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MAY 30 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 <u>79-13962</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 Sept. 30, 1996).

My name is JAMES BONATO

My address is PO Box 350 LUCILE IDAHO 83542
PH 628-3087

My phone number is: Work _____ Home 628-3087

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 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:

I NEED TO INCLUDE ADDITIONAL WATER
USAGE NOT ORIGINALLY CLAIMED

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

A DOCUMENTATION FROM A PREVIOUS OWNER
MELVIN GILL DESCRIBING HISTORICAL USAGE

I have attached:

- ☒ An amended Notice of Claim (available from IDWR).

- ☐ Payment of the following additional fees required by IDWR:

NA

VERIFICATION (Must be completed)

State of IDAHO

County of IDAHO

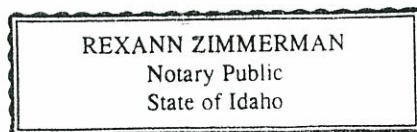
James Bonato, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

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.

James Bonato
Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on MAY 31, 2008
(Insert Date)



Rexann Zimmerman
Notary Public for IDAHO
Residing at: Riggins
My Commission expires: July 22, 2011

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 MAY 31, ²⁰⁰⁸~~199~~, 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:

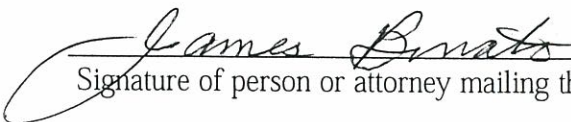
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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 79-13962
Date Received: 5/21/1999
Receipt No: W025229
Received By:

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

1. Name of Claimant(s)

JAMES E BONATO Phone: (208)628-3087
PO BOX 350
LUCILE ID 83542

2. Date of Priority: 12/31/1902

3. Source: CABIN CREEK Trib. to: COW CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
25N	01E	8	NE NE	IDAHO	

5. Description of diverting works:

12" HEADGATE WITH 400' OF DITCH; DRAINAGE BACK TO CABIN CREEK.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/15	11/15	0.15	
STOCKWATER	01/01	12/31	0.02	
DOMESTIC	01/01	12/31	0.04	
FIRE PROTECTION	03/15	11/15	0.50	

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

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4	of 1/4	Lot	Use	Acres
25N	01E	5	SE	SE		DOMESTIC	
			SE	SE		STOCKWATER	
			SE	SE		IRRIGATION	5
			SE	SE		FIRE PROTECTION	
						Section Acres	5
						Total Acres	5

11. Place of use in counties: IDAHO

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

13. Other Water Rights Used:

14. Remarks:

15. Basis of Claim: Beneficial Use

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/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): James Benah Date: May 31 08

Date: _____

I, Melvin C. Gill, was born in 1939 and have lived all my life in the Cow Creek and Cabin Creek Areas on property adjoining Benato's. In 1948, my parents bought the property that is now Benato's so I am familiar with the property.

Through these years, there was a cabin on this property that I was told was a homestead by Haydon Jenkins. I remember seeing the cabin in my youth. Through this time, I remember water coming out the ditch and running down the draw for stock water and irrigation. In my understanding, the ditch was built around 1902 by a man named Crannel to come down and irrigate his field. I remember seeing rhubarb plants east of the cabin and I was told that Haydon had a garden spot there which he obviously irrigated from the ditch. Through the years, my family used the water for stock water all the time and some of the time for irrigation. I can remember helping my dad put in a culvert headgate sometime in the early 1950's. And we did work on the ditch every spring by hand to repair the leaks. At this time, the water came down the draw to another little ditch then out to a hay field known as the Crannel Field.

Melvin C. Gill

MAY 14 - 2008