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JUN 16 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

27-10028

) (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 _____

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:

TO CORRECT PRIORITY DATE

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

COPY OF HOMESTEAD DEED DATED 09-05-1906
INCLUDING WATER RIGHTS

I have attached:

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

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

THE UNITED STATES OF AMERICA.

Homestead Certificate No. 5001

Application 7556

ss.

To all to Whom these Presents shall Come--GREETING

WHEREAS, There has been deposited in the General Land Office of the United States a Certificate of the Register of the Land Office at Blackfoot, Idaho, whereby it appears that, pursuant to the Act of Congress approved 20th May, 1862, "To Secure Homesteads to Actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of Elmer Dakin

has been established and duly consummated, in conformity to law, for the northeast quarter of section fourteen in township two south, of range thirty-six east of Boise Meridian, in Idaho, containing one hundred and sixty acres,

according to the Official Plat of the Survey of the said Land, returned to the General Land Office by the Surveyor General.

NOW, KNOW YE, That there is, therefore, granted by the United States unto the said

Elmer Dakin

the tract of land above described:

TO HAVE AND TO HOLD THE SAID TRACT OF LAND, with the appurtenances thereof, unto the said

Elmer Dakin

and to his heirs

and assigns forever, subject to any vested and accrued water rights for mining, agricultural, manufacturing or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws and decisions of Courts; and also subject to the right of the proprietor of a vein or lode, to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law, and there is reserved from the lands hereby granted a right of way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF, I, Theodore Roosevelt

President of the United

States of America, have caused these letters to be made Patent, and the Seal of the General Land Office to be hereunto affixed.

Given under my hand, at the City of Washington, the fifth day of September, in the year of our Lord one thousand Nine Hundred and six, and of the Independence of the United States the one hundred and thirty-first.

BY THE PRESIDENT: T. Roosevelt

By F. M. McKean

Secretary

Idaho 65
Recorded Vol.

Page 173

C. N. Brush

Recorder of the General Land Office

Filed for Record at 9:25 o'clock A. M. April 23, 1908

A. D. 19, and recorded at the request of

Elmer Dakin

H. B. Curtis

By *L. H. Curtis* Deputy

Recorder



VERIFICATION (Must be completed)

State of IDAHO

County of BINGHAM
BONNIE P. GARDNER

LEON J. GARDNER, 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.

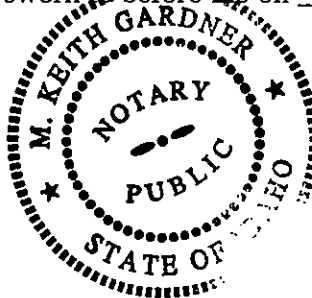
x Bonnie P. Gardner

x Leon J. Gardner

Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on 6/12/08
(Insert Date)



[Signature]
Notary Public for _____
Residing at: Blackfoot ID
My Commission expires: 11/4/10

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 06-12-2008, ~~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)

* *Bonnie P. Gardner*

* *Dean J. Gardner*

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 27-10028
Date Received: 10/18/1988
Receipt No: E003249
Received By: MWH

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

RECEIVED

JUN 16 2008

DEPARTMENT OF
WATER RESOURCES

1. Name of Claimant(s)

BONNIE P GARDNER Phone: (208)785-1688
469 E 400 N
BLACKFOOT ID USA 83221

LEON J GARDNER
469 E 400 N
BLACKFOOT ID USA 83221

2. Date of Priority: ~~06/01/1919~~ 09/05/1906

3. Source: SAND CREEK Trib. to: BLACKFOOT RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
02S	36E	14	NW NE NE	BINGHAM	
02S	36E	14	SE NW NE	BINGHAM	

5. Description of diverting works:

HEAD GATES IN SAND CREEK TO DIVERSTION DITCHES. FLOOD IRRIGATION

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A.
IRRIGATION	04/01	11/01	10.18	
STOCKWATER	03/01	11/30	0.94	

7. Total Quantity Appropriated is:
10.18 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
02S	36E	14	SW	NE	IRRIGATION	11
			NE	NE	IRRIGATION	19
			SE	NW	IRRIGATION	36
			NW	NE	IRRIGATION	36
			NW	NE	IRRIGATION	34
					Section Acres	136
					Total Acres	136

11. Place of use in counties: BINGHAM

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

13. Other Water Rights Used:

14. Remarks:

**** AMENDED CLAIM FILED TO CORRECT AMOUNT OF WATER UNDER RIGHT. MR. POULSON IS DELIVERED THIS WATER IN CONJUNCTION W/ VERA BELNAP. BETWEEN THE TWO OF THEM THEY CLAIM TO BE ENTITLED TO 461" OF WATER. A PORTION OF THIS IS CLAIMED UNDER LICENSE 27-02012. BETWEEN MR. POULSON'S AND MRS. BELNAP'S CLAIMS, 461 INCHES OF WATER HAS BEEN FILED ON FOR THEIR PROPERTIES. MR.

POULSON IS FILING TO ADJUST THE AMOUNT OF WATER UNDER THE 1907 RIGHT SO THAT MRS. BELNAP IS GIVEN HER PORTION.

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: 7

For Individuals:

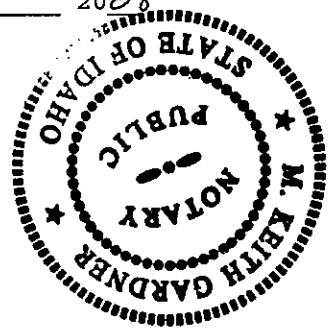
I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct. x Bonnie P. Gardner

Signature of Claimant(s): Leon J. Gardner Date: 06-12-08

Date:

State of Idaho)
County of Bingham) SS.

Subscribed and sworn (or affirmed) before me this 12th
of June 2008



[Signature]
Notary Public

Residing at Blackfoot Idaho
My commission Expires 11/7/10