

TWIN FALLS OFFICE
(208) 734-7510
Toll Free: (877) 343-7510
Fax: (208) 734-4115
133 Shoshone Street North
P. O. Box 389
Twin Falls, ID 83303-0389

HEPWORTH, LEZAMIZ & JANIS, CHTD.

L A W O F F I C E S

- ESTABLISHED 1952 -

BOISE OFFICE
(208) 343-7510
Fax: (208) 342-2927
537 West Bannock Street
P. O. Box 2582
Boise, ID 83701-2582

John C. Hepworth
John T. Lezamiz
Robyn M. Brody
Benjamin J. Cluff
Joel A. Beck

J. Charles Hepworth*
John J. Janis
John W. Kluksdal

May 22, 2007

*Member CA Bar

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

RE: In Re SRBA, Case 39576

COPY

Dear Clerk:

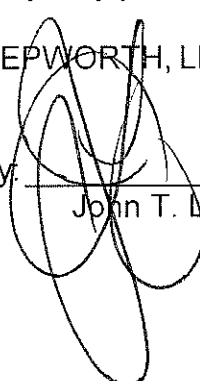
I am enclosing herewith, the following:

1. Original Motion to File: Late Notice of Claim; and
2. Check in the amount of \$340.

Thank you for your assistance.

Very truly yours,

HEPWORTH, LEZAMIZ & JANIS, CHTD.

By: 

John T. Lezamiz

JTL:ko
Enclosures
pc: IDWR Document Depository
Chief, Natural Resources Division
United States Department of Justice

(F:\DOCS\LEZAMIZ\Woodbury-MackaySprings\Corr\IDWR070522.wpd)

Reply to Twin Falls office

COPY

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>34-2418</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 John Lezamiz

My address is P.O. Box 389 Twin Falls, ID 83303

My phone number is: Work _____ Home (208) 734-7510

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:

Property recently purchased.

☐ 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.)

Aerial photo, original water right license, narrative

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 \$ 340.00.

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 _____
(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:

\$100.00	Notice of Claim Fee
\$100.00	Late Claim Fee
\$140.00	Additional Acreage (70 ac, @ \$2.00 per acre)
= \$340.00	

VERIFICATION (Must be completed)

State of Idaho

County of Twin Falls

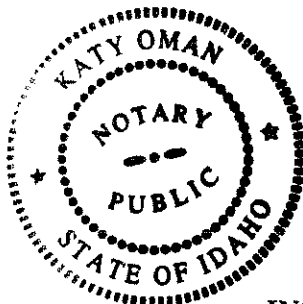
John T. Lezamy, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

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.

[Signature]
Signature of person filing motion

[Signature]
Attorney signing in representative capacity

Subscribed and sworn to before me on May 22, 2007
(Insert Date)



[Signature]
Notary Public for Idaho
Residing at: Filer, ID
My Commission expires: 11/24/12

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 May 22, 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:

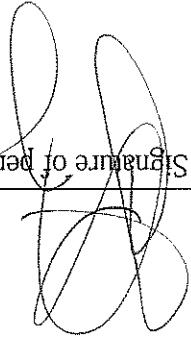
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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



A-129
KENNETH STEVART

TWP 7N, RANGE 25E
SECTION 31

Well

Point of
Injection

Flame

Out

30

40

31

A-129
Out

A-208
WILLIAM SCOTT 195

38

13.5

24.70

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

License of Water Right No 29767/34-2418 Priority May 24, 1961 Amount 2.78 cfs

THIS IS TO CERTIFY, that KENNETH STEWART
of Mackay, Idaho, has complied with the terms and conditions of Permit
No 29767/34-2418 issued pursuant to Application for Permit dated May 24, 1961,
and has submitted proof to the Department of Water Resources on May 26, 1966,
that he has applied water to a beneficial use, an examination by the Department indicates that the works have a
capacity for the diversion of 3.0 cfs of water from a ground water source,
tributary to _____, and that the permit holder has applied to a beneficial use and
established a right to use water as follows

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
<u>Irrigation</u>	from <u>April 1</u> to <u>Nov. 1</u>	at <u>2.78</u> cfs and	<u>417 acre feet or</u>
			<u>3.0 af per acre</u>
	from _____ to _____	at _____ cfs and	
	from _____ to _____	at _____ cfs and	

(both dates inclusive)

Subject, however, to the condition that no more than 2.78 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
417 acre feet per year, said waters to be diverted within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 31,
Twp. 7 N, Rge. 25 E, B.M. in the County of Custer

Description and location of place of use

Twp	Range	Sec	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				Totals
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
7 N	25 E	31			40	31				30					38				139

Total number of acres irrigated 139



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

Cecil D. Andrus
Governor

R. Keith Higginson
Director

Statehouse
Boise, Idaho 83720
(208) 384-2215

February 18, 1975

Mr. Kenneth Stewart
Box 31
Mackay, Idaho 83251

Dear Mr. Stewart:

A representative of this Department has made an examination of the works covered by your Permit No. 29767/34-2418 and has found the following:

Quantity of water diverted: 3.0 cfs

Amount of water that can be recognized as beneficially used under Idaho law: 2.78 cfs

The maximum quantity diverted shall not exceed 417 acre feet per year.

Beneficial use: For irrigation of 139 acres within the S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 31, Twp. 7N, Rge. 25E

Point of diversion: NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 31, Twp. 7N, Rge. 25E, B.M.

Priority date established: May 24, 1961

The point of diversion was found by our examiner to differ from that listed under your permit, therefore, it will be necessary for you to amend the permit before a water license can be issued. We are enclosing a partially completed application for amendment for your use. Please sign the application and return it to this office with a \$10.00 filing fee. Please be advised that there is also a \$13.00 licensing fee due. Therefore, please submit the application for amendment along with a fee totaling \$23.00 within 30 days of the date of this letter in order that we may issued a license as set forth above.

Rec'd #1802

MICROFILMED

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 FORM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number _____

Date Received _____

Receipt Number _____

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

Please type or print clearly

1. Name of Claimant (s) John Lezamiz Family Limited Partnership Phone (208) 734-7510

Mailing Address P.O. Box 389 Twin Falls, ID 83303 Zip 83303-0389

2. Date of Priority (Only one (1) per claim) 05/24/1961

3. Source of water supply (a) Groundwater

which is tributary to (b) _____

4. a. Location of existing point of diversion is: Township 07N Range 25E Section 31,
NW 1/4 of NW 1/4 of NE 1/4, Govt. Lot, _____ B.M., County of Custer

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. Existing well provides supplemental water for
make-up diversions from Burnett ditch for irrigation of the property.

Existing flumes to measure diversions into (and out of) Burnett Ditch

6. Water is claimed for the following purposes:

(both dates are inclusive) (cfs) (acre feet)

For Irrigation purposes from 4/1 to 11/1 amount 1.18 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 1.18 (cfs) and / or (b) _____ (acre feet)

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

9. Non-irrigation uses; described fully (e.g. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) _____

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 together 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
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
7N	25E	31			40					30									70

Total number of acres irrigated 70

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

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.

34-230, 34-231, 34-232, 34-2275, 34-2350 Or None ☐

14. Remarks:

This claim represents additional diversion historically used but not included under
existing SRBA recommendation and partial decree for 34-2350.

Last Name _____ Ident. No. _____

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License X Permit _____
Decree _____
If applicable provide IDWR Water Right Number 34-2418
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 1

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 5/22/07

_____ Date _____

For Organizations: I do solemnly swear or affirm that I am _____

_____ Title
Of _____, that I have signed the foregoing
_____ Organization

Document in the space below as _____ of _____
_____ Title _____ Organization

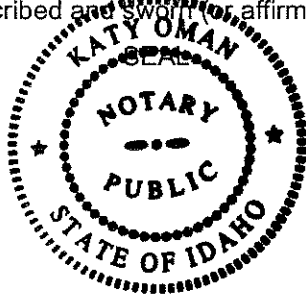
And that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization _____ Date _____

State of Idaho / or _____)
County of Win Falls) ss.

Subscribed and sworn to (or affirmed) before me this 22nd day of May, 20 07



Notary Public Katy Oman

Residing at Herby

My Commission Expires 11/24/12

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ 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 _____

Date _____

Last Name _____ Ident. Number _____