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JUL 14 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>29-13914</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 Roger Sunpath PE, American Indian Sacred Society

My address is 2254 Inkom Road, PO Box 462
Inkom, ID 83245

My phone number is: Work 208-775-3280 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:

PROPERTY RECENTLY ACQUIRED

☐ 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.)

WARRANTY DEED, PLAT MAP

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 \$ 25.00.

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 Tuesday Oct 20, 2009 1:30 pm
(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 BANNOCK

Roger Sundath

(Insert name of person filing form)

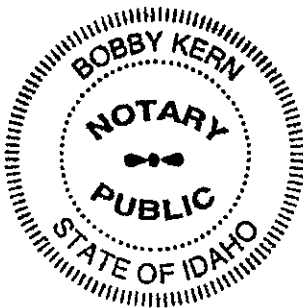
, being first duly sworn, upon oath, deposes and says:

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.

Roger Sundath PE
Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on July 9, 2009
(Insert Date)



Bobby Kern
Notary Public for State of Idaho
Residing at: Idaho Falls, ID
My Commission expires: 9-12-2014

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 7/10 ²⁰⁰⁸~~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:

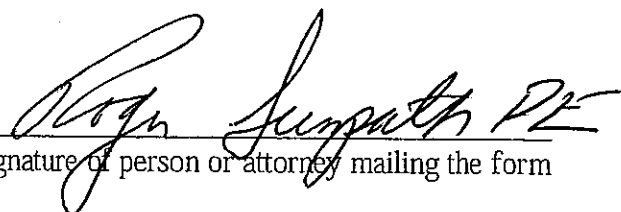
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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

RECEIVED

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Form No. 42-1409 (2) b 7/06

DEPARTMENT OF
WATER RESOURCESIN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLSIN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 29-13914

Date Received: _____

Receipt No: _____

Received By: _____

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) AMERICAN INDIAN SACRED SOCIETY Phone (208-775-3280Mailing Address PO BOX 462, INKOM, ID Zip 832452. Date of Priority: (Only one per claim) 2/14/77 Month/Day/Year3. Source of water supply (Check one) Ground Water ☒ or Other () (a) _____
which is tributary to (b) _____4. Location of Point of Diversion is: Township 7S, Range 36E, Section 22,
1/4 of NE, 1/4 of SE, 1/4 Govt. Lot _____, BM., County of BANNOCK

Additional points of diversion if any: _____

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.SUB MERSIBLE PUMP 1/2 HORSE

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 .04 (cfs)

For _____ purposes from _____ to _____ amount _____

7. Total Quantity claimed .04 (cfs)8. Total consumptive use claimed is de minimus

9. Non-irrigation uses. Describe fully. (Domestic: give number of households served if single ownership;

Stockwater and Number of livestock) DOMESTIC for 1 home & 1/2 ACRE
IRRIGATION

RECORDING REQUESTED BY
First American Title Company

AND WHEN RECORDED MAIL TO:
First American Title Company
2240 East Center
Pocatello, ID 83201

31
OFFICIAL RECORD BK# 896
BANNOCK COUNTY IDAHO

RECEIVED
JUL 14 2009
DEPARTMENT OF
WATER RESOURCES

20714101
RECORDED AT REQUEST OF
FEE 4 DEPUTY *me*

FIRST AMERICAN TITLE

20714101

2007 JUN 14 A 11:59

Space Above This Line for Recorder's Use Only

WARRANTY DEED

File No.: 213837-P (ts)

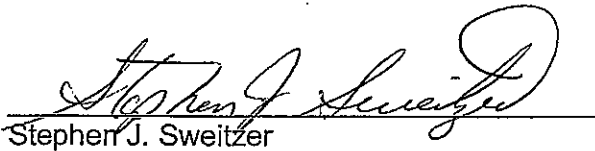
Date: June 08, 2007

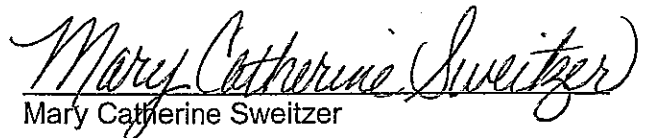
For Value Received, **Stephen J. Sweitzer and Mary Catherine Sweitzer, husband and wife**, hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto **The American Indian Sacred Society of the Four Directions, a Corporation Sole**, hereinafter called the Grantee, whose current address is **2254 Inkom Road, Inkom, ID 83245**, the following described premises, situated in **Bannock County, Idaho**, to-wit:

Legal Description attached hereto as Exhibit A, and by this referenced incorporated herein.

SUBJECT TO all easements, right of ways, covenants, restrictions, reservations, applicable building and zoning ordinances and use regulations and restrictions of record, and payment of accruing present year taxes and assessments as agreed to by parties above.

TO HAVE AND TO HOLD the said premises, with its appurtenances, unto the said Grantee, and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U.S. Patent reservations, restrictions, easements of record and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.


Stephen J. Sweitzer


Mary Catherine Sweitzer

STATE OF Idaho

)
ss.

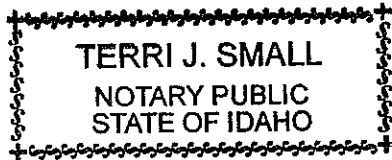
3-2

20714101

COUNTY OF Bannock

)

On this 12th day of June, 2007, before me, a Notary Public in and for said State, personally appeared **Stephen J. Sweitzer and Mary Catherine Sweitzer**, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same.



A handwritten signature of Terri J. Small in cursive script, written over a horizontal line.

Notary Public for the State of Idaho
Residing at: Pocatello, ID
My Commission Expires: 4/28/2011

33
EXHIBIT A

20714101

PARCEL 1:

THAT PORTION OF LOT 5, BLOCK 2, MURDOCK SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED IN BOOK 8 OF PLAT, PAGE 45, RECORDS OF BANNOCK COUNTY, IDAHO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 5; THENCE ALONG THE NORTH LINE OF SAID LOT SOUTH 87°48' EAST 704 FEET TO THE NORTHEAST CORNER OF SAID LOT; THENCE ALONG THE EAST LINE THEREOF SOUTH 1°27' WEST 342 FEET; THENCE NORTH 87°48' WEST 580 FEET, MORE OR LESS, TO THE WESTERLY LINE OF SAID LOT; THENCE ALONG SAID WESTERLY LINE NORTH 17°33' WEST 363.4 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

AN EASEMENT FOR INGRESS AND EGRESS OVER THE LAND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 5; THENCE ALONG THE EAST LINE OF SAID LOT SOUTH 1°27' WEST 342 FEET; THENCE NORTH 87°48' WEST 580 FEET, MORE OR LESS, TO THE WESTERLY LINE OF SAID LOT AND THE TRUE POINT OF BEGINNING; THENCE ALONG SAID WESTERLY LINE, SOUTH 17°33' EAST 32.1 FEET; THENCE SOUTH 14°31' EAST 127.9; THENCE AT RIGHT ANGLES TO THE LAST MENTIONED LINE; THENCE NORTHEASTERLY 25 FEET; THENCE NORTH 14°31' WEST 150 FEET, MORE OR LESS, TO A POINT ON A LINE THAT BEARS SOUTH 87°48' EAST FROM THE TRUE POINT OF BEGINNING; THENCE NORTH 87°48' WEST 25 FEET, MORE OR LESS, TO THE TRUE POINT OF BEGINNING.

DEPARTMENT OF WATER RESOURCES

SCALE 1"=200'

On the person executed

228.3' 50' 1°27'E

592.0'

443.3' N1°27'E 1843.7'

808.4' EAST LINE

450.0' S 87°48'E 512.6'

294.6' N 14°3'

834.9'

753.1'

671.3'

543.1' S 88°44'E

390.1' 363.4' 395.5'

390.1' Inkom Road

435.8' 456.0'

294.6'

380'

342.2'

704.0' N 87°48'W

904.0'

357.9' S 13°40'E

195' 50'

692.5' N 87°48'W 582.5'

61.7' 13'

479.5' 319.5'

1632.5' ROAD

1632.5' 1632.5' 1632.5'

1100.0' S 17°33'E

2023.2' N 17°33'W

25' Easement For Private Road

WELL LOCATION

C

B

L

K

(2)

(3)

(4)

(5)

(6)

(7)

(8)

(9)

L 164.0' T 128.8' R 83.0'

April

PATRICK R. E.

— Tim Erile