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Attorney for the Claimant

RECEIVED
OCT 0 2 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 No. 37-894B** |
| **Case No. 39576** | **SECOND AMENDED STANDARD FORM 4** |
| | **MOTION TO FILE:** |
| | ☐ **LATE NOTICE OF CLAIM** |
| | X **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.

X I have read ***SRBA Administrative Order 1, Rules of Procedure*** (amended Sept. 30, 1996).
My name is:
My address is:
I am an attorney representing: Bigwood Golf Course, L.L.C.
My name is: Fritz X. Haemmerle, Haemmerle & Haemmerle, P.L.L.C.
My address is: P.O. Box 1800, Hailey, ID 83333
My phone number is: (208) 578-0520

## 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.

X I must amend my Notice of Claim to the use of water in the SRBA because:

1. After meeting with IDWR, after the claims were filed, it was discovered that certain ponds should be claimed on the place of use (POU).

☐ I am providing legal and factual documentation to support my amended Notice of Claim.
You must describe these documents and attach a readable copy.
This Motion is supported by:

I have attached:

X An amended Notice of Claim (available from IDWR).

☐ Payment of the following additional fees required by IDWR:

## VERIFICATION

State of Idaho )
) ss.
County of Blaine )

Fritz X. Haemmerle, 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.

Signature of person filing motion

Fritz X. Haemmerle

Attorney signing in representative capacity

Subscribed and sworn to before me on Sept. 30, 2009
(Insert Date).

Lacie Thompson

Notary Public for Idaho
Residing at: Hailey, ID
My Commission expires: 1/28/2014

LACIE THOMPSON NOTARY PUBLIC STATE OF IDAHO

## CERTIFICATE OF MAILING

I certify that on September 30, 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:
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Albert P. Barker
BARKER, ROSHOLT & SIMPSON, LLP
P.0. Box 2139
Boise, ID 83701

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

Craig Hobdey
HOBDEY & HOBDEY
P.O. Box 176
Gooding, ID 83330

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

James P. Speck
SPECK & AANESTAD, P.A.
P.O. Box 987
Ketchum, ID 83340

Scott L. Campell
MOFFATT THOMAS
P.O. Box 829
Boise, ID 83701-0829

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)

Fritz X. Haemmerle

FRITZ X. HAEMMERLE

Form No. 42-1409 (2) a 1/88

**Amended Claim**

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 FORM THE SNAKE RIVER BASIN WATER SYSTEM**

CIVIL CASE NUMBER: 39576
Ident. Number 37-894B
Date Received _____
Receipt Number _____

# NOTICE OF CLAIM TO A WATER RIGHT

ACQUIRED UNDER STATE LAW

**Please type or print clearly**

1. Name of Claimant (s) Bigwood [redacted] Golf Course, L.L.C. Phone 208-720-6589

   Mailing Address P.O. Box 85, Paul, ID Zip 83347

2. Date of Priority (Only one (1) per claim) 9/1/1920

3. Source of water supply (a) Big Wood River

   which is tributary to (b) Malad River

4. a. Location of existing point of diversion is: Township 04N Range 17E Section 1,

   NE 1/4 of NW 1/4 of SE 1/4, Govt. Lot, _____ B.M., County of Blaine County

   Additional points of diversion if any: _____

   b. If instream flow, beginning point of claimed instream flow is:

   Township_____ Range_____ Section_____, _____1/4 of _____1/4 of _____ 1/4,

   Govt. Lot _____ B.M., County of _____

   ending point is: Township_____ Range_____ Section_____, _____1/4 of _____1/4 of

   _____ 1/4, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, 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. Existing headgates, ditches, pipes and pumps

6. Water is claimed for the following purposes:

| | | | (both dates are inclusive) | | | (cfs) | | (acre feet) |
|---|---|---|---|---|---|---|---|---|
| For | Storage for Rec & Aes | purposes from | 1/01 | to | 12/31 | amount | or | 49.9 |
| For | Diversion to Storage | purposes from | 4/15 | to | 10/31 | amount 3.184 | or | |
| For | Irrigation from Storage | purposes from | 4/15 | to | 10/31 | amount 3.184 | or | |
| For | | purposes from | | to | | amount | or | |

7. Total quantity claimed (a) 3.184 (cfs) and / or (b) _____ (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses; described fully (e.g. Domestic:list number of households served; Stockwater: type and number of livestock, etc.) Diversion to storage and storage in irrigation pond and numerous small recreation / aesthetic ponds on golf course.

10. Description of place of use:
    a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
    b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

| | | | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| TWP | RNG | SEC | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | TOTALS |
| 04S | 17E | 1 | | | | | | | | | | | | | 1 | | | 23 | 24 |
| | | 12 | 18 | | | 14 | | | | | | | | | 12 | | | 9.2 | 53.2 |
| 04S | 18E | 6 | | | | | | | | | | | 0.9 | | | | | | 0.9 |
| | | 7 | | | | | | | | | | 4 | 11 | | | | | | 15 |
| 04S | 17E | 1 | | | | | | | | | | | | | | | | R,J | |
| | | 12 | R,J | | | R,J | | | | | | | | | R,J | | | R,J | |
| 04S | 18E | 6 | | | | | | | | | | | R,J | | | | | | |
| 04S | 18E | 7 | | | | | | | R,J | | | | | | | | | | |

Total number of acres irrigated 93.1

11. In which county (ies) are lands listed above as place of use located? Blaine County

12. Do you own the property listed above as place of use? Yes Yes No _____
    If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
    37-274, 37-276B, 37-158C and 37-894B Or None ☐

14. Remarks:
    93.1 acres have been historically irrigated according to IDWR. An accomplished transfer from irrigation to the ponds occurred prior to November 1987. Irrigation under this right will be reduced by 7.0 acres and limited to 86.1 acres within the 93.1-acre PPU to mitigate for the annual pond consumptive use.
    Recreation & aesthetic place of use includes ponds located on Bigwood subdivision property that are part of the golf course system.

Last Name _____ Ident. No. _____

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License _____ Permit _____
Decree ____x____

If applicable provide IDWR Water Right Number 37-894B

Court 4th Judical Court in Lincoln County Case Number _____ Decree Date 8/28/1922

Plaintiff vs Defendant S.C. Frost, et al. vs Alturas Water Company, et al.

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 _____

**For Individuals:** I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date _____

_____ Date _____

**For Organizations:** I do solemnly swear of affirm that I am Attorney in fact
Title
Of Bigwood Golf Course, LLC, that I have signed the foregoing
Organization
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 Jeff X. Hammond

Title and Organization _____ Date _____

State of Idaho / or _____ )
)ss.
County of Blaine )

Subscribed and sworn (or affirmed) before me this 30th day of Sept, 20 09.

Notary Public Lacie Thompson
Residing at Hailey
My Commission Expires 1/28/2014

LACIE THOMPSON NOTARY PUBLIC SEAL STATE OF IDAHO

Please Print Name

17. **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 _____ Ident. Number _____