

RECEIVED

MAY 22 2008

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 no. 65-23288
	)	
	)	
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.

X I have read *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996).

My name is Steven M. Spencer and Lorene I. Spencer

My address is 4555 Frozen Dog Road, Emmett, Idaho 83617-9574

My phone number is: Work (208)365-7055 Home (208) 365-3379

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.

X I did not file a Notice of claim to the use of water in the SRBA because:

We purchased this residence on April 29, 2008 and have subsequently learned that there is no water right for the domestic use on the property. We understand that this is a deferrable use, nevertheless we desire to secure a water right decree through the proceedings of the Snake River Basin Adjudication and the SRBA Court for the domestic use at our home based on beneficial use and original construction of the home in 1966.

☐ 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.

X 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.)

1. Warranty Deed dated 4/29/2008 showing Steven M. and Lorene I. Spencer as owners of the property (attached legal description) at 4555 Frozen Dog Road, Emmett, Idaho 83617.

2. Homeowners Exemption Application filed with the Gem County Assessor by Steven M. and Lorene I. Spencer for the property at 4555 Frozen Dog Road, Emmett, Idaho 83617 as Parcel Number: RP00449500 A.

3. A tax valuation printout from the Gem County Assessor printed 5/14/2008 still showing former owners William P & Deana R Wise, again showing the RP and Tax ID number, but also showing on the second page that the dwelling was constructed in 1966, the priority date shown on the Notice Of Claim To A Water Right.

I have attached:

☒ A fully completed Notice of Claim

☒ 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 \$ 50.00.

☐ 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 Tuesday August 19, 2008 at 1:30 pm
at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

VERIFICATION (Must be completed)

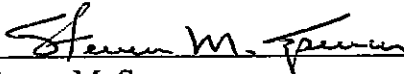
State of Idaho

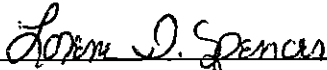
County of Ada

~~and Lorene I. Spencer~~

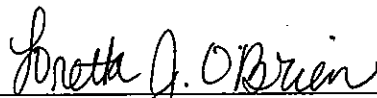
Steven M. Spencer, being first duly sworn, upon oath, deposes and says:

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) and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.


Steven M. Spencer


Lorene I. Spencer

Subscribed and sworn to before me on May 19, 2008.


Loretta J. O'Brien

Notary Public for Idaho

Residing at: Emmett, Gem County, Idaho

My Commission expires: 10-01-2013

Loretta J. O'Brien
Notary Public
State of Idaho

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 May 20, 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:

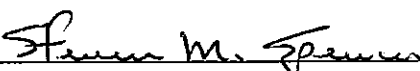
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

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



Signature of person or attorney mailing the form

WARRANTY DEED

Order No.: AT-4050809687

FOR VALUE RECEIVED

William P. Wise and Deana R. Wise, Husband and Wife,

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

Steven M. Spencer and Lorene I. Spencer, Husband and Wife,

whose current address is

4555 Frozen Dog Rd., Emmett, ID, 83617,

the grantee(s), the following described premises, in Gem County, Idaho, TO WIT:

See attached legal description

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee(s), that (s)he is/are the owner(s) in fee simple of said premises; that they are free from all encumbrances Except: Current Year Taxes, conditions, covenants, restrictions, reservations, easements, rights and rights of way, apparent or of record.

And that (s)he will warrant and defend the same from all lawful claims whatsoever.

Dated: 4-29-08

William P. Wise
William P. Wise

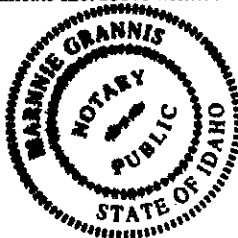
Deana R. Wise
Deana R. Wise

State of Idaho

County of Ada

}
}ss
}

On this 29th day of April, 2008, before me, a Notary Public in and for said state, personally appeared William P. Wise & Deana R. Wise, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within Instrument and acknowledged to me that he/she/they executed same.
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



[Signature]
Notary Public for the State of Idaho
Residing at: Base ID
Commission Expires: 9-7-2011

TRACT I:

This parcel is situated in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 35, Township 7 North, Range 1 West, B.M. and is more particularly described as follows:

Commencing at the Southwest corner of said SW $\frac{1}{4}$ SW $\frac{1}{4}$; thence
North 47°56'46" East, a distance of 531.42 feet; thence
North 33°49'46" East, a distance of 771.66 feet to the TRUE POINT OF BEGINNING;
thence continuing
North 33°49'46" East, a distance of 142.22 feet; thence
North 31°48'54" East, a distance of 76.19 feet; thence
South 67°14'49" East, a distance of 240.55 feet; thence
South 86°32'23" East, a distance of 109.40 feet to a point on the East boundary of said SW $\frac{1}{4}$ SW $\frac{1}{4}$ which is South 0°30'39" East, a distance of 230.00 feet from the Northeast corner of said SW $\frac{1}{4}$ SW $\frac{1}{4}$; thence
South 0°30'39" East along the East boundary of said SW $\frac{1}{4}$ SW $\frac{1}{4}$, a distance of 389.85 feet; thence
North 78°40'37" West, a distance of 170.88 feet; thence
North 0°30'39" West along a line parallel with said East boundary, a distance of 169.02 feet; thence
North 83°17'26" West along a drain ditch, a distance of 93.28 feet; thence
North 64°08'31" West along a drain ditch, a distance of 213.52 feet to the TRUE POINT OF BEGINNING.

TRACT II:

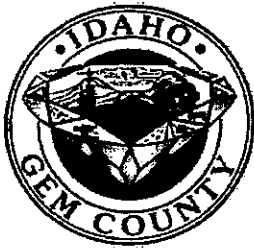
This parcel is situated in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 35, Township 7 North, Range 1 West, B.M., Gem County, Idaho, and is more particularly described as follows:

Commencing at the Southwest corner of SW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 35; thence
North 47°56'46" East, a distance of 531.42 feet; thence
North 33°49'46" East, a distance of 542.71 feet; thence
South 78°40'37" East, a distance of 592.85 feet to a point on the West boundary of said SE $\frac{1}{4}$ SW $\frac{1}{4}$ which point is the TRUE POINT OF BEGINNING; thence
North 0°30'39" West along said West boundary, a distance of 399.35 feet; thence
North 88°28'53" East, a distance of 25.63 feet; thence
South 2°02'17" West, a distance of 401.82 feet; thence
North 78°40'37" West, a distance of 7.92 feet to a point on the West boundary of said SE $\frac{1}{4}$ SW $\frac{1}{4}$ which point is the TRUE POINT OF BEGINNING.

SS
Sun S

4050809687
Chicago Title

QW
H



Gem County Assessor

415 E Main St.

Emmett, ID 83617

Phone: (208) 365-2982 Fax: (208) 365-2163

Email: assessor@co.gem.id.us

Homeowners Exemption Application

Application for Owner Occupied Residential Exemption
(Idaho Code § 63-602G)

Parcel Number: **RP00449500 A**

Exemption will be applied to the **2009** assessment.

The following residential improvement is
owner occupied: **Single Family Dwelling**

Legal Description:

07N 01W SEC 35 TAX019

Owner Name:	<u>Spencer, Steven M & Lorene F</u>	
Property Address:	<u>4555 FROZEN DOG RD</u>	
	<u>EMMETT</u>	<u>ID 83617</u>
Mailing Address:	<u>4555 FROZEN DOG RD</u>	
	<u>EMMETT</u>	<u>ID 83617</u>

To qualify for a Homeowner's Exemption (Idaho Code § 63-602G), this property must serve as your primary dwelling place. To receive the Homeowners Exemption for the current year, you must have occupied the dwelling on or before April 15th and application must be made to the Assessor on or before April 15th.

I certify that I am the owner, or am purchasing under contract, and that I occupy as my primary dwelling place the property herein described. I also certify that I have not made a concurrent application for a homeowner's exemption in this county or any other county.

Under penalty of perjury, I certify that to the best of my knowledge and belief, the information that I have provided herein is true and correct and complete.

Date property was occupied: 5-3-08

Lorene F Spencer
Owner Signature

5-14-08
Date

[Signature]
Signature of Assessor or Deputy

5-14-08
Date

ADMINISTRATIVE INFORMATION

PARCEL NUMBER
A
RP00449500
Parent Parcel Number

OWNERSHIP
~~WISE, WILLIAM P & DEANA R~~
4555 FROZEN DOG RD
EMMETT, ID 83617
07N 01W SEC 35 TAX019

Tax ID RP07N01W356030A

TRANSFER OF OWNERSHIP

Printed 05/14/2008 Card No. 1

of 1

Property Address
4555 FROZEN DOG RD
Neighborhood
111 Emmett Valley 6N 1W (View)

Property Class
534 534 Resid Impv on Cat12 (1234)

TAXING DISTRICT INFORMATION

Jurisdiction 23

Area 001

Corporation SW

District 02

Site Description

Topography:
Level, Rolling
Public Utilities:
Electric

Street or Road:
Paved

Neighborhood:
Static

Zoning:

Legal Acres:
2.8400

RESIDENTIAL

VALUATION RECORD

Assessment Year	1999	01/01/2003	01/01/2004	01/01/2005	01/01/2006	01/01/2007	Worksheet
Reason for Change	20	5Y Reval	Value Update	Value Update	Value Update	Value Update	
VALUATION	L	39220	47700	54700	57700	80800	101500
Market Value	B	94060	112330	112330	103330	108830	129590
	T	133280	160030	167030	161030	189630	231090
							125200
							142160
							267360

LAND DATA AND CALCULATIONS

Rating	Measured	Table	Prod. Factor	Base	Adjusted	Extended	Influence	Value
Soil ID	Acres	Effective	Depth Factor	Rate	Rate	Value	Factor	
-or-			-or-					
Actual	Effective	Depth	Square Feet	Rate	Rate	Value		
Frontage	Frontage							
1 12 Rural Res up to 1 Acre	0		0.00	75000.00	75000.00	75000		75000
2 12+ Site improvements to Land				6500.00	6500.00	6500		6500
3 12 or 15 Rural Res Over 1Ac				15.00	15.00	43700		43700

INFO: Misc. Information
RY'08: Updated Bsmnt Fin tr
RY08: Review Year 2008

Supplemental Cards
MEASURED ACREAGE

2.8400

Supplemental Cards
TRUE TAX VALUE

125200

Supplemental Cards
TOTAL LAND VALUE

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 _____

Date Received: _____

Receipt No: _____

Received By: _____

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Steven M. Spencer
Lorene I. Spencer Phone (208) 365-3379

Mailing Address 4555 Frozen Dog Road, Emmett, Idaho ZIP 83617
Street or Box City State

2. Date of Priority (Only one (1) per claim) 7/1/1966
Month Day Year (YYYY)

3. Source of water supply (Check one) Ground Water ☒ or Other () (a) _____

which is tributary to (b) _____

4. a. Location of Point of Diversion is: Township 7 N, Range 1 W, Section 35,
NE, 1/4 of SW, 1/4 of SW, 1/4 Govt. Lot _____, BM., County of Gem

Additional points of diversion if any: _____

If available, GPS Coordinates _____

b. If instream flow, beginning point of claimed instream flow is:

Township _____, Range _____, Section _____, _____, 1/4 of _____, 1/4 of _____, 1/4

Govt. Lot _____, BM., County of _____

ending point is: Township _____, Range _____, Section _____, _____, 1/4 of _____, 1/4 of

_____, 1/4 Govt. Lot _____, BM., 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. Well, submersible pump, pipe to pressure
tank, then distributed throughout home and yard. Well estimated to
be 200 Feet deep. Pump is at 180 Feet.

Last Name _____ Ident No. _____

6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For Domestic purposes from 1/1 to 12/31 amount 0.04 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.04 (cfs) and/or (b) _____ (acre feet)

8. Non-irrigation uses; describe fully (eg, Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.) Domestic - 1 residence / household

9. 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.

Twn	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
7N	1W	35											D	D					

Total number of acres irrigated 1/2

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

11. Do you own the property listed above as place of use? Yes X No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.

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

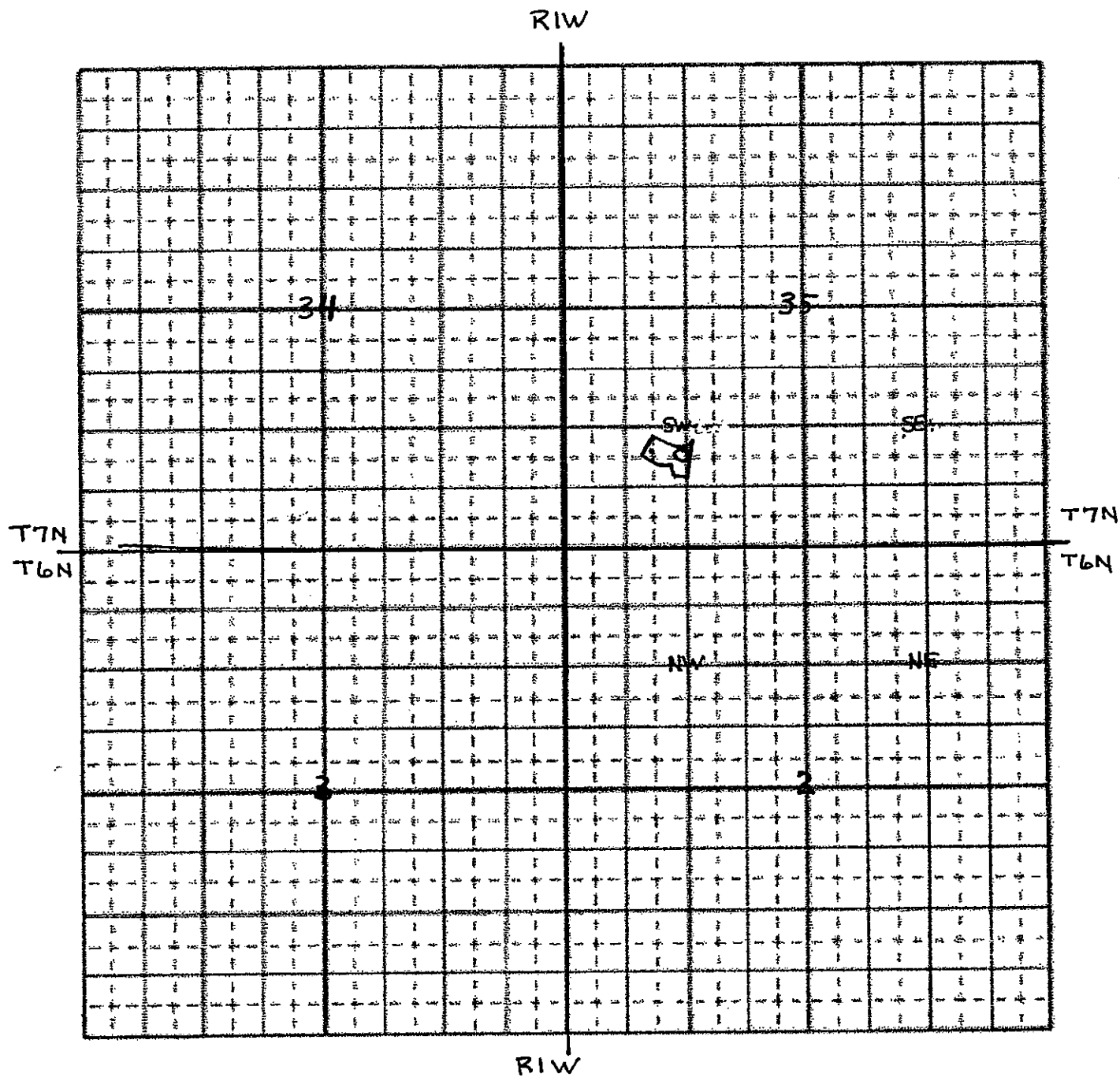
_____ or None ()

13. Remarks: Purchased property April 29, 2008. Can find no record of a water right and desire to obtain a water right for this property. Gem County Assessor shows property as RPO044950 A and 07N 01W SEC 35 TAX019.

Last Name _____ Ident No. _____

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

Scale: $\frac{1}{3.2}$ inches equals 1 mile

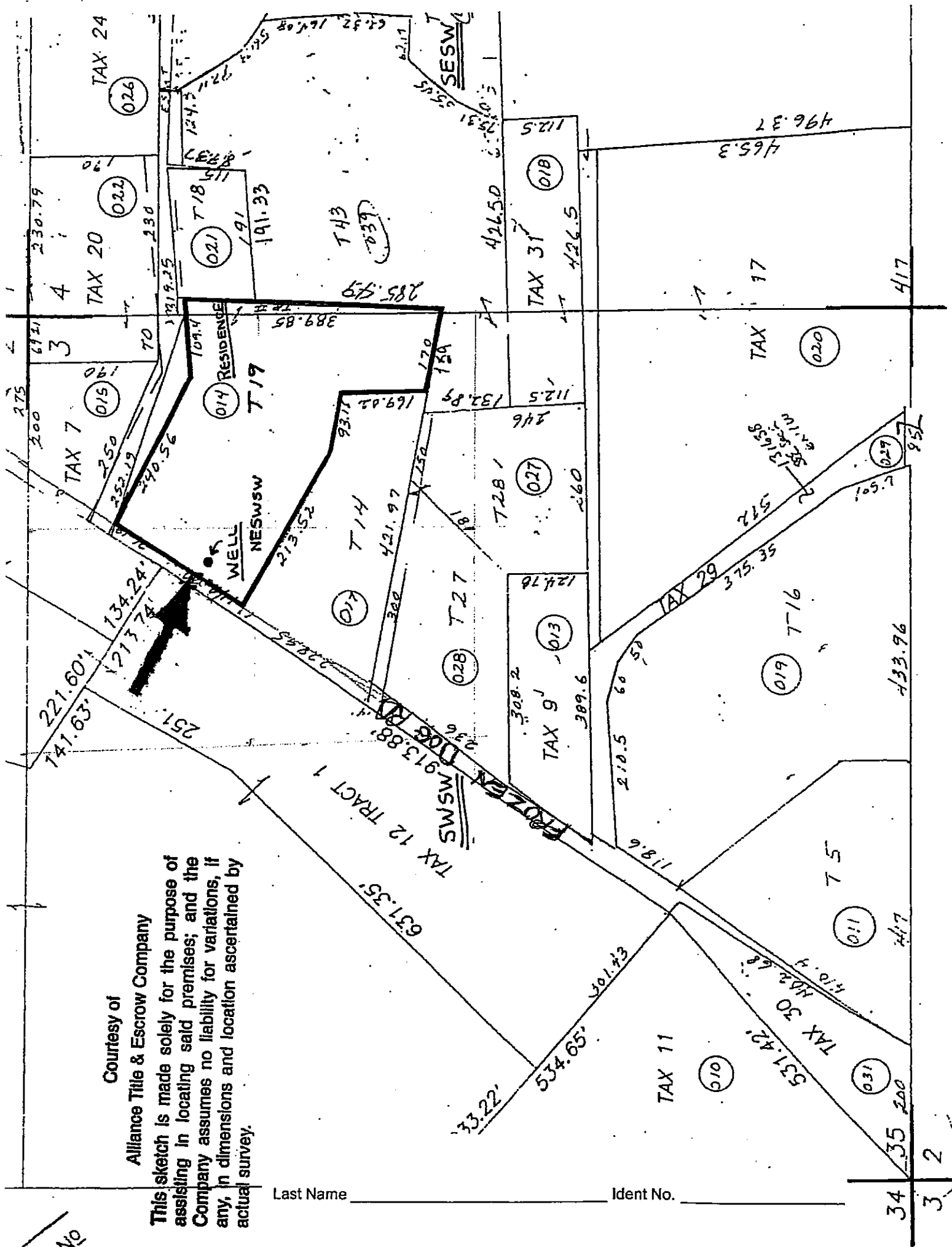


Last Name _____ Ident No. _____

Alliance Title & Escrow Company

This sketch is made solely for the purpose of assisting in locating said premises; and the Company assumes no liability for variations, if any, in dimensions and location ascertained by actual survey.

Ident No. _____



14. Basis of Claim (Check One) Beneficial Use ☒ Posted Notice _____ License _____ Permit _____ Decree _____

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number _____

15. 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 under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) Steven M. Spencer Date: 5/19/08
Lorene J. Spencer Date: 5/19/08

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am

_____ of _____
Title Organization

that I have signed the foregoing document in the space below as

_____ of _____
Title Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____ Date _____

Title and Organization _____

Please Print Name

16. 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. _____