

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: 27-13739
)
)

Case 39576

) STANDARD FORM 4
)
)

) MOTION TO FILE
)

) ☒ LATE NOTICE OF CLAIM
)

) ☐ AMENDED NOTICE OF CLAIM
)
_____)

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

My name is: C. Larry Hinderager, President of Eastern Idaho Water Company.

My address is: 434 West Riverton Road, Blackfoot, Idaho 83221

My phone number is: Work _____ Home: 208-317-5436

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 the water in the SRBA because:
At the time the claims were filed on behalf of Eastern Idaho Water Company and even during the time its primary water rights (27-22D & 27-35D) were being adjudicated, neither I nor any of the directors were aware that we were required to file a claim for what is known as "winter water" rights because the use was post irrigation season. Once we became aware of the requirement and that the company would be eligible, we contacted an attorney and began investigating the necessary evidence to prove that Eastern Idaho Water Company has consistently (since prior to 1987) diverted water into its canal system following the end of the normal irrigation season of 11-01.

☐ 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 described these documents and attache 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.)

An affidavit of C. Larry Hinderager describing the use of water right 27-22D.

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 \$100.00.

☒ 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 Tuesday, October 16, 2007 at 1:30 P.M.

at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

A Motion to File and 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 the 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:

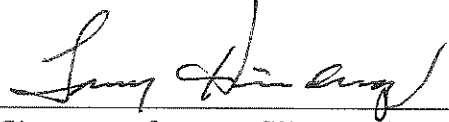
- ☐ An Amended Notice of Claim (available from IDWR).
- ☐ Payment of the following additional fees required by IDWR:

VERIFICATION

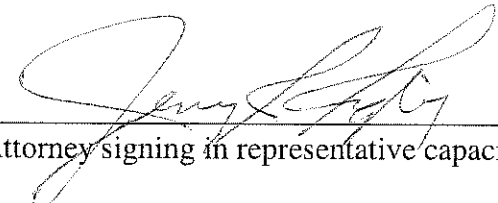
STATE OF IDAHO,)
 ss
County of Madison.)

Larry Hinderager, being first duly sworn, upon oath, deposes and says:

That I am the President of party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 4204101A(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.

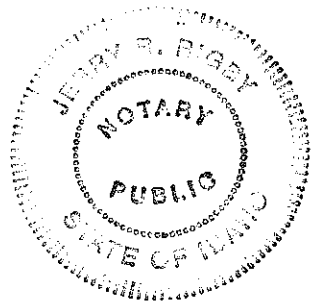


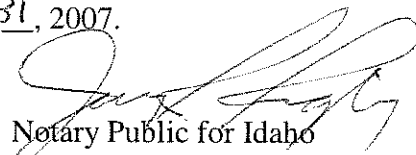
Signature of person filing motion



Attorney signing in representative capacity.

Subscribed and sworn to before me on May 31, 2007.




Notary Public for Idaho
Residing at Rexburg
My Commission Expires: 11/09/11

CERTIFICATE OF MAILING

I certify that on July 9, 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

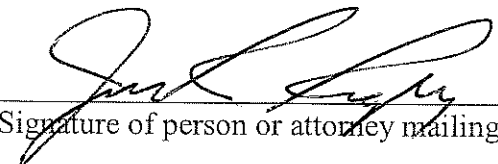
2. Copies to:

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 Resources Division
550 West Fort Street, MSC 033
Boise, ID 83724

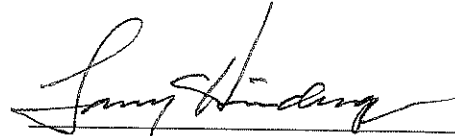
3. If you are filing an amended Notice of Claim in a subcase being heard before the Presiding Judge or Special Master, you must serve a copy on all parties in that subcase.



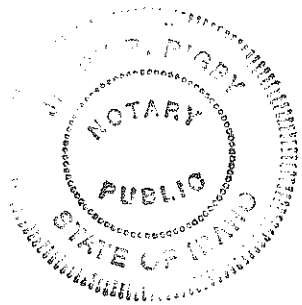
Signature of person or attorney mailing the form

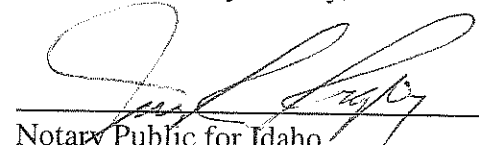
9. I hereby respectfully request that the company be allowed to file it late claim which is attached to its motion to file a late claim.

DATED this 31st day of May, 2007.


Larry Hinderager

SUBSCRIBED AND SWORN to before me this 31st day of May, 2007.




Notary Public for Idaho
Residing at: Rexburg
My Commission Expires: 11-09-11

Eastern Idaho Water Company information regarding winter stock water practices

Jay C. Mortensen
339 N. 210 E.
Blackfoot, ID 93221

Phone: 208-785-3094

Water Master for Blackfoot Slough 1990- 2005. During all of that time 300- 400 inches (6- 8 cfs) of water was kept running from Eastern Idaho Water Company's headgate on the Blackfoot River into the Blackfoot Slough in the winter time for stock water unless ice buildup occurred that might cause flooding of the canals.

George Knodle
68 N. 200 E.
Blackfoot, ID 83221

Phone: 208-785-4739

Has lived on the farm which is towards the end of the canal since 1963. Water running into the canal during winter disappeared into the ground before getting to his place. However, during that time except for years when water in the canal was cut back do to drought curtailment there was always enough water from the "sub" springing back into the canal at his place for stock water.

Neil Powell

Phone: 208-785-4404

Blackfoot, ID 83221

Lived on this place since 1965 and had cattle until 1990. During that time only had to provide stock water from well a couple years because of ice; the rest of the time there was always enough water left running in the winter.

Devon Woodland
53 Rich Lane
Blackfoot, ID 83221

Phone: 208-785-0959

Bought this place in 1960 and has always been enough water in the canal for stack water all winter unless too much ice.

Woodrow Butler
126 E. Rich Lane
Blackfoot, ID 83221

Phone: 208-785-2763

Bought this place in 1958 and have lived there ever since. However, also worked for the previous owner (Mr. Taylor) from 1939 until going into the army. Furthermore was director and president of Eastern Idaho Water Company from 1980 until 1992. There has

always been enough water left in the canal all winter from Eastern Idaho Water Company's headgates for stock water.

Rance Butler
119 East 100 North
Blackfoot, ID 83221

Phone: 208-785-6892

Born and raised on Dad's ranch (Woodrow) and can remember back into early 1960's chopping ice for stock to water in the canal all winter long.

Steve Oleson
359 E. 200 N.
Blackfoot, ID 83221

Phone: 208-785-6117

Grandfather bought the ranch in 1939. Steve can remember back to 1965 that there was water in the canal year around.

Note: Steve is pretty sure the deed/abstract for their place specifically states that there is year round water ... he is in process of searching for that.

Gary Pratt
486 E. Weeding Lane
Blackfoot, ID 83221

Phone: 208-785-4245

Born on the ranch and earliest memories there was water in the canal all winter long.

Interesting note: Gary's grandparents homesteaded the ranch in 1904-05 and Gary remembers family talking about the old days with water in the canal for stock.

January 2007

I moved to the ranch in the spring of 1943. Beginning with just a few head of cattle, the water flowed freely thru the sandhills. This was the water supply for the cattle.

In 1945 the power lines (Utah Power) reached to the ranch.

Thru the 1960's as our cattle numbers increased the water continued as an open stream for watering the stock.

Somewhere in this period of time the Slough water was intermittently becoming less dependable. The sand hills were gradually being leveled and pumps were being installed for access to stock water and irrigating.

Water was and still is our "life line" in our entire area.

Bonnie J. Pratt
(Mrs. Eldon Pratt)

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 _____

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Eastern Idaho Water Company, C/O Larry Hinderager Phone (208) 317-5436

Mailing Address 434 West Riverton Road, Blackfoot, Idaho Zip 83221

2. Date of Priority (Only one (1) per claim) 03-25-1880

3. Source of water supply (a) Blackfoot River, Miner Creek, and Wolverine Creek
which is tributary to (b) Snake River & Blackfoot River

4. a. Location of existing point of diversion is: Township 02S Range 37E Section 17
NW 1/4 of NW 1/4 of SW 1/4, Govt. Lot, 3 B.M., County of Bingham

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. Rock, concrete capped dam, 2 four foot screw headgates in
canal.

6. Water is claimed for the following purposes-

(both dates are inclusive)

(Cfs)

(acre feet)

For Stockwater purposes from 11/02 to 03/31 amount .5 or _____
 For Groundwater Recharge purposes from 11/02 to 03/31 amount 7.5 or _____
 For _____ purposes from _____ to _____ amount _____ or _____
 For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) _____ (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.) Approximately 1400 head of beef cattle, and 50 horses. Groundwater Recharge from the canal.

10. Description of place of use:

SEE ATTACHMENT A

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 instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	

Total number of acres irrigated _____

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

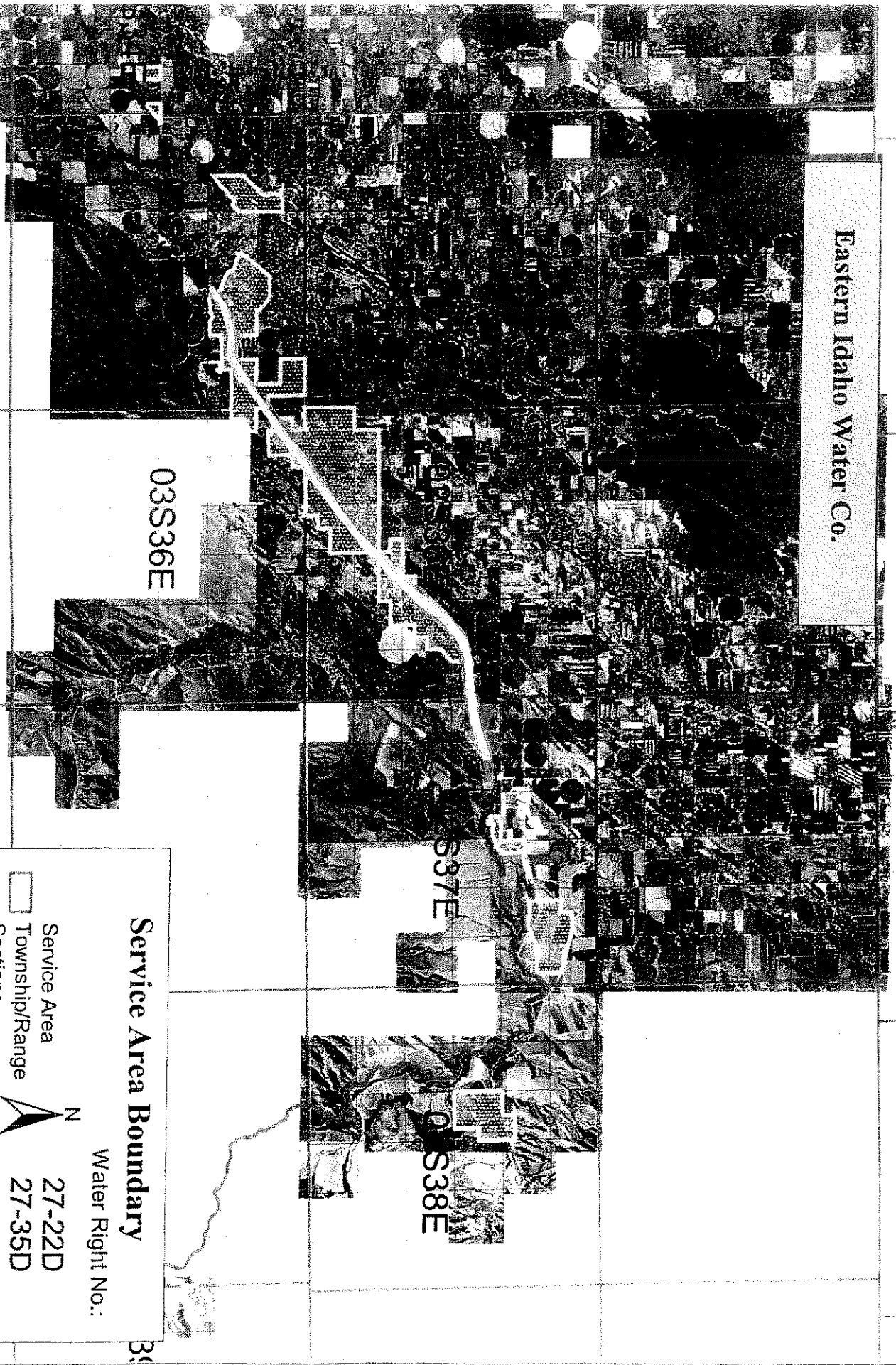
12. Do you own the property listed above as place of use? Yes _____ No X
 If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
 _____ or None ()

14. Remarks: The lands in the place of use belong to the shareholders of Eastern Idaho Water Company. Water Right 27-22D originally allowed winter use for stockwater and groundwater recharge, and has been used as such since 1880. Eastern Idaho Water Company was not aware when it filed its claim in the SRBA for 22-27D that it had to also file a claim on its winter usage.

Last Name East Idaho Water Company Ident No. _____

Eastern Idaho Water Co.



03S36E

03S37E

03S38E

Service Area Boundary

Water Right No.:

Service Area

Township/Range

Sections



27-22D

27-35D



GIS Place of Use Illustration
1987 NAPP Photography
Prepared by: E. Carlsen
Date: October 2005

15. Basis of Claim (check one) Beneficial Use, ☒ Posted Notice _____ License _____ Permit _____
Decree _____
If applicable provide IDWR Water Right Number 27-13739
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.

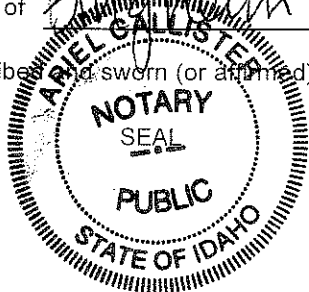
Signature of Claimant (s) _____ Date _____
_____ Date _____

For Organizations: I do solemnly swear or affirm that I am _____ President
Title
of Eastern Idaho Water Company _____, that I have signed the foregoing
Organization
document in the space below as _____ President _____ of Eastern Idaho Water Company _____
Title Organization
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent C. Jay Hildner
Title and Organization President of Eastern Idaho Water Company Date _____

State of Idaho/or _____)
County of Bingham) ss.

Subscribed and sworn (or affirmed) before me this



15th day of July 2007
Notary Public Ariel Callister
Residing at Blackfoot
My Commission Expires 11/20/12

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, Jerry R. Rigby 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 Jerry R. Rigby

Address P.O. Box 250, Rexburg, ID 83440

Date 7-3-07

Last Name East Idaho Water Company Ident. Number _____

[illegible]