

COPY

LAWSON & LASKI, PLLC
ATTORNEYS AT LAW

675 SUN VALLEY ROAD, SUITE A
POST OFFICE BOX 3310
KETCHUM, IDAHO 83340
TELEPHONE: 208-725-0055
FACSIMILE: 208-725-0076
WWW.LAWSONLASKI.COM

February 24, 2009

RECEIVED

FEB 25 2009

DEPARTMENT OF
WATER RESOURCES

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
Post Office Box 2707
Twin Falls, Idaho 83303-2707

Re: *In Re Case No. 39576*
Subcase: 37-11885
Objector: *Helios Development, LLC*
Our File No.: 10612-002

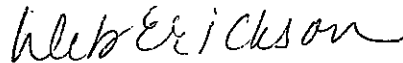
Dear Sir/Madam:

Enclosed for filing in the above captioned matter are an original and one copy of a Standard Form 4 – Amended Notice of Claim for the above-referenced Subcase. Our firm's check in the amount of \$1.00 is enclosed for the required fee. Please file the enclosed Objection, returning the conformed copy to our office in the envelope provided.

Thank you in advance for your assistance.

Sincerely,

LAWSON & LASKI, PLLC



Deb Erickson

Assistant to Kirstin K. Dutcher

/dle
Enclosures

Cc (w/encl): Client
IDWR Document Depository ✓
US Department of Justice
Environment & Nat'l Resources Division
Chief, Natural Resources Division
Office of the Attorney General
Dr. Charles E. Brockway

10612-002

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FEB 25 2009

DEPARTMENT OF
WATER RESOURCES

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>37-11885</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 Helios Development, LLC

My name is James R. Laski

My address is PO Box 3310, Ketchum, Idaho 83340

My phone number is (208) 725-0055

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:

☐ 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.)

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 \$ _____.

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 _____
(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:
Claim seeks to amend use, diversion rate, diversion volume
and priority date.

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

Amended Notice of Claim to a Water Right

I have attached:

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

\$1.00 variable fee per acre

VERIFICATION (Must be completed)

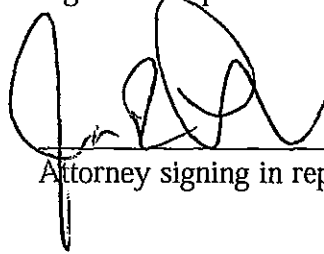
State of Idaho

County of Blaine

James R. Laski, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

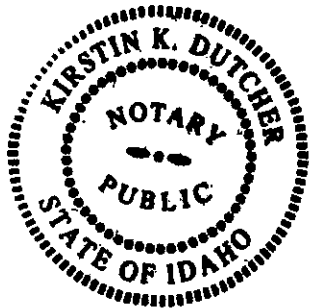
That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

Signature of person filing motion



Attorney signing in representative capacity

Subscribed and sworn to before me on February 24, 2009
(Insert Date)



Kirstin K. Dutcher

Notary Public for

Residing at: Blaine, County Ketchum, ID

My Commission expires: 12/23/09

833410

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 February 24, 2009 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

RECEIVED

FEB 18 2009

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

WATER RESOURCES
WESTERN REGION

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) Helios Development LLC c/o: Stan Castleton Phone 435-655-3288

Mailing Address P.O Box 4151 Park City, UT Zip 84060

2. Date of Priority (Only one (1) per claim) 10/01/1961

3. Source of water supply (a) Ground Water

which is tributary to (b) N/A

4. a. Location of existing point of diversion is: Township 04N. Range 17E. Section 12,

1/4 of SW 1/4 of SW 1/4, Govt. Lot, B.M., County of Blaine

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 enlargements in use, the dimensions of the diversion works as constructed
and as enlarged and the depth of each well. Existing well and pump.

6. Water is claimed for the following purposes:

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

For Commercial purposes from 01/01 to 12/31 amount 0.04 or 3.02

For Irrigation purposes from 4/15 to 10/31 amount 0.02 or 1.75

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.06 (cfs) and / or (b) 4.77 (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	
04N	17E	12											C						
04N	17E	12											0.5						0.5

Total number of acres irrigated 0.5

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 XXX 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.

37-212A, 37-20381 Or None ☐

14. Remarks:

Claim seeks to amend use, diversion rate, diversion volume and priority date.

Last Name _____ Ident. No. _____

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

If applicable provide IDWR Water Right Number 37-11885

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) [Signature] Date 2/9/09

Date _____

For Organizations: I do solemnly swear or affirm that I am Anton VanK, Managing member
of Helios Development, LLC, that I have signed the foregoing
Document in the space below as managing member of Helios Development, LLC
Title Organization

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

Signature of Authorized Agent <see above>

Title and Organization Managing member, Helios Development Date 2/9/09

State of Idaho / or _____)
County of Blaine) ss.

Subscribed and sworn to (or affirmed) before me this 9th day of February, 2009



Notary Public [Signature]

Residing at Blaine County

My Commission Expires 8/3/2011

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, James R. Laski 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 [Signature]

Address Lawson & Laski, PLLC, P.O. Box 3310, Ketchum ID 83346

Date 2/9/09

Last Name LASKI Ident. Number 5429