

RECEIVED

OCT 17 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 29-2364
)
) (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 Wilma E. Hawkes

My address is 7025 W. Portneuf Rd.
Pocatello, Idaho 83204

My phone number is: Work 208-317-3901 Home 208-233-2871

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 mistakenly believed that when I filed for
changing the name on the domestic and stock water
rights, on the property I purchased from my
mother, Carol Remer, it also included the irrigation 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.)

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 \$ 104.00.

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 Jan. 15th 2008 at 1:30 PM
(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:

- ☐ 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 (Must be completed)

State of Idaho

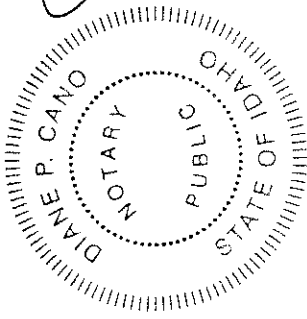
County of Bannock

Wilma E. Hawkes, 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.

Wilma E. Hawkes
Signature of person filing motion

Attorney signing in representative capacity

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

Diane P. Cano
Notary Public for Idaho
Residing at: See
My Commission expires: 4-17-09

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 October 9th, 2007, ~~1999~~, 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 29-2364
Date Received: 10/9/2007
Receipt No:
Received By:

RECEIVED
OCT 17 2007
DEPARTMENT OF
WATER RESOURCES

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

WILMA HAWKES Phone: 208-233-2871

7025 W PORTNEUF RD
POCATELLO ID USA 83204

2. Date of Priority: 04/19/1955

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
07S	35E	21	SE SE	BANNOCK	

5. Description of diverting works:
well to sprinkler pipes

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/01	10/31	0.04	7
DOMESTIC	01/01	12/31	0.04	0.6

7. Total Quantity Appropriated is:
0.04 C.F.S. and/or 7.6 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:
Number of homes: 1

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
07S	35E	21	SE	SE	IRRIGATION	2
Section Acres						2
Total Acres						2

11. Place of use in counties: BANNOCK

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

13. Other Water Rights Used: *domestic and stock*

14. Remarks: *My last name was changed from Whitworth to Hawkes when I was married to Hugh Hawkes on 06/08/2002*

15. Basis of Claim: License

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: 6

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): Wilma E. Hawkes Date: 10-9-07

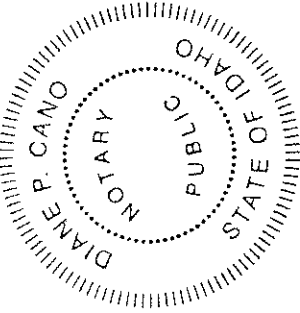
Date: _____

State of Idaho)
County of Bannock) SS.

Subscribed and sworn (or affirmed) before me this
of Oct 2007

9714
Notary Public

Notary Public



Residing at See
My commission Expires 4-17-09

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 29-2364

WATER RIGHT NUMBER: 29-2364

Owner Type Name and Address
 Current Owner DAVE SCHILD
 POCATELLO, ID

Priority Date: 04/19/1955

Basis: License

Status: Active

Source Tributary

GROUND WATER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	/ to /		0.040 CFS	
DOMESTIC	/ to /			
			<u>Total Diversion:</u>	0.040 CFS

Location of Point(s) of Diversion

GROUND WATER
 BANNOCK County

Sec. 21, Twp 07S, Rge 35E, B.M.

SE 1/4 SE 1/4

Place of Use

IRRIGATION

Twp	Rge	Sec	NE	NW	SE	SW	NE	NW	SE	SW	NE	NW	SE	SW	NE	NW	SE	Totals
07S	35E	21																2.0
																		2.0

Total Acres: 2

DOMESTIC same as IRRIGATIONConditions of Approval:Remarks:Comments:Dates and Other Information:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 29-2364

Licensed Date: 8/14/1979
Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal:
Owner Name Connector:
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Decree Defendant:
Decree Plaintiff:
Civil Case Number:
Judicial District:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False
Combined Use Limits:

Water Supply Bank:

SCANNED

APR 30 2001

State of Idaho
License and Certificate of Water Right

Water License No. G-25670

Amount .035 c.f.s.

Water District No. 29

Priority April 19, 1955

THIS IS TO CERTIFY that DAVE SCHILD

of Pocatello, Idaho, made application for a permit to appropriate the public waters of the State of Idaho, dated April 19, 1955; that Permit No. G-25670 was issued under said application; that Certificate of Completion of works, with a carrying capacity of .035 second feet, was issued thereunder on October 31, 1957, showing that said works were completed on the 20th day of April, 1957; and that on the 20th day of April, 1957, DAVE SCHILD

of Pocatello, State of Idaho, made proof to the satisfaction of the State Reclamation Engineer of Idaho, of the right to use the waters of a well, a tributary of subterranean, for the purpose of Irrigation and domestic use, under Use Permit No. G-25670 of the Department of Reclamation 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 State Reclamation Engineer of Idaho and entered of record in Volume 10 of Licenses at page 6170, on the 31st day of October, 1957;

The right hereby confirmed dates from

April 19, 1955;

The Point of Diversion is located

in the SE 1/4 SE 21, Tp. 7 S., R. 35 E., B. M. County Bannock

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 .035 cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
7 S.	35 E.	21	SE 1/4 SE 1/4	1	2
Total number of acres irrigated - - - -				2	

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

WITNESS the seal and signature of the State Reclamation Engineer, affixed at Boise, Idaho, this 31st day of October, 1957.

(SEAL) /s/ Mark R. Kulp
State Reclamation Engineer.

ALLIANCE
TITLE & ESTATE CORP.

1-662447A

WARRANTY DEED

2-1

97003093

For Value Received

CAROL REMER, a single person

the grantor(s), do(es) hereby grant, bargain, sell and convey unto

WILMA E. WHITWORTH, a single person

whose current address is

7025 W. PORTNEUF ROAD

POCATELLO, ID 83204

the grantee(s), the following described premises, in **BANNOCK** County **IDAHO**, to wit:

SEE ATTACHED "EXHIBIT A"

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee and her heirs and assigns forever. And the said Grantor do hereby covenant to and with the said Grantee, that she is the owner in fee simple of said premises; that they are free from all encumbrances Except: Subject to all existing patent reservations, easements, right of way, protective covenants, zoning ordinances, and applicable building codes, laws and regulations.

and that she will warrant and defend the same from all lawful claims whatsoever.

Dated: **February 27, 1997**

Carol Remer

CAROL REMER

2-2

97003093

"EXHIBIT A"

COMMENCING AT THE SOUTH 1/16 CORNER ON THE EAST LINE OF SECTION 21, TOWNSHIP 7 SOUTH, RANGE 35 E.B.M.; THENCE SOUTH $0^{\circ}11'$ WEST ALONG THE EAST LINE OF SECTION 21, 30 FEET TO THE INTERSECTION OF THE CENTER LINE OF THE PORTNEUF ROAD, POINT OF BEGINNING; THENCE SOUTH $0^{\circ}11'$ WEST ALONG THE EAST LINE 208.7 FEET; THENCE WEST 417.4 FEET; THENCE NORTH $0^{\circ}11'$ EAST 208.7 FEET TO THE INTERSECTION OF THE CENTER LINE OF THE PORTNEUF ROAD; THENCE EAST ALONG THE CENTER LINE, 417.4 FEET TO THE POINT OF BEGINNING.

EXCEPT: A PARCEL OF LAND ON THE SOUTH SIDE OF THE CENTERLINE OF PORTNEUF RIVER ROAD, BANNOCK COUNTY, IDAHO. PORTNEUF RIVER ROAD PROJECT NO. RS-1764(1), HIGHWAY SURVEY AS SHOWN ON THE PLANS THEREOF NOW ON FILE IN THE OFFICE OF THE COUNTY COMMISSIONERS. BANNOCK COUNTY, IDAHO, AND BEING A PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 7 SOUTH, RANGE 35 E.B.M., DESCRIBED AS FOLLOWS TO WIT:

BEGINNING AT A POINT WHICH IS NORTH $00^{\circ}11'41''$ EAST, AND 1240.35 FEET ALONG THE EAST SECTION LINE OF SECTION 21, FROM THE SOUTHEAST CORNER OF SECTION 21, TOWNSHIP 7 SOUTH, RANGE 35 E.B.M., BANNOCK COUNTY, IDAHO, WHICH POINT ALSO BEARS SOUTH $00^{\circ}11'41''$ WEST, 30.00 FEET OF CENTERLINE STATION 19+63.83 OF SAID PORTNEUF RIVER ROAD PROJECT NO. RS-1764(1); AND ALSO BEING ON THE EAST SECTION LINE OF SAID SECTION; THENCE NORTH $00^{\circ}11'41''$ EAST, 38.24 FEET ALONG THE EAST SECTION LINE WHICH POINT ALSO BEARS NORTH $00^{\circ}11'47''$ EAST, 3.24 FEET FROM CENTERLINE STATION 19+62.07; THENCE NORTH $89^{\circ}51'00''$ WEST, 417.40 FEET TO A POINT WHICH IS ON CENTERLINE STATION 15+44.92; THENCE SOUTH $00^{\circ}09'00''$ WEST, 30.00 FEET TO A POINT WHICH BEARS SOUTH $00^{\circ}09'00''$ WEST, 30.00 FEET FROM CENTERLINE STATION 15+44.92; THENCE SOUTH $89^{\circ}49'14''$ EAST, 89.97 FEET TO A POINT WHICH BEARS SOUTH $00^{\circ}20'59''$ WEST, 30.00 FEET FROM CENTERLINE STATION 16+35.00; THENCE SOUTHEASTERLY ALONG A HORIZONTAL CURVE TO THE RIGHT WITH A RADIUS OF 7609.44 FEET AND A CORD BEARING OF SOUTH $88^{\circ}25'02''$ EAST, A DISTANCE OF 327.53 FEET TO A POINT ON THE EAST SECTION LINE OF SAID SECTION ALSO BEING THE POINT OF BEGINNING.

10/09/2007

To Whom It May Concern,

I, Carol Remer, sold my home and two acres to my daughter Wilma Hawkes (Whitworth) in 1997. I have recently learned that the water rights for irrigation were not properly filed for in a timely manner. I was unaware that there was a problem with the irrigation rights until very recently. My husband William Remer was very ill from January of 1985 until his death on February 12, 1995. I do not know of any notification, advising us to keep the water rights for our property. It is possible that my husband could have discarded any information on this matter during his illness, and I would not have known about it. I would really appreciate it if you would consider awarding irrigation water rights to my daughter, Wilma Hawkes at this time. Thank you for your time and consideration.

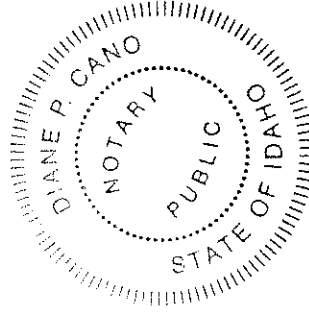
Sincerely,

Carol Remer

Carol Remer

State of Idaho
Bannock County.

Carol Remer appeared before me
on Oct. 9th 2007.



Diane P. Cano
Com. Expires 4-17-09

STATE OF IDAHO

State File No.

Marriage License

County of BANNOCK

County File No. 20211994

KNOW ALL PERSONS BY THIS CERTIFICATE: That any regularly ordained minister of the Gospel, authorized by the rites and usages of the Church or denomination of Christians, Hebrews, or religious body of which said minister is a member, or any judge or magistrate, or competent officer to whom this may come, not knowing of any lawful impediments thereto, is hereby authorized and empowered to solemnize the rites of Matrimony between:

1. Full name HUGH CONRAD HAWKES GROOM AND WILMA ELLEN WHITWORTH BRIDE
2. Address POCATELLO BANNOCK IDAHO
3. Age 48 4. Race CAUC. 5. Single ☐ 6. Widowed ☐ 7. Divorced ☒ 11. Age 43 12. Race CAUC. 13. Single ☐ 14. Widowed ☐ 15. Divorced ☒
8. Birth place: City DOWNEY State IDAHO 16. Maiden Name if previously married WILMA ELLEN REMER
Birth Day 01/08/1954 17. Birthplace: City POCATELLO State IDAHO

And to certify the same to said parties, or either of them under the signature and seal, of said minister or official capacity, and thereupon is required to deliver the original to the parties so married.
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal,

at POCATELLO BANNOCK County, Idaho, this 13 day of May, A.D. 2002

LARRY W GHAN
Recorder

Mary Wright
Deputy

Marriage Certificate

1. CARL KLIMBACH a MINISTER residing in the city of POCATELLO, in the county of BANNOCK, in the state of Idaho, do certify that, in accordance with the authority on me conferred by the above license, I did on this 8TH day of JUNE in the year A.D. 2002 in the city of POCATELLO in the county of BANNOCK in the state of Idaho, solemnize the rites of matrimony between HUGH CONRAD HAWKES of POCATELLO in the county of BANNOCK and WILMA ELLEN WHITWORTH of the state of IDAHO in the county of BANNOCK and Carole Remer and Carole Remer day of JUNE 2002

WITNESS my hand at the county aforesaid, this 8TH day of JUNE 2002
In the presence of Carole Remer Official's Signature Carl Klimbach
and Carole Remer Official's Mailing Address 7077 W. PORTNEUF
POCATELLO, ID 83204

Date Received 6-12-02 By County Recorder LARRY W GHAN Signature LW
County Recorder: Book 7077 Page 10 Date Received 6-12-02 by State Registrar MD

STATE OF IDAHO }
County of Bannock
I hereby certify that the foregoing is a full true and correct copy of an instrument as the same now remains on file and of record in my office.

WITNESS my hand and official seal hereto affixed

this 9 day of Oct, a.d. 20 01
DALE HATCH, CLERK OF THE DISTRICT COURT
EX-OFFICIO AUDITOR AND RECORDER

By Deputy B. Perkins

20211994

No. 20211994
Recorded at request of.

Date 6-12-02 10:58 AM
Official Record Book 813

Fee 0 Deputy MD
Bannock County Recorder

WILMA E. HAWKES
HUGH C. HAWKES
CAROL REMER 233-2871
7025 W. PORTNEUF RD.
POCATELLO, ID 83204

10859
92-73703241

Date

Pay to the Order of *State of Idaho Dept of Water Resources* \$ *104.00*
One Hundred & Four Dollars & 00/100

Security
Features
Details on
Back

100 Dollars

108942 45

POCATELLO
RAILROAD
FEDERAL CREDIT UNION

216 W. Whitman P.O. Box 1450
Pocatello, Idaho 83204
Phone (208) 232-5746

For Case *39576*

Wilma E. Hawkes NP