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JUL 30 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: 22-13739/22-07276
	)	
	)	STANDARD FORM 4
Case 39576	)	
	)	MOTION TO FILE
	)	X 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 Stan Schwendiman, Secretary of Canyon Creek Lateral Ditch Association.

My address is: 12241 E 3749 N Newdale, ID 83436

My phone number is: Work_(208) 458-9807_____ Home _____

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.

X 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 Canyon Creek Lateral for water right 22-07276, we were not aware of the need to file an enlargement claim for this right. The enlargement exists by virtue of one of our members using water which was pumped through the Canyon Creek Lateral system, then dumped into Canyon Creek Canal and diverted onto his land, which is not included in the prescribed place of use. He has been doing this since 04/21/1978. Once we became aware of the need to file the enlargement, we contacted an attorney and the Department of Water Resources and began investigating the necessary evidence to prove that the said water user has indeed irrigated his lands with our water since prior to 1987.

☐ 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.

X I am providing legal and factual documentation for my claimed use of water. You must described 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:

An affidavit of Dwight Little describing the history of use of unused water from Canyon Creek Lateral Ditch Association on Little Farms.

X 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 \$_____.

X 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.)

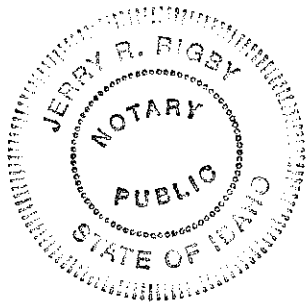
Stan Schwendiman, being first duly sworn, upon oath, deposes and says:

That I am the Secretary 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.

Stan Schwendiman, Sec.
Signature of person filing motion

Attorney signing in representative capacity.

Subscribed and sworn to before me on July 26, 2007.



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

CERTIFICATE OF MAILING

I certify that on July 26, 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

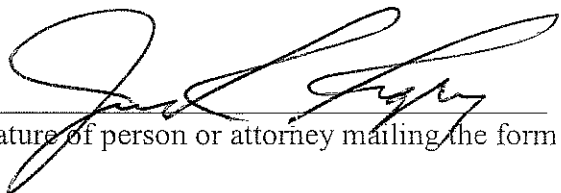
2. Copies to:

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

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:22-07276 / 22-13739
)
)
Case 39576)
) AFFIDAVIT OF DWIGHT LITTLE
)
)
_____)

STATE OF IDAHO)
ss.
County of Madison.)

Dwight Little, being first duly sworn, deposes and states as follows:

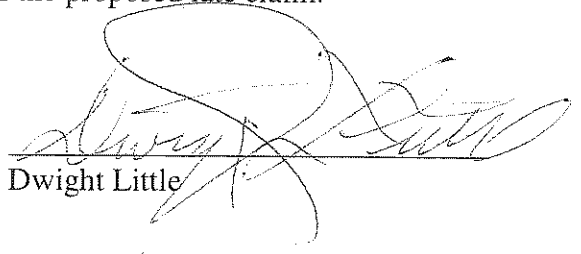
1. I reside at 2869 E. Hwy 33, Newdale, Idaho 83436.
2. I own and operate Little farms, and have done so since approximately 1969.
3. I am a shareholder/interest holder of Canyon Creek Lateral Ditch Association, the Claimant in the above entitled action.
4. I have been involved with and personally familiar with the affairs of the Association and its watering practices since 1977 when it was first organized.
5. Since 1977 I have been personally involved with the irrigation of the lands which have been designated as the "enlarged place of use" under the proposed Late Claim.
6. Since the original water was diverted by Claimant, the excess or unused water of water rights # 22-07276 & # 22-07253 has been diverted through ditches and used to supplement the irrigation of the following described lands belonging to Little Farms, which lands are the subject of the said enlarged place of use claim (see also the written statement of Dee Klingler which supports my affidavit):

126 acres of the SW1/4 of Section 26, Township 07N, Range 41E.
5 acres of the SE1/4 of the SE1/4 of Section 27, Township 07N, Range 41E.
466 acres in the NE1/4, NW1/4, and SE1/4 of Section 35, Township 07N, Range 41E.

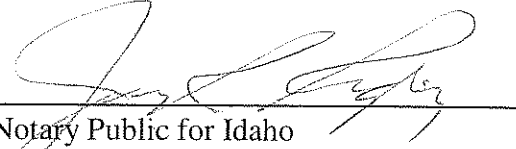
7. Claimant did not claim these "enlarged lands" in its original claim because it was unaware that the statute provided for enlarged acres to be included. Once the members of the

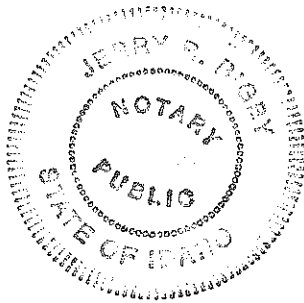
Claimant understood that the law allowed for enlarged acres, especially following an objection filed by me to one of Claimant's water rights which raised the issue of the enlarged acres, it authorized seeking out legal help to accomplish the filing of the proposed late claim.

DATED this 2 day of July, 2007.


Dwight Little

SUBSCRIBED AND SWORN to before me this 2nd day of July, 2007.


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



Pre 1987 water from the canyon creek lateral ditch was pumped south through the system into canyon creek canal then diverted two miles down stream to the Little home farm, this was done from when the pipeline system was constructed until my retirement in 2001.

water manager for Whinger Bros Farms
Ode Whinger 3/17/06

(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

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Canyon Creek Lateral Ditch Assn. C/O Stan Schwendiman Phone (208) 458-9807

Mailing Address 12241 E 3749 N Newdale, ID Zip 83436

2. Date of Priority (Only one (1) per claim) 04/21/1978

3. Source of water supply (a) Teton River

which is tributary to (b) Snake River

4. a. Location of existing point of diversion is: Township 07N Range R42E Section 30

NE 1/4 of SE 1/4 of NE 1/4, Govt. Lot, _____ B.M., County of Madison

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. Pumping plant with six pumps totaling 1650 HP, as re-diverted through a system of ditches to the enlarged acreage.

6. Water is claimed for the following purposes-

(both dates are inclusive)

(Cfs)

(acre feet)

For Irrigation purposes from 04/15 to 10/15 amount 22.7 or 6020
For _____ purposes from _____ to _____ amount _____ or _____
For _____ purposes from _____ to _____ amount _____ or _____
For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 22.7 (cfs) and/or (b) 6020 (acre feet)

8. Total consumptive use claimed is 6020 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
			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	
07N	41E	26									39	13	35	39					126
07N	41E	27																5	5
07N	41E	35	39	39	40	40	39	39	40	40					40	40	33	37	466

Total number of acres irrigated 597

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

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.

22-2150, 22-7204, 22-12786 or None ()

14. Remarks:

This land is owned by Little Farms, who is a member of Canyon Creek Lateral Canal Company. This is an
enlargement claim to enlarge the acres allowed by water right # 22-07276. These lands have been watered by said water
right since its beginning on 04/21/1978.

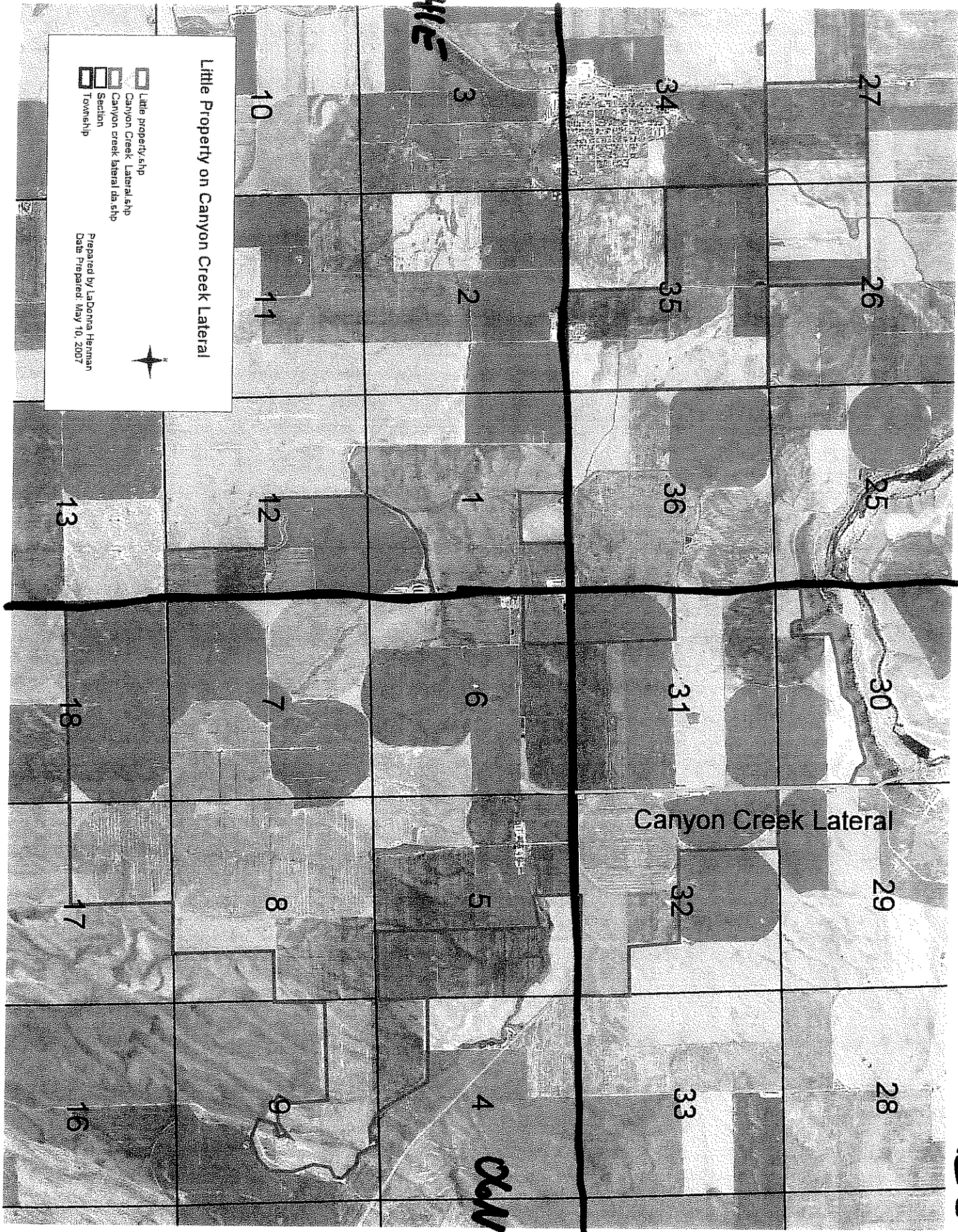
Last Name Canyon Creek Lateral Ditch Assn Ident No. _____

07N 41E

07N 42E

06N 41E

06N 42E



15. Basis of Claim (check one) Beneficial Use, X Posted Notice _____ License _____ Permit _____
Decree _____

If applicable provide IDWR Water Right Number 22-13739, enlarged from 22-07276

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 X 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) _____ Date _____

_____ Date _____

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

of Canyon Creek Lateral Ditch Association _____, that I have signed the foregoing
Organization

document in the space below as _____ Secretary _____ of Canyon Creek Lateral Ditch Association _____
Title Organization

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

Signature of Authorized Agent

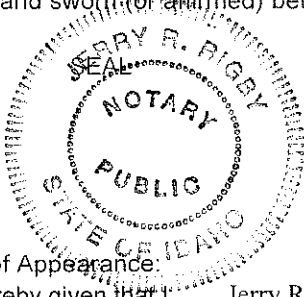
Stan Schwendeman

Title and Organization Secretary, Canyon Creek Lateral Ditch Association

Date 07/26/07

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

Subscribed and sworn (or affirmed) before me this _____ 26th _____ day of July 20 07



Notary Public

[Signature]

Residing at Rexburg

My Commission Expires 11/09/11

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

[Signature]

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

Date July 26, 2007

Last Name Canyon Creek Lateral Ditch Assn Ident. Number _____