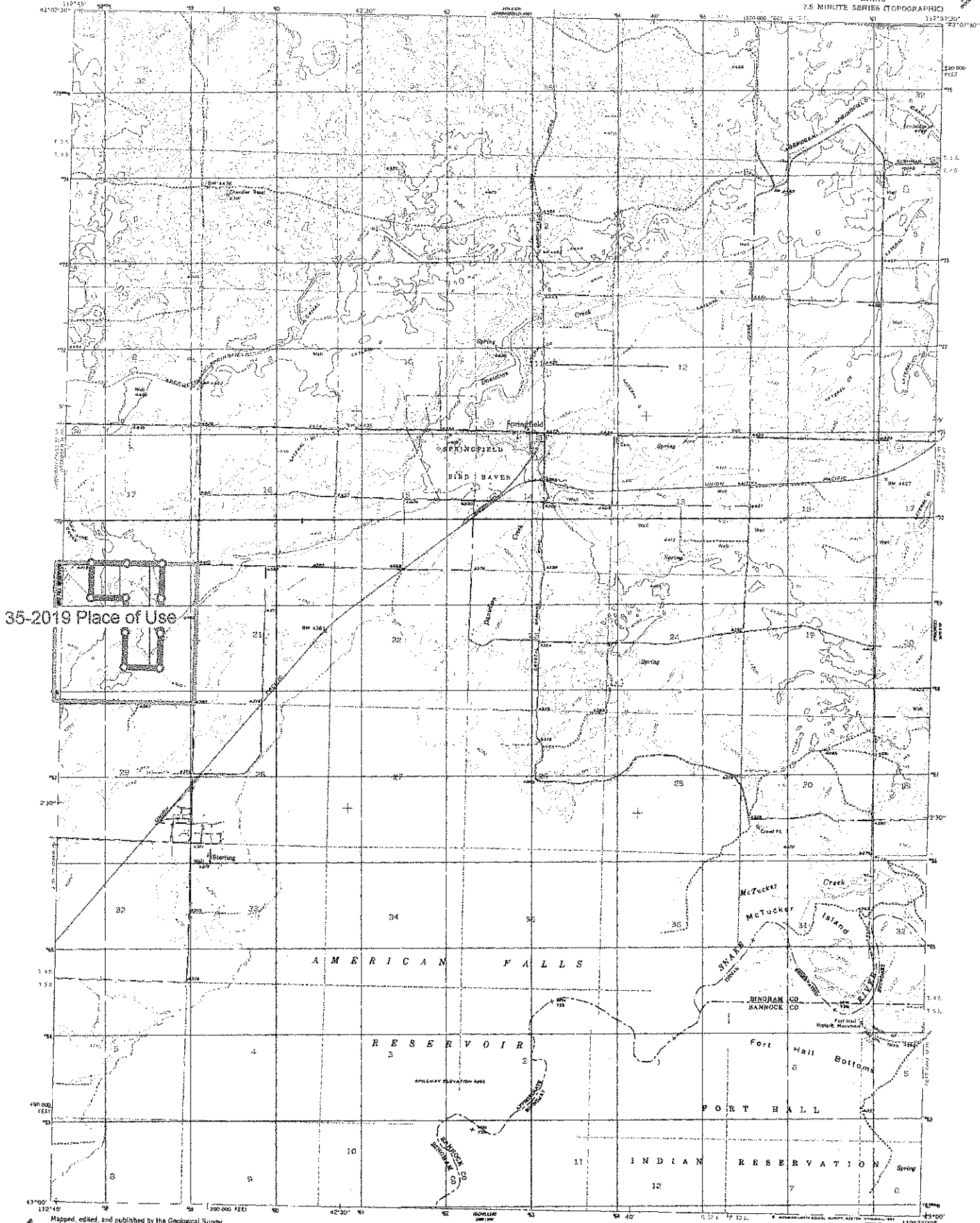
UNION

RESERVOIR

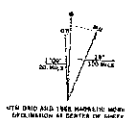
AMERICAN FALLS 27 MI.
ABERDEEN 14 MI.

3 MI. TO IDAHO SP

35-2019 Place of Use



Mapped, edited, and published by the Geological Survey
Control by USGS and USC&GS
Topography from aerial photographs by Keith photo
and by observable survey 1955. Aerial photographs taken 1950
Photocopy projection. 1927 North American datum.
10,000-foot grid based on Idaho coordinate system, east zone
1000 under Universal Transverse Mercator grid ticks,
zone 12. Shown in blue. 1927 North American datum.
To place on the projected North American Datum 1983,
move the projection lines 12 meters north and
87 meters east as shown by dashed corner ticks.
Dashed land lines indicate approximate locations.
Unchecked elevations are shown in brown.
There may be private buildings within the boundaries of
the National or State Reservations shown on this map.



SCALE 1:24,000
CONTOUR INTERVAL 10 FEET
NATIONAL GEODETIC VERTICAL DATUM OF 1929
THIS MAP COMPLIES WITH NATIONAL MAP ACCURACY STANDARDS
FOR SALE BY U.S. GEOLOGICAL SURVEY, DENVER, COLORADO 80225, OR RESTON, VIRGINIA 22092
A POLAR DESCRIBING TOPOGRAPHIC MAP AND SYMBOLS IS AVAILABLE ON REQUEST

ROAD CLASSIFICATION
Heavy-duty Highway Light-duty Highway
Medium-duty Highway Unimproved dirt
U.S. Route State Route
SPRINGFIELD, IDAHO
H4300-W11227-67.5
1965
REPLACES H4300-W11227-67.5
DATA 1950 BY G.W. SEARCY 1965