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Department of Water Resources
Adjudication Bureau

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. 82-12238
	)	
	)	
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.

X I have read *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996).

My name is United States of America, USDA Forest Service

My address is 550 W. Fort St. MSC 033, Boise, Idaho 83724

My phone number is: Work _____ Home _____

I am an attorney representing: United States of America on behalf of the USDA Forest Service

My name is David L. Negri

My address is 550 W. Fort St. MSC 033, Boise, ID 83724

My phone number is 208-334-1936

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.

X I did not file a Notice of claim to the use of water in the SRBA because:

The United States believes that this Motion to File a Late Notice of Claim meets the requirements of AO1. The failure to file a claim for this water use was not willful. A notice of claim was not filed on this particular water use because it had been overlooked until affidavits were being prepared for another water right claim at Adam's Work Center. The Forest Service has filed over 10,000 consumptive use water claims in the SRBA since 1993. Approximately 250 of these were federally reserved claims for water used at administrative sites. The Forest Service has been diligent in its efforts to meet all deadlines set by statute and by the SRBA Court in the processing of these numerous claims over a period of 18 years. This is the first Motion to File a Late Notice of Claim made by the Forest Service.

Granting this motion will not result in prejudice to any party. The granting of this motion, as well as the resulting abstract of the claim, will be duly noticed in the docket sheet and any party wishing to file an objection will have an opportunity to do so under AO1 and the Idaho Rules of Civil Procedure. Furthermore, this is a federally reserved water right claim that will be heard by the SRBA Court pursuant to I.R.C.P §42-1411A, at which time the Forest Service will present the prima facie case of the existence of the water right established under federal law.

The Idaho Department of Water Resources does not investigate federally reserved water right claims and therefore will not be affected by the granting of this motion.

- ☐ 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.)

The claim is for the Forest Service's Adams Work Center administrative site on the Nez Perce National Forest. The water is necessary for administering National Forest System programs and to fulfill primary purposes of the Forest Service's Organic Act.

I have attached:

- ☒ A fully completed Notice of Claim
- ☐ 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 \$ 0.

Pursuant to United States v. Idaho ex rel. Dir., Idaho Dep't of Water Resources, 508 U.S. 1, 113 S. Ct. 1893, 123 L. Ed. 2d 563 (1993), the McCarran Amendment (43 U.S.C. § 666(a)) does not waive the United States' sovereign immunity from fees required by the State of Idaho.

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, December 19, 2006, at 1:30 p.m. 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 Ada

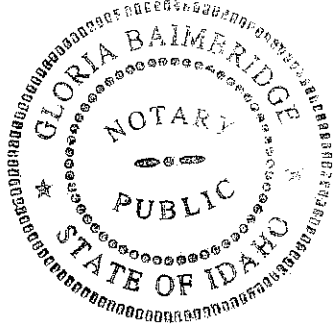
Steven M. Spencer, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

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) and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

Steven M. Spencer
Steven M. Spencer

David Negri
David L. Negri
Attorney for the United States of America

Subscribed and sworn to before me on 9-22-06
(Insert Date)



Gloria Baimbridge
Notary Public for Idaho
Residing at Boise, Idaho
My Commission expires: 10-07-08

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 Sept. 22, 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:

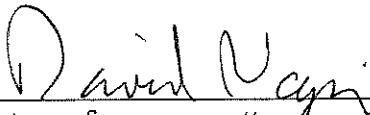
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

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



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

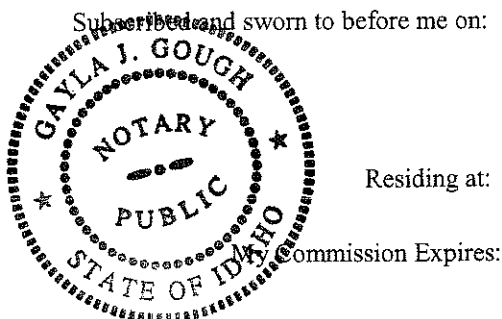
Ident. Number: **82-12238**

RESERVED UNDER FEDERAL LAW

1. Name of Claimant: UNITED STATES OF AMERICA on behalf of the U.S.D.A. Forest Service
Address: 550 W. Fort Street MSC033
Boise ID 83724
2. Date of Priority: 05/22/1905
3. Source of water: Spring Tributary: Adams Creek
4. Location Meridian BOISE
Description of Diversion Works: Headbox From: Spring
Location of Point of Diversion
T: 27 N R 03 E S: 23 NWSESE L 2
Location of Place of Use
T: 27 N R 03 E S: 26 NENE L 1 ac: 0
5. Quantity claimed: Period Quantity For
1 / 01 -- 12 / 31 0.04 CFS Administrative
6. Total Consumptive Use Claimed for Present and Future Use is:
0.04 CFS
7. Present and future uses to which the water is or will be used:
Administrative
8. Remarks:
State Basin: 82
National Forest: Nez Perce
Forest Service Record ID: 1 17 17060305 1 0 1211
Adams Work Center

I verify to the best of my knowledge the statements contained in this document are true and correct.

Steven M. Spencer
STEVEN M. SPENCER
Consumptive Use Water Specialist



Sep 9 2005
[Signature]
Notary Republic