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JUL 18 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: 72-16770
)
)

Case 39576

) STANDARD FORM 4
)
)

) MOTION TO FILE
)

) ☒ LATE NOTICE OF CLAIM
)

) ☐ AMENDED NOTICE OF CLAIM
)
_____)

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

My name is: Gary Leuzinger, and Tim Leuzinger, and Karen A. Dowton

My address is: (23 Oliver Drive, Salmon, ID 83467), (PO Box 117, Challis, ID 83226), (PO Box 7, Ellis ID 83235)

My phone number is: (208-993-0491) (208-879-2215) (208-876-4225)

I am an attorney representing: Gary Leuzinger, Tim Leuzinger, and Karen Dowton

My name is Jerry R. Rigby

My address is: 25 North 2nd East, P.O. Box 250, Rexburg, Idaho 83440

My phone number is: (208) 356-3633

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.

- ☒ Claimant did not file a Notice of Claim to the use of the water in the SRBA because: Claimants initially filed a new application for permit, not realizing that the law supported their right to claim this extra right within the SRBA. However, upon review of their case, IDWR suggested they file a Late Notice of Claim based upon their historical use of water on the appurtenant lands.
- ☐ 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 described 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: An affidavit of Gary Leuzinger

- ☒ 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 \$100.00.

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, Oct 21 @ 1:30 P.M

at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

A *Motion to File and 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 the water in the SRBA because:
- ☐ 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:

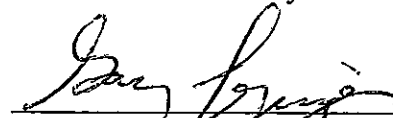
Fees have been paid _____

VERIFICATION

STATE OF IDAHO,)
 ss
County of Madison.)

Gary Leuzinger, being first duly sworn, upon oath, deposes and says:

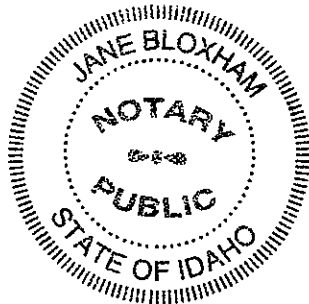
That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 4204101A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

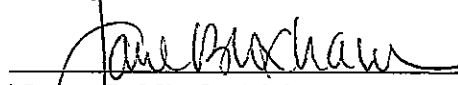


Signature of person filing motion

Attorney signing in representative capacity.

Subscribed and sworn to before me on this 11 day of ^{July}~~June~~, 2008.





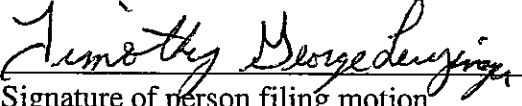
Notary Public for Idaho
Residing at: Challis
My Commission Expires: 1-26-10

VERIFICATION

STATE OF IDAHO,)
 ss
County of Madison.)

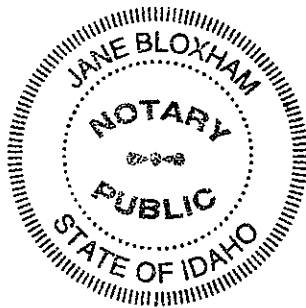
Tim Leuzinger, being first duly sworn, upon oath, deposes and says:

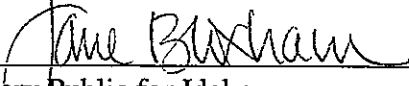
That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 4204101A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.


Signature of person filing motion

Attorney signing in representative capacity.

Subscribed and sworn to before me on this 27 day of June, 2008.



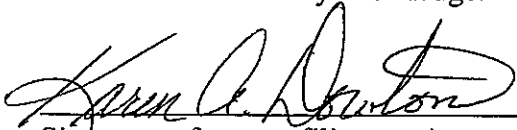

Notary Public for Idaho
Residing at: Challus, Idaho
My Commission Expires: 1-26-10

VERIFICATION

STATE OF IDAHO,)
 ss
County of Madison.)

Karen Dowton being first duly sworn, upon oath, deposes and says:

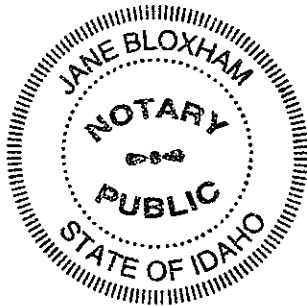
That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 4204101A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

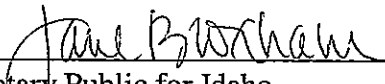


Signature of person filing motion

Attorney signing in representative capacity.

Subscribed and sworn to before me on this 7 day of ^{July}~~June~~, 2008.





Notary Public for Idaho
Residing at: Challis, ID
My Commission Expires: 1-26-10

CERTIFICATE OF MAILING

I certify that on ^{July} ~~June~~ 16, 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
P. O. Box 2707
Twin Falls, ID 83303-2707

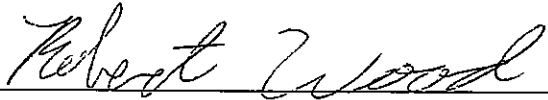
2. Copies to:

IDWR Document Depository
P. O. Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P. O. Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resources 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 Special Master, you must serve a copy on all parties in that subcase.



Signature of person or attorney mailing the form

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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 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

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Gary Leuzinger & Timothy Leuzinger & Karen A. Dowton Phone (208) 993-0491

Mailing Address (23 Oliver Drive, Salmon, ID 83467) (PO Box 117, Challis, ID 83226) (PO Box 7, Ellis ID 83235) Zip 83467

2. Date of Priority (Only one (1) per claim) 05/01/1952

3. Source of water supply (a) West Pass Creek

which is tributary to (b) East Fork Salmon River

4. a. Location of existing point of diversion Is: Township 08N Range 17E Section 32

NW 1/4 of SE 1/4 of NW 1/4, Govt. Lot, _____ B.M., County of Custer

Additional points of diversion if any:

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

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

Govt. Lot B.M., County of

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

1/4, Govt. 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. Existing ditch from West Pass Creek

6. Water is claimed for the following purposes-

(both dates are inclusive)

(Cfs)

(acre feet)

For Irrigation purposes from 04/01 to 10/31 amount 2 or _____
 For _____ purposes from _____ to _____ amount _____ or _____
 For _____ purposes from _____ to _____ amount _____ or _____
 For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 2 cfs (cfs) and/or (b) _____ (acre feet)

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

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) _____

10. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- 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 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
08N	17E	29								3.3	13	9.5	22	6					53.8
08N	17E	31	14																14
08N	17E	32					7.4												7.4

Total number of acres irrigated 75.2

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

12. 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.

13. Describe any other water rights used at the same place and for the same purposes as described above.
72-234 & 72-235 or None ()

14. Remarks: This application is to supply water at the same level as the historic use on the land covered by 72-234 and 72-235. The current water rights do not allow for adequate water to properly irrigate the property due to the existing soil type.

Last Name Leuzinger Ident No. _____

15. Basis of Claim (check one) Beneficial Use, X Posted Notice _____ License _____ Permit _____
Decree _____

If applicable provide IDWR Water Right Number 72-16770

Court _____ Case Number _____ Decree Date _____

Plaintiff vs Defendant _____

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 _____

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

Signature of Claimant (s)

Timothy George Leuzinger
Karen Downton
Timothy Leuzinger

Date 06/27-08

Date 7/11/08

Date 7-7-08

For Organizations: I do solemnly swear or affirm that I am _____ of _____

Title _____

Organization _____

document in the space below as _____ of _____

Title _____

Organization _____

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

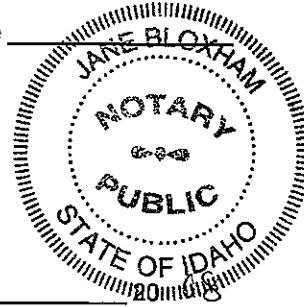
Signature of Authorized Agent _____

Title and Organization _____

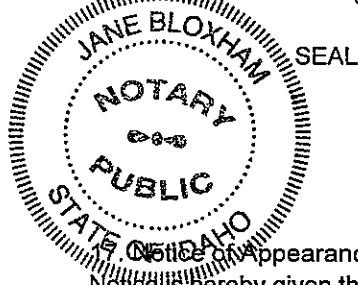
Date _____

State of Idaho/or _____)
County of Custer) ss.

7-11-08 Gary Leuzinger
7-7-08 Karen Downton
Timothy Leuzinger
27th day of June



Subscribed and sworn (or affirmed) before me this _____



Notary Public Jane Bloxham

Residing at Challis, ID

My Commission Expires 1-26-10

Please Print Name

Notice of Appearance:

Notice is hereby given that I, Jerry R. Rigby 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 Jerry R. Rigby

Address P.O. Box 250, Rexburg, Idaho 83440

Date 7-15-08

Last Name Leuzinger

Ident. Number _____

**RIGHTS 72-00234, 72-00235
and 72-04130**

**RECOMMENDED PLACE OF USE
TWP 08N, RNG 17E, SEC 29,31,32
data entry on December 11, 1988**



- RECOMMENDED PLACE OF USE
- RECOMMENDED POINT OF DIVERSION
- SECTION LINES
- QUARTER/QUARTER LINES
- SUBDIVISION LOT BOUNDARIES



**GIS PLACE OF USE PRESENTATION
1987 OR 1988 NAPP AERIAL PHOTOGRAPHY
DATA ENTRY BY VIKIE HANCOCK**

RECEIVED

JUL 18 2008

DEPARTMENT OF
WATER RESOURCES

Claimant: Gary Leuzinger & Timothy Leuzinger & Karen A. Dowton
Attorney: Jerry R. Rigby
of RIGBY, ANDRUS
& MOELLER, Chartered
Attorneys at Law
25 North Second East
Rexburg, ID 83440
Telephone: (208) 356-3633
Facsimile: (208) 356-0768

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF TWIN FALLS
SNAKE RIVER BASIN ADJUDICATION DIVISION

In RE: SRBA) Subcase: 72-16770
Case No. 39576) **AFFIDAVIT OF GARY LEUZINGER**
_____))

STATE OF IDAHO)
ss.
County of Lemhi)

Gary Leuzinger, having been duly sworn, states under oath as follows:

1. I am a resident of Lemhi County, Idaho and reside at 23 Olive Drive, Salmon Idaho, 83467.
2. I have farmed the land in question and currently own with my sister Karen A. Dowton the lands which are described and watered by water right no. 72-16743. I have personally worked said property semi-continuously since 1950, when I was nine years old. My sister Karen A. Dowton and her husband have worked the said lands continuously for the last 15 years. The farm has continuously been operated by members of my family since 1950.
3. Because I worked on said property in 1951, I am personally and keenly

aware that since 1952, the 75.2 acres which have been watered by water right nos. 72-00234 and 72-00235 were irrigated by diverting more than 4.86 cfs of water.

4. I remember my father purchasing said property in 1950 and building the main West Pass Ditch in 1951 because I helped him survey the property by placing surveying stakes.

5. I keenly remember that the West Pass Ditch, combined with other diversions under these water rights ran more than 5 cfs because I helped my father survey and build the main West Pass ditch. I remember that we ran at least this much water in the early 1950's because we were growing hay on the fields and we needed more water to grow the hay. I also remember that the main West Pass Ditch was capable of running more water when we first built it because the ditch had not been filled in with brush.

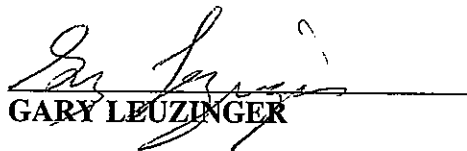
6. A total of four diversions have been used to divert the ranch irrigation water. Three from West Pass and one from the main East Fork.

7. I remember that in the year 1952 we ran water through said ditch and it nearly overfilled the ditch. The ditch actually washed out several times in the first few years due to the amount of water we ran through it.

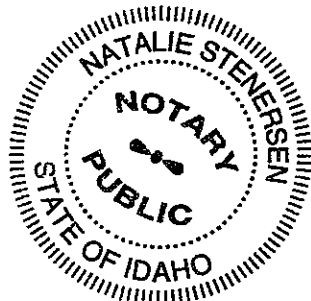
8. The water from the said water rights was beneficially applied to the entire 75.2 acres by 1952.

9. All uses described in the Claim were instituted prior to 1987.

Dated this 14 day of July, 2008.


GARY LEUZINGER

SUBSCRIBED AND SWORN to before me this 14 day of July, 2008.




Notary Public for Idaho
Residing at: Salmon, ID
My Commission Expires: 5-18-2010