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DEPARTMENT OF
WATER RESOURCES

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

Case No. 39576

A. Subcase 21-13089

(Insert water right number
From the Objection Form)

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 file 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 _____ City of Ashton

My name is _____ Robert L. Harris

My address is _____ Holden, Kidwell, Hahn & Crapo, PLLC
_____PO Box 50130, Idaho Falls, ID 83405-0130

My phone number is _____ 208-523-0620

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:

The City of Ashton filed for Water Right No. 21-10887, and the recommendation was objected to because of insufficient flow rate. In working through this issue, the City and IDWR discovered information of a pump upgrade in 1959. To resolve the objection to Water Right No. 21-10887 for 1.44 cfs, it is necessary to file this claim for the additional 1.01 cfs from the pump upgrade in 1959 for a total of 2.45 cfs, which the City historically diverted.

- ☐ 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 a 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 you 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 \$ 302.00.

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 20, 2009, at 1:30 p.m.
(Insert Date and Time)
at the SRBA Court 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:

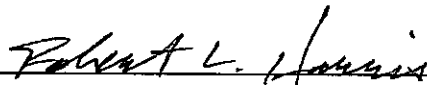
- ☐ An amended Notice of Claim (available from IDWR).
- ☐ Payment of the following additional fees required by IDWR:

VERIFICATION

State of Idaho)
)ss.
County of Bonneville)

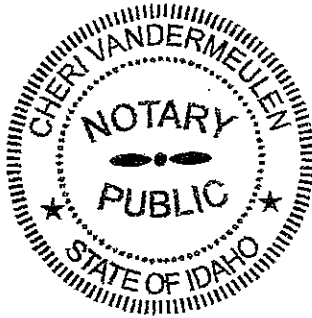
Robert L. Harris, being first duly sworn, upon oath, deposes and says:

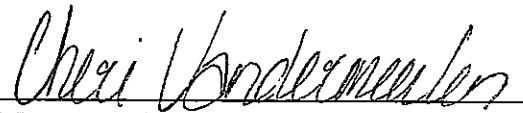
That I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.



Robert L. Harris, Attorney

Subscribed and sworn to before me this 30th day of October, 2008.





Notary Public for Idaho
Residing at: Idaho Falls, ID
My Commission expires: July 7, 2009

CERTIFICATE OF MAILING

I certify that on this 30th day of October, 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:

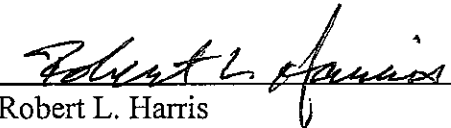
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. 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


Robert L. Harris

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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 21-13089

Date Received _____

Receipt Number _____

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

1. Name of Claimant(s) City of Ashton Phone (208) 652-3987

Mailing Address PO Box 689, Ashton, ID Zip 83420

2. Date of Priority (Only (1) per claim) April 30, 1959

3. Source of water supply (a) Groundwater

which is tributary to (b) _____

4.a. Location of existing point of diversion is:
Township 9N Range 42E Section 36, ____ 1/4 of NW 1/4 of NE 1/4, Govt. Lot _____,
County of Fremont

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 ____ 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 enlargements in use, the dimensions of the diversion works as constructed and as enlarged
and the depth of each well. Well and Pump

6. Water is claimed for the following purposes: (Both dates are inclusive) (cfs) (acre feet)

For Municipal purposes from 01/01 to 12/31 amount 1.01 cfs or _____

7. Total quantity claimed (a) 1.01 (cfs) and/or (b) ____ (acre feet)

8. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of
livestock Etc.) Municipal use within municipal boundary of the City of Ashton.

9. Description of place of use:
- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
 - If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instruction for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TLS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
			City of Ashton Municipal Boundary																

Total number of acres irrigated _____

10. In which county(ies) are lands listed above as place of use located? Fremont
11. Do you own the property listed above as place of use? Yes ___ No ✓
 If your answer is No, describe in Remarks below the authority you have to claim this water right.
The City of Ashton provides municipal water to its residents on land owned by those residents. The City does own some of the property serviced, but not all.
12. Describe any other water rights used at the same place and for the same purposes as described above.
21-10886 and 21-10887 or None ()

13. Remarks:

This claim is being filed in relation to Water Right No. 21-10887. The same well and pump is used for this water right and 21-10887. The pump originally diverted 1.44 cfs, but was upgraded in 1959 to divert 2.45 cfs. This water right is for the additional 1.01 cfs and 21-10887 documents the first 1.44 cfs. Documentation of this upgrade and other information is already on file with IDWR under Water Right No. 21-10887.

14. Basis of Claim (Check one) Beneficial Use ✓ Posted Notice _____ Permit _____ Decree _____ License _____
 If applicable provide IDWR Water Right Number _____
 Court _____ Case Number _____ Decree Date _____
 Plaintiff vs Defendant _____

15. For Organizations: I do solemnly swear or affirm under penalty of perjury that I am attorney of the City of Ashton, that I have signed the foregoing document in the space below as Attorney of the City of Ashton and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent Robert L. Harris

Title and Organization Attorney, City of Ashton Date Oct. 30, 2008

16. Notice of Appearance:

Notice is hereby given that I, Robert L. Harris, 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.

Last Name City of Ashton Ident. Number 21-13089

Signature Robert L. Harris
Address: Holden, Kidwell, Hahn & Crapo, PLLC
PO Box 50130, Idaho Falls, ID 83405-0130
Date Oct. 30, 2008

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