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DEPARTMENT OF
WATER RESOURCES

FRITZ X. HAEMMERLE
HAEMMERLE & HAEMMERLE, P.L.L.C.
400 South Main Street, Suite 102
P.O. Box 1800
Hailey, Idaho 83333
208/578-0520
Fax: 208-578-0564
E-mail: fxh@haemlaw.com
ISB #3862

Attorney for the Claimant

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 No. 37-21357
	)
Case No. 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:

I am an attorney representing: Hiawatha Canal Water Users

My name is: Fritz X. Haemmerle, Haemmerle & Haemmerle, P.L.L.C.

My address is: P.O. Box 1800, Hailey, ID 83333

My phone number is: (208) 578-0520

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:

1. After meeting with IDWR on water right 37-1224A, IDWR agrees that it would be appropriate to file a split from that right to recognize and in-stream stockwater right under a new water right number.

☐ I am providing legal and factual documentation to support my amended Notice of Claim.

You must describe these documents and attach a readable copy.

This Motion is supported by:

I have attached:

☒ An amended Notice of Claim (available from IDWR).

☐ Payment of the following additional fees required by IDWR:

VERIFICATION

State of Idaho)
) ss.
County of Blaine)

Fritz X. Haemmerle, being first duly sworn, upon oath, deposes and says:

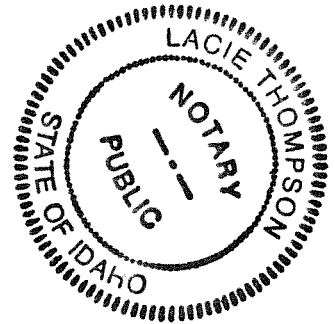
That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that 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 June 2, 2011
(Insert Date)

Notary Public for Idaho
Residing at: Betterville
My Commission expires: 1/28/2014



CERTIFICATE OF MAILING

I certify that on June 2, 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)



FRITZ X. HAEMMERLE

EXHIBIT 1

IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED
WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-21357

NAME AND ADDRESS: MARIANNE HOFSTETTER
19185 HWY 20
PICABO ID 83348

WALTER J HOFSTETTER
19185 HWY 20
PICABO ID 83348

SOURCE: Source: Tributary:
SILVER CREEK LITTLE WOOD RIVER
Water for this right resulted from developed water in Silver Creek.

QUANTITY: 0.020 CFS
The quantity of water under this right shall not exceed 13,000 gallons per day.

PRIORITY DATE: 03/29/1877
03/04/1910
Pursuant to a call in times of scarcity, this right is senior to all other rights that did not result from saved or developed water in Silver Creek, as established, controlled by, and subject to the provisions within the Brett v. Chapman Decree (Lincoln County Case No. 2816, entered December 28, 1932).

POINT OF DIVERSION:

T02S R20E S1 Lot 1 SENENE End of Stream Flow
Within BLAINE County

T02S R20E S1 Lot 3 SENENW Begin of Stream Flow
Within BLAINE County

PURPOSE AND	Purpose of use	Period of use:	Quantity:
PERIOD OF USE:	STOCKWATER	01/01 12/31	0.020 CFS

PLACE OF USE: STOCKWATER within BLAINE County
T02S R20E S01 Lot 1 NENE
T02S R20E S01 NWNE
T02S R20E S01 SWNE
T02S R20E S01 SENE
T02S R20E S01 Lot 3 NENW

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
The quantity of water decreed for this water right is not a determination of historical beneficial use.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed Beneficial Use

This right is an instream stockwater use that originally was included within the decreed uses of right 37-1224A, but has been split from it so as not to include in-stream and diverted uses on a single water right.
This right is a split from former right 37-1224.