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DEC 08 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 85-15732
(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.

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 85-1573 2

Date Received: _____

Receipt No: _____

Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT

ACQUIRED UNDER STATE LAW

For Domestic and/or Stockwater Purposes

Where Daily Use is less than 13,000 gallons per day

1. Name of Claimant(s) Mel R. & Sharon L.A. Schumaker Phone [208] 843-5508

Mailing Address 27299 Feucht Road Culdesac, Idaho Zip 83524
Street or Box City State

2. Date of Priority: (Only one per claim) _____
Month/Day/Year (YYYY)

Spring

3. Source of water supply (Check one) Ground Water ☒ or Other ☐ (a) _____

which is tributary to (b) _____

4. Location of Point of Diversion is: Township 35N, Range 3W, Section 34

1/4 of 1/4, or Govt. Lot 25 & 26 BM., County of Nez Perce

Parcel (PIN) no. See attached map

Additional points of diversion if any: _____

If available, GPS coordinates: _____

5. Description of diverting works (Wells, Pumps, Spring boxes, Pipelines, 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.

Spring box with pipeline from Parcel 4 thru Parcel 3 thru Parcel 1 thru Parcel 2 back into Parcel 1

6. Water is claimed for the following: (limited to Domestic and/or Stockwater uses. See page 1 of the instructions.)

For Livestock purposes from Jan 1 to Dec 31 amount .02cfs
Month/Day Month/Day cfs or AFY

For _____ purposes from _____ to _____ amount _____

7. Total Quantity claimed .02 CFS ☒ or AFY ☐

8. Non-irrigation uses. Describe fully. (eg. Domestic: give number of households served if single ownership;

Stockwater and Number of livestock) Livestock = .02 CFS See attached chart

9. Location of Place of Use is: Township 35N, Range 3W, Section 34,
 _____ 1/4 of _____ 1/4, Govt. Lot 25 & 26 BM. Parcel (PIN) no. _____
 If different than shown in Item 4
 for (Check One) Domestic ☐ Stock ☐ Domestic and Stock ☒
 Additional places of use, if any _____

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

11. Do you own the property listed above as place of use? Yes ☒ No ☐

If the 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.

None () Ident. Number 85-15731

13. Remarks: Spring water to be used for livestock and additional irrigation.

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

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number _____

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 ☒ wish to receive do not ☐ and pay a small annual fee for monthly copies of the docket sheet

Number of attachments: 6

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) Sharon Schumaker Date: 12-2-2010

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, _____, 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 _____ Date _____

Address _____

Last Name _____ Identification No. _____

Have not received copy of **SRBA Administrative Order 1, Rules of Procedure** (amended Sept. 30, 1996)

☐ I have read **SRBA Administrative Order 1, Rules of Procedure** (amended Sept. 30, 1996).

My name is Mel R. & Sharon L.A. Schumaker

My address is 27299 Feucht Road Culdesac, Idaho 83524

My phone number is: Work _____ Home [208] 843-5508

I am an attorney representing _____

My name is _____

My address is _____

My phone number is _____

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:

We purchased the property June 26, 2009. After research with Idaho Department of Water Resources, it was determined no claim has been filed by previous owners, (now deceased).

Issue was discussed with Keith Franklin, Idaho Department of Water Resources, [208] 762-2806.

☐ 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.)

Legal Description with Maps attached.

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 \$ 25.00.
- ☐ 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 Tuesday, February 16, 2011 @ 1:30 P.M.

(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 IdahoCounty of Nez Perce

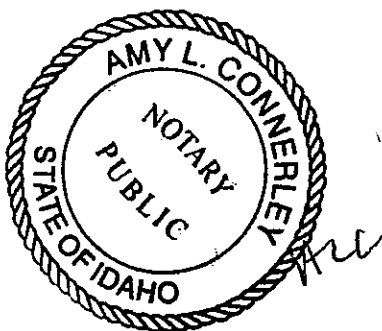
Mei R. Schumaker, being first duly sworn, upon oath, deposes and says:
 (Insert name of person filing form)

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]
 Signature of person filing motion
 Mei R. Schumaker

 Attorney signing in representative capacity

Subscribed and sworn to before me on Dec 3, 2010
 (Insert Date)



[Signature]
 Notary Public for Idaho
 Residing at: Caldwell
 My Commission expires: 9-21-2012

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 December 6, 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:

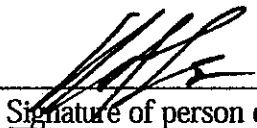
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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
Mel R. Schumaker

Mel R. Schumaker Ident. Number 85 - 15732

(2)

TABLE 1. RECOMMENDED DIVERSION RATES FOR STOCKWATER

In cubic feet per second (cfs).

No. of head	Dairy cows	Other cattle, horses & mules	Hogs	Sheep & goats
0 - 25	0.02	0.02	0.02	0.02
26 - 50	0.04	0.02	0.02	0.02
51 - 100	0.07	0.03	0.02	0.02
101 - 200	0.13	0.05	0.02	0.02
201 - 300	0.20	0.07	0.02	0.02
301 - 400	0.24 *	0.09	0.03	0.02
401 - 500		0.12	0.04	0.02
501 - 600		0.14	0.05	0.03
601 - 700		0.16	0.05	0.03
701 - 800		0.19	0.06	0.03
801 - 900		0.20	0.07	0.04
901 - 1000		0.23 *	0.08	0.04

For chickens, round to the next highest 100 and multiply this number by 0.0000018.
For turkeys, round to the next highest 100 and multiply this number by 0.0000033.

If you have more than 1000 head of hogs, sheep, or goats, round the number to the next highest 100, and multiply this number by one of the following factors:

For hogs, multiply by 0.000074

For sheep or goats, multiply by 0.000037

Round the amount you calculate to the nearest 0.01 cfs and enter this amount in the appropriate space on your claim. You may claim 0.01 cfs even if your calculated amount is less than 0.01 cfs.

* If you have more than; 370 head of dairy cows, or 1000 head of other cattle, horses, or mules, or 3250 head of hogs, or 6500 head of sheep and/or goats, or 130,000 chickens, or 72,200 turkeys you probably use more than 13,000 gallons of water per day. Form No. 42-1409(2)a is used for claims when the amount of water diverted exceeds 13,000 gallons per day.

TOTAL QUANTITY CLAIMED

Item 7: Enter the total amount of water diverted for all the uses shown in Item 6. The total quantity claimed cannot exceed the diversion capacity of the system, or the total of the individual uses.

MICROFILM No. 395892 - re-recorded
MICROFILM No. 395424

(3)

RECEPTION
INDEXED
FILED
JUL 27 1976
FBI - BOISE

WARRANTY DEED

THIS INDENTURE, Made this 25th day of July, 1976, by and between DONALD J. FEUCHT and LORA FEUCHT, also known as Lora F. Feucht, husband and wife, parties of the first part, and ROGER W. BRUNELLE and ROSALIE M. BRUNELLE, husband and wife, of Culdesac, Idaho, parties of the second part,

WITNESSETH:

That said parties of the first part, for and in consideration of the sum of Ten Dollars (\$10), lawful money of the United States of America, and other good and valuable considerations to them in hand paid by the parties of the second part, the receipt whereof is hereby acknowledged, have granted, bargained and sold, and by these presents do grant, bargain, sell, convey and confirm unto the said parties of the second part, and to their heirs and assigns forever, all of the following described real property situate in Nez Perce County, State of Idaho, and particularly described as follows, to-wit:

Commencing at the Southwest corner of Section 34, Township 35 North, Range 3, WBM, Nez Perce County, Idaho; thence North 331 feet to the centerline of the County Road; thence North 85°30' East a distance of 710 feet; thence North 31°26' East, 182.3 feet; thence South 83°34' East 200.0 feet to The True Point of Beginning; thence South 83°34' East 186.06 feet; thence South 71°07'42" East 117.35 feet; thence South 12°47'33" West 187.85 feet to a point on the Northerly right-of-way line of the County Road; thence Westerly along the North right-of-way line of the County Road a distance of 394 feet, more or less; thence North 31°26' East a distance of 267.40 feet to the True Point of Beginning.

RESERVING, HOWEVER, unto parties of the first part and to their heirs and assigns forever, a perpetual easement over, upon, under and across the above described property for the purpose of maintaining a water line, together with the right to go in and upon the property hereinabove described for the purpose of maintaining, replacing, repairing and improving such water line.

TOGETHER with the right, on the part of the parties of the second part, their heirs and assigns to use one fifth (1/5) of the water from the existing spring development

PERSONAL REPRESENTATIVE'S DEED

THIS INDENTURE, made this 26th day of June, 2009, by and between JEFFREY R. BRUNELLE, as the duly appointed and qualified Personal Representative of the Estate of ROGER W. BRUNELLE, deceased, Nez Perce County, Idaho, District Court Case No. CV 08 - 01931, as Grantor, and MELVIN R. SCHUMAKER and SHARON L.A. SCHUMAKER, husband and wife, as Grantees, whose current address is 27299 Feucht Rd., Galdesac, ID. 83524

WITNESSETH:

Grantor, by virtue of the power and authority given to Personal Representatives under the laws of the State of Idaho, pursuant to Section 15-3-715, Idaho Code, and in consideration of Ten (\$10.00) Dollars, and other good and valuable considerations paid by Grantees, does hereby grant, bargain, sell and convey unto the Grantees, the following described property, situate in the County of Nez Perce, State of Idaho, to-wit:

That part of Section 34, Township 35 North, Range 3 West of the Boise Meridian, described as follows:

Commencing at the S.W. Corner of said Section 34; thence N.72°46'53" East a distance of 1,329.18 feet to the Point of Beginning; thence South 13°58'06" West a distance of 187.78 feet to the North line of the County Road; thence North 86°52'25" West along said North line a distance of 393.72 feet; thence leaving said County Road North 32°31'04" East a distance of 266.62 feet; thence South 82°31'38" East a distance of 186.59 feet; thence South 70°07'57" East a distance of 117.10 feet to the Point of Beginning.

SUBJECT TO all matters, easements and reservations including the effects and conditions thereof as disclosed by Warranty Deed, recorded July 30, 1976 under Instrument No. 395424, and re-recorded August 17, 1976 under Instrument No. 395892, records of Nez Perce County, Idaho.

(5)

SUBJECT TO Agreement and Conveyance Correcting Real Estate Descriptions, including the terms, conditions and provisions contained therein, between DONALD J. FEUCHT and LORA F. FEUCHT, husband and wife, and ALFRED W. REDD and HELEN G. REDD, husband and wife, and THOMAS L. SCHUMAKER and KAREN J. SCHUMAKER, husband and wife, and ROGER W. BRUNELLE, individually and as Personal Representative of the ESTATE OF ROSALIE M. BRUNELLE, deceased, recorded December 30, 1985 as Instrument No. 494490, records of Nez Perce County, Idaho.

SUBJECT TO the rights of the public in and to that portion of the premises lying within adjacent streets and alleys.

TO HAVE AND TO HOLD the said premises with their appurtenances unto the said Grantees, their heirs and assigns forever. And the said Grantor, acting in his capacity as Personal Representative of said estate, does hereby covenant to and with the said Grantees that said premises are free from all encumbrances except those set forth above, and taxes, levies and assessments for 2009 and thereafter.

IN WITNESS WHEREOF, Grantor has hereunto caused these premises to be executed the day and year hereinabove first written.

ESTATE OF ROGER W. BRUNELLE, DECEASED

By Jeffrey R. Brunelle R. Rep.
JEFFREY R. BRUNELLE,
Personal Representative

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EXHIBIT C

That certain real property situate in Nez Perce County,
State of Idaho, to-wit:

That part of Section 34, Township 35 North, Range 3
West of the Boise Meridian, described as follows:

Commencing at the S.W. corner of said Section 34;
thence N.72°45'53"E., 1329.18 feet to the Point of
Beginning; thence S.13°50'06"W. 187.78 feet to the
North line of the County Road; thence N.86°52'25"W.
along said North Line, 393.72 feet; thence leaving said
County Road N.32°31'04"E., 266.62 feet; thence S.82°
31'38"E., 186.59 feet; thence S.70°07'57"E., 117.10
feet to the Point of Beginning, containing 1.75 acres
more or less.

494490
FILED BY
DEC 30 PM 3 18

RECEIVED
JAN 1 1967
JAN 1 1967