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APR 06 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 63-33179
) (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 L. DEAN GOODNER

My address is 12555 S. CLOVERDALE ROAD
KUNA, IDAHO 83634

My phone number is: Work 890-0960 Home 362-4247

I am an attorney representing _____

My name is _____

My address is _____

My phone number is _____

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:

THIS CLAIM REPLACES CANCELED CLAIM #A63-10217
TO CLAIM EARLIER PRIORITY DATE OF 3-1-1930
AS PRIOR OWNERS HAVE UTILISED THIS WATER AS
A BENEFICIAL USE WATER RIGHT SINCE 1930.

☐ 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.)

ATTACHED ARE THE SEPARATE DOCUMENTS
DESCRIBING THE IRRIGATION PRACTICES ON
THIS LAND SINCE 1935
PLUS MAP - WATER RIGHT 63-33179

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 \$ 100.00.
- ☒ 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 \$ 100.

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 JUNE 16, 2009 @ 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.

☐

L DEAN GOODNER
PERSONAL ACCOUNT
12555 S CLOVERDALE RD
KUNA, ID 83634

Date MARCH 30, 2009 2615
52-358/1241
12

Pay to the Order of CLERK OF THE DISTRICT COURT \$ 100.00
One hundred & 00/100 Dollars

D.L. EVANS BANK (208) 429-1652
1600 S. Vista Avenue
Boise, Idaho 83705
24-HOUR EXPRESS BANKING
1-888-873-9772

D.L. EVANS BANK

For 62-216-11 0310217

SF. 4
Amer

- ☐ 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

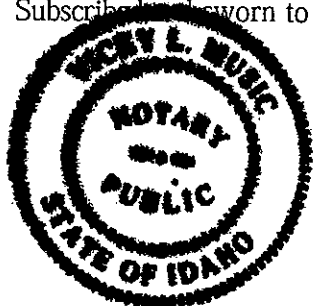
L. DEAN GOODNER, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

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]
Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on MARCH 17, 2009
(Insert Date)



[Signature]
Notary Public for ID
Residing at: BOISE
My Commission expires: 1-27-2012

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 MARCH 30 2009, ~~199~~, 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:

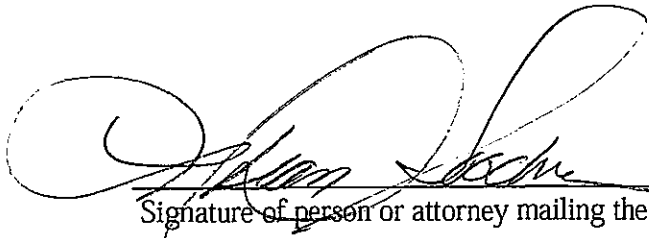
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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

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 63-33179
Date Received: 3/17/2009
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

L DEAN GOODNER Phone: (208)362-4247

12555 S CLOVERDALE
KUNA ID USA 83634

REBECCA LYNN GOODNER Phone: (208)362-4247

12555 S CLOVERDALE
KUNA ID USA 83634

2. Date of Priority: 03/01/1930

3. Source: DIXIE SLOUGH Trib. to: BOISE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
05N	05W	36	SE NW	CANYON	

5. Description of diverting works:

5 HP pump in ditch, gated pipe. See license 63-10217 for description of diversion system.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/01	11/15	0.56	
STOCKWATER	01/01	12/31	0.02	

7. Total Quantity Appropriated is:
0.58 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
05N	05W	36	SE	NW	STOCKWATER	
			SE	NW	IRRIGATION	28.1
					Section Acres	28.1
					Total Acres	28.1

11. Place of use in counties: CANYON

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

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

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

Stockwater use is for 100 head of cattle and horses.

15. Basis of Claim: Beneficial Use

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: 1

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): [Signature] Date: MARCH 17, 2009
_____ Date: _____

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 17th
of March 2009 [Signature]

Notary Public

Residing at Boise, ID

My commission Expires 1-27-2012



Date: February 13, 2009

To: Idaho Department Of Water Resources

RE: SRBA Subcase No. 63-21611 and No. 6310217

To Whom It May Concern:

My name is L. Dean Goodner, I am writing to request that you reconsider the five acre water right on this property located TOWNSHIP 05N, RANGE 05W, SECTION 36, TRACT SENW, ACRES 5.

I have been advised to provide information that substantiates my claim that the water right was being utilized for beneficial use in the year 1990.

Attached is a signed affidavit by Mr. Merle H. Culp and Betty L. Culp, husband and wife, who affirm the land and irrigation water was in use in the time the affiants owned, farmed and irrigated the ground utilizing the water right described above. Mr. and Mrs. Culp currently live about five miles from this property and have watched it be farmed and irrigated continuously since they sold it to Eddy O. Sayers and Evelyn Sayers on March 28, 1994, who in turn sold it to me April 16, 1996.

Additionally, I am again sending in a copy of the letter written by Mr. Emmett McCurry who sold the land to Mr. Culp. Mr. McCurry also affirms the land has been continuously irrigated since 1930⁵ utilizing the same diversion point and earth ditch. Mr. McCurry currently resides directly beside the property described.

Additionally, I am attaching the Affidavit of Dana L. Hofstetter.

Additionally, I am attaching a hand drawn map and pictures of the land/water described to provide:

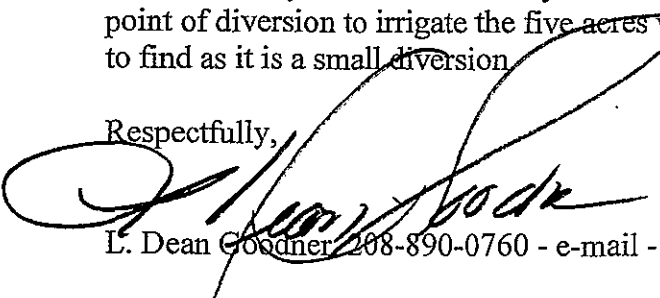
The location of the actual, historic earth canal used to water the five acre parcel.

Pictures of the actual diversion point.

I would appreciate the opportunity to go with whoever looks at the area to show what was happening in 1990 (irrigation wise) in slight contrast to how it is today.

I will make myself available at any time with short notice to walk the property, as the point of diversion to irrigate the five acres was and is a quarter mile away and is difficult to find as it is a small diversion.

Respectfully,


L. Dean Goodner 208-890-0760 - e-mail - dean@bestlonghorns.com

Date: February 14, 2009

To: Idaho Department Of Water Resources

From: Merle H. Culp
24047 Batt Corner Road, Wilder, Idaho

RE. SRBA Subcase No. 63-21611 and 6310217

This letter is written to the Idaho Department Of Water Resources concerning an approximately five acre parcel of land that was purchases by me from Emmett McCurrey in November, 1983.

I owned, farmed and irrigated the five acres as part of a larger piece of land that I purchased from Mr. McCurry that is separated by the Dixie Slough.

The two parcels of land have separate irrigation diversion points as the two parcels are separated by the Dixie Slough.

I purchased the land and water right from Mr. Emmett McCurry who still lives directly adjacent to the larger piece of land.

I sold the land to Mr. Sayers on March 28, 1994.

Mr. Sayers in turn, sold the land to Dean and Rebecca Goodner on April 16, 1996.

During the time I owned the land, I used the approved irrigation diversion point located a quarter mile North of the five acre parcel to irrigate this particular piece of ground.

This is the same irrigation point of diversion that was in use by Emmett McCurry when he owned and farmed the land.

I was advised by Mr. Emmett McCurry when I purchased this land from him, that he had farmed and irrigated this particular piece of ground the entire time he owned it. This piece of ground was in irrigated pasture grass when I purchased it from Mr. McCurry and I continued to use it for the same purpose.

The irrigation diversion point was primitive, using boards to divert the water.

The water followed the fence line utilizing a small earth ditch as this water right itself is small.

The resulting runoff from my pasture flowed down the slight slope into the neighboring irrigation canal that is located between my ditch and the Dixie Slough. That canal continues to flow South, crosses the Boise River Road twice then continues to cross highway 95 to irrigate land miles away.

I utilized the five acres for irrigated pasture. My irrigation ditch supported the row of trees that continue to grow there today.

The water rights allowed me to flood irrigate the five acres of alkaline pasture ground. I did not attempt to grow crops on this land as it was too alkaline, I simply utilized it for pasture.

If any additional information is required concerning the irrigation of this land, please do not hesitate to contact me.

Sincerely,

Merle H. Culp

Dated

FEB 14, 2009

Witness

Betty L. Culp

Date

FEB 14, 2009

Witness

J. H. Culp

Date

FEB 14, 2009

Date: March 23, 2009

To: Idaho Department of Water Resources

From: Emmett McCurry

RE: SRBA Subcase No. 63-21611 and No. 6310217

My name is Emmett McCurry.

I have been asked to clarify and affirm the irrigation/farming practices concerning one piece of ground separated by the Dixie slough, with two separate irrigation points of diversion that I have previously owned, identified above.

I moved to this area known then and less now, as Dixie in 1931-1932.

I moved with my father Ray McCurry to this specific location in 1935 where he purchased land and built our home on land surrounding the above identified piece of ground and later purchased the above identified piece of ground.

We moved here with approximately one hundred head of cattle and sheep.

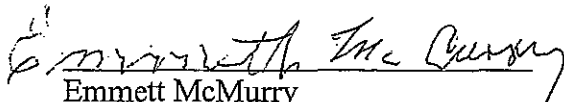
We irrigated the larger piece land with a hand dug ditch that ran parallel to the current gated irrigation pipe and the current paved road that borders this piece of land. Back then, the road was dirt and ran diagonally across the pasture and ended where the Dixie Slough dumps into the Boise River. The ground wasn't level and there was lots of Alkali dirt. We ran as much water as we could to wash out the Alkali. It wasn't good farmland for the above mentioned reasons but it was good enough for pasture.

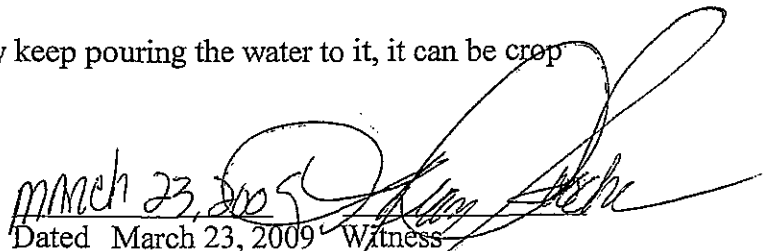
The smaller piece of ground that went with this piece is located across the Dixie Slough. We irrigated that land also with a hand dug ditch which had its irrigation diversion point a quarter mile above the five acres.

This land was in the same condition as the larger piece across the Dixie Slough. It was rough and had lots of alkali which made it difficult to grow anything but pasture grass. Russian Olive trees grew beside the ditch and had to be continually removed. Those Russian Olive trees persist today alongside that same irrigation ditch.

As I mentioned above, I have owned this land and the land surrounding it. I live and have lived continuously directly beside this piece of ground since 1935 and have either farmed and irrigated it myself or watched others farm and irrigate it continuously during that time.

The ground continues to improve and if they keep pouring the water to it, it can be crop land instead of just good pasture ground.


Emmett McCurry


Dated March 23, 2009 Witness

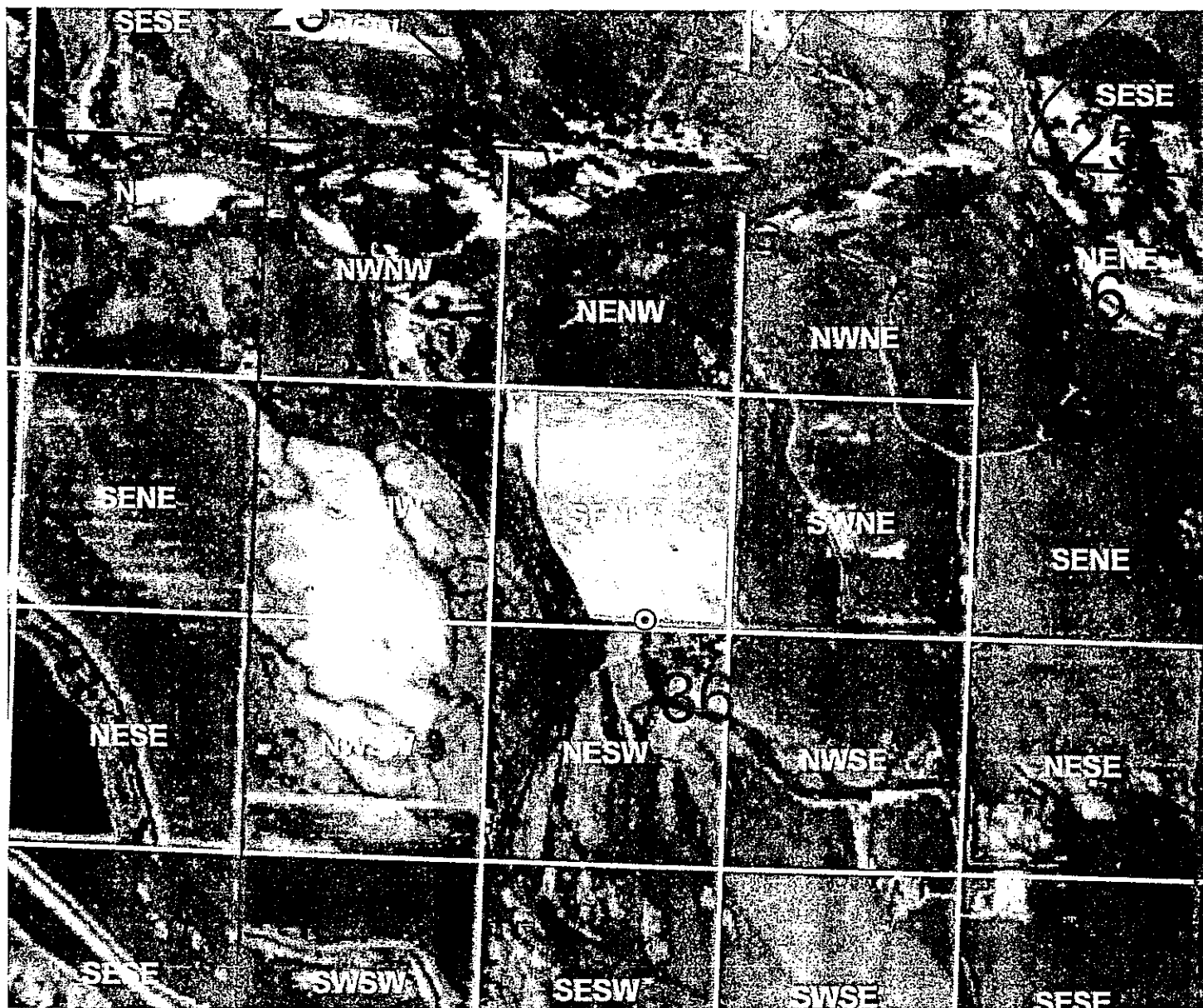


State of Idaho
Idaho Department of Water Resources
Western Region

T5N R5W SECTION 36

Water Right: 63-10247

63-33179



1320

0

1320

2640 Feet

TOTAL IRRIGATED ACRES = 28.1



○ Point of Diversion

□ Place of Use

□ Section Lines

□ Quarter Quarter Lines

GIS Place of Use Illustration
1987 NAPP Photography
Prepared By: Vicky Music
Date: August 2006

Attachment 1 - 1st 1/4 63-33179