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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

OCT 19 2007

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

By _____ Clerk
Deputy Clerk

In Re SRBA

) Subcase: 74-00321G

Case No. 39576

)
) ORDER GRANTING MOTION TO FILE
) LATE NOTICE OF CLAIM
)
)
)

On July 30, 2007, Dan T. and Lois M. Pence filed a *Motion to File Late Notice of Claim* for the above-captioned water right. Hearing was held on the *Motion* on October 16, 2007. This *Motion* complied with all procedural requirements under **SRBA Administrative Order 1**, and no objections were made to this late Notice of Claim.

THEREFORE, IT IS ORDERED, that the *Motion to File a Late Notice of Claim* for the above-captioned water right is **granted**.

The original Notice of Claim, as well as any attached filing fees, and a copy of this **Order** will be forwarded to the Idaho Department of Water Resources for further action. Following investigation by the Idaho Department of Water Resources, recommendation for the claim will be reported in the next *Late Claims Director's Report* which is issued on an annual basis. This modifies the provisions of **SRBA Administrative Order 1** 4d(2)(h).

IT IS SO ORDERED.

Dated Oct. 18, 2007.


JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTION TO FILE LATE NOTICE OF CLAIM was mailed on October 19, 2007, with sufficient first-class postage to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

DAN T PENCE
LOIS M PENCE
179 COSGROVE LN
DILLON, MT 59725
Phone: 406-683-4669

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 74-321G
Date Received:
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

LOIS M PENCE Phone: 406-683-4669

179 COSGROVE LN
DILLON MT USA 59725-8871

DAN T PENCE Phone: 406-683-4669

179 COSGROVE LN
DILLON MT USA 59725-8871

2. Date of Priority: 06/09/1875

3. Source: LEMHI RIVER Trib. to: SALMON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
21N	22E	24	SE SE	LEMHI	

5. Description of diverting works: Ditch Seepage resulting in sub-irrigation
of approximately 5 Acres.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	3/15	11/15	0.2	

7. Total Quantity Appropriated is:
0.2 C.F.S.

8. Total consumptive use:

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TWIN FALLS CO. IDAHO

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
21N	22E	10	SW	SE	IRRIGATION	5
Section Acres						5
Total Acres						5

11. Place of use in counties: LEMHI

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

13. Other Water Rights Used: NONE

14. Remarks:

DIV. L-6.

15. Basis of Claim: Decreed

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: 4 pages Total

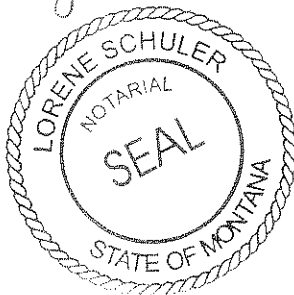
For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): [Signature] Date: 7/16/07
Rais mance 7/16/07 Date:

Montana
State of Idaho)
County of Beaverhead) SS.

Subscribed and sworn (or affirmed) before me this 16th
of July 2007 Lorene Schuler



Notary Public
Residing at Dillon Montana
My commission Expires April 28, 2001

Dan and Lois Pence
179 Cosgrove Lane
Dillon, MT 59725
July 15, 2007

Nate Arave
Water Resource Agent
Idaho Department of Water Resources
900 N. Skyline Drive Suite A
Idaho Falls, Idaho 83402-1718

Dear Mr. Arave:

Attached is our Notice of Claim to a Water Right Acquired under State Law, completed to signify our dependence on water from the Andrews Ditch in Lemhi County, Idaho.

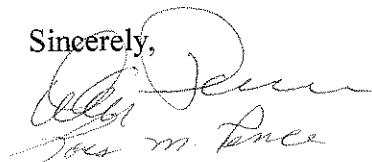
We acquired 6.75 acres in the SW ¼, SE ¼, Section 10, Township 21 North, Range 22 East Boise Meridian on the north side of the ditch in 1966 while I was assigned to the Cobalt Ranger District, Salmon National Forest. A couple of acres were below a slough and were sub-irrigated. We could and did irrigate higher areas on the acreage using existing ditches and have maintained a 0.20 CFS water right. A road was constructed along the ditch bank to access lands further to the east without our knowledge, obliterating our ability to divert water without major construction to install a head gate, culvert and diversion ditch.

It became obvious that seepage from the ditch just upstream from and through the property results in sub-irrigation for most of the acreage. An active spring raises on the property as long as there is water in the Andrews Ditch. The spring and related sub-irrigation dries up over time when water is removed from the ditch. This seepage is adequate to serve all but two high spots (maybe an acre) on the property. This acre could be irrigated by sprinklers if needed, pumping from the spring.

Vegetation on our acreage, and related property value, would be significantly reduced if measures were taken to line the Andrews Ditch to prevent the seepage involved. Our Notice of Claim to the related water right is specifically directed at maintenance of this seepage that is so critical to agricultural values of our land, which is our intended use of the property. We initially wintered our personal horses on this acreage while I was assigned to the Cobalt Ranger District and Clayton and Yankee Fork Ranger Districts, and have rented the pasture to others since 1977.

Please let us know if you need additional information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dan and Lois Pence", written over a horizontal line.

DAN AND LOIS PENCE