

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

A Subcase 75-14465
(Insert water right number
From the Objection Form)

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 Idaho Arrowhead Water District

My name is Kent W. Foster

My address is PO Box 50130, Idaho Falls, Id 83405-0130

My phone number is 208-523-0620

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:

All of the irrigation water is diverted into a reservoir and then from the reservoir to irrigation. It was not known until just recently that the reservoir was constructed prior to 1987. From information obtained from IDWR, it appears the reservoir was in existence at least as early as 1985, and so it was recommended that the Water District file a Late Notice of Claim to cover the diversion of water into and the storage of water in the reservoir. This is an enlargement of Water Rights Nos. 75-5 and 75-22, which are natural flow rights for irrigation purposes from Chipps Creek.

- ☐ 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 a 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 you Notice of Claim.)

Attached are portions of a provisional map prepared by the United States Geological Survey for the Salmon Quadrangle which was compiled from aerial photographs taken in 1985 showing the existence of the reservoir.

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 \$100.00.

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 September 18, 2007, at 1:30 p.m.
(Insert Date and Time)
at the SRBA Court 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:

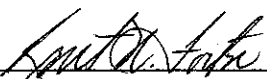
VERIFICATION

State of Idaho

County of Bonneville

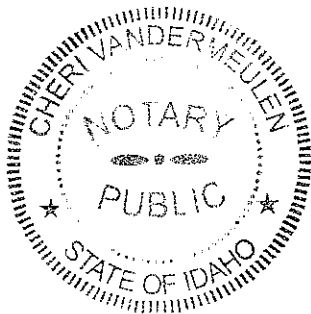
Kent W. Foster, being first duly sworn, upon oath, deposes and says:

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.



Kent W. Foster, Attorney

Subscribed and sworn to before me this 6th day of June, 2007.





Notary Public for Idaho
Residing at: Idaho Falls
My Commission expires: July 7, 2009

CERTIFICATE OF MAILING

I certify that the 14th day of June, 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
P.O. Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

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

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. 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 amend 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



Kent W. Foster, Attorney

G:\WPDATA\KWF\7557 Arrowhead Water District\Late Claim Motion 75-14465 wpd

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 75-14465

Date Received _____

Receipt Number _____

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

1 Name of Claimant(s) Idaho Arrowhead Water District Phone (208) 756-1012

Mailing Address c/o Robert Kramer, 54 Oliver Dr., Salmon, ID Zip 83467

2 Date of Priority (Only (1) per claim) May 1, 1985

3 Source of water supply (a) Chipps Creek

which is tributary to (b) Pallard Creek

4 a Location of existing point of diversion is:

Township 21N Range 21E Section 11, NW 1/4 of SW 1/4 of NW 1/4, Govt Lot _____,
County of Lemhi

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. Intake structure on Chipps Creek with 6" pipeline to reservoir.

6 Water is claimed for the following purposes: (Both dates are inclusive) (cfs) (acre feet)

For Diversion to Storage purposes from 04/01 to 10/31 amount 7.0 cfs or 73.5 afa

For Irrigation Storage purposes from 01/01 to 12/31 amount _____ or 73.5 afa

7 Total quantity claimed (a) 7.0 (cfs) and/or (b) 73.5 (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) _____

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 instruction for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				ILS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
21N	21E	1									42	38	41	32	37	40	20	18	268
		2													11		9 8	40	60 8

Total number of acres irrigated 328.8

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

12. Do you own the property listed above as place of use? Yes ☒ 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.
Natural flow water rights 75-5 and 75-22 or None ()

14. Remarks:

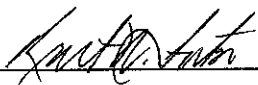
This is an enlargement claim under Idaho Code § 42-1426 and would constitute an enlargement of Water Rights Nos. 75-5 and 75-22, referenced above. Until recently, no one had any proof available that the reservoir was constructed prior to 1987, but it has been discovered from copies of a United States Geological Survey map based on aerial photography done in 1985 that the reservoir was present at that time.

15. Basis of Claim (Check one) Beneficial Use ☐ Posted Notice ☐ Permit ☐ Decree ☐ License ☐
Enlargement of Irrigation Rights Nos. 75-5 and 75-22 If applicable provide IDWR Water Right Number ☐

Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

16. Signature(s) For Organizations:

I do solemnly swear or affirm that I am attorney for Idaho Arrowhead Water District, that I have signed the foregoing document in the space below as Attorney for Idaho Arrowhead Water District, and that the statements contained in the foregoing document are true and correct.

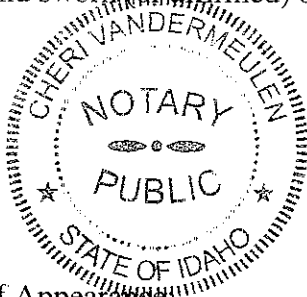
Signature of Authorized Agent 

Title and Organization Attorney at law, Idaho Arrowhead Water District Date June 6, 2007

Last Name Idaho Arrowhead Water District Ident Number 75-14465

State of Idaho)
) SS.
County of Bonneville)

Subscribed and sworn (or affirmed) before me this 6th day June, 2007.

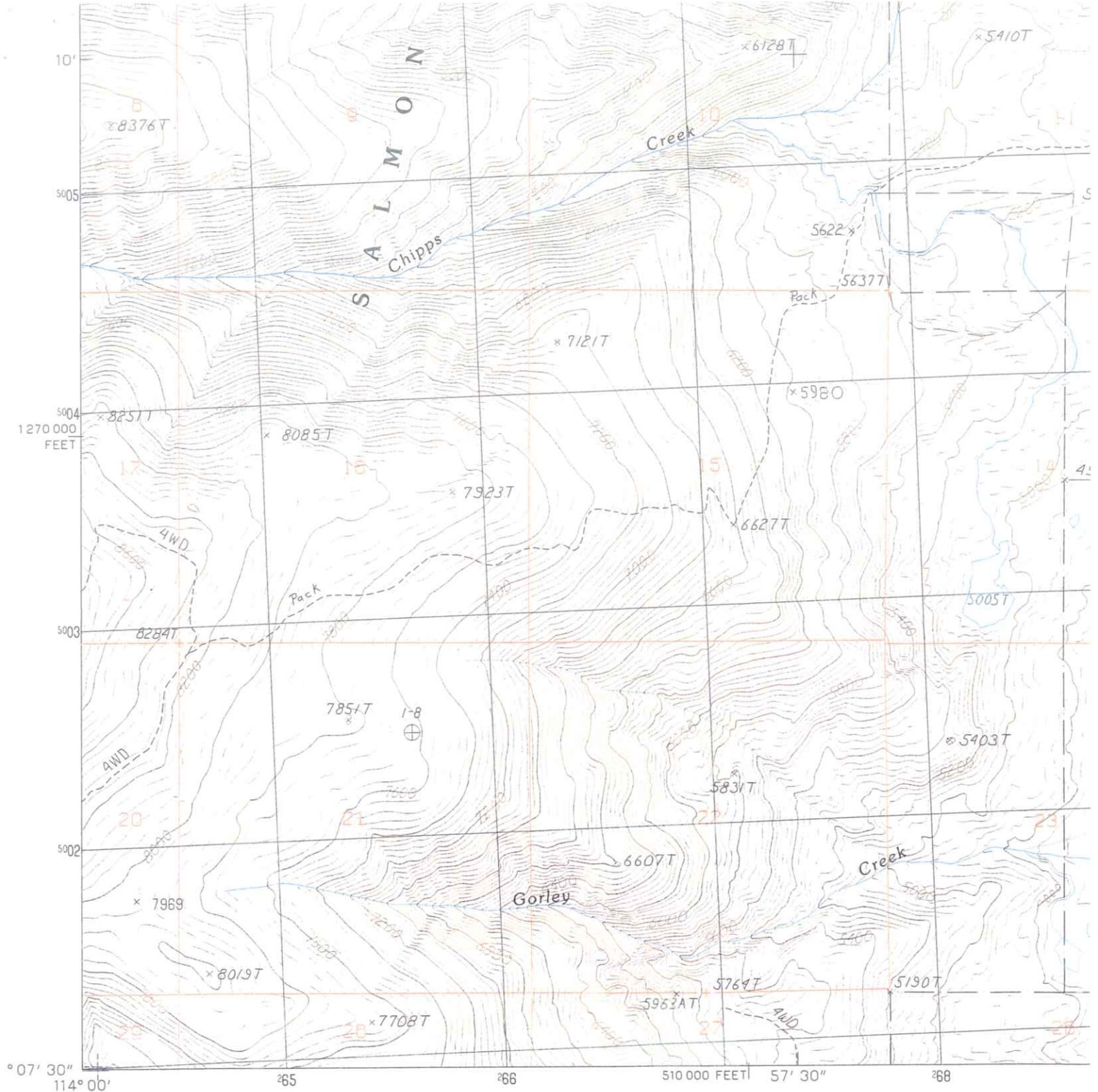


Cheri Vandermeulen
Notary Public for Idaho
Residing at: Idaho Falls, ID
My Commission Expires: July 7, 2009

17. Notice of Appearance:

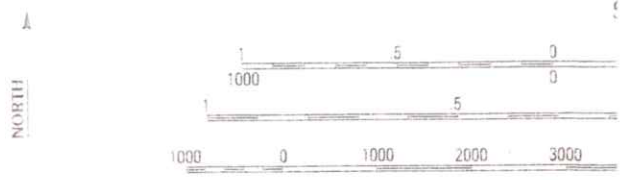
Notice is hereby given that I, KEVIN M. FOSTER will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature [Signature]
Address PO Box 50130 Idaho Falls, ID 83405
Date June 6, 2007



PRODUCED BY THE UNITED STATES GEOLOGICAL SURVEY
 CONTROL BY USGS, NOS. NOAA
 COMPILED FROM AERIAL PHOTOGRAPHS TAKEN 1985
 FIELD CHECKED 1986, MAP EDITED 1989
 PROJECTION TRANSVERSE MERCATOR
 GRID: 1000-METER UNIVERSAL TRANSVERSE MERCATOR ZONE 12
 10,000 FOOT STATE GRID TICKS IDAHO, CENTRAL ZONE
 UTM GRID DECLINATION 2°05' WEST
 1989 MAGNETIC NORTH DECLINATION 16°30' EAST
 VERTICAL DATUM NATIONAL GEODETIC VERTICAL DATUM OF 1929
 HORIZONTAL DATUM 1927 NORTH AMERICAN DATUM
 To place on the predicted North American Datum of 1983,
 move the projection lines as shown by dashed corner ticks
 (12 meters north and 71 meters east)
 There may be private inholdings within the boundaries of any
 Federal and State Reservations shown on this map
 No distinction made between houses, barns, and other buildings
 Gray tint indicates area in which selected buildings are shown

PROVISIONAL MAP
 Produced from original
 manuscript drawings. Infor-
 mation shown as of date of
 photography.



CONT
 SUPPLEMENTAR

To convey
 To convey
 THIS MAP COMPLIES WITH
 FOR SALE BY U.S. GEOLOGICAL SURVEY
 OR RE

