

RECEIVED

MAR 22 2010

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>37-1162</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 _____

My address is _____

My phone number is: Work _____ Home _____

I am an attorney representing Fish Creek Reservoir Co., Inc.

My name is Robert E. Williams

My address is P.O. Box 168

Jerome ID 83338

My phone number is 208.324.2303

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:

☐ 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.)

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 _____
(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:

Two hundred (200) acres of the historic place of use were inadvertently
omitted from the original Notice of Claim.

- ☒ 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 additional 200 acres now sought to be included in the place
of use were identified as an historic place of use by a 1987 infra red
photograph and confirmed by the personal knowledge of the precedent of the
Claimant ~~and the watermaster over the area.~~ This was determined as pa
of a detailed review of the recommendation of IDWR for the right.

I have attached:

- ☒ An amended Notice of Claim (available from IDWR).

- ☒ Payment of the following additional fees required by IDWR:

\$200.00

VERIFICATION (Must be completed)

State of Idaho

County of Jerome

Robert E. Williams, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

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

[Signature]
Attorney signing in representative capacity

Subscribed and sworn to before me on March 19, 2010.
(Insert Date)



Maia Brown
Notary Public for Idaho
Residing at: Jerome, ID
My Commission expires: 5-29-2013

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 March 19, 2010, 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

AMENDED

**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 _____

Date Received: _____

Receipt No: _____

Received By: _____

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

Please type or print clearly

1. Name of Claimant (s) Fish Creek Reservoir, Inc. Phone (208) _____

Mailing Address c/o Doug Surerus, PO Box 282 Carey ID ZIP 83320
Street or Box City State

2. Date of Priority (Only one (1) per claim) 5/23/1961
Month Day Year (YYYY)

3. Source of water supply (Check one) Ground Water (✓) or Other () (a) _____
which is tributary to (b) _____

4. a. Location of Point of Diversion is: Township 01N, Range 22E, Section 11,
SWSNW and NWNWSE and SENWSE
1/4 of 1/4 Govt. Lot, BM., County of _____

Parcel (PIN) no. _____

Additional points of diversion if any: _____

If available, GPS Coordinates _____

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

Township _____, Range _____, Section _____, _____, 1/4 of _____, 1/4

Govt. Lot _____, BM., County of _____

ending point is: Township _____, Range _____, Section _____, _____, 1/4 of _____, 1/4

Govt. Lot _____, BM., 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. _____

3 Wells - Water is pumped into reservoir and distributed with associated surface water right.

6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For Irrigation purposes from 4/15 to 10/15 amount 2.4 or

For Irrigation Storage purposes from 1/01 to 12/31 amount or 1738

For Irrigation Storage purposes from 4/15 to 10/15 amount or 1738

For purposes from to amount or

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

8. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.)

9. 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. (See Attached Grid.)

Twn	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Parcel (PIN) no(s).

Total number of acres irrigated

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

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

If your 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.

37-1162 or None ()

13. Remarks: Water is distributed to lands owned by shareholders of claimant.

Last Name Identification No.

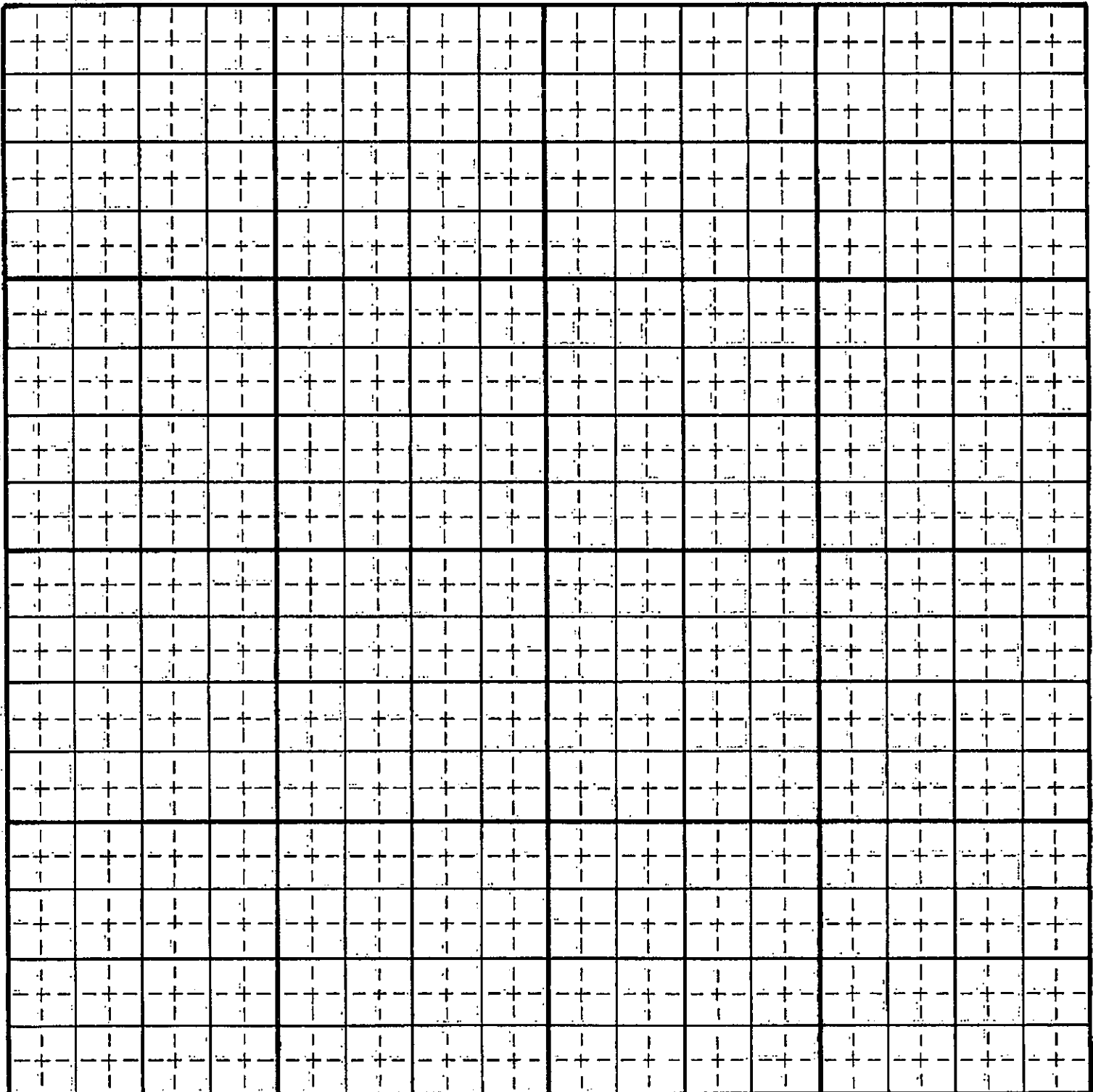
<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
01N	22E	2		NENE	13		SENE	11						
				SESW	40									
				NESE	13		SWSE	40		SESE	40			
		4		NENE	20									
		11		NENE	40		NWNE	40		<u>NWSW</u>	<u>40</u>			
				NWNW	40		SENE	40						
				NESW	40		<u>SWNW</u>	<u>40</u>						
		<u>12</u>		<u>NWNW</u>	<u>40</u>									
		27		SWNE	15									
				NWSE	30		SWSE	40						
		32		SESW	10									
				NESE	25		NWSE	4		SWSE	38		SESE	<u>4</u>
		33		NWSW	23		SWSW	40		SESW	37			
				SWSE	10		SESE	28						
		34		SWNE	4									
				SENE	6									
				NESW	15		NWSW	12		SWSW	40			
				SWSE	7									
02N		6		NENE	5									
		12		NESE	24		SESE	24						
		13		NENE	20		SENE	15						
				NESE	15		SWSE	20						
		24		NENE	20		SWNE	30						
				SENE	15		<u>SWSE</u>	<u>40</u>						
				NESW	10									
				NWSE	15									
		25		NWNE	15									
				NENW	6		SENE	20						
				NESW	20		SWSW	40		SESW	40			
				NESE	31		SWSE	40		SESE	5			
		26		SESE	40									
		27		NWSW	20		SWSW	40						
		32		SWNW	10									
				SWSE	5									
		33		NESE	20		NWSE	20		SESE	20			

03N	23E	35	SENE	2																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																													</
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			NENW	40	NWNW	40	SWNW	40	SENW	4
			NESW	40	NWSW	11	SWSW	39	SESW	4
			NESE	38	NWSE	40	SWSE	40	SESE	4
	8		NENE	35	NWNE	40	SWNE	32.5	SENE	4
			NENW	36	NWNW	40	SWNW	40	SENW	4
			NESW	40	NWSW	40	SWSW	40	SESW	4
			NESE	40	NWSE	36				
	9		NENE	35	NWNE	40	SWNE	37	SENE	3
			NENW	40	NWNW	35	SWNW	40	SENW	4
			NESW	37	NWSW	40	SESW	38		
			NESE	40	NWSE	40	SWSE	40	SESE	3
	10		NWNE	40	SENE	21				
			NENW	38	NWNW	40	SWNW	45.5	SENW	2
			NESW	15	NWSW	40	SWSW	40	SESW	3
			NESE	35	NWSE	13	SWSE	34	SESE	1
	15		NWNE	28	SWNE	26				
			NENW	40	NWNW	40	SENW	40		
			NESW	36	SWSW	32				
			NWSE	27						
	16		NESW	40	NWSW	40	SWSW	26	SESW	4
			NESE	32	NWSE	37	SWSE	40	SESE	4
	17		SWNE	39	SENE	40				
			NWNW	32.5	SWNW	40	SENW	21		
			NESW	40	NWSW	40	SWSW	40	SESW	4
			NESE	40	NWSE	40	SWSE	40	SESE	2
	18		NENE	38	NWNE	40	SWNE	40	SENE	4
			NENW	32.6	NWNW	20	SWNW	37.6	SENW	4
			NESW	40	NWSW	40	SWSW	38	SESW	3
			NESE	40	NWSE	40	SWSE	40	SESE	4
	19		NENE	43	NWNE	43				
			NENW	40	NWNW	40				
	20		NWNE	40						
			NENW	43	NWNW	43				
	21		NENE	10						
	22		NWNW	15						

Map of Project: Attach aerial photograph or topographic map showing clearly the point of diversion, place of use, section number, township, and range number, unless unavailable. Otherwise sketch the elements above on the grid below.

Scale: 2 Inches equals 1 mile



Last Name _____ Identification No. _____

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

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number 37-14273

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 notices 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/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) _____ Date: _____

_____ Date: _____

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 _____

16. Notice of Appearance:

Notice is hereby given that I, Robert E. Williams, will be acting as attorney at law of 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 R. E. Williams Date 3/19/10

Address PO Box 168
Jerome, ID 83338

Last Name _____ Identification No. _____

HOW YOU WILL RECEIVE NOTICE IN THE SNAKE RIVER BASIN ADJUDICATION

All documents filed in the Snake River Basin Adjudication, other than notices of claim, are filed with the court. Notices of claim to water rights filed in the Snake River Basin Adjudication are filed with the Idaho Department of Water Resources (IDWR). Copies of all documents filed in the Snake River Basin Adjudication will not be mailed to all parties (claimants) in the adjudication. Any document filed with the court will be mailed only to those parties who may be directly affected by it.

A monthly docket sheet is prepared by the court, which contains a summary of all documents filed with the court in the previous month and the dates and locations of hearings scheduled for the following three months. The docket sheet will be filed with the district court clerk in each county within the Snake River Basin Adjudication. Copies of a monthly docket sheet may be obtained from any of the offices of the department; a small fee may be charged to cover the cost of mailing and/or copying. If you wish to receive an annual subscription of the docket sheet printed each month, you should mark the appropriate place on your notice of claim form. You will be charged a small annual subscription fee by the court to cover the cost of copying and mailing. The docket sheet is also available on the court's web site at www.srba.state.id.us/docket.htm. Copies of any document listed on the docket sheet may be obtained from any of the offices of the department or the court and a small fee may be charged to cover the cost of mailing and/or copying the document.

Copies of all notices of claim filed with the department will be available for inspection from all offices of the department. You may also obtain copies of the notices of claim filed by other claimants, but you may be charged for the cost of copying and mailing. A claimant will not be charged for a copy of his or her own notice of claim, and a person who acquires property with water rights for which a notice of claim was filed will not be charged for a copy of the notice of claim filed by the previous owner.

After the notices of claim have been reviewed, the director will prepare and file a Director's report with the court that will contain the Director's recommendations as to each water right claimed under state law and a copy of each federal reserved water right claimed. Director reports will be prepared in each administrative basin within the Snake River Basin Adjudication. When the report for your basin is filed with the court, you will be mailed a notice informing you that the report for your basin has been filed. The notice will be sent to the most recent address shown by the department's files. Attached to the notice will be a copy of those portions of the report describing the water rights you have claimed. If you do not agree with the way your water right is described, you may file an objection to the report with the court. You can also file an objection if you disagree with the way other claimant's water rights are described, and the notice will tell you where a copy of the full report is available for inspection. The notice will tell you when and where to file your objection.

It is very important that you inform the department in writing of any change in your address. This is to make sure that you receive the notices affecting your water rights that are to be mailed by the department or the court.

If you are acquiring property with water rights in the Snake River Basin Adjudication water system in Idaho (either by purchase, gift, inheritance, or other means), it is very important that you inquire of the department whether a notice of claim has been filed. If you fail to file a required notice of claim for a water right, that water right may be determined to no longer exist.

If a notice of claim has been filed, it is very important that you file a written notice of change in ownership with the department. You may contact IDWR regional offices or the IDWR web site www.idwr.idaho.gov for change of ownership forms. The notice of change in ownership form must be accompanied by evidence of the ownership of the property. Again, this is to make sure that you receive the notices affecting your water rights that are to be mailed by the department or the court.