

COPY

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JAN 25 2011

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>31-12222</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 State of Idaho, Department of Lands

My name is David I. Stanish, Deputy Attorney General

My address is Natural Resources Division, Office of the Attorney General
JRW Building, 2nd Floor, 700 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0010

My phone number is (208) 334-4549

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:

IDL filed claim no. 31-11982. After further cartographic review of the director's
report for that claim, IDL became aware that the place of use of that claim had
been enlarged consistent with this claim to water right no. 31-12222.

☐ 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.)

Attached are documents, including aerial photos, illustrating the place
of use of the enlargement.

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:

- ☐ 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:

IDWR has indicated that they will initiate inter-agency billing
process to collect the fees due once the court grants IDL's motion
to file late claim.

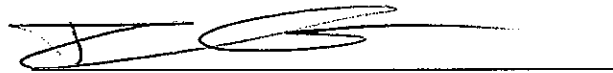
VERIFICATION (Must be completed)

State of Idaho

County of Ada

David I. Stanish, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

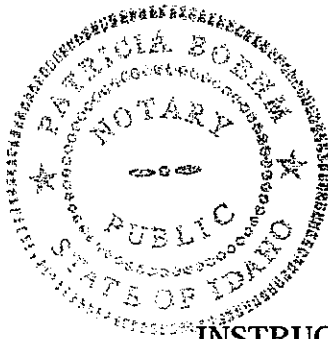
That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.


Signature of person filing motion

David I. Stanish

Attorney signing in representative capacity

Subscribed and sworn to before me on January 24, 2011
(Insert Date)



Patricia Boehm
Notary Public for Idaho
Residing at: Boise ID
My Commission expires: 2/5/16

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 January 24, ²⁰¹¹~~199~~, 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

Attachment I

Water Right Description

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 31-12222
Date Received: 1/12/2011
Receipt No:
Received By: MWH

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

STATE OF IDAHO Phone:
DEPARTMENT OF LANDS
300 N 6TH ST, STE 103
PO BOX 83720
BOISE ID USA 83720-0050

2. Date of Priority: 09/27/1973

3. Source: DRY CREEK Trib. to: SPRING CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
13N	40E	9	NW SW	CLARK	

5. Description of diverting works:

HEADGATE IN CREEK TO DITCHES TO FLOOD IRRIGATION.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	05/01	10/31	2.87	

7. Total Quantity Appropriated is:
2.87 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
13N	40E	10	SW SW	IRRIGATION	24

					Section Acres	24
13N	40E	15	NE	NW	IRRIGATION	40
			NW	NW	IRRIGATION	40
			SW	NW	IRRIGATION	40
					Section Acres	120
13N	40E	16	NE	NE	IRRIGATION	40
			NW	NE	IRRIGATION	40
			SW	NE	IRRIGATION	40
			SE	NE	IRRIGATION	40
			NE	NW	IRRIGATION	25
			SE	NW	IRRIGATION	25
			NE	SW	IRRIGATION	29
			SW	SW	IRRIGATION	0.2
			SE	SW	IRRIGATION	0.5
			NE	SE	IRRIGATION	33
			NW	SE	IRRIGATION	27
					Section Acres	299.7
					Total Acres	443.7

11. Place of use in counties: CLARK

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

13. Other Water Rights Used:

14. Remarks:

This right is based upon an enlargement of Right No. 31-11982 pursuant to Section 42-1426, Idaho Code.

AWAITING ACCEPTANCE OF CLAIM BY SRBA COURT.

15. Basis of Claim: Beneficial Use

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

Number of attachments: _____

For Organizations:

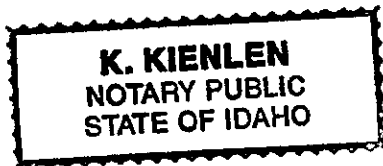
I do solemnly swear or affirm that I am Patrick A. Brown Title Area Manager
Eastern Area ID Dept. of Lands that I have signed the foregoing
Organization document in the space below as Area Manager of
Eastern Area ID Dept. of Lands Title and that the statements contained in the
Organization foregoing document are true and correct. [Signature]
Signature of Authorized Agent
Area Manager
Title and Organization
1/12/2011
Date

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this
of 12th January 2011

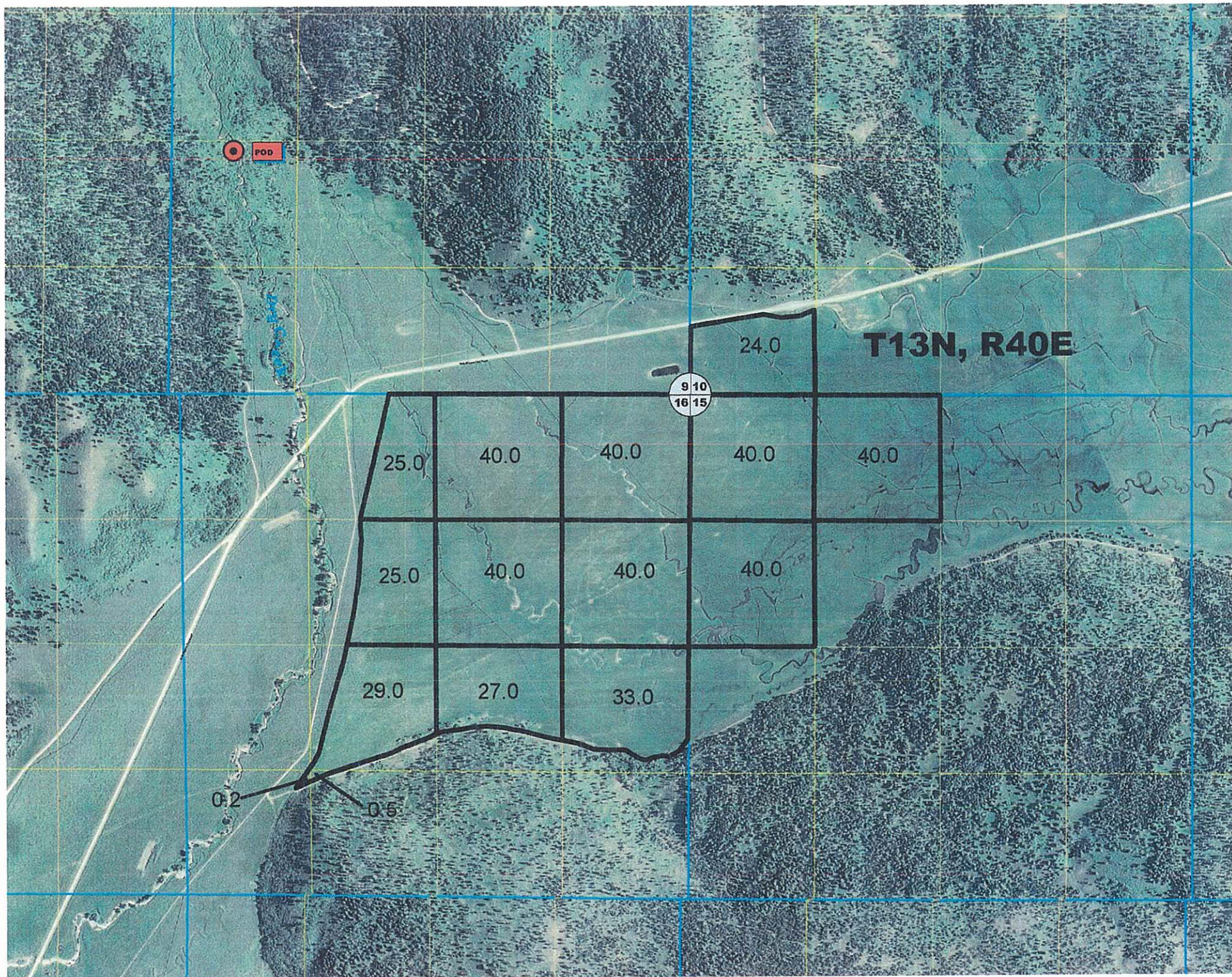
[Signature]
Notary Public

Residing at Idaho Falls, ID
My commission Expires January 28, 2014



Attachment II

Map of Place of Use

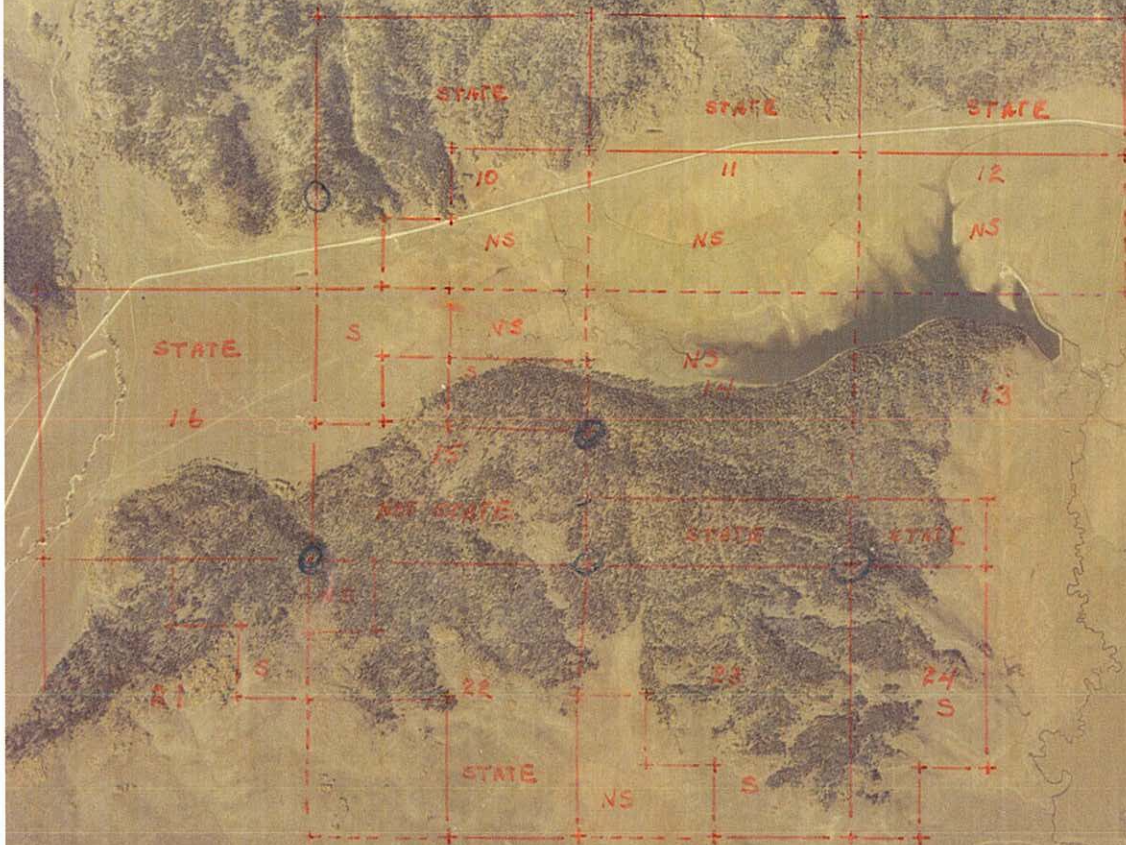


Attachment III

Aerial Photos of Place of Use – 9/27/1973

SRP 9B-16

T13N R45E



c.f.l. 152.45

SRP 9B-17

13N
40E

TIMBER

c.f.l. 152.45

Attachment IV

Aerial Photos of Place of Use – 7/26/1978

USDA

16

614152

178-108

TIMBER

13N
40E

Stake

Stake

Stake

Stake

Stake

Stake

17

USDA

16

614152

178- 94

13N
40E

TIMBER

10

Attachment V

Aerial Photos of Place of Use – 9/20/1985

USDA-F

16

614151

649

185-193

Sec 16.
T13N.
R40E.

TIMBER

1716
20121

892

USDA-F

16

614151

185-173

T3N40E

SW

TIMBER

S15

S15
T3N40E

CFL 153.208

Attachment VI

Aerial Photos of Place of Use – 2009

