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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

Case 39576

Subcase 27-10028
(Insert water right number)

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.

NOTICE OF WATER RIGHT FROM DEED PACKET
& COPY OF REFERENCED FILING AT COURT HOUSE

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 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

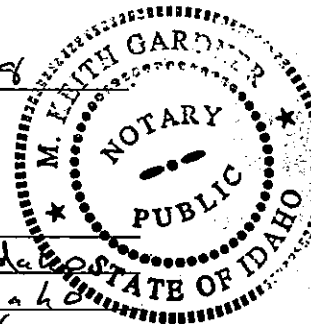
x Leon J. Gardner

Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on 8 October 2008
(Insert Date)

[Signature]
Notary Public for State of Idaho
Residing at: Blackfoot Idaho
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 10/08/08, ~~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

NOTICE OF WATER RIGHT.

Elmer Dakin and
John A. Peterson, President.
By F. W. McKean, Secretary.
Grantors,
Grantors.

TO

Whom concerned in

Grantee.
Grantee.

Dated- March 30th, 1901-
Dated Recorded- April 6th, 1901 at-
Cons 9:10 a.m. in book "E" of Water Locations at-
Page 83 of the records of Bingham County, Idaho-
3:20 a.m. in book of Deeds at-
Page of the records of Bingham County, Idaho-

Acknowledged- March 30th, 1901 before-
George L. Wall a Notary Public of Bingham
County, Idaho- Sealed- Regular-

Countersigned- C. E. Brush, Sec-
order of the General Land Office-

DESCRIPTION and REMARKS
and

Conveys 6 cubic feet per second, 300 inches of the water of
Sand Creek for irrigating the NE 1/4 section 14 and the SW 1/4 section 14
Ship 2 south of range 36 E.B.M. to the General Land Office of
Veget-General.

STATE OF IDAHO,
County of Bingham } ss.

TO ALL CONCERNED NOTICE IS HEREBY GIVEN:

1st. That Elmer Dakin and John A. Peterson
of Blackfoot, Idaho, hereby claims the use of the ^{waste} waters of Sand Creek in sec. 1 twp. 1 S. range
36 E. to the extent of 6 300 inches
cubic feet per second.

2d. It is intended to divert said water at or near the point where a copy of this notice is posted, and more definitely described
as follows:

from the Waste Gate of the Government canal in sec. 1 twp. 1 S. R. 36 E.

3d. The purpose for which said water is intended to be used is for agricultural and domestic purposes

The place of intended use is on N. E-1/4 sec. 14 & S. W-1/4 sec. 12 twp. 2 S. R. 36 E.

4th. It is intended to divert said water by means of a ditch about 3 miles long cap. of 300 inches

The general course of the proposed canal is southwesterly

The length of the proposed canal is 3 miles

It is intended to use said water for irrigating the following described land:

N. E-1/4 sec. 14 & S. W-1/4 sec 12
twp. 2 S. R. 36 E.

Ditch has been completed over two years and above land irrigated from same.

5th. It is intended to have the works for diversion and use of said water as aforesaid completed within years.

WITNESS our hands at Blackfoot Idaho, this 30th day of March, 1901

Elmer Dakin.

John A. Peterson.

Claimant

STATE OF IDAHO,
County of Bingham } ss.

Elmer Dakin

being first duly sworn, depose and say that he is one of the claimants of
the Water Right mentioned in the foregoing notice and whose name is subscribed thereto. That the statements in said
notice are true, and that the original notice, of which the foregoing is a true copy, was posted in a conspicuous place at or near the
place of intended diversion (as provided by law) on the 30th day of March, 1901, at minutes past 5 o'clock P. M.

Elmer Dakin

Subscribed and sworn to before me this 30th day of March, 1901

Seal.

George L. Wall,

Notary Public

Filed for record at request of Geo. L. Wall, at 10 minutes past 9 o'clock
A. M., this 6th day of April, 1901 A.D. 189

Geo. F. Gagon,

Ex-officio Recorder.