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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 29-13678

) (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 _____

My address is _____

My phone number is: Work _____ Home _____

I am an attorney representing City of Lava Hot Springs, Idaho

My name is Thomas J. Budge, Racine, Olson, Nye, Budge & Bailey

My address is P.O. Box 1391
Pocatello, Idaho 83204-1391

My phone number is 208-232-6101

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:
Water right has historically been used for municipal
purposes and should be decreed as a municipal water right.

- ☐ 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

Thomas J. Budge, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

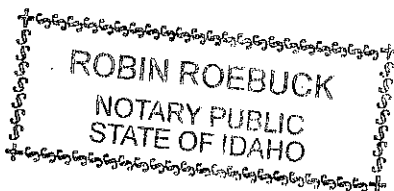
That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

Signature of person filing motion

Thomas J. Budge

Attorney signing in representative capacity

Subscribed and sworn to before me on January 2, 2008
(Insert Date)



Robin Roebuck

Notary Public for Idaho
Residing at: Pocatello
My Commission expires: 8/18/2012

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 January 2, 2008, 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:

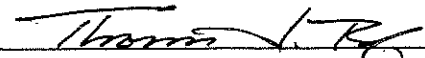
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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 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 _____

Date Received _____

Receipt Number _____

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

Please type or print clearly

1. Name of Claimant (s) City of Lava Hot Springs Phone 208-766-5820
Mailing Address P.O. Box 187, Lava Hot Springs, Idaho Zip 83246
2. Date of Priority (only one (1) per claim) March 1, 1889
3. Source of water supply (a) Fish Creek
Which is tributary to (b) Portneuf River
4. a. Location of existing point of diversion is: Township 9S Range 38 EBM Section 26
NW¼ of NW ¼ of ¼, gov't lot B.M., County of Bannock
Additional points of diversion if any: N/A

b. If instream flow, beginning point of claimed instream flow is:
Township Range Section , ¼ of ¼ of ¼
Gov't lot B.M., county of

Ending point is:
Township Range Section , ¼ of ¼ of ¼
Gov't lot B.M., county of
5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, etc.), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well.
Cement box across Fish Creek that is controlled with boards to regulate and divert the flow of water into the Dempsey Canal.

6. Water is claimed for the following purposes:

For Municipal purposes from 4/15 to 9/15 amount 1.63 cfs or acre-feet

7. Total quantity claimed (a) 1.63cfs and/or (b) acre-feet

8. Total consumptive use claimed is acre-feet per annum.

9. Non-irrigation uses; described fully (eg. Domestic: give number of households served; stockwater: type and number of livestock, etc)
Municipal use for City of Lava Hot Springs.

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below

b. If water is used for other purposes, place a symbol of use (example: D for domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE ¼				NW ¼				SW ¼				SE ¼				TOTALS
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
9	38	21									M			M	M	M	M	M	
9	38	22									M	M	M	M					
9	38	28		M			M												

Total number of acres irrigated

11. In which county (ies) are lands listed above as place of use located? Bannock

12. Do you own the property listed above as place of use? Yes ☐ No ☒

13. Describe any other water rights used at the same place and for the same purposes as described above.

Municipal use rights 29-4229, 29-4230, 29-7346, 29-8056, 29-13297

14. Remarks:

This water right has historically been used for municipal purposes and should be decreed as a municipal use water right.

29-13678, 29-13679

Created: December 27, 2007



WR 29-13678
WR 29-13679

Place of Use
Point of Diversion

- Legend
- Major Roads
 - Interstate
 - U.S. Highway
 - State Highway
 - Other
 - Lakes
 - Major Rivers
 - Rivers
 - Creeks
 - Rivers
 - Small streams
 - Streams
 - PLS - Section
 - PLS - quarter quarter
 - Cities
 - Counties
 - State
 - High Res. NAIP (2006)



Prepared by the ArcView Map Server



Idaho Department of Water Resources
322 East Front Street, P.O. Box 83729
Boise, Idaho 83725-0098
PH: (208) 337-4860
www.idwr.idaho.gov

The Idaho Department of Water Resources is maintaining this web site as a public service. Persons using information from this site for official purposes, or other purposes, for which accuracy and completeness are required, are hereby notified that they should first verify the information with the public records or other primary sources from which the information was obtained.

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile

Last Name _____ Ident No. _____

15. Basis of claim (check one) Beneficial use ☐ Posted Notice ☐ License ☐ Permit ☐ Decree ☒
If applicable provide IDWR Water Right Number 117
Court _____ Case Number _____ Decree Date _____

v.

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

Signature of Claimant (s) _____ Date _____

_____ Date _____

For Organizations:

I do solemnly swear or affirm that I am Thomas J. Budge of the firm of Racine, Olson, Nye, Budge & Bailey, that I have signed the foregoing document in the space below as attorney for the City of Lava Hot Springs, Idaho, and that statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

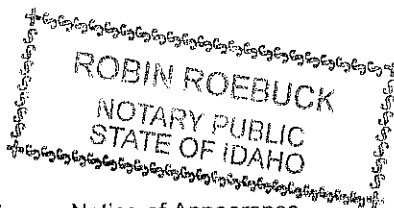
Thomas J. Budge, Attorney for Claimant

Title and Organization _____

Date 1/2/08

State of Idaho)
ss
County of Bannock)

Subscribed and sworn (or affirmed) before me this 2nd day of January 2008



Notary Public _____

Residing at Pocatello

My Commission Expires _____

8/18/2012

17. Notice of Appearance

Notice is hereby given that I, _____ will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

Last Name _____ Ident No. _____