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JUL -5 2007
Department of Water Resources
Adjudication Bureau

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>29-13781</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 Coleman S. Paniogue

My address is 22 Colgate
Pocatello, Idaho 83201

My phone number is: Work _____ Home (208) 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 DOCUMENT: Specifically
ADDENDUM #1 - (amended), 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.)

Notice of Amended claim 29-13781 dated 6/27/07.
EXHIBIT # 1 - aerial photo property; AMENDED
Addendum # 1 - Claimant's Statement; EXHIBIT # 2,
MEMO OF SALE OF ALLOTTED LAND Dated 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:

To amend the claim from a federally reserved water right to
a State based claimed water right.

- ☐ 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:

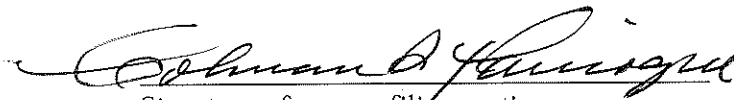
VERIFICATION (Must be completed)

State of Idaho

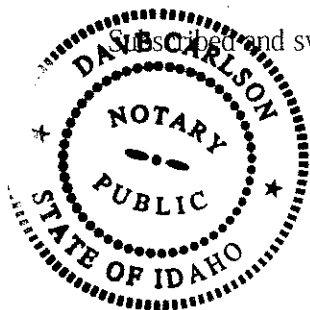
County of Bingham

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

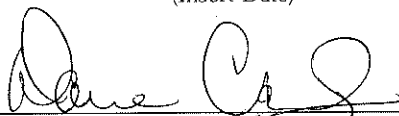
That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.


Signature of person filing motion

Attorney signing in representative capacity



Subscribed and sworn to before me on 6/27/2007
(Insert Date)


Notary Public for IDWR
Residing at: R16B4, ID
My Commission expires: 2/26/2008

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 30, ~~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

AMENDED

06/29/07

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 LaVita, 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 LaVita Paniogue, an enrolled Shoshone-Bannock Indian, and my father, Salvatore M. Paniogue, an on-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.

ITEM # 15 of my initial Claim to a Water Right was 'RESERVED', mainly because I didn't understand the various categories of water claims. Our Tribal Water Resources Commission advised me that the Tribes would have to object to my claim of Reserved right. I have worked cooperatively with the Tribal Water Commission and the Tribal Water Engineer so I can present a Claim that the Tribes could support and not object to. This AMENDED Claim is the result of our collaboration.

Thank you for your consideration.

Colman S. Paniogue

Date:

6/29/07

Janet M. Paniogue

Date:

6/29/07

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: 11/22/1919

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	418.7
STOCKWATER		01/01	12/31 0.2	0.48

7. TOTAL QUANTITY APPROPRIATED IS:
1.6 C.F.S.

8. TOTAL CONSUMPTIVE USE:

9. NON-IRRIGATION USES:
NUMBER OF OTHER USES: 36

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:

RIGHT NOS. 29-13779 AND 29-13781 ARE LIMITED TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME 418.7 AF.

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: _____

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): Colman J. Pinnegar DATE: 6/27/07

STATE OF IDAHO

)
) SS.

COUNTY OF Bonneville

SUBSCRIBED AND SWORN (OR AFFIRMED) BEFORE ME THIS

27 OF June 2007

Dave Carlson

NOTARY PUBLIC

RESIDING AT

Rigby, Id

MY COMMISSION EXPIRES

2/26/2008

