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APR 29 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 A79-14229
(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 *SREA 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 Al & Rebecca Augustus

My address is PO Box 94
Whitebird, Idaho 83554

My phone number is: Work 208-699-7708 Home 208-839-2836

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:

Purchased property in April 2004 and
did not realize a claim had not been filed
for our property.

☐ 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.)

Affidavit of Tom Cullin.

Also extensive file with Dept Water Resources
Kay Walker resource agent Koise (208) 334-2190
who recommended late notice of claim action

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 \$ 100.00.

See IDWR Receipt # W035044

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 July 21st, 1:30 MT
(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 Idaho

Albert A. Augustus

Rebecca S. Augustus

(Insert name of person filing form)

, 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. §§ 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.

Albert A. Augustus

Rebecca S. Augustus

Signature of person filing motion

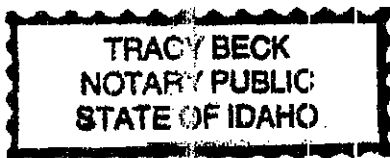
— NA —

Attorney signing in representative capacity

Subscribed and sworn to before me on

April 23rd, 2009

(Insert Date)



Tracy Beck

Notary Public for Bank of America

Residing at Post Falls, ID

My Commission expires: 10/16/2014

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 27, ~~199~~ 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:

X 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)

Rebecca S. Augustus

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

RECEIVED

APR 29 2009

**DEPARTMENT OF
WATER RESOURCES**

CIVIL CASE NUMBER: 39576

Ident. Number A79-14229

Date Received: _____

Receipt No: _____

Received By: _____

COPY

**FOR YOUR FILES
DO NOT RETURN**

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

For Domestic and/or Stockwater Purposes
Where Daily Use is less than 13,000 gallons per day

1. Name of Claimant(s) ALBERT A &/OR REBECCA S AUGUSTUS Phone (208) 839-2836

Mailing Address PO BOX 94, WHITEBIRD, ID Zip 83554
Street or Box City State

2. Date of Priority: (Only one per claim) 05/15/1947
Month/Day/Year (YYYY)

3. Source of water supply (Check one) Ground Water () or Other (x) (a) SALMON RIVER
which is tributary to (b) SNAKE RIVER

4. Location of Point of Diversion is: Township 28N, Range 1E, Section 22,
SW, 1/4 of NW, 1/4 or Govt. Lot 4, BM., County of IDAHO; Parcel (PIN) No. _____

Additional points of diversion if any: _____

If available, GPS Coordinates _____

5. Description of diverting works (Wells, Pumps, Spring boxes, Pipelines, 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.

PUMP IN RIVER, PIPELINE TO PLACE OF USE

6. Water is claimed for the following: (limited to Domestic and/or Stockwater uses. See page 1 of the instructions.)

For DOMESTIC purposes from 1/1 to 12/31 amount 0.02 (cfs) or (AFA)

For _____ purposes from _____ to _____ amount _____

7. Total Quantity claimed 0.02 (cfs) or (AFA)

8. Non-irrigation uses. Describe fully. (eg. Domestic: Give number of households served if single ownership;

Stockwater: Type and number of livestock)

DOMESTIC USE IS FOR LAWN AND GARDEN IRRIGATION.

9. Location of Place of Use is: Township 28N, Range 1E, Section 22,
SW, 1/4 of NW, 1/4, Govt. Lot 4, BM.; Parcel (PIN) No. RP00800004005AA

for (Circle One) Domestic Stock Domestic and Stock
 Additional places of use, if any _____

10. Which county (ies) are lands listed above as place of use located? IDAHO

11. Do you own the property listed above as place of use? Yes ☒ No ()

If the answer is No, describe in Remarks below the authority you have to claim this water right.

12. Describe any other water rights used at the same place and for the same purposes as described above.

None ☒ _____

13. Remarks:
PROPERTY ALSO KNOWN AS LOTS 5 THROUGH 9, BLK. 4, VILLAGE OF COPPERVILLE.

THIS CLAIM REPRESENTS USE ON PROPERTY OF ORIGINAL HOMESTEAD OF HARVEY & IRENE HOSLEY.

14. Basis of Claim (Circle One) Beneficial Use Posted Notice License Permit Decree

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number 79-4009

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.

Number of attachments: 2

For Individuals: I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) X *Alberta Augustus* Date: 4/1/09
X *Rebecca S. Augustus* Date: 4/1/09

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am

_____ of _____
 Title Organization

that I have signed the foregoing document in the space below as

_____ of _____
 Title Organization

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

Signature of Authorized Agent _____ Date _____

Title and Organization _____

Please Print Name

16. 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.

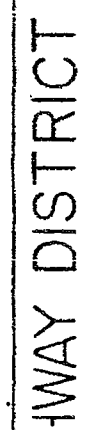
Signature _____

Address _____

Date _____

Last Name _____ Identification No. _____

Topographic map showing the Salmon River area. A circular detail labeled "SEE DETAIL 'A'" is shown. Elevation contours are marked with values: 15, 116, 117, 119, 71, 25,771.87, 25,933.8, 25,067.5, and 20,637.2. The Salmon River is labeled and shown flowing through the area. A north arrow is present in the upper left corner.



DESIGN

HWAY DISTRICT



Point of Diversion

28N, 1E, S22, SWNW

Idaho Department of Water Resources Receipt

Receipt ID W035044

Payment Amount \$100.00 Date Received 1/31/2007 12:31:47 PM Region Western Status ☐
Payment Type Check Check Number 6750

Payer AUGUSTUS, ALBERT AND REBECCA

Comment WATER RIGHT TRANSFER

→ Fee will be used for
→ SRBA claim if court
accepts late claim. App. for
transfer will be withdrawn
upon acceptance of late
claim. -kw 4/12/09

Fee Detail

Amount Description Fund FD PCA SO
\$100.00 TRANSFERS 0229 21 62105 1155


Signature Line (Dept. Representative)

MARCH 31, 2009

TO: IDAHO DEPARTMENT OF WATER RESOURCES

I, TOM CULLIN, SON OF IRENE HOSLEY CONFIRM THAT THE PROPERTY NOW OWNED BY AL AND REBECCA AUGUSTUS WAS THE ORIGINAL AND LONG TERM HOME OF IRENE AND HARVEY HOSLEY AND THAT TO THE BEST OF MY KNOWLEDGE WATER RIGHTS HAVE BEEN UTILIZED ON THIS PROPERTY SINCE THE ORIGINAL FILING OF WATER RIGHT #79-4009 IN 1947.

SIGNED: Tom Cullin

DATE: 3/31/09