

RECEIVED
OCT 11 2005
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 <u>63-4037</u>
	)	(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 _____

My address is _____

My phone number is: Work _____ Home _____

I am an attorney representing Bluegrass, LLC

My name is Andrew J. Waldera

My address is Moffatt Thomas, P.O. Box 829, Boise, ID 83701-0829

My phone number is 208-345-2000 Fax: 208-385-5384

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:

☐ 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.)

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 \$ _____.

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 _____
(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:
please see attachment

- ☒ I am providing legal and factual documentation to support my amended Notice of Claim. You must describe these documents and attach a readable copy.

please see attachment

I have attached:

- ☒ An amended Notice of Claim (available from IDWR).

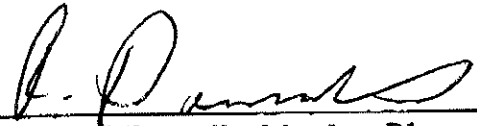
- ☒ Payment of the following additional fees required by IDWR:

Not applicable. Upon discussion with Don Shaff of IDWR, amended notices
of claim do not require any additional payment of fees.

VERIFICATION (Must be completed)State of KentuckyCounty of Oldham

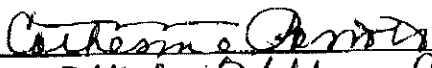
Robert M. Donnelly, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

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.


Robert M. Donnelly, Member, Bluegrass, LLC

Attorney signing in representative capacity

Subscribed and sworn to before me on October 3, 2006
(Insert Date)


Notary Public for Oldham Co
Residing at: 9200 US Hwy 40
My Commission expires: 6-6-09

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 October 10, ²⁰⁰⁶ ~~199~~, 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

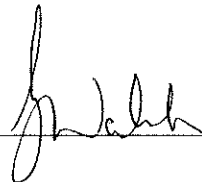
United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

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)

Charles L. Honsinger
Ringert Clark Chtd.
455 S. Third Street P.O. Box 2773
Boise, ID 83701-2773

Dana L. Hofstetter
608 W. Franklin
Boise, ID 83702



Attorneys for Bluegrass, LLC and David Hendrickson

Scott L. Campbell, ISB No. 2251
Andrew J. Waldera, ISB No. 6608
MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED
101 S. Capitol Blvd., 10th Floor
Post Office Box 829
Boise, Idaho 83701
Telephone (208) 345-2000
Facsimile (208) 385-5384
22-797.0

RECEIVED

OCT 11 2006

DEPARTMENT OF
JUDICIAL SERVICES

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

Subcase No. 63-04037

**AFFIDAVIT OF DAVID HENDRICKSON IN
SUPPORT OF MOTION TO FILE AMENDED
NOTICE OF CLAIM**

STATE OF IDAHO)
) ss.
County of Ada)

David Hendrickson, having been duly sworn upon oath, deposes and states as
follows:

1. I am over the age of 18 years and make this affidavit based upon personal
information.

2. Water right no. 63-04037 is owned by Bluegrass, LLC, a limited liability company owned by Robert Donnelly. As such, Mr. Donnelly owns real property to which water right no. 63-04037 is appurtenant via his ownership of Bluegrass, LLC.

3. I am the lessee of the real property to which water right 63-04037 is appurtenant. I am also the operator and manager of Quail Hollow Golf Club, which operates a golf course upon the real property consisting of approximately 110 acres located in Sections 21 and 28, Township 4N, Range 2E. Water right no. 63-04037, among others, is used to irrigate such property. As the Lessee of the property, I have a real property right/interest in both the real property and the water right appurtenant to it, including, among others, water right nos. 63-04037 and 63-09758.

4. The Quail Hollow golf course is irrigated by water right nos. 63-04037, 63-09758, and 63-21875, among others. The point of diversion for water right no. 63-04037 consists of a ground water well located in the NW 1/4 of the NW 1/4 of the NE 1/4 of Section 28. The points of diversion for water right no. 63-09758 consists of three ground water wells located as follows:

- (a) NW 1/4 of the NW 1/4 of the NE 1/4 of Section 28,
- (b) NE 1/4 of the NW 1/4 of the NE 1/4 of Section 28, and
- (c) NW 1/4 of the SW 1/4 of Section 28.

Water right no. 63-21875 consists of a surface water diversion from Stewart Gulch Creek, located in the NE 1/4 of the NW 1/4 of the NE 1/4 of Section 28.

5. The golf course irrigation system commingles irrigation water from the water rights described above in Paragraph 4 in a main holding pond also located on the golf course property. The water is then pumped into an automated sprinkler irrigation system for

irrigation of the entire golf course as well as maintenance of a series of nine aesthetic ponds located throughout the golf course.

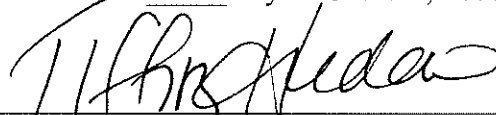
6. The above referenced golf course irrigation system has been operated in this manner and configuration since the course's construction in 1982.

7. While water right no. 63-09758 was claimed reflecting the entire 110 acre place of use (the golf course), water right nos. 63-04037 and 63-21875 were not so claimed originally. Thus, Bluegrass, LLC desires to file Amended Notices of Claim for water right nos. 63-04037 and 63-21875 to provide for a permissible place of use comprising of the irrigation of the entire approximately 110 acre Quail Hollow golf course, as has been done since 1982.



David Hendrickson

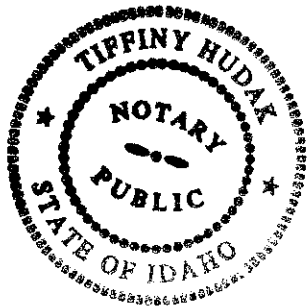
SUBSCRIBED AND SWORN to before me this 5th day of October, 2006.



NOTARY PUBLIC FOR IDAHO

Residing at Boise

My Commission Expires 9/16/09



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of October, 2006, I caused a true and correct copy of the foregoing **AFFIDAVIT OF DAVID HENDRICKSON IN SUPPORT OF MOTION TO FILE AMENDED NOTICE OF CLAIM** to be served by the method indicated below, and addressed to the following:

Director
IDAHO DEPARTMENT OF WATER RESOURCES
322 E. Front Street, 6th Floor
P.O. Box 83720
Boise, ID 83720
Fax: 387-6700

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

Charles L. Honsinger
RINGERT CLARK CHTD.
455 S. Third Street P.O. Box 2773
Boise, ID 83701-2773
Fax: 342-4657

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

Dana L. Hofstetter
608 W. Franklin
Boise, ID 83702
Fax: 424-8774

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

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

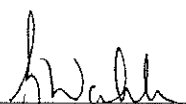
☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

Chief
Natural Resources Division
OFFICE OF THE ATTORNEY GENERAL
STATE OF IDAHO
P.O. Box 44449
Boise, ID 83711-4449

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

UNITED STATES DEPARTMENT OF JUSTICE
Environment and Natural Resources Division
550 West Fort Street, MSC 033
Boise, ID 83724

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile



Andrew J. Waldera

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLSIN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 63-04037

Date Received

Receipt Number

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

RECEIVED

OCT 11 2006

DEPARTMENT OF
LAND REVENUE

Please type or print clearly

1. Name of Claimant (s) Bluegrass, LLC Phone (208) 344-7807
Mailing Address 4520 North 36th Street, Boise, Idaho Zip 837032. Date of Priority (Only one (1) per claim) October 1, 19313. Source of water supply (a) Ground Water
which is tributary to (b) _____4. a. Location of existing point of diversion is: Township 4N Range 2E Section 28,
NW 1/4 of NW 1/4 of NE 1/4, Govt. Lot, _____ B.M., County of Ada

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.

The point of diversion for water right 63-09758 located at T4N R2E S28, NW SW (cold water well) is utilized first. A 20 h.p. pump in this cold water well delivers to underground mainline to main holding pond. The point of diversion for water right 63-04037 consists of a 30 h.p. pump in lower geothermal well located in T4N R2E S28, NW NW NE to main holding pond. Another point of diversion for water right 63-09758 consists of a 40 h.p. pump in an upper geothermal well located in T4N R2E S28, NE NW NE which diverts to Stewart Gulch Creek and then from the Creek to a pond, which overflows into main holding pond. All water rights are commingled in main holding pond. Via a series of pumps (75 h.p., 75 h.p., 30 h.p., and 7.5 h.p.), water is pumped out of main holding pond into automated irrigation system with sprinklers applying water to the Quail Hollow Golf Course and a series of nine (9) aesthetic ponds located thereon.

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 2.4 or _____

For aesthetic purposes from 1/01 to 12/31 amount _____ or 2

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 2.40 (cfs) and/or (b) _____ (acre feet)

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

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) Aesthetic purposes for series of 10 ponds

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 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
4N	2E	21											0.7	1.5		5.1	34.9		42.2
		28		20.5			28.7	11.4	0.3	7.1									68.0

Total number of acres irrigated 110.2

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

12. Do you own the property listed above as place of use? Yes X 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.
63-09758 and 63-21875 or None ()

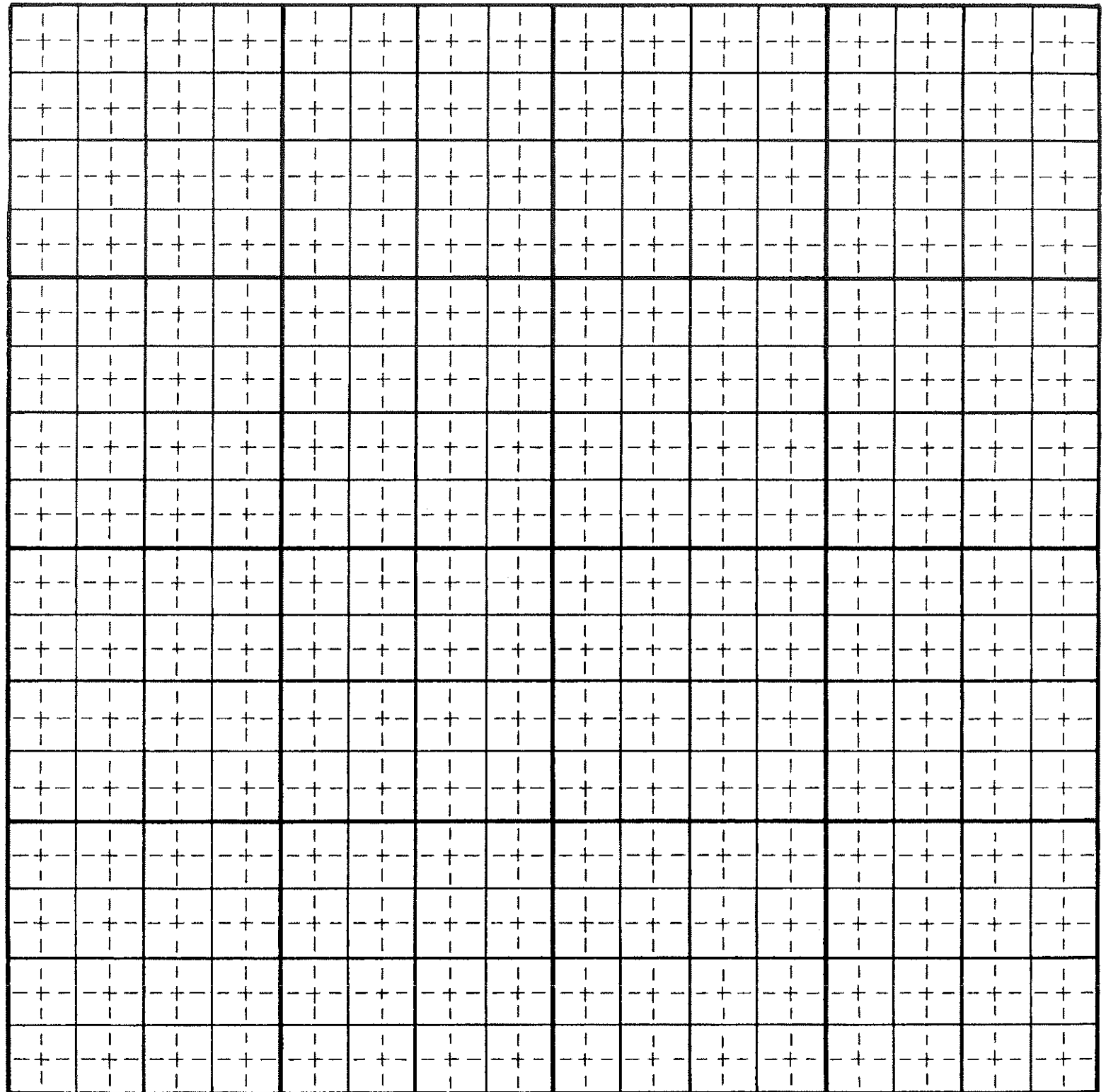
14. Remarks:

The irrigation system that is used on this property began irrigating the above-described place of use in 1982, prior to the accomplished transfer deadline of November 19, 1987, set forth in Idaho Code Section 42-1425. The main holding pond is approximately 25,000 square feet in size. The remaining nine (9) aesthetic ponds range in size from approximately 1,000 square feet to 35,000 square feet. See attached map for individual pond location and size.

Last Name Bluegrass, LLC Ident No. 63-04037

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile See attached map.



15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License ☒ Permit _____
 Decree _____ 63-4037
 If applicable provide IDWR Water Right Number _____
 Court _____ Case Number _____ 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 2

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

Signature of Claimant (s) _____ Date _____
 _____ Date _____

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

Signature of Authorized Agent Robert M. Donnelly
 Title and Organization Robert M. Donnelly, Member, Bluegrass, LLC Date _____

State of Idaho/or Kentucky)
 County of Oldham) SS.

Subscribed and sworn (or affirmed) before me this 3rd day of October, 2006

SEAL

Notary Public Catherine Perito
 Residing at 9200 US Hwy 42
 My Commission Expires 6-6-06

Please Print Name

17. Notice of Appearance:
 Notice is hereby given that I, Andrew J. Waldera 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 Andrew J. Waldera
 Address Moffatt Thomas, PO Box 828, Boise, Idaho 83701
 Date October 10, 2006

Last Name Bluegrass, LLC Ident. Number 63-04037

BOI_MT1:624598.1

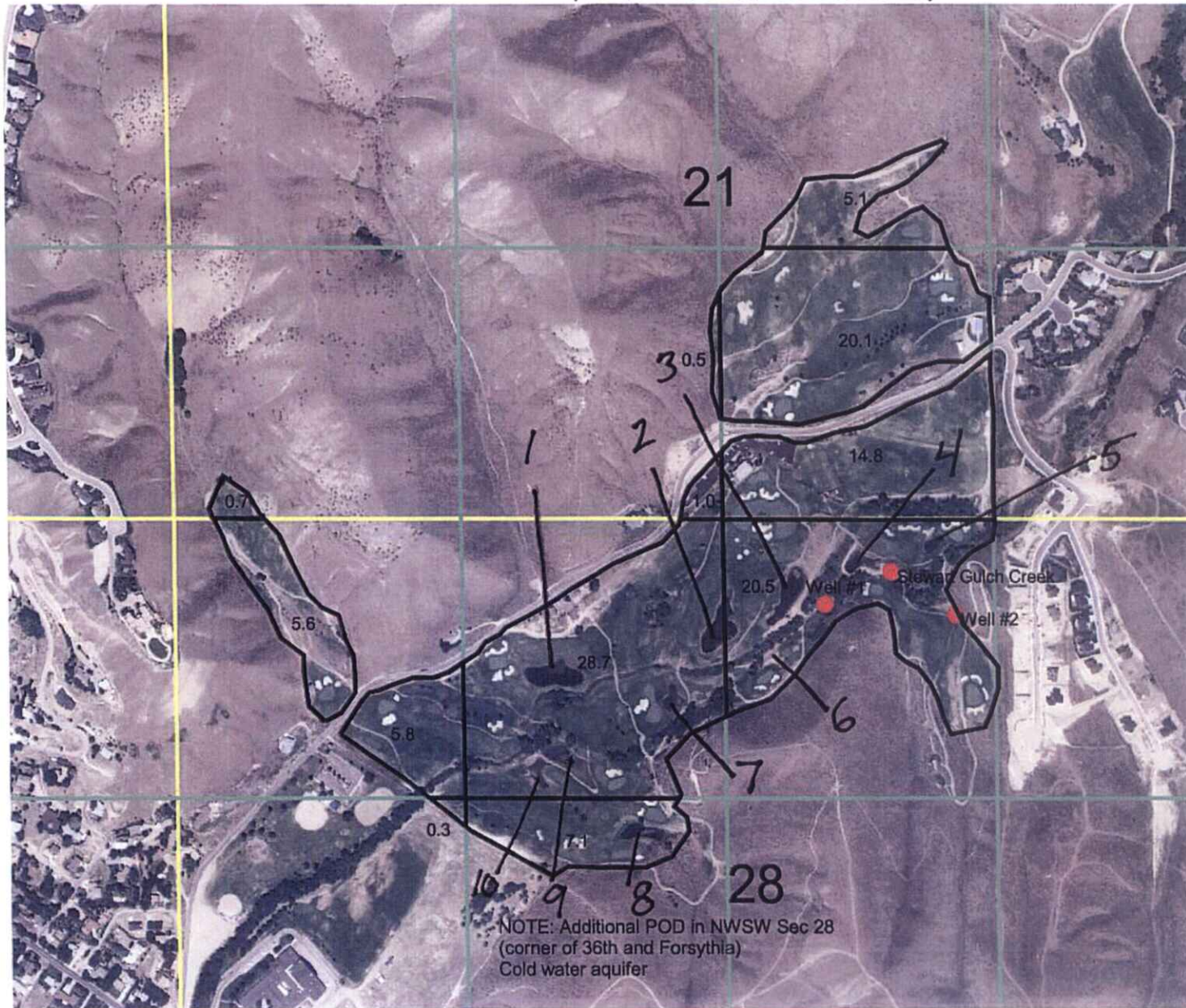
0

1 Miles



Quail Hollow Golf Course
Place of Use for 63-9758
(T4N, R2E, sections 21 and 28)

POND SIZE
SQ FT/ ACRE



- 1 - 30,000 / .69
- 2 - 35,000 / .80
- 3 - 25,000 / .57
- 4 - 6,000 / .14
- 5 - 5,000 / .11
- 6 - 6,000 / .14
- 7 - 5,000 / .11
- 8 - 9,000 / .21
- 9 - 1,000 / .03
- 10 - 5,000 / .11

 Irrigation
 POD
 QQ
 Sections

0.25 0 0.25 0.5 Miles

