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APR 09 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: 27-38

Case 39576

STANDARD FORM 4

MOTION TO FILE LATE

☐ **LATE NOTICE OF CLAIM**

X AMENDED NOTICE OF CLAIM

X I have read *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996).

My name is: Little Butte Irrigation Co. Ltd.

My address is: P.O. Box 580
Blackfoot, ID 83221

My phone number is: 208-_____

I am an attorney representing: Little Butte Irrigation Co. Ltd.

My name is Jerry R. Rigby

My address is: 25 North 2nd East, P.O. Box 250, Rexburg, Idaho 83440

My phone number is: (208) 356-3633

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 the 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 described 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:

at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

A Motion to File and 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 the water in the SRBA because:
For some time now, Claimant has been involved with several other canal companies attempting to work out a compromise of objections filed by down stream canal companies against the rights known as "recovered water" rights of canal companies. Even though said negotiations are ongoing, the court has ordered that all claims in Basin 27 MUST be filed by April 10 which causes Claimant to file this amended claim out of caution. The only modification to the present recommended right made by this amended claim is to add the two additional beneficial use rights: Recharge for Irrigation & Recovery of Project Water for Irrigation. Any groundwater diverted from under the lands of Claimant's shareholders or within its boundaries is also groundwater resulting from irrigation from water under the irrigation works of Claimant and is recovered by Claimant or its shareholders for further use on the lands of Claimant's shareholders under the irrigation works of Claimant within which said lands are located and appurtenant. This recaptured project water shall be administered separately from all other water rights within its particular basin and the Snake River Basin.

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

The basis of the additions made in the amended claim is ground water and water resulting from irrigation under the irrigation works of **Little Butte Irrigation Co. Ltd.** ("Irrigation Entity") and being recovered for further use on lands within Irrigation Entity's boundary or to which the shares of said Irrigation Entity are appurtenant. The rights are based upon the following: Decreed, Accomplished Change in purpose of use pursuant to I.C. 42-1425 & Recovering Ground Water as a Result of Irrigation pursuant to I.C. 42-228.

I have attached:

☒ An Amended Notice of Claim (available from IDWR).

☐ Payment of the following additional fees required by IDWR:

Fees have previously been paid _____

VERIFICATION

STATE OF IDAHO,)
 ss
County of Madison.)

Jerry R. Rigby, being first duly sworn, upon oath, deposes and says:

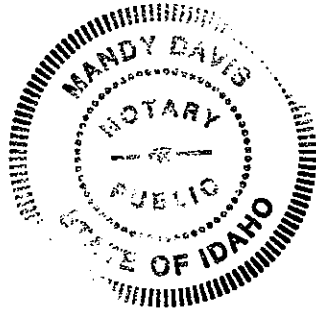
That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 4204101A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

Signature of person filing motion

G. W. Moeck for Jerry R. Rigby

Attorney signing in representative capacity.

Subscribed and sworn to before me on this 7th day of April, 2009.



Mandy Davis

Notary Public for Idaho
Residing at St. Anthony
My Commission Expires: 6/24/2011

CERTIFICATE OF MAILING

I certify that on April __, 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
P. O. Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

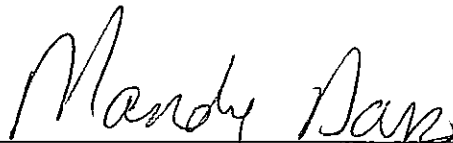
IDWR Document Depository
P. O. Box 83720
Boise, ID 83720-0098

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 Resources Division
550 West Fort Street, MSC 033
Boise, ID 83724

Shoshone-Bannock Tribes
Jeanette Wolfley
202 N. Arthur
Pocatello, ID 83204

3. If you are filing an amended Notice of Claim in a subcase being heard before the Presiding Judge or Special Master, you must serve a copy on all parties in that subcase.



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
27-38

Date Received:

Receipt Nos:

Received By:

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

1. Name of Claimant(s)

Little Butte Irrigation Co. LTD. Phone: (208) _____
P.O. Box 580
Blackfoot, ID 83221

2. Date of Priority: 04/05/1886

3. Source: Blackfoot River Trib. to: Snake River

4. Point of Diversion:

Blackfoot River: SESE, Sec. 12, Twp 03S, Rge 35E, Bingham County

5. Description of diverting works:

Various Diversions

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
Irrigation	4/01	11/01	7.04 CFS	
Recharge For Irrigation	4/01	11/01	7.04 CFS	
Recovery of Project Water for Irrigation	4/01	11/01	7.04 CFS	

7. Total Quantity Appropriated is: 7.04 CFS

8. Total consumptive use: N/A

9. Non-irrigation uses:

10. Place of use:

Large POU as presently recommended in the Director's Report.

11. Place of use in counties: See Large POU described above.

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

Lands of the Shareholders

13. Other Water Rights Used:

27-39, 27-40 & 27-41

14. Remarks:

The only modification to the present recommended right made by this amended claim is to add the two additional beneficial use rights: Recharge for Irrigation & Recovery of Project Water for Irrigation. Any groundwater diverted from under the lands of Claimant's shareholders or within its boundaries is also groundwater resulting from irrigation from water under the irrigation works of Claimant and is recovered by Claimant or its shareholders for further use on the lands of Claimant's shareholders under the irrigation works of Claimant within which said lands are located and appurtenant. This recaptured project water shall be administered separately from all other water rights within its particular basin and the Snake River Basin.

15. Basis of Claim: Beneficial Use/Decreed

Decreed, Accomplished Change in purpose of use pursuant to I.C. 42-1425 & Recovering Ground Water as a Result of Irrigation pursuant to I.C. 42-228

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

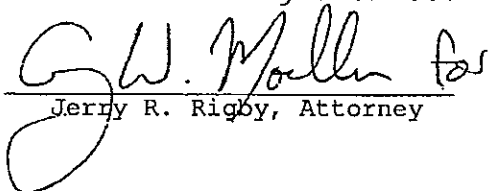
Number of attachments:

For Organizations:

DATED this 7th day of April, 2009.

Little Butte Irrigation Co. LTD.

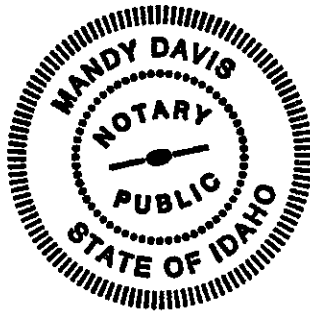
By:


Jerry R. Rigby, Attorney

STATE OF IDAHO,)
 ss.
County of Madison.)

On this 7th day of April, 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared **Jerry R. Rigby**, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

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



Mandy Davis
Notary Public for Idaho
Residing at: St. Anthony
My Commission Expires: 6/24/2011