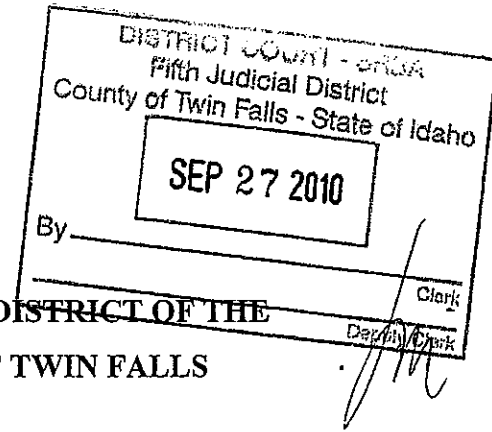


RECEIVED

SEP 28 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: 75-2167

Case No. 39576

)
) ORDER GRANTING LATE NOTICE OF
) CLAIM

)
) ORDER FOR EXPEDITED LATE
) CLAIM DIRECTOR'S REPORT AND
) SETTING FORTH PROCEDURES AND
) DEADLINES FOR EXPEDITED
) PROCESS

On June 24, 2010, the City of Salmon filed a *Motion to File Late Notice of Claim* for the above-captioned water right. A hearing on the *Motion* was held on September 21, 2010. No party appeared in opposition to the *Motion*. In addition to the above-captioned late notice of claim, the City of Salmon has various other water right claims presently pending unresolved in the SRBA. At the hearing, it was represented to the Court that the late claim is associated with, relates to, and may affect the other claims filed by the City of Salmon. It was also represented to the Court by the Idaho Department of Water Resources that, if granted, the late claim would be a candidate for an expedited late claim director's report given that trial for the City's other claims is presently set for December 28, 2010.

Accordingly, following a review of the file and after hearing the comments made in open court, the Court makes the following findings:

1. This *Motion* complied with all procedural requirements under *SRBA Administrative Order 1*, and no objections were made to this Late Notice of Claim. Good cause exists for granting the instant *Motion*.

2. The next regularly scheduled *Late and Miscellaneous Claims Director's Report* will not be issued in time to accommodate the trial set for the City of Salmon's other water right claims.

3. The subcases involving the City's other water right claims are currently set for trial. The scheduling or continuation of trials to accommodate the late claim being reported in the next regularly scheduled *Late and Miscellaneous Claims Director's Report* is not a feasible solution due to limited available trial dates and the need to have said dates available to schedule and process other SRBA matters.

4. In furtherance of the winding down process for the SRBA it is imperative that matters be timely set for trial. Therefore in limited circumstances such as this it is preferable to have a *Late Claims Director's Report* for certain late claims individually prepared and filed in advance of the next regularly scheduled *Late and Miscellaneous Claims Director's Report*. This is on a case-by-case basis and provided the Idaho Department of Water Resources (IDWR) is in a position to prepare the recommendation in advance and does not oppose preparing and filing a *Director's Report* in advance.

5. In this case IDWR does not oppose filing a *Director's Report* for the late claim and represented that it would be able to prepare a *Director's Report* and recommendation in a short time period.

6. This Court therefore finds that under the circumstances the issuance of an expedited *Late Claim Director's Report* for the above-captioned claim is appropriate.

THEREFORE, IT IS HEREBY ORDERED that the *Motion to File a Late Notice of Claim* for water right **75-2167** is **granted**. The original Notice of Claim, as well as any attached filing fees, and a copy of this **Order** will be forwarded to the Idaho Department of Water Resources for further action.

IT IS HEREBY FURTHER ORDERED that the Director issue an expedited *Late Claim Director's Report* for the above-captioned water right claim, and that the parties abide by the following schedule with respect to the late claim:

1. Deadline for filing *Late Claim Director's Report*: The Director shall file an original of the *Late Claim Director's Report* for the above-captioned water right claim with this Court on or before **October 29, 2010** and shall distribute for display and review

at least one (1) copy of the *Late Claim Director's Report* to the office of the clerk of the district court for each county in which any part of the water system is located, together with a copy of this **Order**. The Director shall also serve on each claimant or the claimant's attorney a notice of filing of the *Late Claim Director's Report*. Last, the Director shall file with the Court an affidavit demonstrating compliance with the notice requirements of Idaho Code § 42-1411(6).

2. Deadline for the filing of objections to *Late Claim Director's Report*: Any party wishing to file an objection to the *Late Claim Director's Report* may do so within 21 days following the notice of filing of the *Late Claim Director's Report* in the Docket Sheet, or on or before **November 29, 2010**.

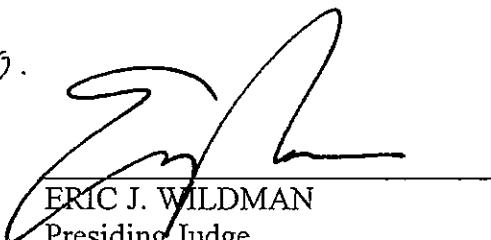
3. Deadline for the filing of responses to objections to *Late Claim Director's Report*: Responses to objections to the *Late Claim Director's Report* must be filed within 14 days following the close of the objection period, or on or before **December 13, 2010**.

4. Hearing on uncontested claim: In the event no objections are filed, the Court will hold a hearing on the entry of the *Partial Decree* as required by I.C. § 42-1412(7). **NOTICE IS HEREBY GIVEN** that the hearing will be held on **Tuesday, December 21, 2010, at 3:00 p.m. (Mountain Time)**, at the **Snake River Basin Adjudication District Court, 253 - 3rd Avenue North, Twin Falls, Idaho**. Parties may participate by telephone by dialing the number 1-215-446-0193 and when prompted entering code 406128.

5. Publication of Notice: The clerk of the court is instructed to publish a notice of the issuance of this order, together with the applicable objection, response and hearing date, on the October 2010 docket sheet.

IT IS SO ORDERED

Dated September 27, 2010.

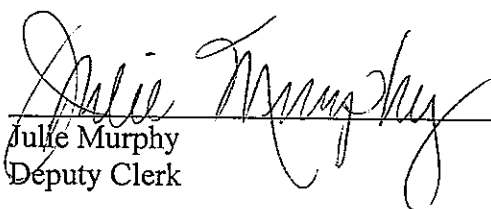

ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I hereby certify that true and correct copies of the **ORDER GRANTING LATE NOTICE OF CLAIM and ORDER FOR EXPEDITED LATE CLAIM DIRECTOR'S REPORT AND SETTING FORTH PROCEDURES AND DEADLINES FOR EXPEDITED PROCESS** were mailed on September 27, 2010, by first-class mail to the following:

DIRECTOR OF IDWR
PO Box 83720
Boise, ID 83720-0098

CITY OF SALMON
Represented by:
Josephine P. Beeman
409 W Jefferson
Boise, ID 83702


Julie Murphy
Deputy Clerk

RECEIVED

SEP 28 2010

DEPARTMENT OF
WATER RESOURCES

Should questions arise during the processing of this application please contact:

Josephine P. Beeman, Beeman & Associates
409 West Jefferson Street, Boise, Idaho (208) 331-0950
office@beemanlaw.com

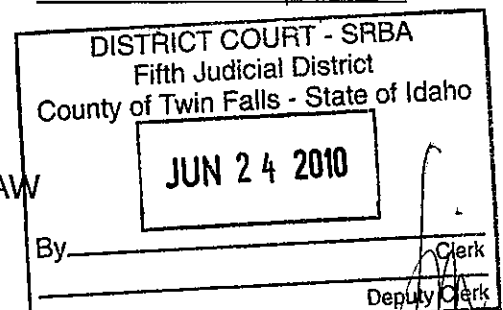
IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

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 75-2167Date Received: 9/28/2010Receipt No: 5091792Received By: SRF \$300-

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW



Please type or print clearly

- Name of Claimant(s) City of Salmon Phone (208) 756-3214
Mailing Address 200 Main Street, Salmon, Idaho 83467
Street or Box City State
- Date of Priority (Only one (1) per claim) April 21, 1905
Month Day Year (YYYY)
- Source of water supply (Check one) Ground Water () or Other (☒) (a) Jesse Creek which is tributary to
(b) Salmon River; (a) Pollard Canyon Creek which is tributary to (b) Jesse Creek; (a) Chippis Creek which is
tributary to (b) Pollard Canyon Creek.
- a. Location of Point of Diversion from Jesse Creek is: Township 21 North, Range 21 East, Section
2, $\frac{1}{4}$ of NE $\frac{1}{4}$ of NE $\frac{1}{4}$, Govt. Lot 1, B.M., County of Lemhi
Parcel (PIN) no. _____
Additional points of diversion if any: Pollard Canyon Creek Diversion is NENE Section 10, T21N, R21E; Chippis
Creek Diversion is NWNW, Section 11, T21N, R21E.
If available, GPS Coordinates Jesse Creek - 45° 10.985'N, 113° 56.202'W
Pollard Canyon Creek - 45° 10.254'N 113° 57.251'W
Chippis Creek - 45° 10.19'N 113° 57.162'W
b. If instream flow, beginning point of claimed instream flow is: N.A.
Township _____, Range _____, Section _____, $\frac{1}{4}$ of _____, $\frac{1}{4}$,
Govt. Lot _____, B.M., County of _____
Ending point is: Township _____, Range _____, Section _____, $\frac{1}{4}$ of _____, $\frac{1}{4}$
Govt. Lot _____, B.M., County of _____
- 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. Water is diverted from Chippis Creek by headgate and pipeline,
injected into Pollard Canyon Creek in the NENE Section 10, T21N, R21E; Pollard Canyon Creek water combined
Last Name City of Salmon Ident. Number 75-2167

with water diverted from Chipp Creek is diverted by headgate and pipeline collected into Jesse Creek in the NENE Section 2, T21N, R21E.; Jesse Creek water combined with water diverted from Pollard Canyon and Chipps Creeks is diverted by headgate and pipeline to the City of Salmon treatment plant for distribution through the municipal system.

6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD) (cfs) (acre feet)
 For Municipal purposes from January 1 to December 31 amount 2.00 cfs or _____
 For _____ purposes from _____ to _____ amount _____ or _____
 For _____ purposes from _____ to _____ amount _____ or _____
 For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 2.00 (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.) Municipal purposes within the service area of the City of Salmon municipal system.

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. **(Place of use is within the service area of the City of Salmon municipal water supply system as provided for under Idaho Law.)**

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? Lemhi

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. Municipal service provider.

12. Describe any other water rights used at the same place and for the same purposes as described above.

Right Nos. 75-4, 75-7, 75-17A, 75-17B, 75-19B, 75-19C, 75-26A, 75-114, 75-4084, 75-7108, 75-7156, 75-10075
 or None ()

13. Remarks:

a. Change in point of diversion prior to May 26, 1969 is claimed under Idaho law; subsequent change in point of diversion is claimed as an accomplished transfer in accordance with Section 42-1425, Idaho Code.

b. Salmon City Water Company, LTD applied for this right in 1905, diverted and applied to beneficial use water in accordance with the permit, received a license and subsequently deeded the system along with all water rights including License No. 75-2167 to the City of Salmon in 1912. The City of Salmon has continuously used water for municipal purposes under this right, as needed and within the priority of right since then.

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

Court _____ Decree Date _____ Plaintiff vs Defendant _____

If applicable provide IDWR Water Right Number 75-2167

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 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: one (1)

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

John Miller, Mayor of City of Salmon
Title Organization

that I have signed the foregoing document in the space below as

Mayor of City of Salmon
Title Organization

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

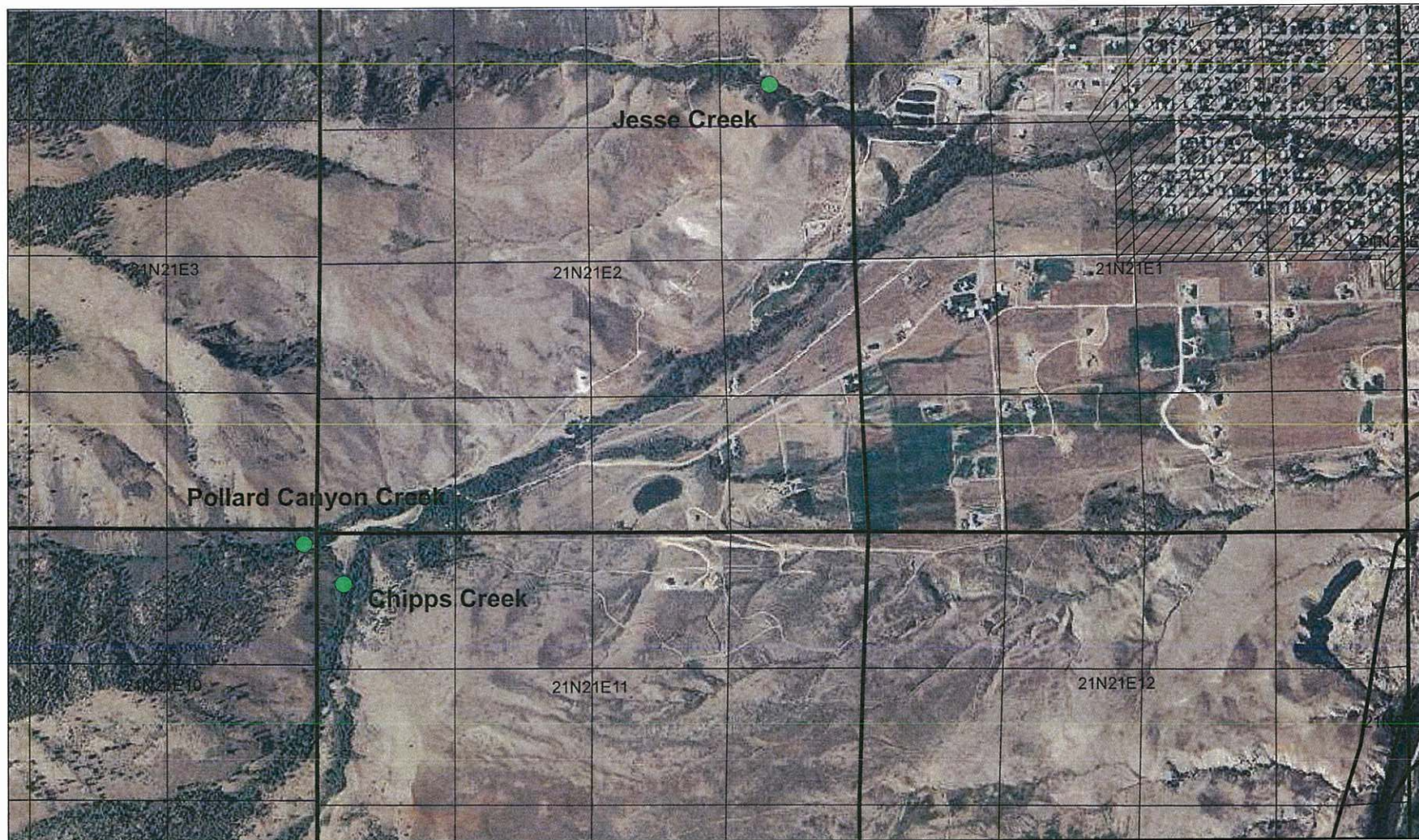
Signature of Authorized Agent [Signature] Date 6-22-10
Title and Organization Mayor, City of Salmon

16. Notice of Appearance:

Notice is hereby given that I, Josephine P. Beeman, 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 Josephine P. Beeman Date 23 June 2010

Address Beeman & Associates, P.C.
409 West Jefferson Street
Boise, Idaho 83702
208-331-0950



Points of Diversion

Lemhi County, Idaho

Legend

 2000 Incorporated Area

 QQ_Lines

 Section Lines



Data Source: IDWR

Image Source: 2006 NAIP

0 2,500 5,000
Feet

1 Inch = 5,000 Feet

Figure 1

City of Salmon

Prepared for: City of Salmon

File: 3787

Date: June 18, 2010

ERO
ERO Resources Corp