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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 63-30175

) (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 Lamar Roche

My address is 23019 Hwy 20-26, Parma, ID 83660

My phone number is: Work _____ Home 208-722-6185

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 JANUARY 13, 9:30 AM
(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 did not originally develop this land and was unaware of the water right history when I
filed claim No. 63-30175.

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

Evidence was found in Water right license file 63-2227 that indicates the same lands were irrigated from the same source and diversion described on claim 63-30175. The following documentation from the license file supports the priority date, flow rate and acres amended on claim 63-30175.

1. An affidavit from S. G. Tucker verifying historical use to December 2, 1894.
2. An IDWR licensing field report indicating a measured flow rate of 4.25 cfs.

The examiner also described the lands as poor quality, which supports excess irrigation for gravelly soils.

An IDWR licensing field report map indicating 105 acres irrigated. Please note that the map is hand-drawn and identifies an area that GIS technology calculates to be 118 acres irrigated rather than 105 acres.

A claim for 63-2227 is not being filed.

I have attached:

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

☐ Payment of the following additional fees required by IDWR:

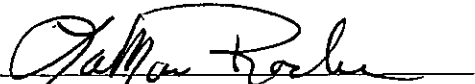
VERIFICATION (Must be completed)

State of IDAHO

County of ADA

LAMAR ROCHE, 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

Attorney signing in representative capacity

Subscribed and sworn to before me on September 10, 2008
(Insert Date)

Lo. Branner
Notary Public for SPF WATER ENG.

Residing at: BOISE

My Commission expires: 6/18/2010

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 _____, 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

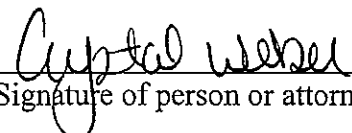
2. Copies to:

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.



Signature of person or attorney mailing the form

Permit No. 9728.....

Proof of Application of Water to Beneficial Use**DEPOSITION OF WITNESS**

Ques. 1. State your name, age, residence, occupation and postoffice address.

Ans. S. G. Tucker; 35; Notus, Idaho, R. F. D. No. 1; farmer.

Ques. 2. Are you acquainted with Herbert Lemp, Executor, the holder of Permit No. 9728.....? How long have you known him and where does he reside?

Ans. 20 years; Boise, Idaho.

Ques. 3. Have you read or heard read said Permit No. 9728....., and are you familiar with its provisions and conditions?

Ans. Yes; yes.

Ques. 4. State source of water supply, place of diversion, and describe works for conveying water from point of diversion to place of use.

Ans. Sand Creek; SE¹ NW¹, Sec. 30, Tp. 5 N., R. 4 W., B.M.

Dam, timber and earth. #####
#####

Ques. 5. How many second feet of water do you estimate said works will safely conduct to place of use, and how much water have you seen being so conveyed?

Ans. Have seen 3¹/₂ second feet being conveyed to place of intended use, but works will carry more.

Ques. 6. State for what purpose water is used and at what place. (If for irrigation, give each subdivision in which water has been used and number of acres irrigated in each subdivision.) State whether cultivated or natural meadow land and the nature of all improvements which have been made as a direct result of said use.

Ans. Irrigation; Lot 3 (60a.), 4 (27-10/100 a.), 5 (34.51 a.); 8 (3.85a.), all in Sec. 30, Tp. 5 N., R. 4 W.; Lot 10 (17.80), Sec. 25, Tp. 5 N., R. 5 W.; and Lot 8 (20.70 a.) Sec. 31, Tp. 5 N., R. 4 W., B.M., a total of 193.96 acres. All cultivated land.

Ques. 7. If for power or other purposes than irrigation, state how water has been applied and to what extent.

Ans.

Ques. 8. (If for irrigation) state character of land that has been reclaimed, and give your estimate of the amount of water required for its profitable cultivation.

Ans. Sandy loam; 3¹/₂ second-feet

9728

Ques. 9. Have you any interest in the works, water or lands above mentioned? If so, in what way and to what extent?

Ans. No.

Ques. 10. State when, how, in what amount and to what extent you have witnessed the application to beneficial use of water diverted under said permit.

Ans. Know that all of said lands have been irrigated by this water for 20 years.

(Sign)

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, in Parma, County of Canyon

State of Idaho, on this 2nd day of December A. D. 1914

M. A. Bate
(Mark Bate)
Justice of the Peace of Parma, Notary Public.
Precinct, Canyon County, Idaho.

My Commission Expires

9728

REPORT OF ENGINEER

Dist. 129

1. State name of applicant and number of permit: Herbert Lamp - Permit 9728
2. State source of water supply: Sand Creek- 3-1/4 sec.ft.
3. Location of point of diversion: Near center of SW 1/4 NE 1/4 Sec. 30, T. 5 N.,
R. 4 W.B.M.
4. State whether or not the works of diversion are fully completed and in accordance with terms of permit: _____
5. Describe works as they exist, giving dimensions and capacities of same: _____
a small diversion dam of brush and dirt 15' long
3' wide, 3' high
Head gate 3' x 3'
Canal, 1/2 mile long, grade 5' per mile, bottom width 2'
at water line 4', depth 1'. Capacity 4.25 sec. ft. 2.11 million inches
6. State whether or not water has been turned into works of diversion: yes
7. Give exact location of lands to be irrigated. Give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if for other than irrigation): _____

<u>NE 1/4 SW 1/4 Sec. 30 T. 5 N. R. 4 W. B.M.</u>	<u>30 Acres</u>
<u>NW 1/4 SW 1/4 " " " " " "</u>	<u>30 "</u>
<u>SW 1/4 SW 1/4 " " " " " "</u>	<u>25 "</u>
<u>SE 1/4 SW 1/4 " " " " " "</u>	<u>20 "</u>
<u>Total</u>	<u>105 "</u>
8. Submit map on enclosed plat, showing location and details of above description.

Remarks: _____

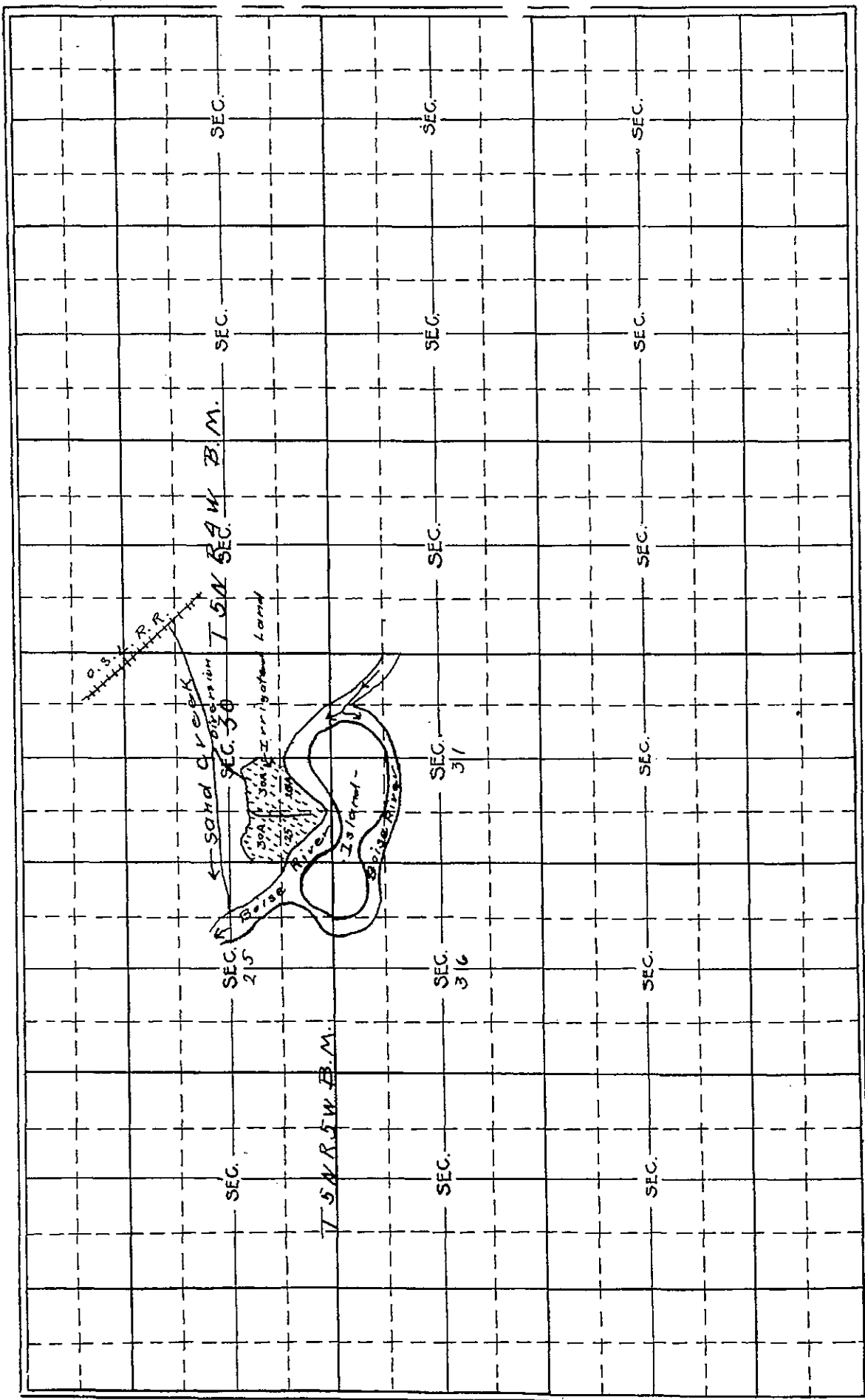
Land of poor quality devoted principally to
pastureThis examination was made on the 14th day of November 1917.

(Signed) _____

H. H. Palmer

Examiner.

Name of Applicant: Heckbert, Lewis P.



SCALE: 2 INCHES = 1 MILE. DRAW PLAN IN INK

9728

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: 63-30175

Date Received:

Receipt No:

Received By:

Amended

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

1. Name of Claimant(s)

Lamar Roche
23019 Hwy 20-26
Parma ID 83660

Phone: (208) 722-6185

2. Date of Priority: December 2, 1894

3. Source: Sand Hollow Creek

Trib. to: Boise River

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County	Type
5N	4W	30		SW	NE		Canyon	

5. Description of diverting works:

Headgate, ditch

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
Irrigation	3/1	11/15	4.25	

7. Total Quantity Appropriated is:

4.25 cfs

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

TWP	RNG	SEC	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
5N	4W	30							Lt 6 2		Lt 3 32	Lt 5 33	Lt 4 23.5	Lt 9 26		Lt 2 .5			117
		31					Lt 9 .5	Lt 4 .5											1

11. Place of use in counties: Canyon

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

13. Other Water Rights Used: None

14. Remarks: Water right 63-2227 was licensed from the same source and point of diversion for irrigation of the place of use listed above. An affidavit from that file supports the claimed priority date and the licensing field exam supports the claimed flow rate. Excess irrigation water was claimed due to gravelly soils described in the field exam as "land of poor quality".

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

Signature of Claimant(s): _____ Date: _____

_____ Date: _____

State of Idaho)
) SS.
County of _____)

Subscribed and sworn (or affirmed) before me this _____ of _____ 2008

Notary Public

Residing at _____

My commission Expires _____



Legend

-  Point of Diversion
-  63-30175 Amended Place of Use
-  Sections

Claim No. 63-30175



0 325 650

Feet



SPF Water Engineering, LLC
water resource consultants
600 E. River Park Lane Ste 105 Boise, Idaho 83706
tel 208 383 4340 fax 208 383 4150