

61

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

39576

IN RE THE GENERAL ADJUDICATION  
OF RIGHTS TO THE USE OF WATER FROM  
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER:

Identification No. 61-12050  
Date Received \_\_\_\_\_  
Receipt Number 5026400 \$25  
d.o. no 6.22-04

**NOTICE OF CLAIM  
TO A  
WATER RIGHT  
ACQUIRED UNDER STATE LAW  
For Domestic and/or Stockwater Purposes  
Where Daily use is less than 13,000 gallons per day.**

**Filing Fee \$25**

RECEIVED

JAN 14 2004

Department of Water Resources  
Southern Region

**Please type or print clearly**

1. Name of Claimant (s) State of Idaho, Department of Lands Phone (208) 334-2400  
Mailing Address 700 W. Jefferson, Room 210, P.O. Box 44449, Boise, Idaho Zip 83711-4449
2. Date of Priority (Only one per claim) December 15, 1919 Month/Day/Year
3. Source of water supply (Check one) ( ) Groundwater or Other (X) (a) Unnamed stream  
Name or kind of source  
which is tributary to (b) King Hill Creek
4. Location of point of diversion is: Township 2 South Range 10 East  
Section 33, SE 1/4 of NE 1/4 of SE 1/4, Govt. Lot \_\_\_\_\_, B.M.,  
County of Elmore  
Additional points of diversion if any: \_\_\_\_\_
5. Description of existing diversion works (Ditches, Wells, Pumps, Pipelines, Headgate 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. A dam collects water in a reservoir from an unnamed stream. The reservoir is designated as Waypoint 33. See attached photograph of Waypoint 33, which was taken on 06/23/2003.
6. Water is claimed for the following: (limited to Domestic and/or Stockwater only. See Instructions.)  
Month/Day Month/Day (cfs)  
For StockWater purposes from January 1 to December 31 amount 0.02  
(Both dates are inclusive)  
For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_
7. Total quantity claimed 0.02 (cfs)
8. Total consumptive use claimed is de minimis
9. Non-irrigation uses. Describe fully. (Domestic: give number of households served if single ownership; Stockwater: Type and Number of livestock) The lands described in this claim are leased under State Land Lease, Lease No. 7600 (Grazing). This lease authorizes a total of 708 animal unit months on 4,640 acres of endowment land. These state lands are used in conjunction with about 20,000 acres of private land. These

SCANNED  
JUN 21 2004



## PHOTO RECORD

*South Central Office*

*Gooding, Idaho*

**Lease Number:** G-7046

**Location:** 2S 10E Sec. 33 SENESE

Waypoint 33

**Date:** 6/23/2003

**Taken By:** Brian Sewell



Good Stock Pond

SCANNED

JUN 21 2004



## PHOTO RECORD

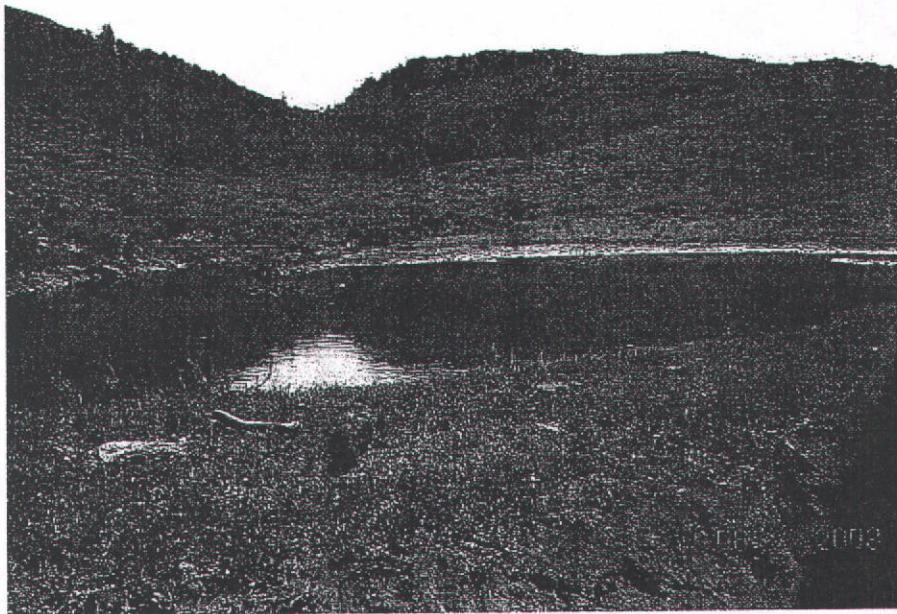
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Good Stock Pond

**SCANNED**

**MAR 04 2004**

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DEPARTMENT OF LANDS  
CLERK OF DISTRICT COURT

**Please type or print clearly**

1. Name of Claimant (s) State of Idaho, Department of Lands Phone (208) 334-2400

Mailing Address 700 W. Jefferson, Room 210, P.O. Box 44449, Boise, Idaho Zip 83711-4449

2. Date of Priority (Only one per claim) December 15, 1919 Month/Day/Year

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which is tributary to (b) King Hill Creek

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Section 33, SE 1/4 of NE 1/4 of SE 1/4, Govt. Lot \_\_\_\_\_, B.M.,

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Additional points of diversion if any: \_\_\_\_\_

5. Description of existing diversion works (Ditches, Wells, Pumps, Pipelines, Headgate 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. A dam collects water in a reservoir from an unnamed stream. The reservoir is designated as Waypoint 33. See attached photograph of Waypoint 33, which was taken on 06/23/2003.

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For StockWater purposes from January 1 to December 31 amount 0.02  
(Both dates are inclusive)

For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_

7. Total quantity claimed 0.02 (cfs)

8. Total consumptive use claimed is de minimis

9. Non-irrigation uses. Describe fully. (Domestic: give number of households served if single ownership; Stockwater: Type and Number of livestock) The lands described in this claim are leased under State Land Lease, Lease No. 7600 (Grazing). This lease authorizes a total of 708 animal unit months on 4,640 acres of endowment land. These state lands are used in conjunction with about 20,000 acres of private land. These

JUN 21 2004

lands are divided into 13 pastures grazing 1,400 to 1,800 cattle pairs. Cattle are rotated and spread to fit water supply.

10. Place of use is: Township: 2 South Range 10 East

Section 33, NE 1/4 of SE 1/4 Govt. Lot   , B.M.,

County of Elmore for (Circle One)

Domestic

Stock

Domestic and Stock

Additional places of use, if any: Not applicable

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

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.

14. Remarks:

15. Basis of Claim (Circle One)

Beneficial use

Posted Notice

License

Permit

Decree

Court    Decree Date    Plaintiff vs Defendant   

If applicable provide IDWR Water Right Number   

16. Signature (s)

(a) By signing below, I/We acknowledge that I/We have received, read and understood the form entitle "How you will receive notice in the Snake River Basin Adjudication". (b) I/We do not wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of Attachments = 1

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

Signature of Claimant (s)    Date   

**For Organizations:** I do solemnly swear or affirm that I am Range Program Manager  
Title  
of the Idaho Department of Lands, that I have signed the foregoing document in the space below as Range Program Manager of the Idaho Department of Lands and that the statements contained in the foregoing document is true and correct.

Signature of Authorized Agent Tracy Behrens Date 1/6/2004

Title and Organization Range Program Manger, Idaho Department of Lands

State of Idaho )

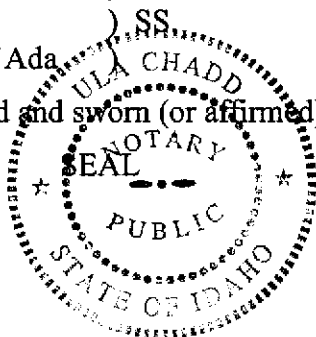
County of Ada )

Subscribed and sworn (or affirmed) before me this 6th day of January 2004

Notary Public Julia Chadd

Residing at Caldwell

My Commission Expires 9-22-06



Last Name    Ident No.   

SCANNED

JUN 21 2004

Claim No(s). 61-12050

Claim No(s). 01-12050

[illegible]



## PHOTO RECORD

*South Central Office*  
*Gooding, Idaho*

**Lease Number:** G-7046

**Location:** 2S 10E Sec. 33 SENESE

**Waypoint** 33

**Date:** 6/23/2003

**Taken By:** Brian Sewell



Good Stock Pond

**SCANNED**

**JUN 21 2004**

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(Both dates are inclusive)

For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_

7. Total quantity claimed 0.02 (cfs)

SCANNED

8. Total consumptive use claimed is de minimis

MAR 04 2004

9. Non-irrigation uses. Describe fully. (Domestic: give number of households served if single ownership; Stockwater: Type and Number of livestock) The lands described in this claim are leased under State Land Lease. Lease No. 7600 (Grazing). This lease authorizes a total of 708 animal unit months on 4,640 acres of endowment land. These state lands are used in conjunction with about 20,000 acres of private land. These

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Section 33, NE 1/4 of SE 1/4 Govt. Lot    B.M.,

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Additional places of use, if any: Not applicable

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

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.

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14. Remarks:

15. Basis of Claim (Circle One)  
Decree

Beneficial use

Posted Notice

License

Permit

Court    Decree Date    Plaintiff vs Defendant   

If applicable provide IDWR Water Right Number   

16. Signature (s)

(a) By signing below, I/We acknowledge that I/We have received, read and understood the form entitle "How you will receive notice in the Snake River Basin Adjudication". (b) I/We do not wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of Attachments = 1

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

Signature of Claimant (s)    Date   

**For Organizations:** I do solemnly swear or affirm that I am Range Program Manager  
Title  
of the Idaho Department of Lands, that I have signed the foregoing document in the space below as Range Program Manager of the Idaho Department of Lands and that the statements contained in the foregoing document is true and correct.

Signature of Authorized Agent Tracy Behrens Date 1/6/2004

Title and Organization Range Program Manger, Idaho Department of Lands

State of Idaho )

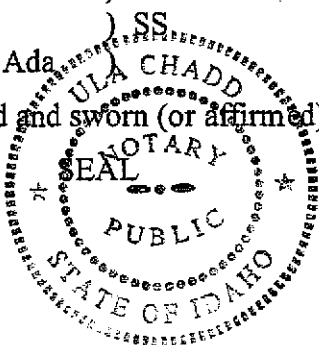
County of Ada )

Subscribed and sworn (or affirmed) before me this 6th day of January 2004

Notary Public   

Residing at Caldwell

My Commission Expires 9-22-06



Last Name    Ident No.   

SCANNED

MAR 04 2004



## PHOTO RECORD

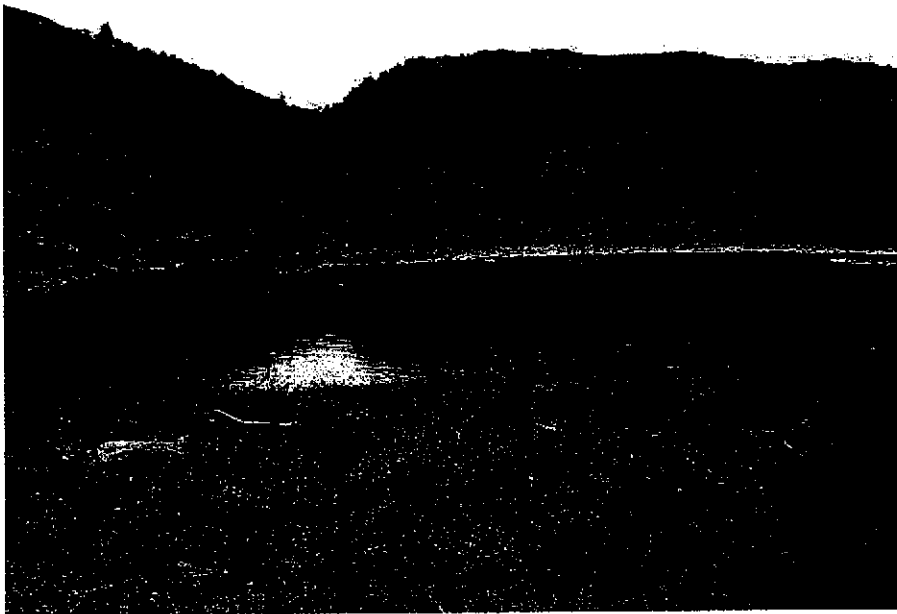
*South Central Office  
Gooding, Idaho*

**Lease Number:** G-7046

**Location:** 2S 10E Sec. 33 SENESE  
Waypoint 33

**Date:** 6/23/2003

**Taken By:** Brian Sewell



Good Stock Pond

SCANNED

MAR 04 2004

2004 JUN 17 PM 12:03

FILED

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 No. 39576

Subcases 61-12049, 61-12050, 61-12051,  
61-12052, and 61-12053

ORDER GRANTING MOTIONS TO FILE  
LATE NOTICE OF CLAIM

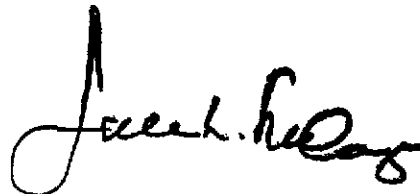
On March 5, 2004, Claimant State of Idaho, Department of Lands, filed *Motions to File Late Notice of Claim* for each of the water rights listed above. Hearing was held on the *Motions* June 15, 2004. These *Motions* complied with all procedural requirements under *SRBA Administrative Order 1*, and no objections were made to these late Notices of Claim.

THEREFORE, IT IS ORDERED, that the *Motions to File a Late Notice of Claim* for water rights 61-12049, 61-12050, 61-12051, 61-12052, and 61-12053 are **granted**.

The original Notice of Claims and a copy of this **Order** will be forwarded to the Idaho Department of Water Resources for further action. The Court record indicates that fees were paid to the Idaho Department of Water Resources on January 14, 2004.

IT IS SO ORDERED.

Dated June 16, 2003.



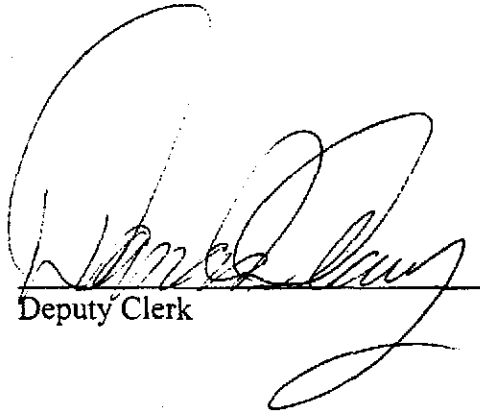
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

## CERTIFICATE OF MAILING

I certify that a true and correct copy of the **ORDER GRANTING MOTIONS TO FILE LATE NOTICE OF CLAIM** was mailed on June 16, 2003, with sufficient first-class postage to the following:

State of Idaho, Department of Lands  
Office of the Attorney General  
PO Box 44449  
Boise, ID 83711-4449

IDWR Document Depository  
PO Box 83720  
Boise, ID 83720-0098



Deputy Clerk

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 No. 39576 )  
PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR  
Water Right 61-12050

NAME AND ADDRESS: STATE OF IDAHO  
DEPT OF LANDS  
954 W JEFFERSON  
PO BOX 83720  
BOISE, ID 83720-0050

SOURCE: UNNAMED STREAM TRIBUTARY: KING HILL CREEK

QUANTITY: 1.00 AFY

The quantity of water under this right shall not exceed 13,000  
gallons per day.

PRIORITY DATE: 12/15/1919

POINT OF DIVERSION: T02S R10E S34 SWNWSW Within Elmore County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE          | PERIOD OF USE  | QUANTITY |
|-------------------------------|-------------------------|----------------|----------|
|                               | Stockwater Storage      | 01-01 TO 12-31 | 1.00 AFY |
|                               | Stockwater from Storage | 01-01 TO 12-31 | 1.00 AFY |

|               |                         |                      |
|---------------|-------------------------|----------------------|
| PLACE OF USE: | Stockwater Storage      | Within Elmore County |
|               | T02S R10E S34 NWSW      |                      |
|               | Stockwater from Storage | Within Elmore County |
|               | T02S R10E S34 NWSW      |                      |

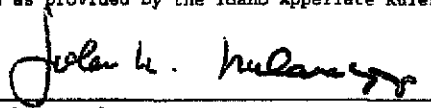
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The quantity of water decreed for this water right is not a  
determination of historical beneficial use.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS  
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT  
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY  
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE  
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance  
with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a  
final judgment and that the court has and does hereby direct that the above judgment or order shall be a final  
judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

  
John M. Melanson  
Presiding Judge of the  
Snake River Basin Adjudication

copy

**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 No. <u>61-12050</u>                                     |
|                | ) | (Insert Water Right Number)                                     |
|                | ) |                                                                 |
|                | ) | <b>STANDARD FORM 4</b>                                          |
| Case No. 39576 | ) |                                                                 |
|                | ) | <b>MOTION TO FILE:</b>                                          |
|                | ) | <input checked="" type="checkbox"/> <b>LATE NOTICE OF CLAIM</b> |
|                | ) | <input type="checkbox"/> <b>AMENDED NOTICE OF CLAIM</b>         |
|                | ) |                                                                 |

**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.

**SCANNED**

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

My name is State of Idaho, Department of Lands

My address is 700 W. Jefferson, Room 210, P.O. Box 44449, Boise, Idaho 83711-4449

My phone number is: Work (208) 334-2200 Home Not Applicable

I am an attorney representing State of Idaho, Department of Lands

My name is David J. Barber, Deputy Attorney General

My address is 700 W. Jefferson, Room 210, P.O. Box 44449, Boise, Idaho 83711-4449

My phone number is (208) 334-2400

### **MOTION TO FILE 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:

This claim is for a stockwatering use on State Endowment lands that was subject to the order of the court that allowed the claim to be deferred. The lessee of the State Endowment land notified the Idaho Department of Lands that it desired that the claims be determined in the SRBA. In response to this request, the Idaho Department of Lands determined to file the claims in the name of the State of Idaho, Department of 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.)

The attached Notice of Claim describes the diversion works for the water right and includes a photograph of the site. The State of Idaho, Department of Lands, acquired ownership of the real property from the United States under one of the various endowments established by the Idaho Admission Act of July 3, 1890, ch. 656, 26 Stat. 215. Attached as Attachment II is a true and correct copy of Clear List No. that evidences this transfer of ownership to the State of Idaho, Department of Lands.

**SCANNED**

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 receipt showing payment to the State of Idaho Department of Water Resources in the amount of \$800.<sup>00</sup> for 32 Notices of Claim. The State of Idaho, Department of Lands, filed the 32 Notices of Claim on January 14, 2004. Twenty-seven Notices of Claim were within Basin 37, and IDWR accepted them as timely. Five notices of claim were within Basin 61, and IDWR returned these five and advised that a Motion to File Late Notice of Claim was necessary for each of the five.

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, June 15, 2004 at 1:30 p.m.

(Insert Date and Time)

at the Nez Perce County Courthouse, 1225 Idaho Street, Lewiston, Idaho.

### **MOTION TO FILE 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:

---

---

---

**SCANNED**

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

---

---

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I have attached:

- ☐ An amended Notice of Claim (available from IDWR).
- ☐ Payment of the following additional fees required by IDWR:

---

---

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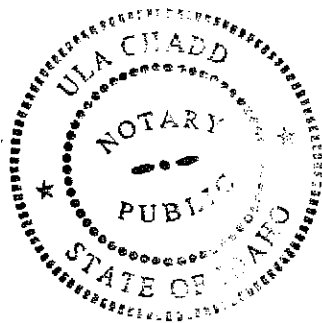
**VERIFICATION** (Must be completed)

State of Idaho

County of Ada

Tracy Behrens, 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 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.



Tracy Behrens  
Signature of person filing motion

\_\_\_\_\_  
Attorney signing in representative capacity

Subscribed and sworn to before me on March 1, 2004  
(Insert Date)

Ula Chadd  
Notary Public for Tracy Behrens  
Residing at: Caldwell  
My Commission expires: 9-22-06

**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.

**SCANNED**

**MAR 04 2004**

## CERTIFICATE OF MAILING

I certify that on 3<sup>rd</sup> day of March, 2004, 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:

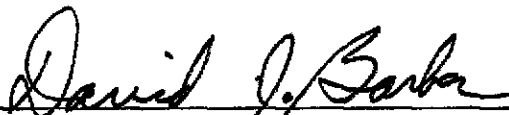
IDWR Document Depository  
PO Box 83720  
Boise, ID 83720-0098

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

Not Applicable

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

# Idaho Department of Water Resources Receipt

Receipt ID S026400

Payment Amount \$800.00 Date Received 1/14/2004 1:41:19 PM Region Southern Status ☐  
Payment Type Warrant Check Number 117501954

Payer IDAHO DEPARTMENT OF LANDSComment 32 claims @ \$25/claim

## Fee Detail

| Amount   | Description             | Fund | FD | PCA   | SO   |
|----------|-------------------------|------|----|-------|------|
| \$800.00 | ADJUDICATION FILING FEE | 0337 |    | 44503 | 1155 |

  
Signature Line (Dept. Representative)

SCANNED

MAR 04 2004