

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

13-28900

(Insert water right number)

Case 39576

) STANDARD FORM 4

) 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 Wayne Stephens

My address is 24804 Emmett Rd Caldwell Id
83607

My phone number is: Work 739-8472 Home 585-3134

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:

☐ 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.)

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 \$ _____.

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:

*During my Redrunch I found a early
Priority Gate, then what was claimed.*

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

See Att ~~affidavit~~ affidavit

I have attached:

☒ An amended Notice of Claim (available from IDWR).

☐ Payment of the following additional fees required by IDWR: N/A

VERIFICATION (Must be completed)

State of Id.

County of Ada.

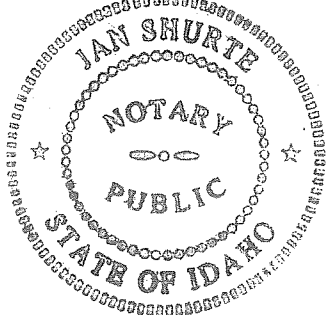
Wayne Stephens, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

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.

Wayne Stephens
Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on 10-9-07
(Insert Date)



Jan Shurte
Notary Public for IDAHO
Residing at: Meredean, ID
My Commission expires: 12-12-12

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 10-9-07, ~~199~~, 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:

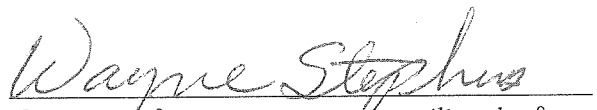
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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

May 31, 2007

Idaho Department of Water Resources
Western Region Office
2735 Airport Way
Boise, ID 83705-5082

Re: Evidence of Priority for Claims to Water Rights 63-20900,
63-20901, 63-20902, and 63-20909

Gentlemen:

My name is Wayne Stephens, my mailing address is 24604 Emmett Road, Caldwell, ID 83607, and I am more than 18 years of age. The following information about the water use associated with the above numbered claims to water rights is from my own personal knowledge.

The triplex associated with claim to water right 63-20900 is on the location of a residence and brick/block factory that were in place in the mid 1950s. The attached "Agreement to Terminate Water Well Agreement" was put in place to terminate a water well sharing agreement dated February 8, 1956. The location of the shared well as described in Exhibit "A" of the attached Agreement is the same property as the currently located triplex and claim to water right 63-20900 should be amended to claim a priority date of at least February 8, 1956.

I moved into and lived in the 8 plex associated with claim to water right 63-20901 in 1962. The units were new when I moved in during 1962.

The triplex and 4 plex associated with claim to water right 63-20902 were in place on the property when I moved there in 1962. Neither of the buildings was new in 1962 when I moved there.

The 12 unit apartment associated with claim to water 63-20909 was, to the best of my recollection, completed in about 1965. I request that the priority date of this claim be amended to 1965. I grew up in Middleton and from about the mid 1950s to the late 1960s I hunted geese in the general area where the 12 unit apartment and the Valley View Apartments are now located. As noted above my wife and I rented one of the Valley View apartments in 1962 and we lived there into sometime in 1963 when we purchased a residence. It is my recollection that shortly after we moved the 12 plex apartment was constructed. Our interest in the properties continued. In 1977 my wife and I purchased the Valley View Apartment complex which was located next to the then existing 12 unit apartment complex. At this time it was apparent that both units had existed for a significant period of time and both were in need of significant maintenance and repair. Later I purchased the 12 unit

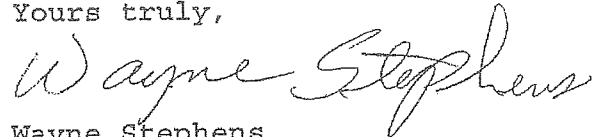
Idaho Department of Water Resources
Page 2
May 31, 2007

complex. As noted, it is my best recollection that the 12 unit complex has existed since about 1965. Canyon County has advised me that they do not keep copies of building permits issued that far back and therefore I cannot pinpoint the precise date of the issuance of the building permit.

All of these water rights are interconnected to 5 wells, some of which provide water for additional water rights as well. Normally, these water rights are supplied from 3 wells but the interconnections can be turned on when needed to provide a continuous, reliable water supply. The other water rights diverted from these wells include 63-11234, 63-12000, 63-20897, 63-20898, and 63-20899.

Please contact me, David L. Whitney at 459-3659, or David Shaw at 363-7983 if you have questions or need any additional information regarding these claims to water rights.

Yours truly,


Wayne Stephens

Enc.

INSTRUMENT NO.

8602-789

AGREEMENT TO TERMINATE WATER WELL AGREEMENT

THIS AGREEMENT, Made and entered into this 31
day of December, 1985, by and between WAYNE E. STEPHENS and
JULIA L. STEPHENS, husband and wife, the parties of the
first part, hereinafter referred to as "Stephens", and
WILLIAM M. HINDS and JACKIE HINDS, husband and wife, the
parties of the second part, hereinafter referred to as
"Hinds", WITNESSETH:

WHEREAS, The Stephens are the owners of real
property situate in Canyon County, State of Idaho, more
particularly described in Exhibit "A" attached hereto and by
this reference incorporated herein as if set forth fully
herein; and

WHEREAS, The Hinds are the owners of real property
situate in Canyon County, State of Idaho, more particularly
described in Exhibit "B" attached hereto and by this reference
incorporated herein as if set forth fully herein; and

WHEREAS, Prior to the execution of this agreement,
the prior owners of the real property described in Exhibit
"A" and Exhibit "B" attached hereto executed a Water Well
Agreement bearing date of the 8th day of February, 1956, and
recorded in the office of the Canyon County Recorder on the
15th day of February, 1956, as Instrument No. 430473; and

WHEREAS, Said Water Well Agreement provided that
Agreement to Terminate - 1

GARY L. MORGAN, P.A.

ATTORNEY AT LAW

1124 ALBANY STREET

CALDWELL, IDAHO 83605-3598

TELEPHONE (208) 439-8376

GARY L. MORGAN, P.A.
ATTORNEY AT LAW
1124 ALBANY STREET
CALDWELL, IDAHO 83805-3598
TELEPHONE (208) 459-8276

1 parties of the first part, former owners of the real property
2 owned by the Stephens and more particularly described in
3 Exhibit "A" attached hereto, and Vernon V. Olson and Dorothy
4 A. Olson, husband and wife, the parties of the second part,
5 former owners of the real property owned by the Hinds and
6 more particularly described in Exhibit "B" attached hereto.

7 That by entering into this agreement, the parties
8 hereto mutually agree that said Water Well Agreement shall
9 be terminated forever and of no further force and effect,
10 and that said Water Well Agreement shall no longer be a
11 covenant running with the real property owned by the respective
12 parties.

13 The parties hereto mutually covenant and agree
14 that all sums of money owing from one party to the other as
15 and for power to operate said domestic well and for maintenance
16 and repair to said domestic well and the use of the water
17 from said domestic well are paid in full.

18 IN WITNESS WHEREOF, The parties hereto have hereunto
19 set their hands and seals, the day and year in this agreement
20 first above written.

21 Wayne E. Stephens (seal)
Wayne E. Stephens

22 Julia Stephens (seal)
23 Julia L. Stephens

GARY L. MORGAN, P.A.

ATTORNEY AT LAW

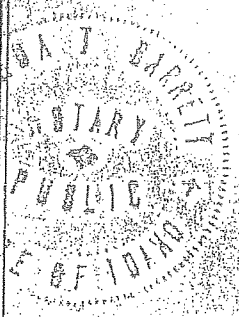
1124 ALBANY STREET

CALDWELL, IDAHO 83605-3598

TELEPHONE (208) 459-6376

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IN WITNESS WHEREOF, I have hereunto set my hand and
affixed my official seal, the day and year in this certificate
first above written.



Wendell J. Barrett
Notary Public for Idaho
Residing at Caldwell, Idaho

GARY L. MORGAN, P.A.
ATTORNEY AT LAW
1124 ALBANY STREET
CALDWELL, IDAHO 83605-3598
TELEPHONE (208) 459-8376

EXHIBIT "B"

REAL PROPERTY OWNED BY HINDS:

That part of the Northeast 1/4 of the Northeast 1/4 of Section 16, Township 3 North, Range 3 West of the Boise Meridian, described as follows:

BEGINNING At a point on the Section line, 710.4 feet South of the Northeast corner of Section 16, Township 3 North, Range 3 West of the Boise Meridian, and running thence South on the Section line a distance of 208.7 feet; thence West on a line parallel with the North boundary line of said Section 16, a distance of 417.4 feet; thence North on a line parallel with said East boundary line a distance of 208.7 feet; thence East 417.4 feet to the POINT OF BEGINNING, all in Canyon County, Idaho.

RECORDED

'86 FEB 6 PM 12 07

BILL A. STAKER

CANYON CNTY. RECORDER

BY

[Signature]

REQUEST

Wayne Stephens

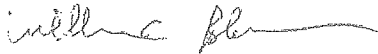
TYPE B + A FEB 19.00

Exhibit "B"

To whom it may concern:

April 19, 2007

In the late 1950's I hunted geese near the refuge at Lake Lowell. I hunted at 10th Ave and Karcher quite often. (now the site of a Valley View School.) Just across the Karcher Road was brick factory with a residence. This was prior to 1959, the year I graduated from high school at Middleton. The house and factory were located on the south west side of the intersection of 10th and Karcher.



William C. Blackburn
205 Barbara Drive
Middleton, Idaho 83644

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 63-20900
Date Received: 2/13/1990
Receipt No: M005861
Received By:

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

AMENDED

1. Name of Claimant(s)

WAYNE EUGENE STEPHENS Phone: (208)585-3134

24604 EMMETT RD
CALDWELL ID USA 83607

2. Date of Priority: 02/08/1956

3. Source: GROUND WATER , GROUND WATER , GROUND WATER Trib. to: , ,

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
03N	03W	16	NE NE	CANYON	
03N	03W	16	NE NE	CANYON	
03N	03W	16	NE NE	CANYON	

5. Description of diverting works:

SEE REMARKS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
DOMESTIC	01/01	12/31	0.08	

7. Total Quantity Appropriated is:
0.08 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
03N	03W	16	NE NE	DOMESTIC	

11. Place of use in counties: CANYON

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

13. Other Water Rights Used:

14. Remarks:

THREE WELLS - ONE WELL IS 6" CASING, 160' DEEP; OTHER WELL IS A REPLACEMENT WELL DRILLED IN 1977 (ORIGINAL IN 1956) LOCATED IN LOT 27, BLOCK 1 ALL THREE WELLS CONNECTED IN 1977

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.

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): Wayne Stephens Date: 10-9-07
_____ Date:

State of Idaho)
County of ADA) SS.

Subscribed and sworn (or affirmed) before me this 9th
of October 2007

Jan Shurte
Notary Public

Residing at Mendota ID

My commission Expires 12-12-12

