

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>03-7020</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 Parks and Recreation, hereinafter referred to as the "IDP&R."

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 Idaho Department of Parks and Recreation

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 U.S. Department of Defense, Department of Army, Corps of Engineers owns the land, which is the place of use for water right no. 03-7020. The IDP&R leases the land from the Corps of Engineers and manages Hells Gate State Park on this real property. The Corps of Engineers has not claimed this particular use of water, even though the State of Idaho has contacted the United States Department of Justice about the matter. The present motion is intended to assure that this needed water right is not lost because of failure to file a notice of claim in the Snake River Basin Adjudication.

☐ 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. 03-7020.

I have attached:

- ☒ A fully completed Notice of Claim (available from IDWR).
- ☒ Ronald D. Howerton, former IDWR water agent, calculated the claim filing fee for this notice of claim to be the amount of \$192.⁰⁰. A state warrant in this amount is attached.

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 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. 03-7020.

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 \$192.⁰⁰. A state warrant in this amount is attached.

Follow these instructions regarding the hearing on this motion.

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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)

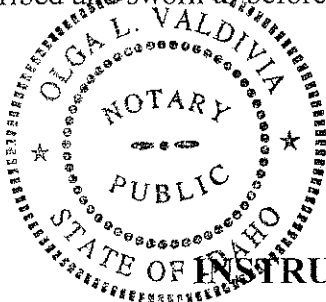
That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined I.C. §§42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the 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 27, 2007
(Insert Date)



[Signature]
Notary Public for Idaho state
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 27th 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 Parks and Recreation
STATEHOUSE MAIL
P.O. Box 83720
Boise, ID 83720-0065

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

James J. DuBois
Attorney, General Litigation Section
United States Department of Justice
Environment and Natural Resource
Division
1961 Stout Street, Suite 800
Denver, CO 80294

- ☒ 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



DAVID J. BARBER
Deputy Attorney General

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 3-7020
Date Received:
Receipt No:
Received By:

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name of Claimant(s)

IDAHO DEPARTMENT OF PARKS & RECREATION (LESSEE)
STATEHOUSE MAIL
PO BOX 83720
BOISE ID 83720-0065
(208) 334-4180

2. Date of Priority: FEB 25, 1977

3. Source: SNAKE RIVER Trib. to: COLUMBIA RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
35N	06W	26	NW NW	NEZ	PERCE

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A.
IRRIGATION	03/01	10/31	1.07	165.0

7. Total Quantity Appropriated is:
1.07 C.F.S. 165.0 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres	
35N	06W	23	SE	NW	2	IRRIGATION	2.1
			SW	NW	2	IRRIGATION	5.3
			NE	SW	3	IRRIGATION	2.3
			NW	SW	3	IRRIGATION	9.1
			NW	SW		IRRIGATION	3.2
			SW	SW	4	IRRIGATION	8.7
			SW	SW		IRRIGATION	4.1
			SE	SW	4	IRRIGATION	2.8
Section Acres						37.6	
35N	06W	26	NE	NW	3	IRRIGATION	2.1
			NW	NW	3	IRRIGATION	4.6
			NW	NW		IRRIGATION	1.2
Section Acres						7.9	
Total Acres						45.5	

11. Place of use in counties: NEZ PERCE

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

13. Other Water Rights Used: NONE FOR SAME PURPOSE

14. Remarks:

License incorrectly described POD as: T35N, R6W, S26, NENW. Correct POD is shown on IDWR file's copy of attached Corps sketch map =T35N, R6W, S26, NWNW. Note: Although physical POD location has never changed, this should be considered an accomplished transfer.

License incorrectly described POU in S23. Correct tracts are in the NW & SW, T35N, R6W, S23, as shown on IDWR file's copy of attached Corps sketch map. Note: Although physical POU location has never changed, this should be considered an accomplished transfer.

This claim clarifies the POD & POU physical location of irrigation using 2004 imagery of "Hells Gate" State Park, Lease No.: DACW68-1-75-25. See attached 2004 imagery "Idaho Department of Parks and Recreation" map dated 6-11-07.

15. Basis of Claim: LICENSE

Water Right 3-7020

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 Director of

Idaho Parks & Recreation, that I have signed the foregoing
Organization

document in the space below as Director of
Title

Idaho Parks and Recreation and that the statements contained in the
Organization

foregoing document are true and correct. Robert Meinen
Signature of Authorized Agent

Director Idaho Department of Parks & Recreation
Title and Organization

9/26/07
Date

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): _____ Date: _____

_____ Date: _____

State of Idaho)
County of Ada) SS.

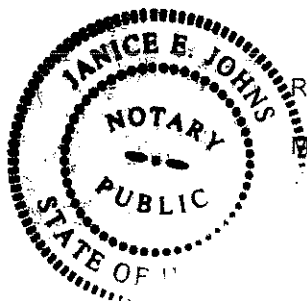
Subscribed and sworn (or affirmed) before me this

of 9/06 2007

Janice E. Johns
Notary Public

Residing at Boise Idaho

My commission Expires 7/23/2010



CORPS OF ENGINEERS, U.S. ARMY

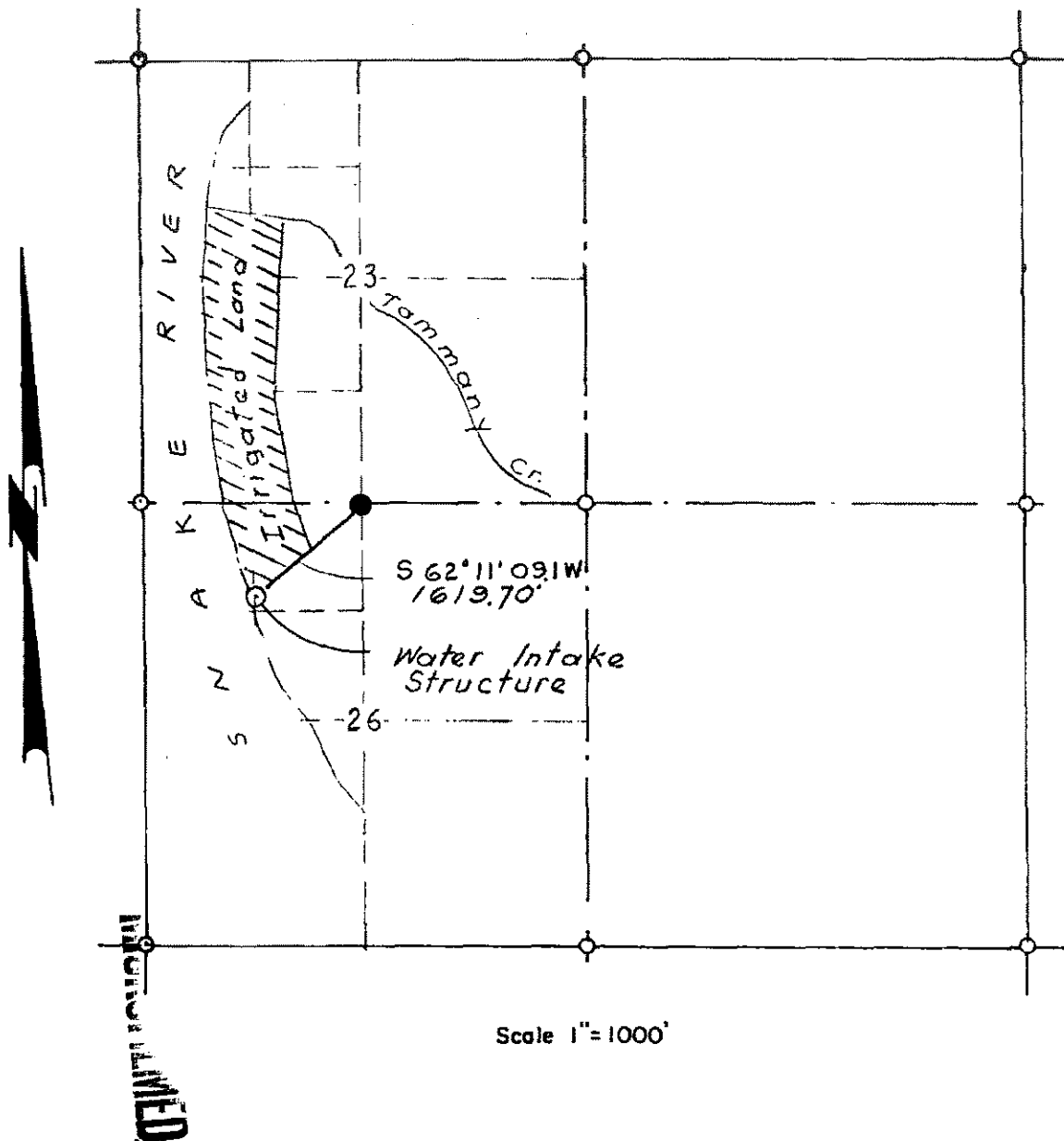
WALLA WALLA DISTRICT

ENGINEERING DIVISION F&M BRANCH SURVEY SECTION

PROJECT LOWER GRANITE RESERVOIR, HELLSGATE PARK

SUBJECT WATER INTAKE STRUCTURE

BY DATE CHECKED PART PAGE OF

SECTION 26 TOWNSHIP 35 N, RANGE 6 W., BOISE MERIDIAN
NEZ PERCE COUNTY, IDAHO

NPD Form
June 1962 7A O/P-1
Clearprint
RP
Translucent Grid

DESCRIPTION: THE WATER INTAKE STRUCTURE IS LOCATED IN THE NW 1/4 OF THE NW 1/4 OF SECTION 26, TOWNSHIP 35 NORTH, RANGE 6 WEST, BOISE MERIDIAN, NEZ PERCE COUNTY, IDAHO. BEING S.62-11-09.1 W. A DISTANCE OF 1619.70 FT. FROM THE NORTH QUARTER CORNER OF SECTION 26, LAMBERT, WASHINGTON SOUTH ZONE COORDINATES ARE: N.390,786.62 E.2,863,599.26

IDAHO DEPARTMENT OF PARKS & RECREATION

T35N, R06W, S23 & S26



POD
T35N, R06W,
S26, NWNW

0 0.125 0.25 0.5 Miles

LICENSE 03-07020

Map prepared
by: RDH 6-11-07
2004 MAP



03-07020 POD

03-07020 POU