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JUN 11 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 74-51

) (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 Richard E. Foster

My address is P.O. Box 55
Leandro ID. 83464

My phone number is: Work _____ Home 208-768-2406

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:

☐ 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:

I was Told by The IDWR That I must file an amended claim That shewes I had 216 acres justifying our request To change place of use for 21 acres. Find attached a copy of a page from The green book showing The 21 acres in question and Their location.

PROPOSED FINDING OF WATER RIGHTS LINED RIVER DRAINAGE

SOURCE: Timber C

IDENT NO	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From To	MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED
74-0051	PETERSON, Donald O. and/or Billie Box 144 R-foster Leadore, Idaho	6-7-1909	Irrigation	4/1 11/1	6.4 320"	SE1/4NE1/4, S.5 T15N, R26E	Sec. 33 NE1/4SW1/4, 1/2 NE1/4SE1/4, 1/2 NW1/4SE1/4, 1/2 SE1/4SE1/4, 1/2 Sec. 34 SW1/4SW1/4, 1/2 SE1/4SW1/4, 1/2 T16N, R26E
74-0049	WITTAKER, Calvin J. and/or Carol L. Box 26 Leadore, Idaho	8-21-1909	Irrigation	4/1 11/1	2.9	SE1/4NE1/4, S.23 T15N, R25E	Sec. 11 SW1/4SE1/4, 1/2 Sec. 14 NW1/4NE1/4, 1/2 NE1/4NW1/4, 1/2 NW1/4NW1/4, 1/2 T15N, R25E
74-0379	WITTAKER, Calvin J. and/or Carol L. Box 26 Leadore, Idaho	8-21-1909	Irrigation	4/1 11/1	0.2	NE1/4NE1/4, S.22 T15N, R25E	Sec. 11 SW1/4SE1/4, 1/2 Sec. 14 NW1/4NE1/4, 1/2 NE1/4NW1/4, 1/2 NW1/4NW1/4, 1/2 T15N, R25E
74-0047	COLMAN, Harry L. and/or Shirley R. Box 43 Leadore, Idaho	9-27-1909	Irrigation	4/1 11/1	5.7	SE1/4NW1/4, S.15 T15N, R25E	Sec. 7 SW1/4SE1/4, 1/2 SE1/4SE1/4, 1/2 Sec. 18 NE1/4NE1/4, 1/2 NW1/4NE1/4, 1/2 SW1/4NE1/4, 1/2 SE1/4NE1/4, 1/2 T15N, R26E



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

letter from Nate Arave - attached.

I have attached:

☐ An amended Notice of Claim (available from IDWR).

☐ Payment of the following additional fees required by IDWR:



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A • Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

EASTERN REGION

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

May 17, 2007

RE: Objection to WR 74-51

Mr. Richard E Foster
PO BOX 55
LEAHOPE, ID 83464

Dear Mr. Foster,

I have received your application for transfer and have been advised by transfer processing personnel that this transfer cannot be processed without an amended claim. This is because the transfer is based upon the amended claim submitted in 1994 in which 195.4 acres were claimed. The full 216 acres must be claimed in a manner consistent with the Lemhi Decree to make the 21 acres available for transfer. Enclosed with this letter are:

- 1.) Standard Form 4 Motion to File Amended Notice of Claim
- 2.) Amended Notice of Claim to a Water Right
- 3.) A copy of water right as decreed in the Lemhi Adjudication
- 4.) The transfer application with the check for the transfer fee.

Please retain this transfer application and resubmit this transfer application upon notification from Idaho Department of Water Resources of the Amended Director's Report.

Respectfully Submitted,

Nate Arave

Nate Arave
Water Resource Agent
Idaho Department of Water Resources
900 N. Skyline Drive Suite A
Idaho Falls, Id 83402-1718
(208)-525-7177 ext. 2248

VERIFICATION (Must be completed)

State of Idaho

County of Lemhi

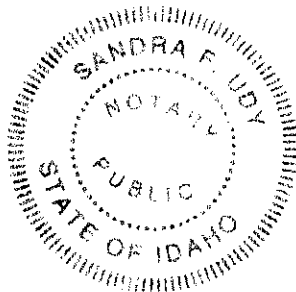
Richard E. Foster, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

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.

Richard E. Foster
Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on 4th June 2007
(Insert Date)



Sandra E. Udy
Notary Public for State of Idaho
Residing at: Lemhi, Idaho
My Commission expires: 09/18/2008

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 June 7, 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

RECEIVED

JUN 1 2007

DEPARTMENT OF
WATER RESOURCES

Form No. 42-1409 (2) a 1/88 (Internet)

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 _____

Date Received _____

Receipt Number _____

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

Please type or print clearly

1. Name of Claimant (s) Richard E. Foster Phone (208) 768-2406

Mailing Address P.O. Box 55 Leadore Id. Zip 83464

2. Date of Priority (Only one (1) per claim) 6-7-1909

3. Source of water supply (a) Big Timber Creek
which is tributary to (b) Lemhi River

4. a. Location of existing point of diversion is: Township 15N Range 26E Section 5
SE 1/4 of NE 1/4 of _____ 1/4, Govt. Lot, _____ B.M., 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. Head gate + weir

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 6.4 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 6.4 (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.) _____

10. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below
- 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
			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	
16N	26E	33				21									40	38		40	139
16N	26E	34											40	37.4					77.4

Total number of acres irrigated 216.4

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 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 _____ or None (X)

14. Remarks: _____

Last Name _____ Ident No _____

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License _____ Permit _____
Decree 24-51
If applicable provide IDWR Water Right Number _____ Decree Date _____
Court _____ Case Number _____
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 _____

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

Signature of Claimant (s) Richard E. Foster

Date _____

Date _____

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

Title _____

of _____

Organization _____

that I have signed the foregoing

document in the space below as _____

Title _____

of _____

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 _____

SS. _____

County of Lemhi

Subscribed and sworn (or affirmed) before me this _____

6th

day of JUNE

2007

Notary Public Sandra E. Uday

Residing at Idaho

My Commission Expires 09/18/2008

Please Print Name _____

17. Notice of Appearance:

Notice is hereby given that _____

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.

will be acting as attorney at law on behalf

Signature _____

Address _____

Date _____

Last Name _____

Ident. Number _____