

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>22-13750</u>                                  |
|            | ) | (Insert water right number)                              |
| Case 39576 | ) |                                                          |
|            | ) | STANDARD FORM 4                                          |
|            | ) |                                                          |
|            | ) | MOTION TO FILE:                                          |
|            | ) | <input checked="" type="checkbox"/> LATE NOTICE OF CLAIM |
|            | ) | <input type="checkbox"/> AMENDED NOTICE OF CLAIM         |

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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

James W. Leonard Beard Gammie, III

My address is

Rt 1 Box 1700 Itonia CO 82052

My phone number is:

Work

Home

307/576 2810

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:

the water springs up on or adjacent to our property and has been utilized for irrigation and stock water since I first saw the property. I was led to believe that I had water rights with this land when I bought the property & did not realize I had to file further claims to retain these historic rights

☐ 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.)

- 1- Rec name of Claim/with attachments Map & pictures
- 2- Rec Affidavit Statements from other Valley residents
- 3- County records land ownership Cattle Co 1922

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 \$ 200.

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:

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

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I have attached:

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

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VERIFICATION (Must be completed)

State of Idaho

County of Letia

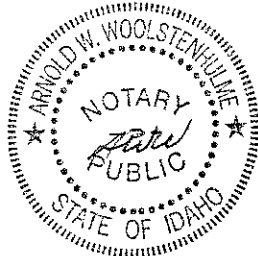
James William (Belly) Beard being first duly sworn, upon oath, deposes and says:  
(Insert name of person filing form)

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.

James W Beard  
Signature of person filing motion

\_\_\_\_\_  
Attorney signing in representative capacity

Subscribed and sworn to before me on \_\_\_\_\_  
(Insert Date)



Arnold W. Woolstenhulme  
Notary Public for IDAHO  
Residing at: Victor Idaho  
My Commission expires: 6/8/2010

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.

RECEIVED

AUG 03 2007

DEPARTMENT OF  
WATER RESOURCES

CERTIFICATE OF MAILING

I certify that on Aug 1, ~~199~~ <sup>2007</sup>, 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:

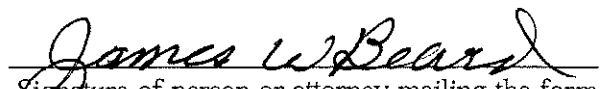
IDWR Document Depository  
PO Box 83720  
Boise, ID 83720-0098

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

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 22-13750  
Date Received: 7/27/2007  
Receipt No:  
Received By: MWH

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

JAMES WILLIAM BEARD AND LEONA BEARD TRUST Phone: (307)576-2810  
RT 1 BOX 1790  
TETONIA ID USA 83452

2. Date of Priority: 07/01/1922

3. Source: UNNAMED STREAM Trib. to: TETON CREEK

4. Point of Diversion:

| Township | Range | Section | 1/4 of 1/4 of 1/4 Lot | County | Type |
|----------|-------|---------|-----------------------|--------|------|
| 04N      | 45E   | 3       | NW NE NW 3            | TETON  |      |

5. Description of diverting works:

BOARDS AND ROCK DAM - TEMPORARY STRAW AND PLASTIC.

6. Water is used for the following purposes:

| Purpose    | From  | To    | C.F.S. | (or) A.F.A |
|------------|-------|-------|--------|------------|
| IRRIGATION | 04/15 | 10/31 | 0.36   |            |

7. Total Quantity Appropriated is:

0.36 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

| Township | Range | Section | 1/4 of 1/4 | Lot | Use           | Acres          |
|----------|-------|---------|------------|-----|---------------|----------------|
| 04N      | 45E   | 4       | NE         | NE  | 1             | IRRIGATION 11  |
|          |       |         | NW         | NE  | 2             | IRRIGATION 6.8 |
|          |       |         |            |     | Section Acres | 17.8           |
|          |       |         |            |     | Total Acres   | 17.8           |

11. Place of use in counties: TETON

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

LATE CLAIM AWAITING ACCEPTANCE BY SRBA COURT.

STREAM FED BY SPRINGS KNOWN LOCALLY AS BUFFALO SPRINGS.

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.

(b.) Number of attachments: \_\_\_\_\_

**For Organizations:**

I do solemnly swear or affirm that I am trustee of

James William Beard and Leona Beard Trust Title  
Organization, that I have signed the foregoing

document in the space below as trustee of

James William Beard and Leona Beard Trust Title  
Organization and that the statements contained in the

foregoing document are true and correct.

Signature of Authorized Agent

James W Beard  
trustee Beard Family Trust  
Title and Organization

7/27/07  
Date

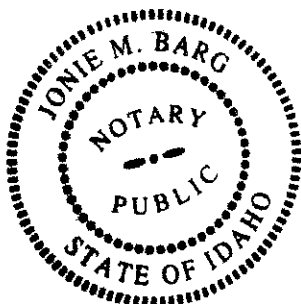
State of Idaho )  
County of Bonneville ) SS.

Subscribed and sworn (or affirmed) before me this 27TH  
of July 2007

Jonie M. Barg  
Notary Public

Residing at Idaho Falls

My commission Expires July 24, 2013





Head Gate

2/12/07

#4



Head Gate

Department of Water Resources  
900 N Skyline Road, Suite A  
Idaho Falls Idaho, 83402

To Whom it May Concern

Reference Adjudication Claim  
Beard Family Trust  
Sec 3 & 4, Twp 4 N, Rng 45 E, Teton Co, Idaho

Following is a brief abstract taken from Teton County court House records by AW Engineering.

This history supports the claims and information that water diversion and irrigation systems were developed on the ranch located in Sections 3 and 4 of Twp 4 N, Rng 45 E, Teton County, Idaho.

| DATE             | OWNER                                |
|------------------|--------------------------------------|
| NE 1/4 Section 4 |                                      |
| 1902             | Homestead from USA Government Patent |
| 9/26/13          | Leanard Covart                       |
| 1/2/14           | Herber Sharp                         |
| July 1922        | Teton Livestock Co ( Herber Sharp )  |
| May 1933         | Leo Grover                           |
| June 1939        | EH Martin                            |

N 1/2 Section 3

|           |                                      |
|-----------|--------------------------------------|
| 1902      | Homestead from USA Government Patent |
| 7/19/15   | DM Fairbanks                         |
| May 1932  | JB Fairbanks                         |
| June 1938 | JR Harper                            |
| 12/8/1939 | EH Martin                            |

Local knowledge and information shows that the ranch was developed into a cattle ranch during the period of 1914 1915 through 1922 when it was sold or transferred to Teton Livestock Co.

We are hereby claiming a water rights priority date of 1922 for the ranch water rights.

Atten To Whom It May Concern:  
Department Water Resources  
District Office, Idaho Falls, Idaho

July 25, 2007

From Jay Calderwood  
904 S 50 West Victor, Idaho 83455

I worked for Ralph Martin on the Rafter J Ranch located in Sections 3 and 4, Twp 4 N, Rng 45 E, Teton County, Idaho during the summers from 1955 through 1957.

My responsibilities included irrigating the meadows on the ranch. The upper hay meadow always had an abundance of water to fill the ditch. There was enough water to irrigate the upper meadow and run water down the slough to irrigate the lower meadow at the same time. We always had more water than needed so we ran the water on through the ranch to the neighbors land.

I remember this well because of the good horse I rode to drag dams & irrigate on.

I also worked on this ranch for Ralph Martin after I was married during 1960 and park of 1961. The irrigation system was operating in the same manner as it was during 1955.

From knowledge and information that I have I would agree that irrigation and stock water priority dates for this ranch would be some where between 1915 and 1940. My best estimate of date irrigation and stock water rights were established in 19 ~~22~~ 22

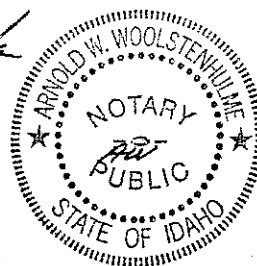
Jay Calderwood  
Jay Calderwood Victor Idaho

STATE OF IDAHO )

COUNTY OF TETON )

On this 26 day of July, 2007, before me a notary in and for the State of Idaho, personally appeared JAY CALDERWOOD, know to me to be the person whose name is subscribed to the within document.

Notary Arnold W. Woolstenhulme  
Residing in Victor Idaho  
Commission expires on 6 /08 / 2010



Atten : To Whom It May Concern:

July 25, 2007

Department Water Resources  
District Office, Idaho Falls, Idaho

From: Lavell Johnson  
123 N, 100 W,  
Driggs Idaho 83452

I have lived in Teton County all of my life and worked in the area of the Ralph Martin, Rafter J Ranch, located in Sections 3 and 4, Twp 4 N, Rng 45 E, Teton County, Idaho from 1978 through 2007.

I am acquainted with the ranch's irrigation system and have knowledge that it has been used since that time.

From knowledge and information that I have I would agree that irrigation and stock water priority dates for this ranch would be some where between 1915 and 1940. My best estimate of date irrigation and stock water rights were established in 19 ~~15~~ 22

STATE OF IDAHO )

COUNTY OF TETON )

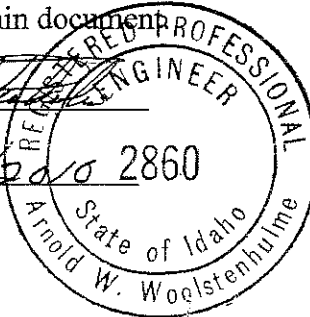
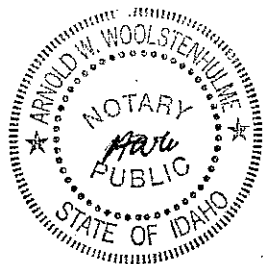
*Lavell Johnson*  
*Driggs Idaho*

On this 25 day of July, 2007, before me a notary in and for the State of Idaho, personally appeared Lavell Johnson, know to me to be the person whose name is subscribed to the within document.

Notary *Arnold W. Woolstenhulme*

Residing in *Idaho*

Commission expires on *6/8/2010* 2860



Atten : To Whom It May Concern:

July 25, 2007

Department Water Resources  
District Office, Idaho Falls, Idaho

From: Reece Chambers  
41 W, 250 N  
Driggs Idaho 83452

I have lived in or been associated with Teton County all of my life and been acquainted with the Ralph Martin, Rafter J Ranch, located in Sections 3 and 4, Twp 4 N, Rng 45 E, Teton County, Idaho from 1940 - through 2007.

I am acquainted with the ranch's irrigation system and have knowledge that it has been used since that time.

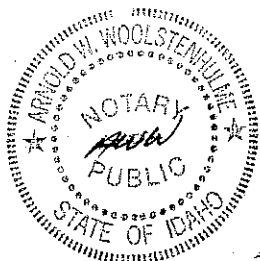
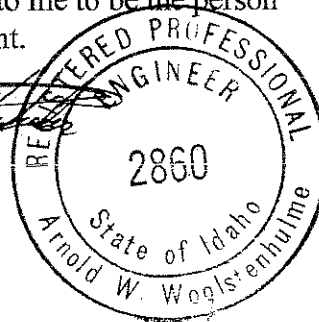
From knowledge and information that I have I would agree that irrigation and stock water priority dates for this ranch would be some where between 1915 and 1940. My best estimate of date irrigation and stock water rights were established in 19 ~~1915~~ 22

STATE OF IDAHO )

COUNTY OF TETON )

On this 25 day of July, 2007, before me a notary in and for the State of Idaho, personally appeared Reece Chambers, know to me to be the person whose name is subscribed to the within document.

A. Reese Chambers  
Notary Arnold W. Woolstenhulme  
Residing in Victor Idaho  
Commission expires on 6/8/2010



12/11/06

Dear Sirs:

I have been asked to write my recollections of water delivery out of Teton Creek for land that has been irrigated from springs and is located southwest of Driggs.

Early each spring water was delivered from Teton Creek through ditches to ground east and west of State highway 33 for flood irrigation. Once this water was used it would take 7-10 days for the springs just south and southwest of Driggs to come in. This land is currently owned by Prices, Westons, Henries, and others.

If this water isn't diverted from Teton Creek and used in this area, the springs and sub. water won't come in. That has been my experience during the time I was watermaster (1978-2000).

Sincerely,  
Lace O'Brien