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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 <u>63-5284</u>
	)	(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 Oct. 16, 1997).

My name is Charlie L. Gibson

My address is 5125 Bogus Basin Road

Boise, Idaho 83702

My phone number is: Work _____ Home (208) 343-6525

I am an attorney representing Charlie L. Gibson

My name is Dana L. Hofstetter

My address is Hofstetter Law Office, L.C.C.

608 West Franklin Street

Boise, Idaho 83702

My phone number is (208) 424-7800 FAX: (208) 424-8774

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:
- Newly available information supports an earlier priority date than originally claimed. The record reflects that the original claim was based on the claimant's personal involvement with water use on the property. However, new information supports an earlier priority date. Based on the actions of another water user in the area, it appears that a ground water call in the immediate area may occur. It is necessary to ensure that this water right has an accurate priority date in light of the anticipated call.

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

The attached "Homestead Entry - Final Proof - Testimony of Claimant" provides factual documentation to support the 1912 priority date in the Amended Notice of Claim. This information was obtained from the National Archives in October 2007 by the Claimant's counsel in this subcase in preparation for the trial which is now vacated due to the objector's withdrawal from the subcase.

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

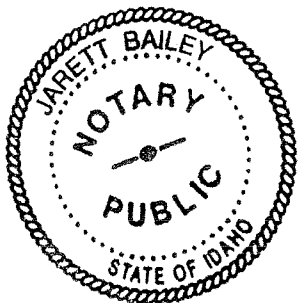
Dana L. Hofstetter, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

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.

Signature of person filing motion

Dana Hofstetter
Attorney signing in representative capacity

Subscribed and sworn to before me on November 27, 2007.
(Insert Date)



Jarett Bailey
Notary Public for the State of Idaho
Residing at: Base, Idaho
My Commission expires: June 5, 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 November 27, 2007, 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 (*via Hand Delivery*)
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

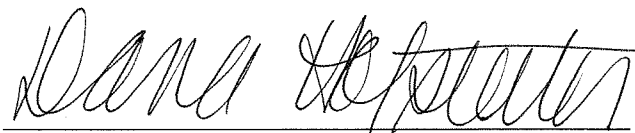
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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.

Cecil Gibson
5125 Bogus Basin Road
Boise, Idaho 83702



Signature of person or attorney mailing the form

4-369.

Form approved by the Secretary of the Interior, November 23, 1908.

DEPARTMENT OF THE INTERIOR.

HOMESTEAD ENTRY. *Kd 10 452*

U. S. LAND OFFICE

BOISE, IDAHO,

No. 04711

FINAL PROOF.

Receipt No.

910.966

TESTIMONY OF CLAIMANT.

QUESTION 1. What is your full name, age, and post-office address?

ANSWER. James W. Young; 54; Boise, Idaho, R.F.D. No. 3.

QUESTION 2. Are you a native-born citizen of the United States, and if so, in what State or Territory were you born? (If foreign born, see Note 1.)

ANSWER. Yes, born in Mass.

QUESTION 3. Are you the same person who made Homestead Entry No. 8.04711,

10452, at the Boise, Idaho, U.S. Land Office on the 15th day of January, 1908, for the NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 22, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$,

Section 23,

Township 4 North, Range 2 East, Boise Meridian?

ANSWER. Yes.

QUESTION 4. (a) Are you married or single? ANSWER. Married.

(b) If married, of whom does your family consist?

ANSWER. My wife and two children.

(c) If a married woman, state whether your husband now has an unperfected homestead entry, and during what time he has resided on this land with you?

ANSWER. -----

QUESTION 5. (a) When did you first establish actual residence upon this land?

ANSWER. January 20, 1908.

(b) When was your house built on this land?

ANSWER. Built prior to January, 1908.

(c) Have either you or your family ever been absent from the homestead since establishing residence?

ANSWER. No.

(d) If there has been such absence give the dates covered by each absence; and as to each absence state whether you, your family, or both, were thus absent and the reason for each such absence?

ANSWER. No absence by either one of us.

QUESTION 6. Describe the land embraced in above entry by legal subdivisions, showing fully the character of same, and kind and amount of timber, if any.

ANSWER.

Subdivision.	Acres cultivable.	Acres timbered.	Feet timber.
Rolling, sage-brush land.	90	None.	
90 acres could be cultivated; rest is too hilly.			

QUESTION 7. State by subdivisions the number of acres cultivated, kind of crop planted, and amount harvested, each year. How many acres of the claim are now cleared, or broken, and under cultivation? If used for grazing only, state number and kind of stock grazed each year and by whom owned.

First

Sec. 22,

ANSWER. House was built in 1908, on NE $\frac{1}{4}$ SW $\frac{1}{4}$, cleared about 35 acres, about half of each of the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 22, and SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 23; in Fall of 1908, plowed 12 acres; 12 acres planted in wheat, in SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 23; in 1909, plowed 10 acres more on SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 22; in 1910, plowed 15 acres which was also cleared; planted same 15 acres to wheat; put it for hay; fair crop; 1911, cleared and plowed 7 or 8 acres more; put 7 or 8 acres in wheat; the second year after I plant wheat I plant alfalfa; 1912, no new land; 65 acres has been in crops; had about 45 acres in crop this year; land all fenced and cross-fenced; the most of it was fenced the first year. The hilly land I use for grazing purposes; just my own stock; some land on each forty.

Second house was built in 1909. Have two acres in fruit trees now; same forty as the house is on. In 1911, had 55 acres in alfalfa and wheat, including the 7 or 8 acres in wheat given above.

QUESTION 8. Describe fully and in detail the amount and kind of improvements on each subdivision. State total value of improvements on the claim.

ANSWER.

Subdivision.	Character of improvements.
House is on NE $\frac{1}{4}$ SW $\frac{1}{4}$	House, about 28 by 32 ft., one story; barn, 47 by 52 ft., land all fenced and cross-fenced; 65 acres has been in crops; had 45 acres in crops this year; three cellars; one well, 425 ft. deep, one well 250 ft. deep; three chicken houses; Value, \$3,000. Bunk; house; machinery shed, etc. 2 acres in fruit trees.

QUESTION 9. Is your present claim within the limits of an incorporated town or selected site of a city or town, or used in any way for trade or business?

ANSWER. No.

QUESTION 10. Are there any indications of coal, salines, or minerals of any kind on the land? If so, describe what they are.

ANSWER. No.

QUESTION 11. Have you ever made any other homestead entry? If so, describe the same.

ANSWER. No.

QUESTION 12. Have you sold, conveyed, or agreed to sell or convey any portion of the land; if so, to whom and for what purpose?

ANSWER. No.

QUESTION 13. Have you optioned, mortgaged, or agreed to option or mortgage, or convey this land, or any part thereof; if so, when, to whom, and for what purpose and in what amount?

ANSWER. No.

QUESTION 14. Have you any personal property of any kind elsewhere than on this claim? If so, describe the same, and state where the same is kept.

ANSWER. No.

QUESTION 15. Describe by legal subdivisions, or by number, kind of entry, and office where made, any other entry or filing (not mineral) made by you since August 30, 1890.

ANSWER. This land was formerly embraced in my desert-land entry but I relinquished it and made a homestead entry of it. Could not get water on land to reclaim it as a desert entry.
None other.

James McGinnis
(Sign plainly, with full Christian name.)

NOTE 1.—If applicant is alien born, he should state the fact and file evidence of citizenship in due form, either a certificate of his own naturalization in a court of competent jurisdiction, or, if claiming to be a citizen by virtue of his father's naturalization and his own minority and residence in the United States at the date thereof, or, if a married woman claiming citizenship by virtue of her husband's nativity or naturalization, then record evidence of the naturalization of the father, or husband, or an affidavit as to the nativity of the latter.

NOTE 2.—The officer before whom the proof is made will see that all answers are complete and responsive to the questions.

NOTE 3.—The officer before whom the deposition is taken should call the attention of the witness to section 125 of the U. S. Criminal Code (over), and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

I HEREBY CERTIFY that the deponent was examined separately and apart from the other witnesses in the case; that the foregoing deposition was read to or by deponent in my presence before deponent affixed signature thereto; that deponent is to me personally known, (or has been satisfactorily identified before me by _____)

(Give full name and post-office address.)

that I verily believe deponent to be the identical person hereinbefore described, and that said deposition was duly subscribed and sworn to before me at my office, in Boise, Ada County, Idaho,
(Town, county, and State.)
within the Boise, Idaho, land district,
this 19th day of September, 1912.

James McGinnis

Receiver.

(Official designation of officer.)

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 A63-05284
Date Received:
Receipt No:
Received By:

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

AMENDED

1. Name of Claimant(s)

CHARLIE L. GIBSON
5125 BOGUS BASIN ROAD
BOISE, IDAHO 83702

Phone: (208)343-6525

2. Date of Priority: 04/01/1912

3. Source: GROUNDWATER

Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 Lot	County
04N	02E	22	SE	SE	NE	ADA

5. Description of diverting works: WELL, PUMP AND SPRINKLERS.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	3/15	11/15	0.600	
STOCKWATER	1/01	12/31	0.090	

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

8. Total consumptive use:

9. Non-irrigation uses: STOCK/400 HEAD CATTLE

10. Place of use:

Township	Range	Section	1/4	of 1/4	Lot	Use	Acres	
04N	02E	22	SE	NE		IRRIGATION	10.00	
			NE	SE		IRRIGATION	10.00	
		Section Acres						20.0
		23	SW	NW		IRRIGATION	8.00	
			SW	NW		STOCK		
			NW	SW		IRRIGATION	2.00	
			NW	SW		STOCK		
		Section Acres						10.0
		Total Acres						30

11. Place of use in counties: ADA

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

13. Other Water Rights Used:
DOMESTIC WELL ALSO USED FOR STOCK

14. Remarks:

15. Basis of Claim: Beneficial Use/Statutory Claim

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 x wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 1

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): *CHL* Date: Nov 26 07

Date: _____

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 26th of November 2007

[Signature]
Notary Public

Residing at Idaho

My commission Expires 7/2/08

