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DEPARTMENT OF  
WATER RESOURCES

COPY

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

A. Subcase 22-13999  
(Insert water right number  
From the Objection Form)

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.

X 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 David W. Miller, Larry J. Miller, Ralph P. Miller, M. Phillip Miller, Lewis J. Miller, Daniel D. Miller, Ronald K. Miller

My name is Robert L. Harris

My address is Holden, Kidwell, Hahn & Crapo, PLLC; PO Box 50130, Idaho Falls, ID 83402  
\_\_\_\_\_

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.

X I did not file a Notice of Claim to the use of water in the SRBA because:

This late claim is a necessary component to a global settlement agreement between various Paradise Springs water users. See attached letter from IDWR agent Michael Holliday.  
\_\_\_\_\_  
\_\_\_\_\_

- ☐ 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.)

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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 \$ 109.50.

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 July 19, 2011 at 1:30 p.m.  
(Insert Date and Time)  
at the SRBA Court 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:

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- ☐ I am providing legal and factual documentation to support my amended Notice of Claim. You must describe these documents and attach a readable copy.

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I have attached:

- ☐ An amended Notice of Claim (available from IDWR).
- ☐ Payment of the following additional fees required by IDWR:

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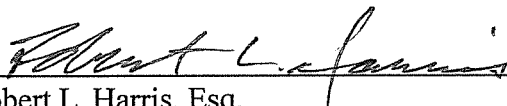
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## VERIFICATION

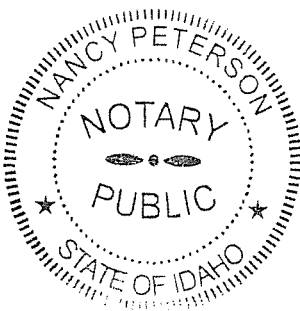
State of Idaho                    )  
                                          )ss.  
County of Bonneville         )

Robert L. Harris, being first duly sworn, upon oath, deposes and says:

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.

  
\_\_\_\_\_  
Robert L. Harris, Esq.  
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Subscribed and sworn to before me this 31 day of March, 2011.



  
\_\_\_\_\_  
Notary Public for Idaho  
Residing at Idaho Falls, Idaho  
My Commission expires: Feb 10/17

## CERTIFICATE OF MAILING

I certify that on this 31<sup>st</sup> day of March, 2011, 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:

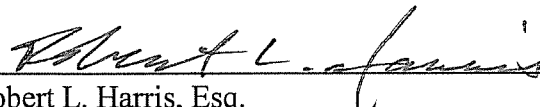
Clerk of the District Court  
Snake River Basin Adjudication  
253 Third Avenue North  
P.O. Box 2707  
Twin Falls, ID 83303-2707

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

  
Robert L. Harris, Esq.  
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

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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 22-13999

Date Received \_\_\_\_\_

Receipt Number \_\_\_\_\_

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

1. Name of Claimant(s) David W. Miller, Larry J. Miller, Ralph P. Miller, M. Phillip Miller, Lewis J. Miller, Daniel D. Miller, Ronald K. Miller Phone (208)

Mailing Address c/o Ronald K. Miller, 707 Roosevelt, American Falls, ID Zip 83211

2. Date of Priority (Only (1) per claim) June 1, 1960

3. Source of water supply (a) Paradise Springs

which is tributary to (b) Teton River

4.a. Location of existing point of diversion is:  
Township 4N Range 45E Section 30, SE 1/4 of NE 1/4 of NW 1/4, Govt. Lot \_\_\_\_\_,  
County of TETON  
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 of \_\_\_\_\_ 1/4, Govt. Lot \_\_\_\_\_ B.M., County of \_\_\_\_\_

ending point is: Township \_\_\_\_\_ Range \_\_\_\_\_ Section \_\_\_\_\_, \_\_\_\_\_ 1/4 of \_\_\_\_\_ 1/4 of \_\_\_\_\_ 1/4 Govt. Lot \_\_\_\_\_ B.M., 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. \_\_\_\_\_

6. Water is claimed for the following purposes: \_\_\_\_\_ (Both dates are inclusive) (cfs) (acre feet)

For Irrigation purposes from 04/15 to 10/31 amount 0.19 cfs or \_\_\_\_\_

7. Total quantity claimed (a) 0.19 (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:
- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
  - If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instruction for standard symbols.

| TWP | RNG | SEC | NE 1/4 |    |    |    | NW 1/4 |    |    |    | SW 1/4 |    |    |    | SE 1/4 |    |    |    | TLS |
|-----|-----|-----|--------|----|----|----|--------|----|----|----|--------|----|----|----|--------|----|----|----|-----|
|     |     |     | NE     | NW | SW | SE | NE     | NW | SW | SE | NE     | NW | SW | SE | NE     | NW | SW | SE |     |
| 4N  | 45E | 19  |        |    |    |    |        |    |    |    | 35     |    |    |    |        |    |    |    | 35  |
|     |     |     |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |     |
|     |     |     |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |     |
|     |     |     |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |     |

Parcel (PIN) No(s). \_\_\_\_\_

Total number of acres irrigated 35

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

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.  
22-13509 or None ( )

13. Remarks:

This water right, 22-13999, in combination with Water Right No. 22-13509, is limited to the irrigation of 35 acres. Water Right No. 22-13999 is limited to the irrigation of 9.5 acres. Also, Water Right Nos. 22-13509 and 22-13999 are limited to the diversion of .7 cfs.

14. Basis of Claim (Check one) Beneficial Use ☒ Posted Notice ☐ Permit ☐ Decree ☐ License ☐  
If applicable provide IDWR Water Right Number \_\_\_\_\_  
Court \_\_\_\_\_ Case Number \_\_\_\_\_ Decree Date \_\_\_\_\_  
Plaintiff vs Defendant \_\_\_\_\_

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 \_\_\_\_\_

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) Robert L. Jarvis Date March 31, 2011  
Attorney Date \_\_\_\_\_

Last Name Miller Ident. Number 22-13999

17. Notice of Appearance:

Notice is hereby given that I, Robert L. Harris, 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 Robert L. Harris

Address: Holden, Kidwell, Hahn & Crapo, PLLC  
PO Box 50130, Idaho Falls, ID 83405-0130

Date March 31, 2011

G:\WPDATA\RLH\15571 Miller, Ron\Late Claim.22-13999.wpd.cdv



## State of Idaho

# DEPARTMENT OF WATER RESOURCES

Eastern Region, 900 North Skyline Drive, Suite A • Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

C. L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Interim Director

January 24, 2011

Dear Claimant:

As you may recall a settlement conference was recently held in Idaho Falls in hopes that the disputes regarding the water right claims from Paradise Springs could be resolved. At the settlement conference the parties in attendance and the Idaho Department of Water Resources reached a tentative agreement. However, final settlement is contingent upon additional action by the parties. The purpose of this letter is to let you know what further action needs to be taken in order to bring closure to the Paradise Springs subcases in the Snake River Basin Adjudication ("SRBA").

The table below lists the amounts agreed upon during the settlement conference followed by the tasks that need to be completed before the settlement can be finalized. Please find your subcase(s) below and take the appropriate action. IDWR would be happy to help you through the process if you need assistance, as appropriate. Because of the global nature of the settlement of Paradise Springs, SF5 settlement documents will be prepared once the late claims and amended claims are ready for resolution. In other words, all the subcases are tied together and are anticipated to progress through the SRBA resolution process as a group.

| <u>Claim number</u> |       |   | <u>Owner</u>                        | <u>Decreed</u> | <u>Beneficial</u> | <u>Decreed</u>  | <u>Beneficial</u>   |
|---------------------|-------|---|-------------------------------------|----------------|-------------------|-----------------|---------------------|
| - - -               |       |   | -                                   | <u>Acres</u>   | <u>Use Acres</u>  | <u>Quantity</u> | <u>Use Quantity</u> |
| 22                  | 587   | A | KUNZ, LARELL A                      | 25             |                   | 0.35            |                     |
| 22                  | 12714 | B | SUSAN C ALDEEN TRUST                | 7.8            |                   | 0.11            |                     |
| 22                  | 13211 |   | MILLER, DON LE ROY                  | 8.5            | 3.3               | 0.17            | 0.07                |
| 22                  | 13212 |   | REID, MICHAEL L                     | 26             | 9.6               | 0.52            | 0.19                |
| 22                  | 13511 |   | TETON RAINBOW RANCHES               | 72             |                   | 1               |                     |
| 22                  | 13586 |   | RICHARDSON, ANDREW J                | 23.5           | 8.5               | 0.47            | 0.17                |
| 22                  | 13853 |   | MILLER, CHESTER H;<br>MILLER, REX H | 16.5           | 6.5               | 0.33            | 0.13                |
| 22                  | 13854 |   | RICHARDSON FAMILY PROPERTIES LLC    | 17             | 14                | 0.24            | 0.38                |
| 22                  | 13509 |   | FRED MILLER TRUST                   | 25.5           | 9.5               | 0.51            | 0.19                |

22-587A. No need to amend the claim. Only needs to sign SF5.

22-12714B. Needs to amend claimed flow rate to 0.11 cfs.

JAN 25 2011

22-13211. No need to amend claim. Only needs to sign SF5. It is my understanding that the objectors to this subcase seek a subordination remark limiting a delivery call on this right to 7.6 acres and .17 cfs. Additionally, needs to set aside 22-11537, the 1969 beneficial use right, and sign an SF5 for .07 cfs and 3.3 acres.

22-13212. Needs to move to set aside and amend claim for 0.52 cfs. Eventual recommendation for -13212 will contain a subordination remark limiting a delivery call on this right to 4.5 acres and 0.16 cfs. Will receive SF5 on 22-11639 for 9.6 acres and 0.19 cfs as the beneficial use claim.

22-13511. No need to amend claim. Only needs to sign SF5.

22-13586. Needs to amend claimed flow rate to 0.47 cfs. This right is governed, in part, by the stipulation filed December 2009. Consistent with that stipulation, the eventual recommendation for -13586 will contain the following subordination remark: This water right shall not be permitted to make a delivery call against water right nos. 22-13135, 22-13961, 22-13962, 22-13963, 22-13964, 22-2280E, 22-2296B, 22-2296D, and 22-13681, and their progeny. Needs to file a new beneficial use claim for 8.5 acres and 0.17 cfs.

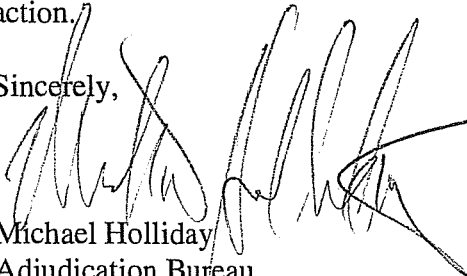
22-13853. Needs to amend claimed flow rate to 0.33 cfs and file a new beneficial use claim for 6.5 acres and 0.13 cfs.

22-13854. This right is governed, in part, by the stipulation filed December 2009. Needs to file a new beneficial use claim for 14 acres and 0.38 cfs.

22-13509. Consistent with the Amended Director's Report filed in July 2010, the eventual recommendation for -13509 will contain the following subordination remark: This water right shall not be permitted to make a delivery call against water right nos. 22-13135, 22-13961, 22-13962, 22-13963, 22-13964, 22-2280E, 22-2296B, 22-2296D, and 22-13681, and their progeny. Needs to file a new beneficial use claim for 9.5 acres and 0.19 cfs.

The next status conference on these subcases is set for February 2, 2011, at 9:30 a.m., during which Special Master Bilyeu agreed to hear motions to amend claims. Motions for late claims need to be heard by Judge Wildman. If you have questions about any of this, please contact your attorney, if applicable, or feel free to give me a call. Thanks in advance for your prompt action.

Sincerely,



Michael Holliday  
Adjudication Bureau  
Senior Water Right Agent