

COPY

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 No. <u>31-11982</u>
	)	(Insert Water Right Number)
	)	
	)	STANDARD FORM 4
Case No. 39576	)	
	)	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 State of Idaho, Department of Lands, hereinafter referred to as the "IDL."

My address is JRW Building, Second Floor, 700 West State Street, P.O. Box 44449, Boise, Idaho 83711-4449

My phone number is: Work (208) 334-2200 Home Not Applicable

I am an attorney representing the IDL

My name is David J. Barber, Deputy Attorney General

My address is JRW Building, Second Floor, 700 West State Street, P.O. Box 44449, Boise, Idaho 83711-4449

My phone number is (208) 334-2400

MOTION TO FILE 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 Idaho Department of Lands is owner of water right no. 21-2054C. This water right was established in 1912 with sources listed as Sheridan Creek and Dry Creek. Subsequently, the Idaho Department of Water Resources, hereinafter referred to as "IDWR," divided the state into hydrologic basins. Sheridan Creek is in Basin 21; Dry Creek is in Basin 31. During the SRBA claims process, this difference in hydrologic basins was never identified as an issue for water right no. 21-2054C, and the uses from Basin 21 and Basin 31 were claimed under the original water right no. 21-2054C. By a separate motion, the IDL has requested that water right no. 21-2054C be amended to delete (i) Dry Creek as a source, (ii) the place of use served by this source, and (iii) the POD description from Dry Creek, among other technical corrections.

The present motion to file a late notice of claim is intended to claim those uses of water that occur in Basin 31 that were originally claimed under water right no. 21-2054C. The present motion also adds lands to the place of use that were originally licensed as irrigated lands in water right no. 21-2054C. These additional lands were not claimed in water right no. 21-2054C, because of inadvertent error .

☐ 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 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.)

This late notice of claim is based on licensed water right no. 21-2054, which claimed points of diversion from Basins 21 and 31. The adjudication back file for this licensed water right is attached as Attachment II.

I have attached:

- ☒ A fully completed Notice of Claim (available from IDWR).
- ☒ The IDWR has advised that the claim filing fee for this notice of claim is \$440.⁰⁰. A receipt that shows payment of this claim filing fee will be filed later with the District Court after the funds have been disbursed.

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, December 18, 2007 at 1:30 p.m.
(Insert Date and Time)

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

MOTION TO FILE 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 am providing legal and factual documentation to support my amended Notice of Claim. You must described 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 Ada

David J. Barber, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

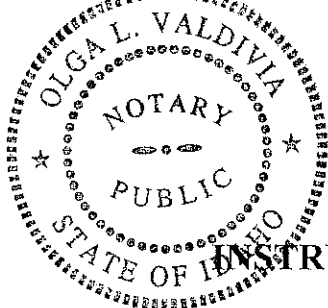
That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined I.C. §§42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the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

Signature of person filing motion

David J. Barber

Attorney signing in representative capacity

Subscribed and sworn to before me on September 4, 2007
(Insert Date)



Olga L. Valdivia
Notary Public for Idaho
Residing at: Boise, ID
My Commission expires: 2/8/2012

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 this 4th day of September 2007, I caused to be served the original and/or copy of this form on the following persons by the indicated method:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Federal Express
- ☐ Facsimile: (208) 736-2121
- ☐ Statehouse Mail

2. Copies to

State of Idaho,
Department of Lands
954 W. Jefferson
P.O. Box 83720
Boise, ID 83720-0050

- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Federal Express
- ☐ Facsimile:
- ☒ Statehouse Mail

James F. Hagenbarth
PO Box 1128
Dillon MT 59725-1128

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Federal Express
- ☐ Facsimile:
- ☐ Statehouse Mail

John M. Marshall
Givens Pursley LLP
PO Box 2720
Boise ID 83701

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Federal Express
- ☐ Facsimile:
- ☐ Statehouse Mail

United States Department of Justice
Environment and Natural Resource
Division
550 West Fort Street, MSC 033
Boise, ID 83724

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Federal Express
- ☐ Facsimile: (303) 312-7379
- ☐ Statehouse Mail

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

- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Federal Express
- ☐ Facsimile: _____
- ☒ Statehouse Mail

Chief of Natural Resource Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

Not Applicable

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)



DAVID J. BARBER
Deputy Attorney General

ATTACHMENT I

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
 RIGHTS TO THE USE OF WATER FROM
 THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 31-11982
 Date Received:
 Receipt No.:
 Received By:

1. Name of Claimant(s)

STATE OF IDAHO
 DEPT OF LANDS
 954 W JEFFERSON
 PO BOX 83720
 BOISE ID 83720-0050

2. Date of Priority: 09/24/1912

3. Source: DRY CREEK Trib. to SPRING CREEK

4. Point of Diversion:

Township	Range	Section	¼ of	¼ of	¼ Lot	County	Type
13N	40E	9	NE	NW	SW	Clark	

5. Description of diverting works:

Headgate and Ditches

6. Water is used for the following purposes:

Purpose	From	To	C.F. S. (or) A.F.A.
IRRIGATION	05/01	10/31	2.87

7. Total Quantity Appropriate is:

2.87 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	¼ of	¼	Lot	Use	Acres
13N	40E	10	SW	SW		IRRIGATION	23.5
Section Acres							23.5
13N	40E	15	NW	NW		IRRIGATION	40
			NE	NW		IRRIGATION	40
			SW	NW		IRRIGATION	40
Section Acres							120
Total Acres							143.5

11. Place of use in counties: CLARK

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

13. Other Water Rights Used:

14. Remarks: This right is a split from former licensed water right 21-2054C.

15. Basis of Claim: License.

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 not wish to receive an pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: One.

For Organizations"

I do solemnly swear or affirm that I am Patrick A. Brown of
State of Idaho, Department of Lands, that I have signed the foregoing
Organization
document in the space below as Area Supervisor, Eastern Area of
Title
State of Idaho, Department of Lands and that the statements contained in the
Organization
Foregoing document are true and correct.

[Signature]
Signature of Authorized Agent

Area Supervisor - E I
Title

State of Idaho, Department of Lands
State of Idaho, Department of Lands

8/13/07
Date

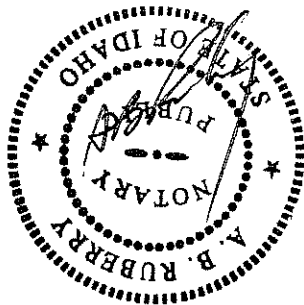
State of Idaho)
County of BONNEVILLE) ss.

Subscribed and sworn (or affirmed) before me this 13th day of AUGUST 2007

ALLEN B. RUBERRY
Notary Public

Residing at IDAHO FALLS IDAHO

My commission expires: 9/23/09



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: A21-02054A
Date Received: 6/21/1988
Receipt No: E000490
Received By: S.M.

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: SHERIDAN GOLDEN EAGLE 208-662-5511
Address: P.O. BOX 247
HAMER, ID 83425
2. Date of Priority: SEP 24, 1912
3. Source: SHERIDAN CREEK Trib. to: ISLAND PARK RESERVOIR
DRY CREEK SHERIDAN CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
13N	40E	7	SW	NW			CLARK
		9	NW	SW			CLARK

5. Description of diverting works:
HEADGATES & DITCHES.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/15	10/15	59.200		

7. Total Quantity Appropriated is:
59.200 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 4440.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE.

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
13N	41E	8	SW	SE		IRR	40.0

A21-02054A

Page 1

Date: 06/21/88

MICROFILMED

OCT 20 1992

ATTACHMENT II



10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
13N	41E	8	SE	SE		IRR	40.0
						Section Acres	80.0
		16	NE	NE		IRR	40.0
			NW	NE		IRR	40.0
			SW	NE		IRR	40.0
			SE	NE		IRR	40.0
			NE	NW		IRR	40.0
			NW	NW		IRR	40.0
			SW	NW		IRR	40.0
			SE	NW		IRR	40.0
			NE	SW		IRR	40.0
			NW	SW		IRR	40.0
			SW	SW		IRR	40.0
			SE	SW		IRR	40.0
			NE	SE		IRR	40.0
			NW	SE		IRR	40.0
			SW	SE		IRR	40.0
			SE	SE		IRR	40.0
						Section Acres	640.0
		17	NE	NE		IRR	40.0
			NW	NE		IRR	40.0
			SW	NE		IRR	40.0
			SE	NE		IRR	40.0
			NE	NW		IRR	40.0
			NW	NW		IRR	40.0
			SW	NW		IRR	40.0
			SE	NW		IRR	40.0
			NE	SW		IRR	40.0
			NW	SW		IRR	40.0
			SW	SW		IRR	40.0
			SE	SW		IRR	40.0
			NE	SE		IRR	40.0
			NW	SE		IRR	40.0
			SW	SE		IRR	40.0
			SE	SE		IRR	40.0
						Section Acres	640.0
		18	NE	NE		IRR	40.0
			NW	NE		IRR	40.0
			SW	NE		IRR	40.0

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OCT 20 1992

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
13N	41E	18	SE	NE		IRR	40.0
			NE	SE		IRR	40.0
			NW	SE		IRR	40.0
			SW	SE		IRR	40.0
			SE	SE		IRR	40.0
						Section Acres	320.0
		20	NE	NE		IRR	40.0
			NW	NE		IRR	40.0
			SW	NE		IRR	40.0
			SE	NE		IRR	40.0
			NE	NW		IRR	40.0
			NW	NW		IRR	40.0
			SW	NW		IRR	40.0
			SE	NW		IRR	40.0
			NE	SW		IRR	40.0
			NW	SW		IRR	40.0
			SW	SW		IRR	40.0
			SE	SW		IRR	40.0
			NE	SE		IRR	40.0
			NW	SE		IRR	40.0
			SW	SE		IRR	40.0
			SE	SE		IRR	40.0
						Section Acres	640.0
		21	NE	NE		IRR	40.0
			NW	NE		IRR	40.0
			SW	NE		IRR	40.0
			SE	NE		IRR	40.0
			NE	NW		IRR	40.0
			NW	NW		IRR	40.0
			SW	NW		IRR	40.0
			SE	NW		IRR	40.0
			NE	SW		IRR	40.0
			NW	SW		IRR	40.0
			SW	SW		IRR	40.0
			SE	SW		IRR	40.0
			NE	SE		IRR	40.0
			NW	SE		IRR	40.0
			SW	SE		IRR	40.0
			SE	SE		IRR	40.0
						Section Acres	640.0

10. Place of Use: Continued

Total Acres 2960.0

11. Place of use in counties: CLARK

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

13. Other Water Rights Used:
A21-00030/00108/02158.

14. Remarks:

15. Basis of Claim: BENEFICIAL USE
Water Right Number:

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 not do not X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 3

For Organizations:

I do solemnly swear or affirm that I am MANAGER of

Sheridan/Golder LABIE, that I have signed the foregoing

document in the space below as MANAGER of

Sheridan/Golder LABIE and that the statements contained in the

foregoing document are true and correct.

RL Webster
Signature of Authorized Agent
MANAGER
Sheridan/Golder LABIE
Title and Organization

6-22-88
Date

State of Idaho)
County of Bannette) ss.

Subscribed and sworn (or affirmed) before me this 22 day

of June 19 88

Dana Green
Notary Public

Seal

Residing at Rigby

My Commission Expires 4/22/94

NAME OF APPLICANT...

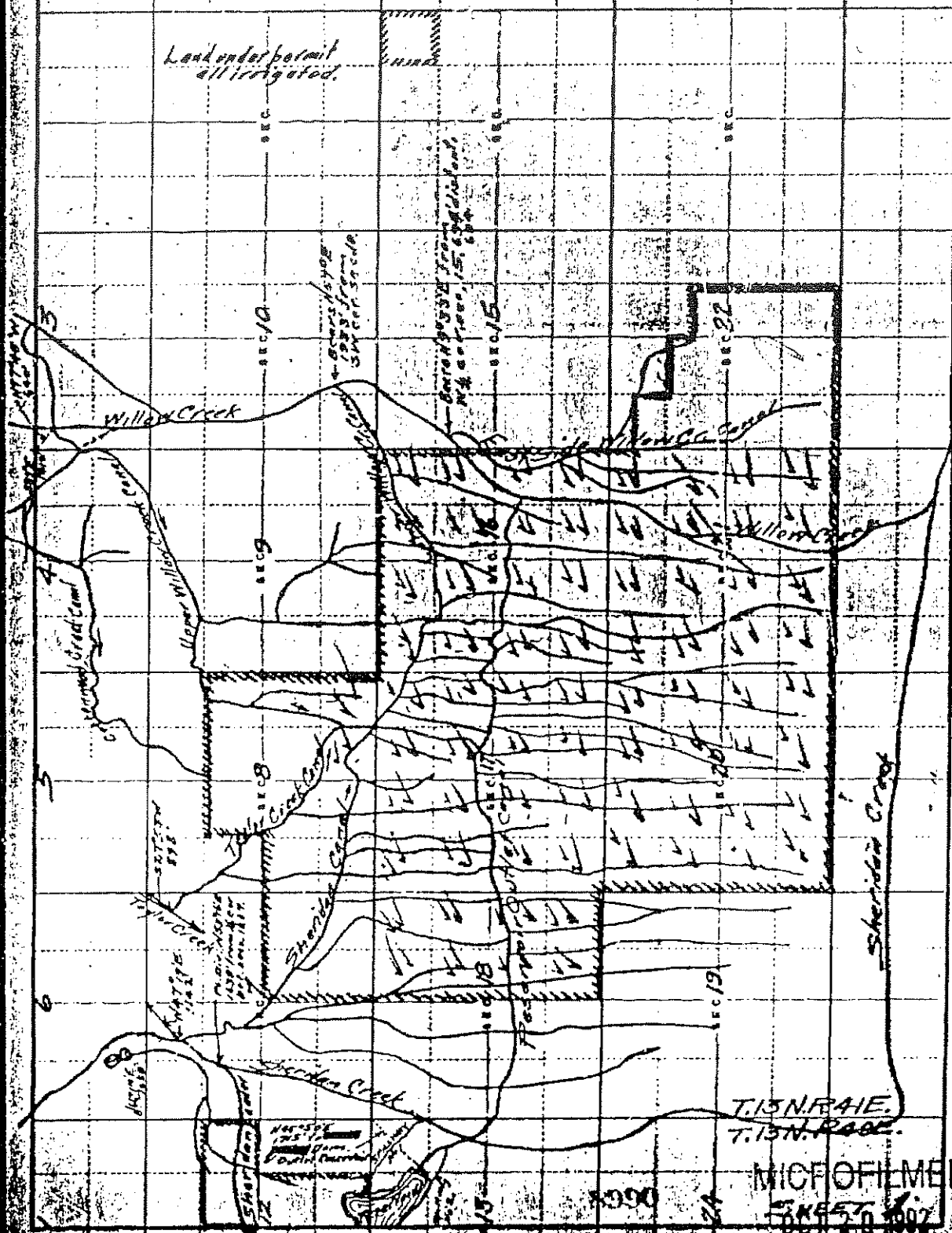
L. Hagenbarth

Permit 8330

SHEET 1

LEGEND

Land under permit
all irrigated.



SCALE: 1/4 INCHES = 1 MILE. DRAW PLAN IN DOL.

T.13N.R.41E.
T.13N.R.40E.

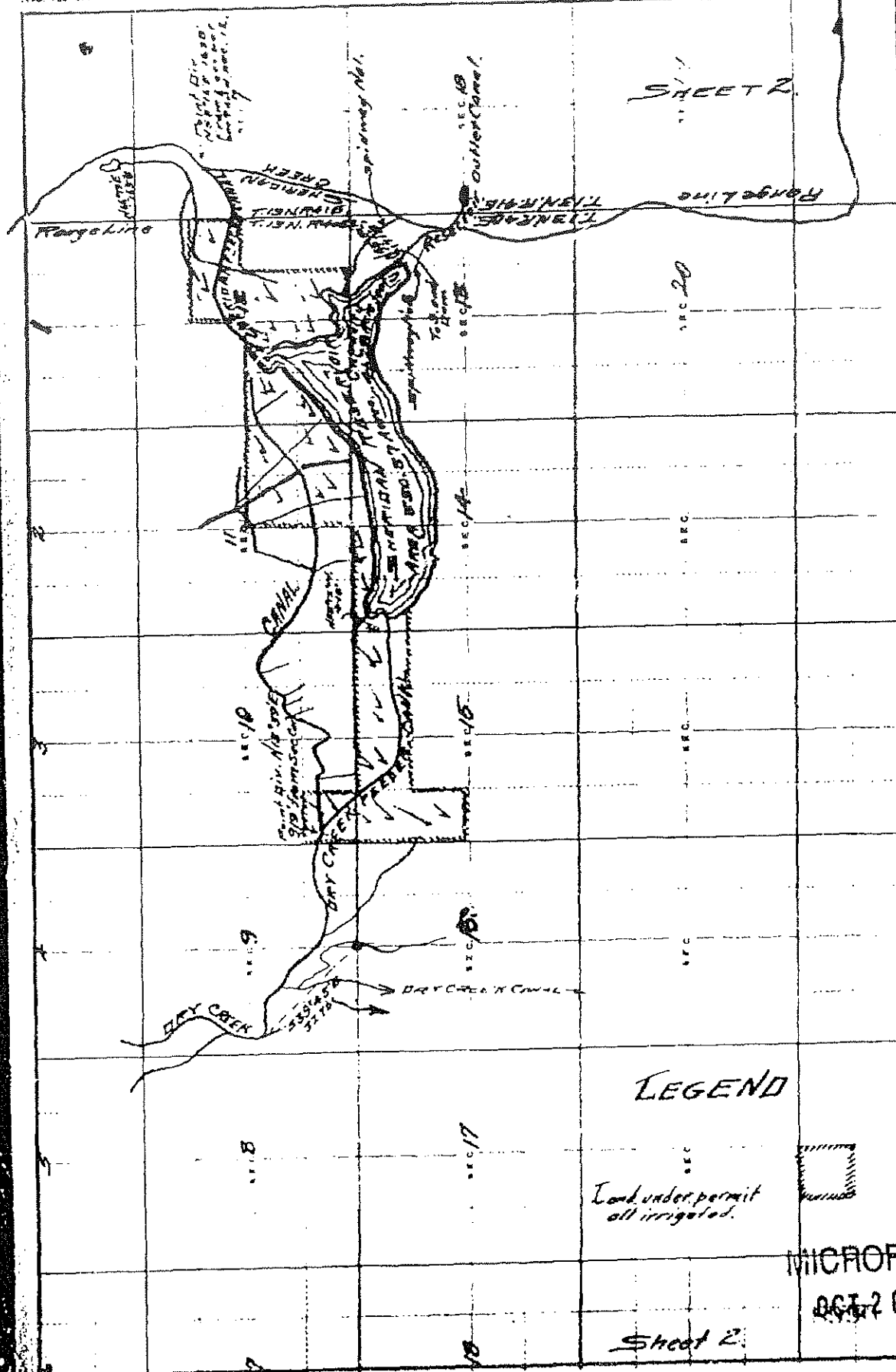
NOT FILMED
5-10-1967

NAME OF APPLICANT.

F. Hogenborth

Permit 8990

SHEET 2.



LEGEND

Land under permit
all irrigated.

MICROFILM

OCT 20 19

Sheet 2.

SCALE: 2 INCHES=1 MILE. DRAW PLAN BY DICK.

State of Idaho License and Certificate of Water Right

Water License No. 8990
Water District No. 35-A

Amount 75.2
Priority 9-24-1912

THIS IS TO CERTIFY that F. J. Hagenbarth of Spencer, Idaho, made application for a permit to appropriate the public waters of the State of Idaho, dated September 24, 1912; that Permit No. 8990 was issued under said application; that Certificate of Completion of works, with a carrying capacity of 80.0 second feet, was issued thereunder on August 27, 1916, showing that said works were completed on the 7th day of January, 1916; and that on the 9th day of September, 1920,

F. J. Hagenbarth of Spencer, State of Idaho, made proof to the satisfaction of the Commissioner of Reclamation of Idaho, of the right to use the waters of Dry Creek and Sheridan Creek, a tributary of Snake River, for the purpose of irrigation and domestic use, under Use Permit No. 8990 of the State Engineer and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is hereby confirmed by the Commissioner of Reclamation of Idaho and entered of record in Volume 6 of Licenses, at page 3229, on the 2nd day of January, 1925;

The right hereby confirmed dates from September 24, 1912;

The Point of Diversion located Dry Creek feeder canal bears S. 39° 45' E. 3270' from the 1/4 Corner bet. Secs. 9-16, T. 13 N., R. 40 E., B. 1 N. Sheridan Creek Feeder canal bears N. 53° 16' E., 1638' from 1/4 Cor. bet. Secs. 7-12, T. 13 N., R. 41 E., B. 1 N. That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed 75.2 cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
13 N.	41 E.	8	SE 1/4	80	80
		16	All	640	640
		17	All	640	640
		18	E 1/2	320	320
		20	All	640	640
		21	All	640	640
13 N.	40 E.	12	S 1/2 NE 1/4	80	80
			W 1/2 SE 1/4	80	80
			SW 1/4	160	160
		11	SE 1/4	160	160
		10	SW 1/4 SE 1/4	40	40
		15	W 1/2 NW 1/4	80	80
			NE 1/4 NW 1/4	40	40
			N 1/2 NE 1/4	80	80
		14	N 1/2 NW 1/4	80	80
				3760	3760

The right to the use of the water aforesaid hereby confirmed is restricted to the lands to which use herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the Commissioner of Reclamation, affixed at Boise, Idaho, this 2nd day of January, 1925

W. G. SWENDSEN
Commissioner of Reclamation.

(SEAL)

By GEO. H. CARTER
Assistant

MICROFILM

21 OCT 21 1925

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: A21-02054B
Date Received: 8/09/1988
Receipt No: E001147
Received By: Kew

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: MARGARET HAGENBARTH 406-683-2163
Address: P.O. BOX 1128
DILLON, MT 59725
OR
Name: DAVID J. HAGENBARTH 406-683-2163
Address: P.O. BOX 1128
DILLON, MT 59725
OR
Name: JAMES F. HAGENBARTH 406-683-2163
Address: P.O. BOX 1128
DILLON, MT 59725

2. Date of Priority: SEP 24, 1912

3. Source: UNNAMED SPRING Trib. to: SHERIDAN CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
13N	41E	6	NW	SE	SW		CLARK

5. Description of diverting works:
DIVERSION DAM TO DITCHES FOR SUB/FLOOD IRRIGATION

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	3.800		
STOCKWATER	04/01	12/31	0.240		

7. Total Quantity Appropriated is:
3.800 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 292.5 Acre Feet Per Annum.

9. Non-irrigation uses:
S/1091 RANGE CATTLE
A21-02054B

Page 1

Date: 08/09/88



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OCT 20 1992

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
13N	40E	11	SE	SW		IRR	40.0
			SE	SW		STOCK	
			NE	SE		IRR	29.0
			NE	SE		STOCK	
			NW	SE		IRR	5.0
			NW	SE		STOCK	
			SW	SE		IRR	40.0
			SW	SE		STOCK	
			SE	SE		IRR	36.0
			SE	SE		STOCK	
			Section Acres				150.0
		12	NW	SW		IRR	36.0
			NW	SW		STOCK	
			Section Acres				36.0
		14	NE	NE		IRR	3.0
			NE	NE		STOCK	
			NW	NE		IRR	1.0
			NW	NE		STOCK	
			Section Acres				4.0
			Total Acres				190.0

11. Place of use in counties: CLARK

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

13. Other Water Rights Used:

31-2275/4129/4130/4131/4132/4133, 01-2068/0340

14. Remarks:

SEE ATTACHMENT "A" FOR EXPLANATION ON SYSTEM OPERATION
SOURCE AKA MORRAIN SPRING

15. Basis of Claim: LICENSE

Water Right Number: 212054

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): James P. Hagerlantz Date: 8/9/88

Date: _____

State of Idaho)
County of Bonnerville) SS.

Subscribed and sworn (or affirmed) before me this 9th day
of August 19 88 Deena Green
Notary Public

Seal

Residing at Rigby
My Commission Expires 4-22-1991



State of Idaho
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

February 1, 2001

HAGENBARTH LIVESTOCK
PO BOX 1128
DILLON MT 59725

RE: ADDITION OF ATTORNEYS TO CLAIMS

Dear Claimants:

Attorneys John Bloomquist and Patti Rowland have been added to your claims per your request.

If you have any questions feel free to contact this office at (208) 525-7161.

Respectfully submitted,

Cheri Vandermeulen
Records Clerk

February 6, 1989

A 21-02054 B

Jim Hagenbarth
P.O. Box 1128
Dillon, Montana 59725

Clark Co.

RE: RIGHTS 21-2054, 31-0080 AND 31-0081

Dear Mr. Hagenbarth:

Our Eastern Regional office in Idaho Falls has asked this office to respond to your inquiry in connection with licensed right 21-2054 and decreed rights 31-0080 and 31-0081.

You have asked for the department's opinion relative to the validity and interrelationship of the above referenced water rights.

My research of the water right files does not show any particular relationship among the rights. The decreed rights do not necessarily supercede the licensed right, since the lands do not appear to overlap. The question of whether any or all of the rights are valid rights, however, depends on the use made of the rights through the years. The ultimate determination of the validity of a right will be made by the district court. The department, however, will make a recommendation to the court based on available information.

I note that you have filed adjudication claim no. A31-10245 based on license 21-2054. This license shows two sources, Dry Creek and Sheridan Creek which are in different water districts. The districts may have records relative to past use and delivery of the rights.

The Idaho statutes provide that any water right can be lost through 5 years continuous non-use. If the above referenced rights have been continuously used, you need to provide evidence of the use to the water masters of the respective water districts if their records do not show such use. In addition, you need to provide this type of information to the department for analysis and recommendation in connection with your adjudication claims.

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Jim Hagenbarth

- 2 -

February 6, 1989

Please feel free to contact the department if you have additional questions.

Sincerely,

L. GLEN SAXTON, Chief
Water Allocation Bureau

c: E. Region
Don Shenton
Adjudication Bur.

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OCT 20 1992

6/27/88

RE: Hagenbarth Dry Creek-Sheridan Creek
Water Delivery System

I am representing the claimants in the filing of their water rights in the Snake River Basin Water System. The claimants are Margaret Hagenbarth, David J. Hagenbarth and James F. Hagenbarth.

The claimants' predecessor, Father-in-law and Grandfather respectively, F. J. Hagenbarth, diverted waters of Sheridan Creek and Dry Creek on September 24, 1912. Part of this water was licensed for use on lands now owned by the claimants. As testimony to the above facts, see Warranty Deed filed on July 17, 1944 in Book 12 of Deeds at page 319 in the Clark County Clerk and Recorder's office and also water license # 8990/21-2054 on file with the Department of Water Resources. The deed clearly proves the claimants' control and ownership of 590 acres which were claimed as place of use by F. J. Hagenbarth in License # 21-2054. Since the claimants' predecessor, D.V. Hagenbarth, passed ownership of the above described land to the claimants via an estate, it follows that 590 miner's inches (11.8 c.f.s.) from 21-2054 belong to the claimants. Also note on Sheet #2 of the diagram on the water license that the original points of diversion are identical to those the claimants use at present. Please note on Sheet #2 that the Dry Creek source includes both the east and west forks and note the three canals leaving the point of diversion, one with a southerly course and the other two with easterly courses, but one lying more northerly. Note on sheet #2 the pond which lies in Lot 7(SWSW) of Section 6, T13NR41E. This pond is identical to Morrain Springs which is a tributary to Sheridan Creek and is the Sheridan Creek source diverted by the claimants. The point of diversion used by the claimants for Morrain Springs is identical to Sheet #2 and lies in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 6, T13NR41E. There is no question that the sources and PD's identified in this filing are identical to the sources being used by the claimants presently.

In 1943 my Father, D.V. Hagenbarth finished construction of a water delivery system which pooled the waters from many sources in the area and put the waters to an even greater beneficial use. The system is a sub-flood irrigation system with slow gradient ditches capable of handling and distributing either large or small flows of water. Mr. Hagenbarth applied for additional water out of Dry Creek as evidenced by licenses #31-2274 and #31-2275. As the years progressed this system has developed so as to put water from 8 different sources to a beneficial use on lands owned by the claimants. This use is a result of utilizing the waters from 12 different water rights on lands lying both north and south of Sheridan Ridge in T13NR40E. Of these 12 water rights, six are licenses and 6 are claims based on use. The sources are Dry Creek, Woody Headquarters Spring, Headquarters Spring, two unnamed springs, Mud Creek, Kick Creek, and Morrain Springs. Each source contributes to the water delivery system,

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(continued-Hagenbarth water delivery system)

but will have an independent land list depending upon where the source enters the system. The total system includes 1274 acres. 1092 acres will be attached to the Dry Creek sources, an additional 163 acres will be attached to the Kick Creek filing and the remaining 19 acres will be included with Morrain Springs.

Water right #21-2054 will be separated into two rights so that those waters diverted by said right from Dry Creek will be separate from those waters diverted from Morrain Springs. By doing this it will return each right to its respective district so the user can be billed properly and the rights can be regulated correctly according to priority dates. Morrain Spring is in District 21 and Dry Creek is in District 31. 8.00 c.f.s. will be claimed for Dry Creek and 3.8 c.f.s. for Morrain Spring via 21-2054.

All the sources except Morrain Springs have the same characteristics as most creeks in this area in that the spring flow is tremendous and the summer flow is very minimal, consequently the total c.f.s.'s appropriated seem rather large for the place of use in regard to one miner's inch per acre. This maximum use is short lived. In early spring the maximum flow of water claimed has been used on the lands designated, but only for a short period of time. Later on in the summer it is not unusual for only stockwater to be available.

These comments will be included in each of the filings on all the sources of water that are put to beneficial use by the water delivery system constructed by D.V. Hagenbarth. Included with many of the filings are separate comments dealing with each individual source.

Sincerely,

James F. Hagenbarth

James F. Hagenbarth

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170 X

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: A21-02054C
Date Received: 8/2/89
Receipt No: C008802
Received By: 9/

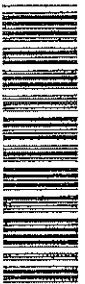
NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: STATE OF IDAHO
Address: DEPT. OF LANDS
STATEHOUSE
BOISE, ID

83720

Department of

A2102054C



2. Date of Priority: SEP 24, 1912

3. Source: SHERIDAN CREEK
DRY CREEK

Trib. to: ISLAND PARK RESERV
SHERIDAN CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
13N	40E	9	NW	SW			CLARK
	41E	7	SW	NW			CLARK

5. Description of diverting works:
HEADGATE & DITCHES.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/15	10/15	2.400		

7. Total Quantity Appropriated is:
2.400 C.F.S. (and/or)

A.F.A.

8. Total consumptive use is 180.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE.

A21-02054C

Page 1

Date: 06/16/89

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10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
13N	40E	10	SW	SW		IRR	40.0
						Section Acres	40.0
		12	SW	NE		IRR	40.0
			SE	NE		IRR	40.0
						Section Acres	80.0
						Total Acres	120.0

11. Place of use in counties: CLARK

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

13. Other Water Rights Used:
21-00108

14. Remarks:

15. Basis of Claim: LICENSE
Water Right Number: 8990

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 Organizations:

I do solemnly swear or affirm that I am Chief, Bureau of Range Management of Idaho Department of Lands Title _____, that I have signed the foregoing Organization document in the space below as Chief, Bureau of Range Management of Title _____ and that the statements contained in the Organization foregoing document are true and correct.

Donald E. Holbe
Signature of Authorized Agent
Chief, Bureau of Range Management
Idaho Department of Lands
Title and Organization

June 26, 1989
Date

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 26 day

of June 19 89

Seal

Virginia M. Peters
Notary Public

Residing at Boise Idaho
My Commission Expires 3/15/94