

VERIFIED BY *RAHON*

02/18/2002

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 35-13241

NAME AND ADDRESS: LINDEN J BUTIKOFER
LOIS BUTIKOFER
6138 N 5TH W
IDAHO FALLS ID 83401

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 1.15 CFS
280.0 AFY

USE OF THIS RIGHT WITH RIGHTS NO. 35-7280 AND 35-7281 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 5.13 CFS.

PRIORITY DATE: 04/01/1987

THIS WATER RIGHT IS SUBORDINATE TO ALL WATER RIGHTS WITH A PRIORITY
DATE EARLIER THAN APRIL 12, 1994, THAT ARE NOT DECREED AS
ENLARGEMENTS PURSUANT TO SECTION 42-1426, IDAHO CODE. AS BETWEEN
WATER RIGHTS DECREED AS ENLARGEMENTS PURSUANT TO SECTION 42-1426,
IDAHO CODE, THE EARLIER PRIORITY RIGHT IS THE SUPERIOR RIGHT.

POINT OF DIVERSION:

T04N R35E S17 SESENW Within JEFFERSON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	1.15 CFS 280.0 AFY

PLACE OF USE: IRRIGATION Within JEFFERSON County

T04N R35E S17	NENE	18.0	T04N R35E S17	NWNE	40.0
T04N R35E S17	SWNE	39.0	T04N R35E S17	SENE	20.0
T04N R35E S17	NENW	40.0	T04N R35E S17	NWNW	36.0
T04N R35E S17	SWNW	40.0	T04N R35E S17	SENW	40.0
T04N R35E S17	NESW	40.0	T04N R35E S17	NWSW	40.0
T04N R35E S17	SWSW	38.0	T04N R35E S17	SESW	38.0
T04N R35E S17	NESE	21.0	T04N R35E S17	NWSE	40.0
T04N R35E S17	SWSE	38.0	T04N R35E S17	SESE	32.0
560 ACRES TOTAL					

USE OF THIS RIGHT WITH RIGHTS NO. 35-7280 AND 35-7281 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 560 ACRES IN A SINGLE IRRIGATION
SEASON.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
THIS RIGHT IS BASED UPON AN ENLARGEMENT OF RIGHTS NO. 35-7280
AND 35-7281 PURSUANT TO SECTION 42-1426, IDAHO CODE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

02/18/2002

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

THIS RIGHT IS FOR AN ENLARGEMENT OF 70 ACRES WITHIN THE PLACE OF
USE DESCRIBED FOR THIS RIGHT.

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 A35-13241

Date Received 8-28-98

Receipt Number C044926

1/12/99 *LF*

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s) Linden J. and Lois Butikofer Phone (208) 522-7809
Mailing Address 6138 North 5th West, Idaho Falls, ID Zip 83401

2. Date of Priority (Only (1) per claim) April 1, 1973

3. Source of water supply (a) Groundwater
which is tributary to (b) _____

4. a. Location of point of diversion is: Township 4 North Range 35 East

Section 17, SE 1/4 of SE 1/4 of NW 1/4, Govt. Lot __, BM., County of Jefferson

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 __, BM.,
County of _____

5. Description of existing diversion works (Ditches, Wells, Pumps, Pipelines, Headgate
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. Well and Pump

6. Water is claimed for the following purposes:
For irrigation purposes from April 1 to November 1 amount 1.19 cfs (Part
of total of 9.2 cfs under 35-07280 and 35-07281)

(Both dates are inclusive)

Last Name: Butikofer

Ident No. 35-13241

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

Signature of Claimant(s) Linda G. Smith Date 8/21/98

For Organizations: I do solemnly swear or affirm that I am _____ of _____
_____, that I have signed the _____
Organization Title

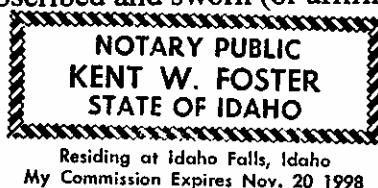
foregoing document in the space below as _____ of _____ and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization _____ Date _____

State of Idaho)
) ss.
County of Bonneville)

Subscribed and sworn (or affirmed) before me this 21 day of August, 1998.



Notary Public Michael J. Furr
Residing at Idaho Falls
My Commission Expires 11/20/98

17. Notice of Appearance:

Notice is hereby given that I, Kent W. Foster 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 Kurt A. Lutz
Address 70 Sox St NE Idaho Falls, ID 83405
Date 8/21/98

G:\WPDATA\KWF6102\CLAIM.1.kmc

Last Name: Butikofer Ident No. 35-13241



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

January 13, 1999

KARL J. DREHER
DIRECTOR

KENT W FOSTER
PO BOX 50130
IDAHO FALLS ID 83405

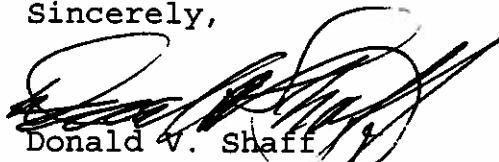
RE: Snake River Basin Adjudication (SRBA)
Notice of Claim #A35-13241
Linden and Lois Butikofer

Dear Mr. Foster:

The Notice of Claim to a Water Right for your clients, Linden and Lois Butikofer, was received from the SRBA Court recently. I have enclosed receipt #C044326 for the filing fees paid by your firm.

The Butikofer's Notice of Claim will be investigated and reported to the Court in a future supplemental Director's Report. Please contact me at 208/327-7932 if you have any questions.

Sincerely,



Donald V. Shaff
Manager, Adjudication Section

DVS:ss:region

Enclosure:

Receipt #C044326

RECEIVED

JAN 11 1999

Department of Water Resources

DISTRICT COURT
SNAKE RIVER BASIN ADJUDICATION
STATE OF IDAHO



DANIEL C. HURLBUTT, JR.
PRESIDING JUDGE
(208) 736-3011
FAX (208) 736-2121

SRBA CHAMBERS
P.O. BOX 2707
TWIN FALLS, IDAHO 83303-2707

January 7, 1999

Dave Tuthill
Idaho Department of Water Resources
P O Box 83720
Boise, ID 83720-0098

RE: *Motion to File Late Notice of Claim* – 35-13241

Dear Dave,

Enclosed, please find the *Order Granting Motion to File Late Notice of Claim* for the above water right, the accompanying Notice of Claim and a check in the amount of \$123.00 from Holden, Kidwell, Hahn & Crapo, P.L.L.C.

Hearing on this *Motion* was held December 9, 1998, but the court was not in receipt of the filing fee at that time.

Please notify the court, should you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ami Alberdi".

Ami Alberdi
Deputy Clerk of the Court
Snake River Basin Adjudication

Enclosures

1998 JAN -6 PM 2:48

FILED
JL

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

Case No. 39576

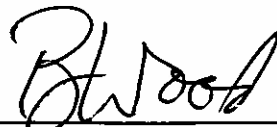
Subcase No. 35-13241

ORDER GRANTING MOTION
TO FILE LATE NOTICE OF CLAIM

On September 3, 1998, a *Motion to File Late Notice of Claim* was filed by
Linden Butikofer. All procedural requirements under *Administrative*
Order 1 were complied with in filing this *Late Notice of Claim*. No valid objections were made
to this *Late Notice of Claim*. The *Motion* is GRANTED.

IT IS SO ORDERED.

DATED 1-6-99.



BARRY WOOD
Administrative District Judge
Interim Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the **ORDER GRANTING MOTION TO FILE LATE NOTICE OF CLAIM** was mailed on January 7, 1999, with sufficient, first-class postage to the following:

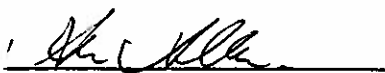
IDWR Document Depository
PO Box 83720
Boise, ID 83720

NOTICE OF CLAIM AND FILING FEE FORWARDED

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

United States Dept of Justice
Environment & Natural Resources Division
550 West Fort Street, MSC 033
Boise, ID 83724

Linden & Lois Butikofer
6138 North 5th West
Idaho Falls, ID 83401


Deputy Clerk

RECEIVED

SEP 10 1998

Department of Water Resources
Adjudication Bureau

MAIL 16681



RECEIVED

SEP 14 1998

Department of Water Resources
Eastern Region

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 35- 13241

(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 Linden J. and Lois J. Butikofer

My name is Kent W. Foster

My address is P.O. Box 50130, Idaho Falls, Idaho 83405

My phone number is (208) 523-0620

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:

The land in question has been irrigated for many years prior to 1987 and since with water under water rights nos. 35-07280 and 35-07281 because it is adjacent to the rest of Butikofers' land and they were leasing it from the owner. Butikofers acquired title to the property this spring and have now been advised to file a claim that the water right was expanded or enlarged prior to November 19, 1987.

- ☐ 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 a 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 you 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 \$ 173.00.

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 _____
(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)
)ss.
County of Bonneville)

Linden Butikofer, 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



Attorney signing in representative capacity

Subscribed and sworn to before me on _____
(Insert Date)

Notary Public for _____
Residing at: _____
My Commission expires: _____

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 September 2, 1998, 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 Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

3. If you are filing an amend 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