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Attorneys for Claimants David Wayne Baker and Melodie L. Baker

**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 72-16783
	)	(Insert water right number)
	)	
Case 38576	)	STANDARD FORM 4
	)	
	)	MOTION TO FILE
	)	X 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.

COPY

X I have read *SRBA Administrative Order 1, Rules of Procedure* (amended Oct. 10, 1997).

My name is _____

My address is _____

My phone number is: Work _____ Home _____

I am an attorney representing David Wayne Baker and Melodie L. Baker

My name is Daniel V. Steenson

My address is Ringert Law Chartered, 455 S. Third St., P.O. Box 2773, Boise, ID 83701-2773

My phone number is (208) 342-4591

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.

X I did not file a Notice of claim to the use of water in the SRBA because:

The claimants were unaware that the quantity that was claimed, recommended and decreed for their water right was insufficient to provide for conveyance losses. The inadequacy of the decreed quantity has become clear in recent years, after the issuance of the partial decree, as a result of measurements, the installation of fish screens in diversions, and notice from IDWR that diversions from the East Fork of the Salmon River will be subject to administration by a Water Master beginning in 2009.

☐ 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.

X 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.)

(1) Late Notice of Claim, (2) Affidavit of David Wayne Baker, (3) Affidavit of Richard L. Baker, (4) Affidavit of Larry Weeks, and (5) Affidavit of Brian Hamilton. (The originals of the aforementioned affidavits have been filed with the Motion to File a Late Notice of Claim, Subcase No. 72-16782)

I have attached:

- ☒ A fully completed Notice of Claim (available for 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 late claim 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 (\$50 flat fee and \$50 late fee). (Water rights for irrigation of the acres referenced in the claim have been decreed.)

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, January 20, 2009, at 1:30p.m.
(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 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:

VERIFICATION (Must be completed)

State of Idaho

County of ADA

Daniel V. Steenson, 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.

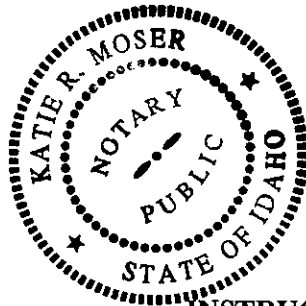
Signature of person filing motion

Daniel Steenson

Attorney signing in representative capacity

Subscribed and sworn to before me on

October 28, 2008
(Insert Date)



Katie R. Moser
Notary Public for Idaho
Residing at: Oasis, ID
My Commission expires: 2/20/2014

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 parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on October 28, 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:

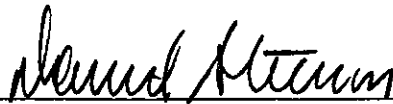
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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.

(Insert Names/address of parties)



Signature of person or attorney mailing form

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
Indent. Number 72-16783
Date Received _____
Receipt Number _____

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

Please type or print clearly

1. Name of Claimant(s) D. Wayne Baker, Melodie L. Baker Phone (208) 838-2440
Mailing Address HC 68 Box 304, Clayton, Idaho Zip 83227
2. Date of Priority only (1) per claim April 1, 1930
3. Source of water supply (a) Big Lake Creek
which is tributary to (b) Salmon River, East Fork
4. a. Location of existing point of diversion is: Township 09N Range 18E Section 31,
_____ 1/4 of _____ NW _____ 1/4 SE _____ 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,
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 enlargement in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well. This diversion consists of a cut in the bank of Big
Lake creek with a canvas dam, and is described in the Affidavit of D. Wayne Baker in Support of Motion to
File Late Notices of Claims.

Last Name Baker Ident. Number 72-16783

COPY

6. Water is claimed for the following purposes:

(both dates are inclusive) (cfs) (acre feet)

For Irrigation (conveyance loss) purposes from 4/1 to 10/31 amount 5.30 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 5.30 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is N/A acre fee per annum.

9. Non-Irrigation uses; describe fully (e.g. Domestic: Give number of households served; Stockwater Type and number of livestock etc.) This water right is for conveyance losses in conveying water from the point of diversion to the place of use. There is no consumptive use associated with this claim.

10. 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.

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Total
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10N	18E	32											7.9	12			11	6.3	37.2
10N	18E	33											10 lot 4	2 lot 4					12.

Total number of acres irrigated 49.2

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 _____

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

The following rights are for irrigation from these diversions: 72-198

_____ or None ()

14. Remarks:

The maximum combined diversion for irrigation and conveyance loss is limited to 6.80 cfs

SCALE: 2 inches equal 1 mile. Draw plan in ink. See Exhibit A.

A blank sheet of graph paper featuring a uniform grid of squares. The grid consists of 20 columns and 15 rows. Each square is defined by thin black lines. There are no margins, text, or other markings on the page.

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

If applicable provide IDWR Water Right Number _____
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

Last Name Baker Ident. Number 72-16783

Form No. 42-1409 (2) a 9/88 (Internet)

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 1 (1 page)

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

Signature or Claimant (s) P. Wayne Baker Date 10-22-08

Melodie L. Baker Date 10-22-08

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

of _____, that I have signed the foregoing

document in the space below as _____ of _____

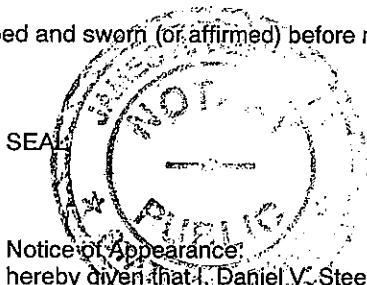
and that the statements contained in the foregoing document are true and correct.

Signed of Authorized Agent _____

Title and Organization _____ Date _____

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

Subscribed and sworn (or affirmed) before me this 22nd day of October 20 08



Notary Public James R. Bennett

Residing at Challis, Idaho

My Commission Expires 1-21-11

16. Notice of Appearance:

Notice is hereby given that Daniel V. Steenson will be acting as attorney at law on behalf of the claimant signing above, and 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 Daniel Steenson

Address P.O. Box 2773, Boise, Idaho 83701

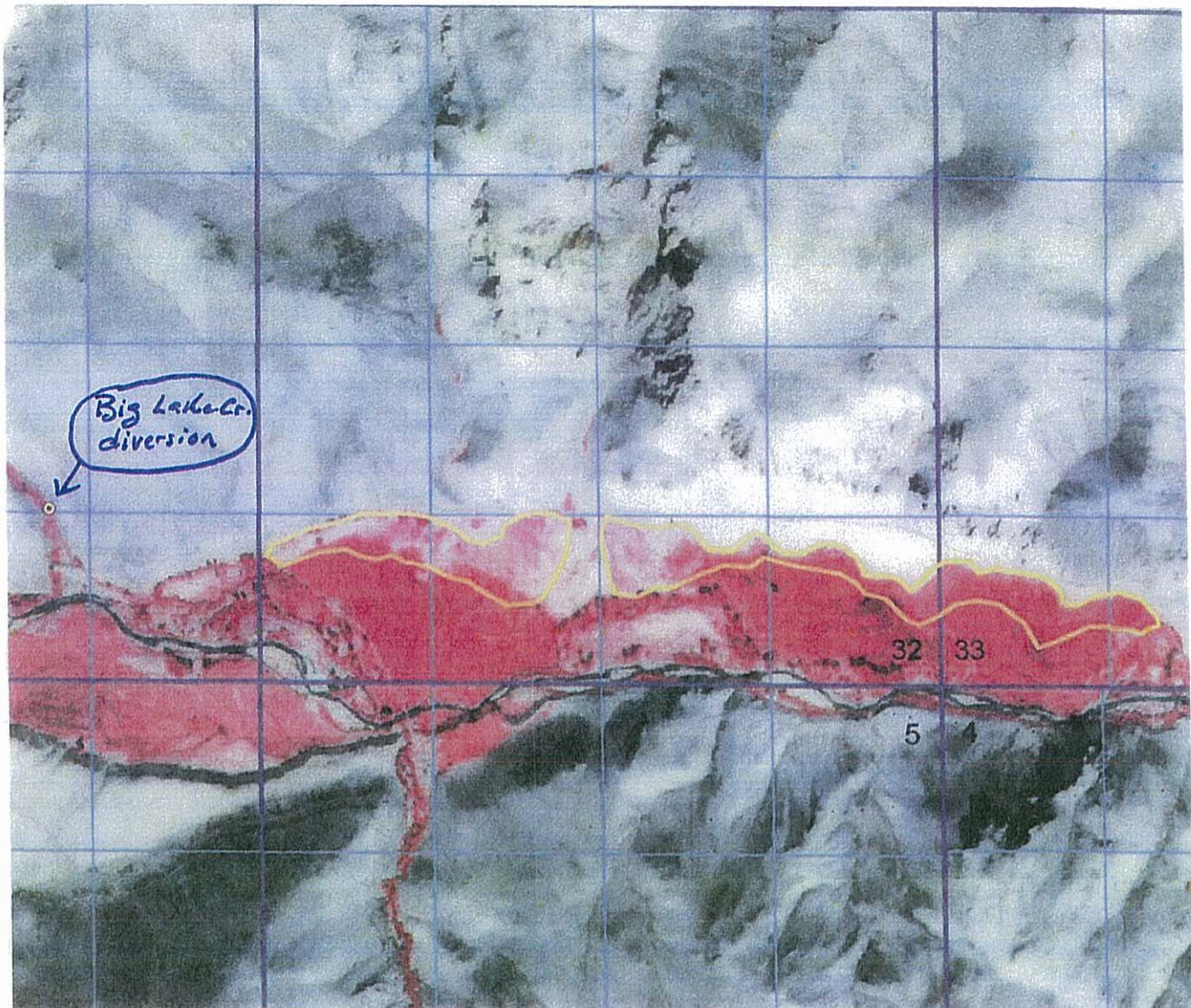
Date 10-27-08

Last Name Baker Ident. Number 72-16783

IDAHO DEPARTMENT OF WATER RESOURCES

RIGHT 72-00198

RECOMMENDED PLACE OF USE
TWP 10N, RNG 18E, SEC 32, 33
TWP 09N, RNG 18E, SEC 4
data entry on October 28, 1998



0 1320 2640 3960 5280 Feet



-  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

Exhibit A