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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

Case No. 39576

A. Subcase 22-14007
(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.

- ✓ 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 Richard A. Egbert Limited Partnership

My name is Robert L. Harris

My address is 1000 Riverwalk Drive, Suite 200, PO Box 50130, Idaho Falls, Idaho 83405

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.

- ✓ I did not file a Notice of Claim to the use of water in the SRBA because:
A claim for Water Right 22-14007 was not previously filed because the Claimant originally had recommended to it Water Right No. 22-568A. An objection to Water Right 22-568A was filed by Kerry Gee, who provided convincing evidence that 22-568A was incorrectly recommended because of a clerical mistake contained in the Rexburg decree. It is our understanding that Idaho Department of Water Resources has amended its recommendation to now disallow Water Right No. 22-568A, which would have had a priority date of May 5, 1898. Nevertheless, water has historically been used to flood irrigate the Claimant's property, as evidenced by water delivery records. Therefore, in order to resolve any dispute over Water Right No. 22-568A, filing of this claim with a later priority date is necessary and will resolve any dispute with Kerry Gee.

- ☐ 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.) _____

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 \$140.00.

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 September, 2011 at 1:30pm
(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:

- ☐ 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:

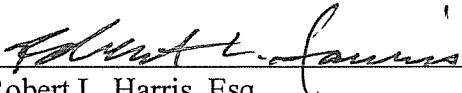
- ☐ An amended Notice of Claim (available from IDWR).
- ☐ Payment of the following additional fees required by IDWR:

VERIFICATION

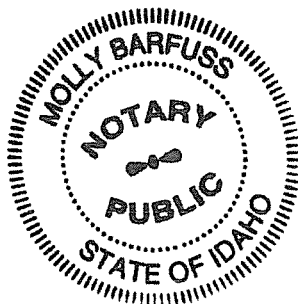
State of Idaho)
)ss.
County of Bonneville)

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 23rd day of June, 2011.




Notary Public for Idaho
Residing at _____
My Commission Expires _____
Residing in Idaho Falls
Commission Expires 03-7-12

CERTIFICATE OF MAILING

I certify that on this 23rd day of June, 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:

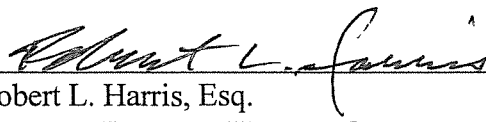
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

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 22-14007

Date Received _____

Receipt Number _____

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

1. Name of Claimant(s) Richard A. Egbert Limited Partnership Phone (208) 356-8818

Mailing Address 1134 Bond Ave., Rexburg, Idaho Zip 83440

2. Date of Priority (Only (1) per claim) April 15, 1916

3. Source of water supply (a) South Leigh Creek

which is tributary to (b) Teton River

4.a. Location of existing point of diversion is:

Township 6N Range 45E Section 33, NE 1/4 of SE 1/4 of SW 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. Headgate in stream to ditches for flood irrigation, through the Bell-McCracken ditch.

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

For Irrigation purposes from 4/15 to 10/31 amount .8cfs or _____

7. Total quantity claimed (a) .8 (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.) None

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	
5N	45E	5	40																40

Parcel (PIN) No(s). _____

Total number of acres irrigated 40

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.

_____ or None (☒)

13. Remarks: This claim effectively replaces a prior recommendation to the Claimant for Water Right No. 22-568A, which was based upon a clerical mistake in the Rexburg decree and has now been disallowed by IDWR. Water has historically been delivered and used to irrigate the property identified above, and this beneficial use claim will document that use with a later priority date of April 15, 1916.

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) _____ Date _____

_____ Date _____

Last Name _____ Ident. Number _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am the attorney of
(Title)

Richard A. Egbert Limited Partnership, that I have signed the foregoing document in the space below as
(Organization)

the attorney of Richard A. Egbert Limited Partnership
(Title) (Organization)

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent Robert L. Harris

Title and Organization Attorney, Richard A. Egbert Date June 23, 2011
Limited Partnership

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, P.L.L.C.
PO Box 50130, Idaho Falls, ID 83405-0130

Date June 23, 2011