

**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>37-22398</u>
	)	(Insert water right number)
	)	
Case 39576	)	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 Rock Creek, LLC

My name is Robert E. Williams (Fredericksen, Williams, Meservy & Lothspeich, L

My address is 153 East Main, P.O. Box 168
Jerome ID 83338

My phone number is 208-324-2303

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:

Claimant was unaware that additional places of use existed under
Water Right No. 37-1151, other than as decreed in Frost and
Brown v. Riordan.

☐ 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.)

See 2006 Aerial photograph of place of use attached. Source of water
right is Rock Creek, a dry stream tributary of the Wood River.

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 \$ 144.00.

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 February 17, 2009, at 1:30 p.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 Jerome

Robert E. Williams, 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

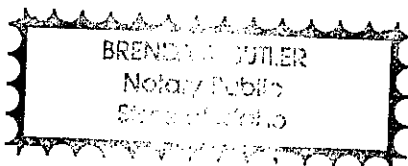
[Signature]

Attorney signing in representative capacity

Subscribed and sworn to before me on

November 24, 2008

(Insert Date)



Brenda S. Butler
Notary Public for Idaho
Residing at: Gooding
My Commission expires: 3/5/2010

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 November 24, 1998, 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:

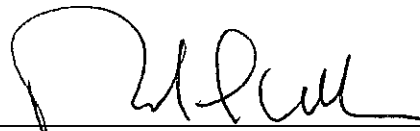
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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



**RINKER - ROCK CREEK
NEW BENEFICIAL USE CLAIM AREA NOT COVERED BY DECREES
NAIP 2006 AERIAL**

BROCKWAY ENGINEERING, PLLC.
ALR - NOV. 21, 2008

Sections_lines
New Beneficial Use Claim Area
t01n17e



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 FORM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number _____

Date Received _____

Receipt Number _____

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

Please type or print clearly

1. Name of Claimant (s) Rock Creek LLC Phone (714) 979-8300

Mailing Address P.O. Box 7250, Newport Beach, CA Zip 92658

2. Date of Priority (Only one (1) per claim) 8/23/1957

3. Source of water supply (a) Rock Creek

which is tributary to (b) Big Wood River (dry stream)

4. a. Location of existing point of diversion is: Township 1N Range 17E Section 14,
1/4 of NE 1/4 of SW 1/4, Govt. Lot, B.M., County of Blaine

Additional points of diversion if any: NWSE S14, NENE S23, NESE S23, SENE S26, SWNE S26 T1N,R17E

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. Headgates to ditches and gravity irrigation.

6. Water is claimed for the following purposes:

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

For Irrigation purposes from 4/15 to 10/31 amount 2.26 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.91 (cfs) and / or (b) _____ (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses; described fully (e.g. Domestic: list number of households served; Stockwater: type and number of livestock, etc.) _____

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	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
1N	17E	23															8.4	23.2	31.6
1N	17E	26		4.0	8.3														12.3

Total number of acres irrigated 43.9

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

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.

37-1151D Or None ☐

14. Remarks:

Claim being filed to cover land omitted from original decrees of 37-1151 but clearly irrigated with the same system.
Priority date claimed is date of 1957 aerial photo. Diversion rate based on excess flow analysis report by
Brockway Engineering dated February 25, 2008, showing total diversion requirement of 2.57 miners inches per acre
for lands served by this ditch.

Last Name _____ Ident. No. _____

15. Basis of 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 _____

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 wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments _____

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 _____

_____ Date _____

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

Of _____ Rock Creek LLC _____, that I have signed the foregoing
Organization

Document in the space below as _____ Manager _____ of _____ Rock Creek LLC _____
Title Organization

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

Signature of Authorized Agent [Signature]

Title and Organization _____ Power of Attorney for Harry S. Rinker Date 11/24/08

State of Idaho / or _____)

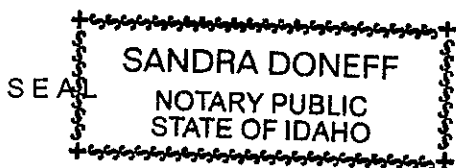
County of Twin Falls) ss.

Subscribed and sworn (or affirmed) before me this 24th day of November, 20 08.

Notary Public [Signature]

Residing at 2202 Alex Dr. Filer, ID 83328

My Commission Expires 11/3/2014



Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ 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 _____

Address _____

Date _____

Last Name _____ Ident. Number _____

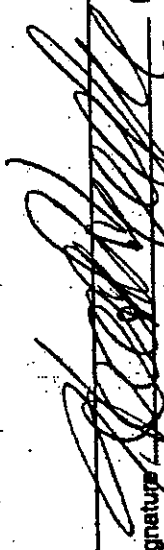


**RINKER - ROCK CREEK
NEW BENEFICIAL USE CLAIM AREA NOT COVERED BY DECREES
NAIP 2006 AERIAL**

Sections_lines
New Beneficial Use Claim Area
01n17e

BROCKWAY ENGINEERING, PLLC.
ALR - NOV. 21, 2008



No. W 6394	Due no later than June 30, 2008 Annual Report Form		2. Registered Agent and Office NO PO BOX
Return to: SECRETARY OF STATE 450 NORTH FOURTH STREET PO BOX 83720 BOISE, ID 83720-0080	1. Mailing Address - Correct in this box, if applicable ROCK CREEK LLC PO BOX 7250 NEWPORT BEACH, CA 92658		CT CORPORATION SYSTEM 1111 W JEFFERSON STE 530 BOISE, ID 83702 USA
NO FILING FEE IF RECEIVED BY DUE DATE		3. <u>New</u> Registered Agent Signature	
4. Limited Liability Companies: Enter Names and Addresses of Managers.			
<u>Office held</u>	<u>Name</u>	<u>Street or P.O. Address</u>	<u>City</u>
<u>State</u>	<u>Zip</u>		
MANAGER HARRY S. RINKER PO BOX 7250 NEWPORT BEACH, CA. 92658-7250			
5. Organized Under the Laws of: IDAHO W 6394	6. Signature 	Date 4-11-08	Title MANAGER
Issued 04/01/2008		Do Not Tape or Staple	
		200806005105	

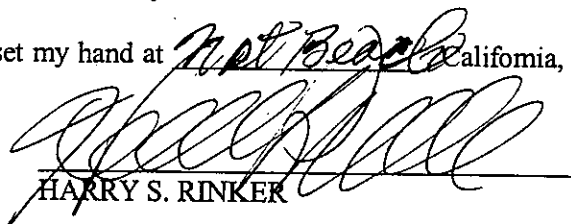
SPECIAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

THAT I, **HARRY S. RINKER**, do hereby make, constitute and appoint **CHARLES E. BROCKWAY**, of 2016 N. Washington St., Suite 4, Twin Falls, ID 83301, my true and lawful attorney for me, in my name, place and stead, and on my behalf, with full power and authority to execute any and all documents on my behalf as fully and effectually to all intents and purposes as I could do in my own proper person, with full power of substitution, hereby ratifying and confirming all that my said attorney in fact shall lawfully do, or cause to be done, by virtue of the authority herein granted and necessary or useful to carry into effect any or all of the following acts, deeds and things:

1. To execute on my behalf notices of claim, motions, or other pleadings to be filed with the Idaho Department of Water Resources, including filings, in Case No. 39576, now pending in the Fifth Judicial District of the State of Idaho, in and for the County of Twin Falls, commonly referred to as the Snake River Basin Adjudication. My attorney shall also have the power to execute on my behalf any Application for appropriation of a water right, transfer of a water right, water bank application, exchange application, or other similar documents affecting any water right which I now have an ownership interest in, or may hereafter acquire, or which water right is owned, in whole or in part, by a trust, corporation, limited liability company or other business entity of which I am a trustee, officer, member or owner.
2. This instrument is to be construed and interpreted as a special power of attorney, limited to the enumeration of the specific terms, items, acts, rights or powers herein granted. This power of attorney shall remain in effect until it is revoked by me in writing.
3. This power of attorney shall not be affected by my disability.

IN WITNESS WHEREOF, I have hereunto set my hand at Not Begala California, this 4th day of April, 2008.


HARRY S. RINKER

STATE OF _____)
County of _____) :ss

See attached

On this ____ day of March, 2008, before me, the undersigned, a Notary Public in and for said County and State, personally appeared **HARRY S. RINKER**, known to me to be the person whose name is subscribed to the within and foregoing instrument, and who acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal, the day and year in this certificate first above written.

NOTARY PUBLIC for _____
Residing at _____
Comm Expires: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Orange

On 04/04/08

Date

before me,

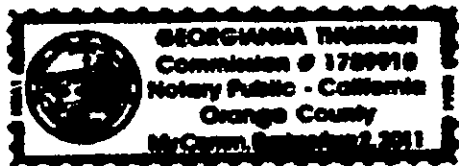
Georgianna Thurman

Here Insert Name and Title of the Officer

personally appeared

Harry J. Rinker

Name(s) of Signer(s)



who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is/~~are~~ subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in his/~~her/their~~ authorized capacity~~(ies)~~, and that by his/~~her/their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Georgianna Thurman

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document:

Special Power of Attorney (Charles E. Shackway)

Document Date:

N/A

Number of Pages:

1

Signer(s) Other Than Named Above:

None

Capacity(ies) Claimed by Signer(s)

Signer's Name:

Harry J. Rinker

☒ Individual

☐ Corporate Officer — Title(s):

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other:

Signer Is Representing:

Signer's Name:

☐ Individual

☐ Corporate Officer — Title(s):

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other:

Signer Is Representing:

