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APR 27 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>2-10457</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 Joseph and Patricia Berrueta

My address is P.O. Box 385 Nampa, Idaho 83653

My phone number is: Work _____ Home 208-495-2016

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:

The water has been in use sense Aug 12, 1967. We purchased
the property and discovered the water claim was not on record
That is why we are now filing a late notice claim.

☐ 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.) Aug 1, 1967 B L M "Right of Way"

for Irr, pipe crossing the Smith 5 acre property. Aug 12, 1967

Easement for Irr, pipe containing small Tap to deliver water
to 5 acres. Page 4 Easement agreement one water opening

to deliver water to 5 acres.

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 Tues. July 19, 2011 at 1:30
(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:

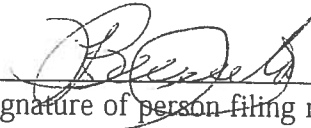
VERIFICATION (Must be completed)

State of Idaho

County of Canyon

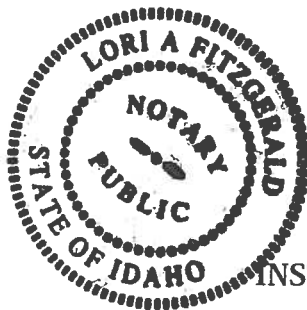
Joseph Berrueta, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

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

Attorney signing in representative capacity

Subscribed and sworn to before me on April 26th 2011
as to Joseph Berrueta only. (Insert Date)




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

Residing in Nampa, Idaho
My Commission Expires 4-19-2017

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 April 26, 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
PO Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

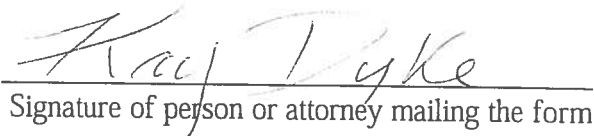
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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

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: 2-10457

Date Received:

Received By:

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED
UNDER STATE LAW

1. Name of Claimant(s)

PATRICIA BERRUETA Phone:(208) 495-2016
PO BOX 385
NAMPA ID 83653

JOSEPH BERRUETA Phone:(208) 495-2016
PO BOX 385
NAMPA ID 83653

2. Date of Priority: 8/12/1967

3. Source: SNAKE RIVER Tributary to: COLUMBIA RIVER

4. Point of Diversion:

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>1/4 of 1/4 of 1/4</u>	<u>Lot</u>	<u>County</u>	<u>Type</u>
01S	02W	34	NE NE		OWYHEE	

5. Description of diverting works:

6. Water is used for the following purposes:

<u>Purpose</u>	<u>From To</u>	<u>C.F.S.</u>	<u>(or) A.F.A</u>
DOMESTIC	01/01 12/31	0.01	

7. Total Quantity Appropriated is: 0.01 C.F.S. and/or A.F.A

8. Non-irrigation uses:

9. Place of use:

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>1/4 of 1/4</u>	<u>Lot</u>	<u>Use</u>	<u>Acres</u>
01S	02W	35	SW NW		DOMESTIC	

Section Acres

Total Acres

10. Place of use in counties: OWYHEE

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

12. Other Water Rights Used:

13. Remarks:

2-10457

4/18/2011

Priority date description:

Description of use: Water Use Description

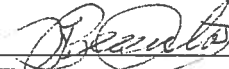
DOMESTIC

14. Basis of Claim: Beneficial Use

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

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

Signature of Claimant(s):  Date: 4-22-11
 Date: 4-22-11

For Organizations: I do solemnly swear or affirm under penalty or 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 _____

Please print name

7. GENERAL PROVISIONS:

A. Entire Agreement. This Agreement contains the entire understanding between the parties relating to the Grants of Easement. All prior and contemporaneous agreements and understandings, whether oral or written, are superseded by this Agreement. This Agreement may only be modified in writing executed by both Grantor and Grantee.

B. Survival Of Covenants. The terms, conditions, covenants, and warranties of the parties hereto shall continue to bind the parties after execution and recording of the final Grants of Easement.

C. Necessary Documents, The parties hereto agree to execute and deliver to one another any document or instrument necessary to confirm the intent of the parties hereto as expressed in this Agreement.

D. Miscellaneous. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their heirs, executors, administrators, successors-in-interest, and assigns, except where there is a specific reservation of assignment rights as noted above. The final Grants of Easement shall run with the land. This Agreement shall be construed in accordance with and governed by the Laws of The State of Idaho, Nothing in this Agreement, express or implied, is intended to confer upon any person or entity, other than the parties hereto and their respective successors and assigns, any rights or remedies.

E. Water Pipe Line. Grantee recognizes the existence and location of Grantor's water pipe line that crosses a portion of the Five Acre Parcel, which water pipe line is for sole purpose of providing irrigation water from its source to the Servient Parcel. Grantor shall acknowledge and permit Grantee utilization of one water opening in said water pipe for use on the Five Acre Parcel. Grantee shall continue to permit Grantor to leave that portion of the Grantor's water pipe line that is situate on the Five Acre Parcel and extends permission to Grantor to have limited access to Five Acre Parcel for the sole purpose of making repairs or to maintain the water pipe line as it is situate on the Five Acre Parcel.

OTC

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Idaho Land Office
P. O. Box 2237
Boise, Idaho 83701

857
10
Twp
1548

DECISION
:

Right-of-Way Granted

DETAILS OF GRANT

Serial number of grant: I-1643

Name of grantee: Lanus G. Givens

Map showing the location and dimensions of grant:

Map designations: Irrigation pipeline for Lanus G. Givens

Date filed: August 1, 1967

Permitted use by grantee: Irrigation pipeline

Authority for grant: Act of March 3, 1891 (26 Stat. 1101), as amended.

Regulations applicable to grant:

Code reference: 43 CFR Sections 2234.1 and 2234.3-1

Circular number(s): 2161

Date of Grant: OCT 19 1967

Expiration date of Grant: --

Rental: None

Amount:

When payable by grantee:

TERMS AND CONDITIONS OF GRANT

Pursuant to the authority vested in the undersigned by Order No. 701 of the Associate Director, Bureau of Land Management, dated July 23, 1964, (29 F.R. 10526), as amended, a right-of-way, the details of which are shown above, is hereby granted subject to the following terms and conditions.

1. All valid rights existing on the date of the grant.
2. All regulations in the circular(s) specified above.
3. Filing of proof of construction within five years of the date of the grant.
4. Further terms and conditions as follows:

(a) Pursuant to 43 CFR 2234.1-3(c), the District Manager, Boise District Office, 230 Collins Road, Boise, Idaho, has the authority to conduct all business with the grantee with respect to use of lands and disposition of resources, and the grantee is requested to contact the above-designated official prior to the beginning of construction.

(b) Attached Bureau of Reclamation stipulations.

ORVAL G. HADLEY

Orval G. Hadley
Manager, Land Office

ILO-2234-113
7-67

cc: Bureau of Reclamation
District Manager, I-1
Case file/VSS:jk, 10/19/67
FASC 5 years

I hereby certify this to be a true copy of the document on file in the Boise District Office, Bureau of Land Management, Boise, ID

Lueella M. Carpenter
Certifying Officer

I hereby certify this to be a true copy of the document on file in the Boise District Office, Bureau of Land Management, Boise, ID

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E A S E M E N T

THIS INDENTURE Made and entered into this 12th day of August, 1967, by and between Phillip Smith, the party of the first part, and hereinafter designated and referred to as the Grantor, and Lanus G. Givens and Ruby H. Givens, husband and wife, the parties of the second part and hereinafter designated and referred to as the Grantees;

W I T N E S S E T H:

That the grantor, for and in consideration of the sum of ONE and NO/100 DOLLARS (\$1.00), and other good and valuable consideration, the receipt whereof is hereby acknowledged, have granted, bargained and sold, and by these presents, do grant, bargain, sell, convey and confirm unto the Grantees and to their heirs and assigns forever, a perpetual easement for installation and maintenance of a buried irrigation pipe line right of way Fifty (50) feet in width and located as follows:

Along the entire west side and coarsing in a Northwesterly to Southeasterly direction in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 35, Township 1 South, Range 2, West of the Boise Meridian, Owyhee County, Idaho.

It is understood that the Grantees have already made and placed the aforesaid construction on the premises and lands owned by the Grantor and as presently situated, the items of construction will be permanently located. The Grantees warrant that they have not caused, suffered or permitted the lodging of any liens against the land and property of the Grantor, and that at no time during such construction have said Grantees been acting as the agents or servants of said Grantor.

The Grantees shall have the right, at all times, to go upon the premises aforesaid for the purpose of making repairs and replacements of all or any part of the buried pipe line, as well as

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patrolling said installations for the detection of necessary repairs or replacements. The Grantees shall indemnify the Grantor for any losses or damages suffered by the Grantor resultant from any break down, for whatever cause, of the buried pipe line.

This indenture and all of the appurtenant rights, privileges and duties shall bind the heirs, executors, administrators and assigns of the Grantor and Grantees, respectively.

IN WITNESS WHEREOF The parties have hereunto set their hands and seals the day and year in this easement first above written.

Philip Smith
GRANTOR.

James C. Lowrey
Paul D. Stevens
GRANTEES.