

568

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)

A. Subcase No. 85-15688

(INSERT WATER RIGHT NUMBER)

Case No. 39576)

STANDARD FORM 4

MOTION TO FILE

☒ LATE NOTICE OF CLAIM☐ AMENDED NOTICE OF CLAIM

2007 MAR 13 PM 10 45

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

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 Patricia B. Smyth

My address is 1436 Bryden Avenue, Lewiston, ID 83501

My phone number is: Work _____ Home 208-798-1674

I am an attorney representing _____

My name is _____

My address is _____

My phone number is: _____

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:

Claimants' livestock drink from undeveloped springs and they did not understand that they needed to claim these uses in addition to the domestic.

[] 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.

[X] 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.)

Photos with location written on back; aerial photograph; plot map; topographic map; assessor's parcel; deeds; death certificate.

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 \$ 50.00.

☐ 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 May 15, 2007, 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

State of IDAHO)
) ss.
 County of Ada)

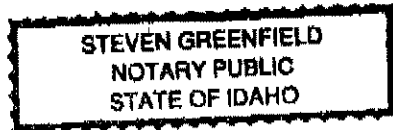
Patricia B. Smyth _____, duly sworn, upon oath, deposes and says:

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.

Patricia B. Smyth
 (Signature of person filing motion)

 (Attorney signing in representative capacity)

Subscribed and sworn to before me on: 2-16-07 _____



(seal)

Se [Signature]
 Notary Public for: Idaho
 Residing at: WELLS FARGO BANK
 My Commission Expires: 09/06/2011

INSTRUCTIONS FOR MAILING

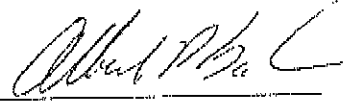
You must mail this form, including all attachments, to the Clerk of the Court. **Fax filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I hereby certify that on this 12 day of ^{March}~~February~~, 2007, I caused to be served a true and correct copy of the foregoing *Notice of Appearance* by the method indicated below, and addressed to each of the following:

1. Original to:
 - Clerk of the District Court
 - Snake River Basin Adjudication
 - P.O. Box 2707
 - Twin Falls, ID 83303-2707
 - ☒ U.S. Mail
 - ☐ Overnight Delivery
 - ☐ Hand Delivery
 - ☐ Facsimile

2. Copies to:
 - IDWR Document Depository
 - P.O. Box 83720
 - Boise, ID 83720-0098
 - ☒ U.S. Mail
 - ☐ Overnight Delivery
 - ☐ Hand Delivery
 - ☐ Facsimile
 - Chief, Natural Resources Division
 - Office of the Attorney General
 - P.O. Box 44449
 - Boise, ID 83711-4449
 - ☒ U.S. Mail
 - ☐ Overnight Delivery
 - ☐ Hand Delivery
 - ☐ Facsimile
 - United States Department of Justice
 - Environment and Nat'l Resources Div.
 - 550 West Fort Street, MSC 033
 - Boise, ID 83724
 - ☒ U.S. Mail
 - ☐ Overnight Delivery
 - ☐ Hand Delivery
 - ☐ Facsimile
 - Warren Braucher
 - P.O. Box 337
 - Craigmont, ID 83523
 - ☒ U.S. Mail
 - ☐ Overnight Delivery
 - ☐ Hand Delivery
 - ☐ Facsimile
 - Merrily Munther
 - Munther Goodrum Sperry, Chtd.
 - The Mallard Bldg. #350
 - 1161 W. River St.
 - Boise, ID 83702
 - ☒ U.S. Mail
 - ☐ Overnight Delivery
 - ☐ Hand Delivery
 - ☐ Facsimile No. 344-9836



Albert P. Barker

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: 85-15688
Date received: _____
Receipt No.: _____

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: Patricia B. Smyth and Darlene Dee Lillehaug Phone: 208-798-1674
1436 Bryden Ave. P.O. Box 1250
Lewiston, ID 83501 McCall, ID 83638
2. Date of Priority: 12/31/1918
3. Source of Water supply (a) Springs/Willow Creek
Which is tributary to (b) North Fork, Willow Creek
4. Location of Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
32N	2W	2	SE	NE	NW	5	Lewis
"	"	"	"	SE	NW	21	"
"	"	"	"	NE	SE	18	"
"	"	"	"	NW	SE	20	"
"	"	"	"	SE	SE	26	"
"	"	"	"	NW	SE	2	"
"	"	"	"	SE	SE	1	"
"	"	"	"	SW	SE	2	"
"	"	11	"	NW	NE	2	"
"	"	11	"	NE	NE	1	"

5. Description of diverting works: springs, piped to home and troughs

6. Water is used for the following purposes:

Purpose	From	To	CFS	AFA
Domestic	1/1	12/31	0.04	
Stockwater	1/1	12/31	0.04	

7. Total quantity claimed is: 0.04 CFS (and/or) AFA

8. Total consumptive use is: de minimus AFA

9. Non-irrigation uses: domestic=1 home; stockwater= 80 head

10. Description of place of use:

Township	Range	Section	1/4 of	1/4	Lot	Use Acs.
Domestic 32N	2W	2	NE	NW	5	

Stock	32N	2W	2	NE	NW	5
"	"	"	"	SE	NW	21
"	"	"	"	NE	SE	18
"	"	"	"	NW	SE	20
"	"	"	"	SE	SE	26
"	"	"	"	NW	SE	2
"	"	"	"	SE	SE	1
"	"	"	"	SW	SE	2
"	"	11	"	NW	NE	2
"	"	11	"	NE	NE	1

11. In which county(ies) are lands listed above as place of use located? Lewis
12. Do you own the property listed above as place of use? Yes
13. Describe any other water rights used at the same place and for the same purposes as described above. 85-15496
14. Remarks:
15. Basis of Claim: Beneficial Use
Water right number:
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 X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments:

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

Signature of Claimant(s): Patricia A. Smyth Date: 2/16/07

Date: _____

For Organizations:

I do solemnly swear or affirm that I am _____ of _____ Title _____, that I have signed the foregoing document in the space

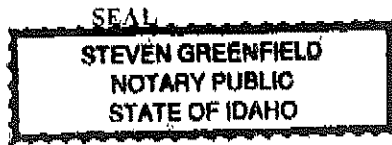
below as _____ of _____, and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent: _____

Title & Organization: _____ Date: _____

State of Idaho/or _____)
County of Nez Perce) SS.

Subscribed and sworn (or affirmed) before me this 16th day of FEBRUARY, 2007.



Notary Public Seal

Residing at Wells Fargo Bank
My Commission Expires: 09/06/2011

17. Notice of Appearance:
Notice is hereby given that I, Albert P. Barker, 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: Barker Rosholt & Simpson LLP
P.O. Box 2139
Boise, ID 83701-2139

Date: 3/12/2007