

RECEIVED

MAY 01 2007

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 29-13781

(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.

panogue

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

My name is Colman S. Paniogue

My address is 22 Colgate
Pocatello, Idaho 83201

My phone number is: Cell: 241-8342 Work Home 232-8437

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.

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

SEE ENCLOSED DOCUMENTS specifically
addendum #1 - claimant's statement.

☐ 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.)

13981
Notice of Claim - Ident # 29-13779 (2/13/07); Exhibit #1 -
Aerial photo of property; Addendum #1 - Claimant's state -
ment; Exhibit #2 - MEMO of SALE of ALLOTTED LAND (11/22/1919)

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 \$ 200⁰⁰.

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:

VERIFICATION (Must be completed)

State of IDAHO

County of BANNOCK

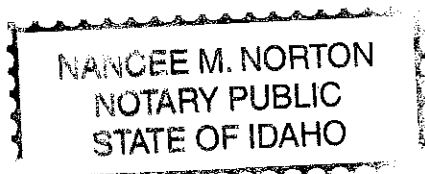
Colman S. Paniogue, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

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.

Colman S. Paniogue
Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on April 25, 2007
(Insert Date)



Nancee M. Norton
Notary Public for Idaho
Residing at: Pocatello
My Commission expires: Sept. 29, 2009

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.

paniogue

CERTIFICATE OF MAILING

I certify that on April 26, ~~199~~²⁰⁰⁷, 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:

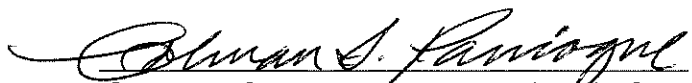
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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)


Signature of person or attorney mailing the form

FEE 100
LATE 100
~~200~~

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 29-13781
DATE RECEIVED: 2/13/2007
RECEIPT No:
RECEIVED BY:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. NAME OF CLAIMANT(S)

COLMAN S PANIOGUE PHONE: (208) 232-8437

22 COLGATE
POCATELLO ID USA 83201

2. DATE OF PRIORITY: 06/14/1867

3. SOURCE: BANNOCK CREEK TRIB. TO:

4. POINT OF DIVERSION:

TOWNSHIP	RANGE	SECTION	1/4 OF 1/4 OF 1/4	LOT	COUNTY	TYPE
06S	33E	19	SW	NE		POWER

5. DESCRIPTION OF DIVERTING WORKS:

41 IN HEADGATE 100 FT NORTH OF RAILROAD OF BANNOCK CREEK UNDERPASS. DIVERTS WATER FROM BANNOCK CREEK INTO IRRIGATION CANAL. CANAL RUNS PARALLEL TO RAILROAD APPROX. 1/4 MILE WESTERLY. CANAL PASSES UNDER INTERSTATE HIGHWAY 86. DELIVERS WATER TO SE CORNER OF LOTS 1 AND 2 T6S R33E SEC19.

6. WATER IS USED FOR THE FOLLOWING PURPOSES:

PURPOSE	FROM	TO	C.F.S.	(OR) A.F.A
IRRIGATION		01/01	12/31 1.6	

7. TOTAL QUANTITY APPROPRIATED IS:
1.6 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
06S	33E	19	NW	NW	1	IRRIGATION 40
			SW	NW	2	IRRIGATION 39
SECTION ACRES						79
TOTAL ACRES						79

11. PLACE OF USE IN COUNTIES: POWER

12. DO YOU OWN THE PROPERTY LISTED ABOVE AS PLACE OF USE? YES

13. OTHER WATER RIGHTS USED:

14. REMARKS:

15. BASIS OF CLAIM: BENEFICIAL USE

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: 3

FOR INDIVIDUALS:

I/WE DO SOLEMNLY SWEAR OR AFFIRM THAT THE STATEMENTS CONTAINED IN THE FOREGOING DOCUMENT ARE TRUE AND CORRECT.

SIGNATURE OF CLAIMANT(S): Edmond D. Panioque DATE: 4/25/07

DATE:

STATE OF IDAHO)
COUNTY OF Bonneville) SS.

SUBSCRIBED AND SWORN (OR AFFIRMED) BEFORE ME THIS
25 OF April 2007

Dave Carlson

NOTARY PUBLIC

RESIDING AT Risky, Id

MY COMMISSION EXPIRES 2/26/2008



NOTICE OF CLAIM TO A WATER RIGHT

Colman S. Paniogue
Janet M. Paniogue

Addendum # 1

Statement:

The property, for which this claim for water rights is submitted, is located at Bannock Creek, on the Fort Hall Indian Reservation, Power County, Idaho. It is identified as Indian Allotment 1437, originally containing 158.20 acres, mol. It was purchased by my grandfather Raphael LaVatta, an enrolled Shoshone-Bannock Indian, in 1919. (Exhibit # 2). He bought it from his cousin, Frank P. Pocatello, an enrolled Shoshone-Bannock Indian. My mother, Dolores LaVatta Paniogue, an enrolled Shoshone-Bannock Indian, and my father, Salvadore M. Paniogue, an un-enrolled Indian, inherited eighty (80) acres of the original allotment and my sisters inherited the remaining eighty acres when my grandfather died, in about 1946.

I, Colman S. Paniogue, an enrolled Shoshone-Bannock Indian, inherited my parent's home and land (79 acres) when my mother died in 2002. The subject property has been held by our family continuously since my grandfather purchased it in 1919.

We have never 'filed' for water rights, per se; we have always considered that it being "Indian Land" owned by "Enrolled Shoshone-Bannock Tribal members", it thereby qualified for a superior water right. The Tribal authorities have never advised Indian land owners of a need to file a claim for water rights on their property. The State of Idaho has never advised Indian land owners to file a claim for water rights on their property.

I am submitting this Claim to a Water Right to protect the value of my property. I am considering selling the property, and on the assumption that a 'non-Indian' makes the purchase, a portion of the value of the property will be based on having a documented water right.

Thank you for your consideration.

Colman S. Paniogue

Colman S. Paniogue Date: 2/13/07

Janet M. Paniogue

Janet M. Paniogue Date: 2/13/07

Paniogue

EXHIBIT # 1



S19 T6S R33E Lots 1+2

Tract# 95

GOIMAN S. + JANET M.
PANIOQUE

2/12/07

Bannock Creek
FORT HALL INDIAN RESERVATION
POWER COUNTY

0.05 0 0.05 0.1 0.15 0.2 Miles



Map Printed: Nov 4, 2005

EXHIBIT # 2

5-110h

DUPLICATE



MEMORANDUM OF SALE OF ALLOTTED LAND.

The undersigned Raphael Lavatta
 having on November 28, 1919, 1919, purchased
Lots 1 & 2: E $\frac{1}{2}$ NW $\frac{1}{4}$ Section 19, Township 3 South, Range 33 EBM.,
Idaho, containing 158.30 acres more or less
allotment No. 1437 of Frank P. Pocastello
 for \$ 7100.00, and having made a payment of \$ 1775.00,
 being 25 per cent thereof, and agreed to pay the balance thereof,
 being \$ 5325.00 in deferred payments as evidenced by three
 promissory notes of even date herewith for \$ 1775.00 each,
 numbered from 1 to 3, payable to the Superintendent or
 other officer in charge of the Fort Hall
Indian Reservation, on or before three years after date,
 with interest at the rate of 7 per cent per annum, payable
annually;

NOW THIS MEMORANDUM WITNESSETH: That upon the payment in
 full by said Raphael Lavatta of said
 sum of \$ 5325.00, being the balance of said consideration
 of \$ 7100.00, with interest thereon, according to the tenor
 and effect of said notes, then and in such case a patent shall be
 issued to said Raphael Lavatta, giv-
 ing and granting said land to him and his heirs pursuant
 to law;

6-2871

PANIOGUE

407

(2)

And said _____ agree _____
that upon default by Raphael Lavatta in the payment of said notes or either
him of them or the interest thereon, the sale of said land to _____
may, at the option of the Secretary of the Interior, be canceled him
and said land re-advertised for sale, and in such case the sum of
\$ 1775.00, being 25 per cent of the amount agreed to be paid
by said _____ shall
Raphael Lavatta
be forfeited as provided by law for the use of _____
the heirs _____,
vendors, and any balance remaining of the amount paid by said
_____ shall,
Raphael Lavatta
in case the same is not repaid to _____
Raphael Lavatta by the vendors, be repaid to
_____ out of the proceeds of such
Raphael Lavatta subsequent sale, or from such other sources as may be applicable
and advisable, in the discretion of the Secretary of the Interior.

Signed at _____ this _____
_____ day of Fort Hall, Idaho, 19____
5th day of December, 19____.

Department of the Interior
Washington, D. C. APR 30 1923

APPROVED
[Signature]
Assistant Secretary.

[Signature]
Supt. and Disb. Agent.

Raphael Lavatta

Purchaser_____

PANIOQUE