

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	)	Subcase <u>83-11966</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 Idaho Water Resource Board

My address is 322 E Front St. PO Box 83720, Boise, ID 83720-0098

My phone number is: Work (208)287-4800 Home _____

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:

The minimum stream flow water right was established by the legislature
after the claim deadline. This MSF right is part of the SRBA settlement
with the Nez Perce tribe, so it must be processed through the SRBA
court process.

☐ 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.)

Legislature approving water right 83-11966 and IDWR water right proof
report

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 \$ N/A.
- ☐ 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 \$ N/A.

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:

- ☐ 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

Brian Patton, 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.



B. Patton FOR THE
Signature of person filing motion
IDAHO WATER RESOURCE BOARD

Attorney signing in representative capacity

Subscribed and sworn to before me on April 7, 2009
(Insert Date)

Patsy A. McGoukty
Notary Public for Idaho
Residing at: Boise
My Commission expires: 8-19-10

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 April 8th, 1999, 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)

Patty McGourty
Signature of person or attorney mailing the form

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 83-11966

WATER RIGHT NUMBER: 83-11966

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	STATE OF IDAHO IDAHO WATER RESOURCE BOARD 322 E FRONT ST PO BOX 83720 BOISE, ID 83720-0098 (208)287-4800

Priority Date: 04/01/2005

Basis: Statute

Status: Active

<u>Source</u>	<u>Tributary</u>
NORTH FORK CLEARWATER RIVER	CLEARWATER RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
MINIMUM STREAM FLOW	01/01 to 01/31	2,108.000 CFS	
MINIMUM STREAM FLOW	02/01 to 02/28	2,625.000 CFS	
MINIMUM STREAM FLOW	03/01 to 03/31	4,250.000 CFS	
MINIMUM STREAM FLOW	04/01 to 04/30	10,560.000 CFS	
MINIMUM STREAM FLOW	05/01 to 05/31	16,560.000 CFS	
MINIMUM STREAM FLOW	06/01 to 06/30	9,790.000 CFS	
MINIMUM STREAM FLOW	07/01 to 07/31	2,730.000 CFS	
MINIMUM STREAM FLOW	08/01 to 08/31	1,380.000 CFS	
MINIMUM STREAM FLOW	09/01 to 09/30	1,131.000 CFS	
MINIMUM STREAM FLOW	10/01 to 10/31	1,404.000 CFS	
MINIMUM STREAM FLOW	11/01 to 11/30	2,059.000 CFS	
MINIMUM STREAM FLOW	12/01 to 12/31	2,368.000 CFS	
	<u>Total Diversion:</u>	16,560.000 CFS	

Location of Point(s) of Diversion

NORTH FORK CLEARWATER RIVER	SW1/4NE1/4SW1/4	Sec. 34, Twp 37N, Rge 01E, B.M.
CLEARWATER County		

Place of UseConditions of Approval:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 83-11966

1. 150 While the instream flow and the future allocation for non-DCMI uses and base flows are to be decreed in cubic feet per second (cfs), such quantities are intended to reflect the percentages of the unimpaired exceedence flows at the quantification point described in this water right. The unimpaired exceedence flows were estimated using regional regression equations developed by the United States Geological Service. Upon further finding and order of the director that gaging stations are required to maintain the approved minimum flows under this right, such measuring devices shall be permanently installed and maintained as specified by the director. If actual flow data become available, the quantities in this water right will be adjusted as necessary to give effect to the exceedence assumption stated above. Such adjustments do not result in a material change to the water right and are not subject to the notice and hearing requirements set forth in this partial decree, but shall comply with the notice and consultation requirements of Section 42-1507(4), Idaho Code.
2. 027 Use of water under this right shall be non-consumptive.
3. 091 Use of water under this right shall recognize and allow the continued beneficial diversion of water under any prior existing water right established by diversion and application to beneficial use or by an application, permit, or license on file or issued by the director under the provisions of Chapter 2, Title 42, Idaho Code, with a priority of water right date earlier than the date of priority of this right.
4. 144 This water right shall be subordinated to all future DCMI uses.
5. 146 The place of use for this water right is the reach above the quantification point.
6. 153 This water right was established by Chapter 150, 2005 Idaho Session Laws (codified as Section 42-1507, Idaho Code). In accordance with such law, this water right will not become effective until the governor issues a proclamation certifying that all conditions for the effectiveness of the Snake River Water Rights Agreement of 2004 have been satisfied.
7. 151 There are no diversions associated with this minimum stream flow water right. The quantification point for this instream flow water right is at the above location.
8. 149 This water right is subordinated to future non-Domestic-Commercial-Municipal-Industrial ("non-DCMI") development in an amount up to 283 cfs based on 25 percent of the lowest unimpaired median monthly flow or the amount available above a base flow which is equivalent to the unimpaired monthly 80% exceedence flow whichever is less. The 80 percent monthly exceedence flows are as follows: Jan - 1364 cfs, Feb - 1540 cfs, Mar - 2550 cfs, Apr - 6600 cfs, May - 11520 cfs, Jun - 5500 cfs, Jul - 1680 cfs, Aug - 1050 cfs, Sep - 871 cfs, Oct - 954 cfs, Nov - 1305 cfs, and Dec - 1480 cfs.
9. 152 The Idaho Water Resource Board, upon receiving a request, or upon its own initiative, may petition the Director for an amendment to this water right after complying with the notice and consultation procedures of Section 42-1507(4), Idaho Code. The petition must set forth any significant change in circumstances and evidence of the public interest supporting the proposed amendment. The Director will notify the general public and specific persons or notify interested parties of the proposed change, and conduct a hearing for the purpose of determining whether the water right should be amended in the public interest.
10. 154 When this water right is not capable of being maintained using existing flows, Idaho Code Section 42-1507 authorizes the Idaho Water Resource Board to maintain the flow through operation of the water supply bank authorized by Section 42-1761 through 42-1765, Idaho Code, and by other available methods consistent with Idaho Law.
11. 148 The purpose of this instream flow is to preserve fish and wildlife, scenic, and recreational values and to protect and enhance water quality and is equivalent to the unimpaired monthly 80 percent exceedence flows.

Remarks:

Comments:

1. nvandyke 10/2/2007 Data Entry

Comment: This is a statute based minimum streamflow right created by House Bill No. 636 of the 58th Legislature second regular session 2006.

2. nvandyke 10/2/2007 POD

Comment: Updated shape

HOUSE BILL NO. 636

[View Bill Status](#)

[View Bill Text](#)

[View Statement of Purpose / Fiscal Impact](#)

Text to be added within a bill has been marked with Bold and Underline. Text to be removed has been marked with Strikethrough and Italic. How these codes are actually displayed will vary based on the browser software you are using.

This sentence is marked with bold and underline to show added text.

~~*This sentence is marked with strikethrough and italic, indicating text to be removed.*~~

Bill Status

H0636.....by RESOURCES AND CONSERVATION
CLEARWATER RIVER - Adds to existing law to establish a minimum stream flow
water right for that stretch of the North Fork of the Clearwater River
immediately below Dworshak Dam to the confluence with the Clearwater River
to be held by the Idaho Water Resource Board in trust for the people of the
state of Idaho.

02/10 House intro - 1st rdg - to printing

02/13 Rpt prt - to Res/Con

02/22 Rpt out - rec d/p - to 2nd rdg

02/23 2nd rdg - to 3rd rdg

02/27 3rd rdg - PASSED - 65-1-4

AYES -- Andrus, Barraclough, Barrett, Bastian, Bayer, Bedke, Bell,
Bilbao, Black, Block, Boe, Brackett, Cannon, Chadderdon, Clark,
Collins, Crow, Deal, Denney, Edmunson, Ellsworth, Eskridge,
Field(18), Field(23), Garrett, Hart, Harwood, Henbest, Henderson,
Jaquet, Kemp, Lake, LeFavour, Loertscher, Martinez, Mathews,
McGeachin, McKague, Miller, Mitchell, Nielsen, Nonini, Pasley-Stuart,
Pence, Raybould, Ring, Ringo, Roberts, Rusche, Rydalch, Sali(Sali),
Sayler, Schaefer, Shepherd(2), Shepherd(8), Shirley, Skippen,
Smith(30), Smith(24), Smylie, Stevenson, Trail, Wills, Wood, Mr.
Speaker

NAYS -- Snodgrass

Absent and excused -- Anderson, Bolz, Bradford, Moyle

Floor Sponsor - Raybould

Title apvd - to Senate

02/28 Senate intro - 1st rdg - to Res/Env

03/14 Rpt out - rec d/p - to 2nd rdg

03/15 2nd rdg - to 3rd rdg

03/16 3rd rdg - PASSED - 35-0-0

AYES -- Andreason, Brandt, Broadsword, Bunderson, Burkett,
Builenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis,
Fulcher, Gannon, Geddes, Goedde, Hill, Jorgenson, Kelly, Keough,
Langhorst, Little, Lodge, Malepeai, Marley, McGee, McKenzie, Pearce,
Richardson, Schroeder, Stegner, Stennett, Sweet, Werk, Williams

NAYS -- None

Absent and excused -- None

Floor Sponsor - Williams

Title apvd - to House

03/17 To enrol

03/20 Rpt enrol - Sp signed
03/21 Pres signed - To Governor
03/22 Governor signed
Session Law Chapter 112
Effective: Contingent on Governor's
Proclamation stating that all conditions of
the Snake River Water Rights Agreement of
2004 have been met

83-11966

Bill Text

]]]] LEGISLATURE OF THE STATE OF IDAHO]]]]
Fifty-eighth Legislature Second Regular Session - 2006

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 636

BY RESOURCES AND CONSERVATION COMMITTEE

1 AN ACT
2 RELATING TO WATER; TO ESTABLISH A MINIMUM STREAM FLOW WATER RIGHT FOR A
3 DEFINED STRETCH OF THE NORTH FORK OF THE CLEARWATER RIVER IMMEDIATELY
4 BELOW DWORSHAK DAM TO THE CONFLUENCE WITH THE CLEARWATER RIVER TO BE HELD
5 BY THE IDAHO WATER RESOURCE BOARD IN TRUST FOR THE PEOPLE OF THE STATE OF
6 IDAHO; DECLARING AN EMERGENCY AND PROVIDING A CONTINGENT EFFECTIVE DATE.

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. The Legislature hereby establishes a minimum stream flow water
9 right for that stretch of the North Fork of the Clearwater River immediately
10 below Dworshak Dam to the confluence with the Clearwater River, to be held by
11 the Idaho Water Resource Board in trust for the people of the state of Idaho.
12 The elements of the minimum stream flow water right, including subordination
13 to other uses of water, subordination to operations of the Dworshak Project,
14 and other remarks, are as follows:

15 Priority Date: April 1, 2005.

16 Reach: A single point of reference near the confluence with the
17 mainstem Clearwater River, below Dworshak Dam and just
18 above the Highway 7 bridge, located approximately in the
19 SW1/4NE1/4SW1/4, Section 34, T37N, R01E, B.M., Clearwater
20 County.

21 Rate of flow: Changing monthly as follows: January - 2,108 cfs; February
22 - 2,625 cfs; March - 4,250 cfs; April - 10,560 cfs; May -
23 16,560 cfs; June - 9,790 cfs; July - 2,730 cfs; August -
24 1,380 cfs; September - 1,131 cfs; October - 1,404 cfs;
25 November - 2,059 cfs; December - 2,368 cfs.

26 Purpose: Minimum stream flow to preserve fish, wildlife, scenic, and
27 recreational values and to protect and enhance water qual-
28 ity and is equivalent to the unimpaired monthly fifty per-
29 cent (50%) exceedence flows.

30 This water right is subordinated to future non-domestic-commercial-
31 municipal-industrial ("non-DCMI") development in an amount up to 283 cfs based
32 on twenty-five percent (25%) of the lowest unimpaired median monthly flow or
33 the amount available above a base flow which is equivalent to the unimpaired
34 monthly eighty percent (80%) exceedence flow, whichever is less.

35 The unimpaired monthly eighty percent (80%) exceedence flows are: January
36 - 1,364 cfs; February - 1,540 cfs; March - 2,550 cfs; April - 6,600 cfs; May -
37 11,520 cfs; June - 5,500 cfs; July - 1,680 cfs; August - 1,050 cfs; September
38 - 871 cfs; October - 954 cfs; November - 1,305 cfs; and December - 1,480 cfs.

39 This water right shall be subordinated to all future DCMI uses.

2

1 While the instream flow and the future allocation for non-DCMI uses and
2 base flows are to be decreed in cubic feet per second (cfs), such quantities
3 are intended to reflect the percentages of the unimpaired exceedence flows at
4 the quantification point described in this water right. The unimpaired
5 exceedence flows were estimated using regional regression equations developed
6 by the United States Geological Service. Upon further finding and order of the
7 director of the Department of Water Resources that gaging stations are
8 required to maintain the approved minimum flows under this right, such measur-
9 ing devices shall be permanently installed and maintained as specified by the
10 director. If actual flow data become available, the quantities in this water
11 right will be adjusted as necessary to give effect to the exceedence assump-
12 tion stated above. Such adjustments do not result in a material change to the
13 water right and are not subject to the notice and hearing requirements set
14 forth in the partial decree, but shall comply with the notice and consultation
15 requirements of Section 42-1507(4), Idaho Code.

16 Use of water under this right shall recognize and allow the continued ben-
17 efitial diversion of water under any prior existing water right established by
18 diversions and application to beneficial use or by an application, permit or
19 license on file or issued by the director under the provisions of Chapter 2,
20 Title 42, Idaho Code, with a priority of water right date earlier than the
21 date of priority of this right.

22 There are no diversions associated with this minimum stream flow water
23 right. The quantification point for this instream flow water right is at the
24 following location: T37N R01E S34 SWNESW End of Stream Flow Within Clearwater
25 County.

26 The Idaho Water Resource Board, upon receiving a request, or upon its own
27 initiative, may petition the director for an amendment to this water right
28 after complying with the notice and consultation procedures of Section
29 42-1507(4), Idaho Code. The petition must set forth any significant change in
30 circumstances and evidence of the public interest supporting the proposed
31 amendment. The director will notify the general public and specific persons or
32 notify interested parties of the proposed change, and conduct a hearing for
33 the purpose of determining whether the water right should be amended in the
34 public interest.

35 This instream flow water right is subordinated to all present and future
36 operations of the Dworshak Project. The term "operations" as used herein means
37 the timing and rate of discharge, including water storage and release of
38 stored water, from Dworshak Dam.

39 SECTION 2. An emergency existing therefor, which emergency is hereby
40 declared to exist, this act shall be in full force and effect upon issuance of
41 a proclamation by the governor certifying that all conditions for the effec-
42 tiveness of the Snake River Water Rights Agreement of 2004 have been satis-
43 fied.

Statement of Purpose / Fiscal Impact

STATEMENT OF PURPOSE

RS 15995C1

This legislation creates a Minimum Streamflow water right on segments of the North Fork of the Clearwater River immediately below Dworshak Dam to the confluence with the Clearwater River to be held by the Idaho Water Resource Board. This Minimum Streamflow was inadvertently omitted from the list of Minimum Streamflows agreed to as part of the Snake River Water Rights Agreement of 2004. The Minimum Streamflow is subordinated to all existing water rights, the operation of Dworshak Reservoir, future domestic, commercial, municipal and industrial uses and up to 283 c.f.s. of other future uses.

Approval of this instream flow will expedite the implementation of the Snake River Water Rights Agreement of 2004. This water right will become effective only upon the Governor's issuance of a proclamation certifying that all conditions for the effectiveness of the Snake River Water Rights Agreement of 2004 have been satisfied.

FISCAL NOTE

This legislation imposes no fiscal burden on any agency or unit of government.

Contact

Name: Representative John A. Stevenson
Phone: (208) 332-1000
Representative Dell Raybould

STATEMENT OF PURPOSE/FISCAL NOTE

H 636



Executive Department
State of Idaho

The Office of the Governor Proclamation

State Capitol
Boise

WHEREAS, on May 15, 2004, the United States, the State of Idaho, the Nez Perce Tribe and other stakeholders announced a proposed settlement agreement of certain claims asserted by the Nez Perce Tribe in the Snake River Basin Adjudication ("SRBA") by releasing the "Mediator's Team Sheet" dated April 20, 2004 ("Agreement"); and

WHEREAS, pursuant to the Snake River Water Rights Act of 2004, Pub. L. No. 108-447 (H.R. 4818), 118 Stat. 3431 to 3441 (December 8, 2004), the purpose of the settlement is to "resolve some of the largest outstanding issues with respect to the Snake River Basin Adjudication in Idaho in such a manner as to provide important benefits to the United States, the State of Idaho, the Nez Perce Tribe, and the citizens of the State [of Idaho];" and

WHEREAS, pursuant to the Snake River Water Rights Act of 2004, Pub. L. No. 108-447 (H.R. 4818), 118 Stat. 3431 to 3441 (December 8, 2004) and the Agreement, the Secretary of Interior, Chairman of the Nez Perce Tribe, and Governor of Idaho shall all signify that the requirements of the Agreement have been met; and

WHEREAS, pursuant to Idaho House of Representatives Bill No. 152, Section 4, in 2005 Idaho Session Laws, Chapter 148, the approval, ratification, and confirmation of the Agreement by the Idaho Legislature would not be in full force and effect until such time as the Governor issues a proclamation certifying that all conditions for the effectiveness of the Agreement have been satisfied; and

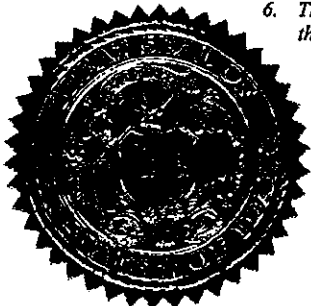
WHEREAS, pursuant to Idaho Code Section 42-1763B, as amended by House of Representatives Bill No. 399, Section 1, in 2005 Idaho Session Laws, Chapter 400, the interim authority for renting water to augment flows for listed anadromous fish is to not become effective until such time as the Governor issues a proclamation certifying that the biological opinions required by the Agreement have been issued; and

WHEREAS, pursuant to Idaho Code Section 42-1507, as enacted by House of Representatives Bill No. 154, Section 1, in 2005 Idaho Session Laws, Chapter 150, the state minimum stream flows held in trust for the people of the State of Idaho, as described in the resolution of the Idaho Water Resource Board dated December 17, 2004, are not to become effective until such time as the Governor issues a proclamation certifying that all conditions for the effectiveness of the Agreement have been satisfied;

NOW, THEREFORE, I, C.L. "BUTCH" OTTER, Governor of the State of Idaho, do hereby proclaim that the following requirements under the Agreement have been met:

1. The necessary component documents that make up the Agreement have been executed;
2. Congress has approved and ratified the Agreement and authorized all federal expenditures required by the Agreement;
3. The Idaho Legislature has approved and ratified the Agreement and enacted all required state legislation;
4. The Nez Perce Tribe has approved and ratified the Agreement;
5. The SRBA District Court has entered a final judgment and decree incorporating the Agreement;
6. The Biological Opinion for the action described in the Snake River Flow Component of the Agreement has been issued.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at Boise, Idaho, on this 27th day of April in the year of our Lord two-thousand and seven and of the Independence of the United States of America the two hundred thirty-first and of the Statehood of Idaho the one hundred seventeenth.



Ben Yursa

BEN YURSA
SECRETARY OF STATE

C.L. "Butch" Otter
C.L. "BUTCH" OTTER
GOVERNOR

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 83-11966
Date Received:
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

STATE OF IDAHO Phone: (208)287-4800

IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720
BOISE ID USA 83720-0098

2. Date of Priority: 04/01/2005

3. Source: CLEARWATER RIVER NORTH FORK Trib. to: CLEARWATER RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
37N	01E	34	SW NE SW	CLEARWATER	

5. Description of diverting works:

There are no diversion works. Single point of reference for flow measurement near north forks confluence with mainstem Clearwater River

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
MINIMUM STREAM FLOW	01/01	01/31	2108	
MINIMUM STREAM FLOW	02/01	02/28	2625	
MINIMUM STREAM FLOW	03/01	03/31	4250	
MINIMUM STREAM FLOW	04/01	04/30	10560	
MINIMUM STREAM FLOW	05/01	05/31	16560	
MINIMUM STREAM FLOW	06/01	06/30	9790	
MINIMUM STREAM FLOW	07/01	07/31	2730	
MINIMUM STREAM FLOW	08/01	08/31	1380	
MINIMUM STREAM FLOW	09/01	09/30	1131	
MINIMUM STREAM FLOW	10/01	10/31	1404	
MINIMUM STREAM FLOW	11/01	11/30	2059	
MINIMUM STREAM FLOW	12/01	12/31	2368	

7. Total Quantity Appropriated is:
16560 C.F.S.

8. Non-irrigation uses:

9. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
----------	-------	---------	------------	-----	-----	-------

10. Place of use in counties:

The place of use for this water right is the reach above the quantification point.

11. Do you own the property listed above as place of use? No

12. Other Water Rights Used: None

13. Remarks:

Use of water under this right shall be non-consumptive.

This water right is subordinated to future non-Domestic-Commercial-Municipal-Industrial ("non-DCMI") development in an amount up to 283 cfs based on 25 percent of the lowest unimpaired median monthly flow or the amount available above a base flow which is equivalent to the unimpaired monthly 80% exceedence flow whichever is less. The 80 percent monthly exceedence flows are as follows: Jan - 1364 cfs, Feb - 1540 cfs, Mar - 2550 cfs, Apr - 6600 cfs, May - 11520 cfs, Jun - 5500 cfs, Jul - 1680 cfs, Aug - 1050 cfs, Sep - 871 cfs, Oct - 954 cfs, Nov - 1305 cfs, and Dec - 1480 cfs.

The purpose of this instream flow is to preserve fish and wildlife, scenic, and recreational values and to protect and enhance water quality and is equivalent to the unimpaired monthly 80 percent exceedence flows.

When this water right is not capable of being maintained using existing flows, Idaho Code Section 42-1507 authorizes the Idaho Water Resource Board to maintain the flow through operation of the water supply bank authorized by Section 42-1761 through 42-1765, Idaho Code, and by other available methods consistent with Idaho Law.

The Idaho Water Resource Board, upon receiving a request, or upon its own initiative, may petition the Director for an amendment to this water right after complying with the notice and consultation procedures of Section 42-1507(4), Idaho Code. The petition must set forth any significant change in circumstances and evidence of the public interest supporting the proposed amendment. The Director will notify the general public and specific persons or notify interested parties of the proposed change, and conduct a hearing for the purpose of determining whether the water right should be amended in the public interest.

There are no diversions associated with this minimum stream flow water right. The quantification point for this instream flow water right is at the above location.

While the instream flow and the future allocation for non-DCMI uses and base flows are to be decreed in cubic feet per second (cfs), such quantities are intended to reflect the percentages of the unimpaired exceedence flows at the quantification point described in this water right. The unimpaired exceedence flows were estimated using regional regression equations developed by the United States Geological Service. Upon further finding and order of the director that gaging stations are required to maintain the approved minimum flows under this right, such measuring devices shall be permanently installed and maintained as specified by the director. If actual flow data become available, the quantities in this water right will be

adjusted as necessary to give effect to the exceedence assumption stated above. Such adjustments do not result in a material change to the water right and are not subject to the notice and hearing requirements set forth in this partial decree, but shall comply with the notice and consultation requirements of Section 42-1507(4), Idaho Code.

Use of water under this right shall recognize and allow the continued beneficial diversion of water under any prior existing water right established by diversion and application to beneficial use or by an application, permit, or license on file or issued by the director under the provisions of Chapter 2, Title 42, Idaho Code, with a priority of water right date earlier than the date of priority of this right.

This water right shall be subordinated to all future DCMI uses.

14. Basis of Claim: Statute

15. 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.
- (b.) Number of attachments: _____

For Organizations:

I do solemnly swear or affirm, under penalty of perjury, that I am

BUREAU CHIEF of

Title

IDAHO WATER RESOURCE BOARD, that I have signed the foregoing

Organization

document in the space below as BUREAU CHIEF of

Title

IDAHO WATER RESOURCE BOARD and that the statements contained in the

Organization

foregoing document are true and correct.

B. J. Patton
Signature of Authorized Agent

BUREAU CHIEF, IDAHO WATER RESOURCE BOARD
Title and Organization

April 7, 2009
Date