

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.

X I did not file a Notice of Claim to the use of the water in the SRBA because:

The lands upon which this right has historically been diverted was purchased and then divided among corporations owned by brothers many years ago. The division also involved several water rights. Each corporation didn't know precisely what the other was doing with the split rights before the SRBA until after the Director's reports were issued and therefore this Claimant only claimed water right 22-2183. However, it was always the historical practice that right No. 22-2258 was also diverted and watered the lands owned by Frank Summers, Inc., as well as Summerco, Inc., from before 1987 and it was the clear intent between Summerco, Inc. and Frank Summers, Inc. to split the right as close to "even" as possible taking into consideration other rights used upon the same lands, because the right was diverted on equal acreage owned by the two corporations. However, it was only recently discovered and understood that the best method of conforming the historical use with the water rights would be to have the statutorily authorized enlargement claimed and once authorized and proven, then split this water right in such a manner which would more closely equal a proportionate share of the water rights to Summerco and Frank Summers, Inc.'s share of the split lands.

- ☐ 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:

- X** 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 \$_____.
- X** 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.

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, January 20, 2010 at 1:30 p.m.

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:

 - ☐ 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:
Fees have been paid when the claims were originally filed.

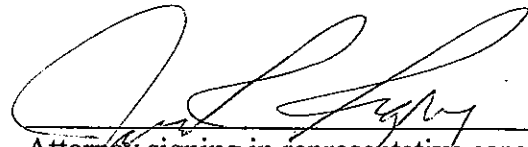
VERIFICATION

STATE OF IDAHO,)
 ss
County of Madison.)

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

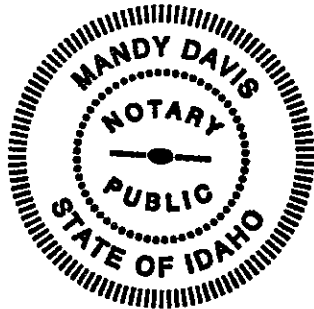
That I am the Secretary of party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 4204101A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and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

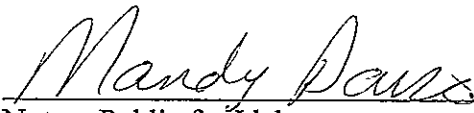
Signature of person filing motion



Attorney signing in representative capacity.

Subscribed and sworn to before me on this 9th day of October, 2009.





Notary Public for Idaho
Residing at St. Anthony
My Commission Expires: 06/24/2011

CERTIFICATE OF MAILING

I certify that on October 9, 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

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 22-13955
Date Received:
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

SUMMERCO INC Phone: (208)356-7314

27 N 3000 E
SUGAR CITY ID USA 83448

2. Date of Priority: 06/01/1968

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 Lot	County	Type
06N	40E	26	NE	SW	SW	MADISON	

5. Description of diverting works:

WELL AND PUMP TO SPRINKLER

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	4/01	11/01	3.1	

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

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of	1/4 Lot	Use	Acres
06N	40E	26	NE	SW	IRRIGATION	40
			NW	SW	IRRIGATION	39
			SW	SW	IRRIGATION	39

SE	SW	IRRIGATION	40
NE	NW	IRRIGATION	39
NW	NW	IRRIGATION	39
SE	NW	IRRIGATION	39
SE	NW	IRRIGATION	38
		Section Acres	313
		Total Acres	313

11. Place of use in counties: MADISON

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

13. Other Water Rights Used: 22-2183

14. Remarks:

THIS IS AN EXPANSION OF LICENSE 22-2258.

WATER RIGHTS 22-2258A AND 22-2183 WERE COMINGLED COMBINING POD AND POU. THIS LATE CLAIM IS FOR AN ENLARGEMENT OF 158 ACRES FOR 22-2258A WHICH IS ALSO COVERED BY 22-2183.

15. Basis of Claim: License

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

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am _____ of
Title

_____, that I have signed the foregoing
Organization
document in the space below as _____ of
Title

_____, and that the statements contained in the
Organization
foregoing document are true and correct.

Signature of Authorized Agent

Title and Organization

Date

State of Idaho)

County of Madison) SS.

Subscribed and sworn (or affirmed) before me this

9th of October 2009

Mandy Davis

Notary Public

Residing at St. Anthony

My commission Expires 6-24-2011

