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DEPARTMENT OF
WATER RESOURCES

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Attorneys for the United States of America

**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>63-09890</u>
	)	
Case 39576	)	STANDARD FORM 4
	)	
	)	MOTION TO FILE:
	)	LATE NOTICE OF CLAIM

Claimant United States of America, Veterans Administration Medical Center, by and through its counsel of record, and pursuant to SRBA Administrative Order 1 Rules of Procedure and Idaho Rules of Civil Procedure 55(c), respectfully moves the Court to enter an Order granting permission to file a Late Notice of Claim in this subcase.

The United States originally filed a claim under claim no. 63-29713 for a federal reserved water right to provide heating at the Veterans Administration Medical Center. In the course of negotiations with the State of Idaho and others to resolve objections to this water right it has been proposed that a water right based upon a state law based claim be accepted by the United States in settlement of this reserved water right claim.

By filing this *Motion to File a Late Notice of Claim*, I certify that this claim 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 Oct. 16, 1997).

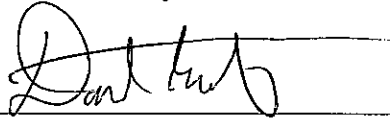
I am an attorney for the United States of America, representing the Veterans Administration Medical Center. My name is David W. Gehlert. My address is 1961 Stout Street, 8th Floor, Denver, Colorado 80294. My phone number is 303-844-1388.

I am providing legal and factual documentation for my claimed use of water. I have attached a fully completed Notice of Claim.

The filing of this Late Notice of Claim will not prejudice other parties to this litigation, as the claims accurately reflect the historic use and operation of these water rights under the referenced licenses. This motion and the Notice of Claim filed herewith are timely.

Respectfully submitted this 9th day of OCTOBER, 2008.

RONALD J. TENPAS
Assistant Attorney General



DAVID W. GEHLERT
Trial Attorney, Natural Resources Section
Environment and Natural Resources Division
U.S. Department of Justice
1961 Stout Street, 8th Floor
Denver, Colorado 80294
(303) 844-1388

VERIFICATION

State of Colorado)
County of Denver)

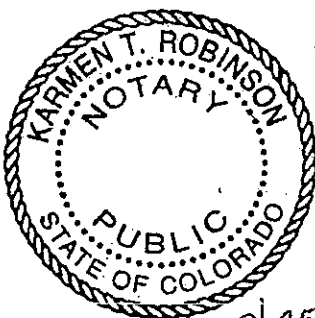
David W. Gehlert, being first duly sworn, upon oath, deposes and says:

That I am the attorney for the party/claimant filing this motion for 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.

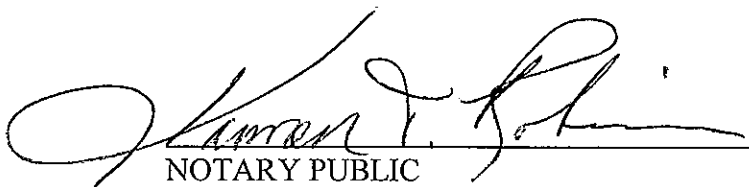


Attorney signing in representative
capacity

SWORN TO AND SUBSCRIBED BEFORE ME, in my presence, this 9th of October, 2008, a Notary Public in and for the City and County of Denver, State of Colorado.



My Commission Expires 3/25/09



NOTARY PUBLIC
STATE OF COLORADO

My Commission Expires: 3/25/09

CERTIFICATE OF MAILING

I certify that on Oct. 9, 2008, I mailed true and correct copies of the foregoing **STANDARD FORM 4 – MOTION TO FILE LATE NOTICE OF CLAIM** as follows:

via FedEx Mail:

Clerk of the District Court (Original)
Snake River Basin Adjudication
253 Third Avenue North
Twin Falls, Idaho 83303
Phone: 208-736-3011

via First Class U.S. Mail, pre-paid:

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

Robert A. Maynard
Perkins Coie LLP
251 E. Front St., Suite 400
Boise, ID 83702-7310

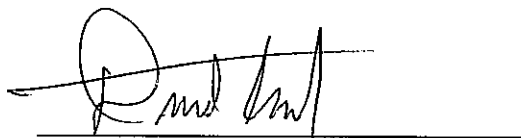
Charles L. Honsinger
Ringert Clark, Chartered
P.O. Box 2773
Boise, ID 83701-2773

Bruce M. Smith
Moore Smith Buxton & Turcke, Chtd.
950 W. Bannock, Suite 520
Boise, ID 83702

Dana Hofstetter
Hofstetter Law Office
608 Franklin St.
Boise, ID 83702

Idaho Department of Water Resources
Document Depository
P.O. Box 83720
Boise, Idaho 83720-0098

U.S. Department of Justice
Environment and Natural Resources Div.
550 West Fort Street, MSC 033
Boise ID 83724


David W. Gehlert

**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 63-09890

Date Received: _____

Receipt No: _____

Received By: _____

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

Please type or print clearly

1. Name of Claimant (s) United States Dept. of Veterans Affairs Phone () _____

Mailing Address 500 W. Fort St. Boise ID ZIP 83702-4598
Street or Box City State

2. Date of Priority (Only one (1) per claim) April 19, 1982
Month Day Year (YYYY)

3. Source of water supply (Check one) Ground Water (x) or Other () (a) _____
which is tributary to (b) _____

4. a. Location of Point of Diversion is: Township 03N, Range 02E, Section 02,
_____, 1/4 of SW, 1/4 of SW, 1/4 Govt. Lot _____, BM., County of Ada

Additional points of diversion if any: _____

If available, GPS Coordinates _____

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

Township _____, Range _____, Section _____, _____, 1/4 of _____, 1/4 of _____, 1/4
Govt. Lot _____, BM., County of _____

ending point is: Township _____, Range _____, Section _____, _____, 1/4 of _____, 1/4 of
_____, 1/4 Govt. Lot _____, BM., 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. VA geothermal well

Last Name _____ Ident No. 63-09890

6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For Heating purposes from 01/01 to 12/31 amount 1.43 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) _____ (cfs) and/or (b) 628.6 AFA (acre feet)

8. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.) Heating at the Boise VA Medical Center

9. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. 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.

Twn	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	02E	02										X	X	X					

Total number of acres irrigated _____

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

11. 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.

12. Describe any other water rights used at the same place and for the same purposes as described above.

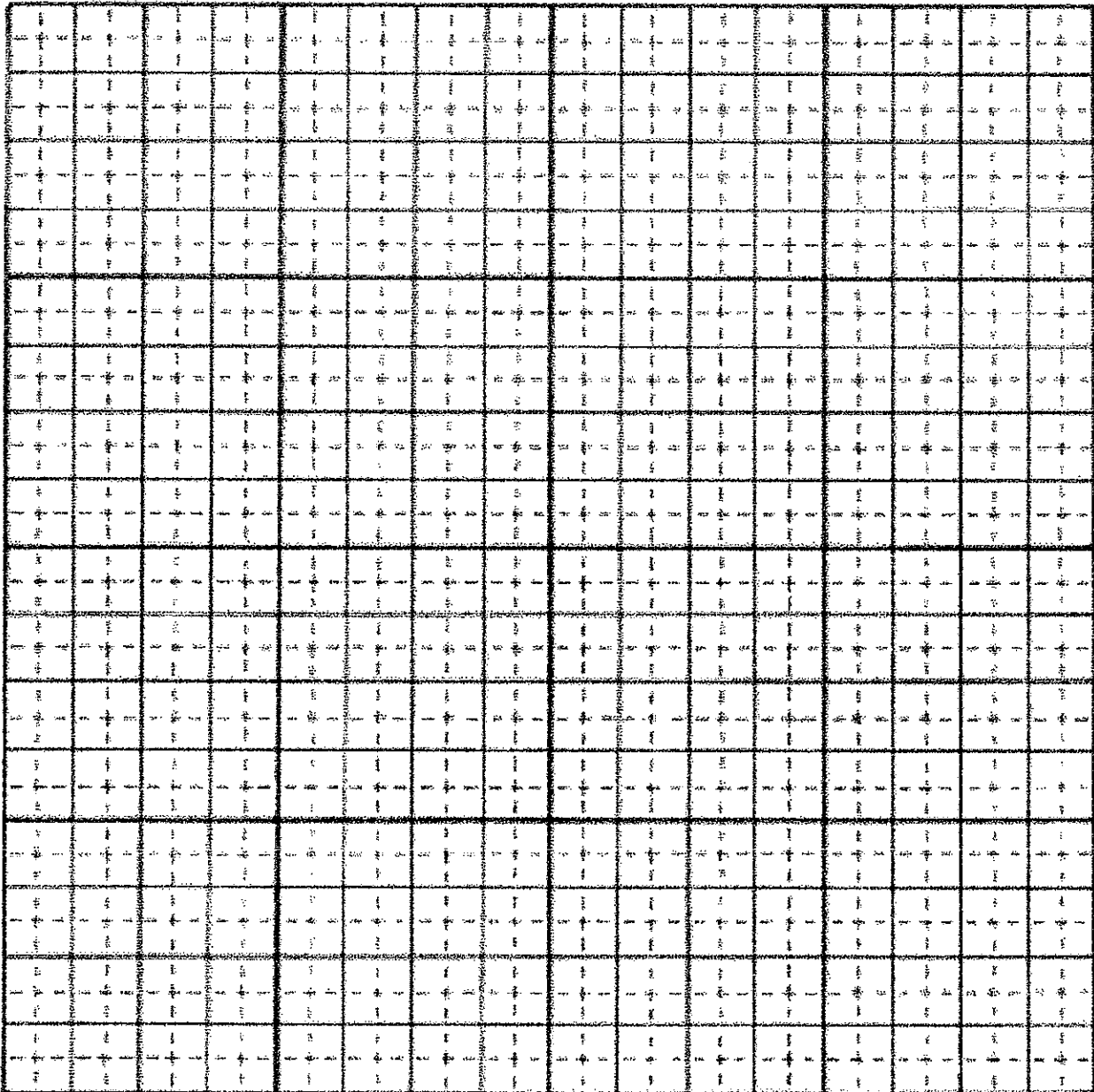
_____ or None (X)

13. Remarks: Heating use is for the space heating of buildings. Return flow discharged to a subsurface system must be authorized by a separate injection well permit. All water diverted pursuant to this water right is to be reinjected into the geothermal aquifer from which it is diverted. Upon specific notification by the Department, the right holder shall (a) install and maintain acceptable measuring device(s), including data logger(s), temperature gauge(s), and totalizing fluid meter(s), at the authorized point(s) of diversion and reinjection in accordance with Department specifications; (b) report measuring information to the Department upon its request; and (c) contribute a reasonable pro-rata share of costs for periodic updating of the Idaho Water Resources Research Institute, University of Idaho, Boise (continued)

Last Name _____ Ident No. 63-09890

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 Inches equals 1 mile



Last Name _____ Ident No. 63-09890

14. Basis of Claim (Check One) Beneficial Use _____ Posted Notice _____ License _____ Permit ☒ Decree _____

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number _____

15. 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) _____ Date: _____

_____ Date: _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am

Chief, Facility Management of Boise VA Medical Center,
Title Organization

that I have signed the foregoing document in the space below as

Chief, Facility Management of Boise VA Medical Center,
Title Organization

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

Signature of Authorized Agent Douglas D. Lamb Date 10-7-08

Title and Organization Chief, Facility Management, Boise VA Medical Center

Please Print Name

16. Notice of Appearance:

Notice is hereby given that I, David W. Gehlert, 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 David W. Gehlert

Address 550 West Fort St., MSC 033, Boise, ID 83724

Date 10/9/08

Last Name _____ Ident No. 63-09890

CONDITIONS OF APPROVAL (Continued)

Front Low Temperature Geothermal Resource Management Area aquifer computer model or its successor. This condition will not be construed to obligate the expenditure of funds by any public agency beyond the amounts available to the agency for such purposes through lawful authorization and appropriations.

