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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	) Subcase 75-14180
	)
	)
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 Sunset Heights Water District

My name is Jerry R. Rigby

My address is P.O. Box 250, Rexburg, ID 83440-0250

My phone number is (208) 356-3633

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 claimant was unaware of the need to file on the use of the two small ponds when the original claims were submitted.

☐ 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.)

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:

The water right claimed is used as mitigation for use of a certain spring by Sunset Heights Water District for domestic purposes. The place of use for mitigation should be identical to the place of use for water rights 75-14608 and 75-14609, as described in the “Water Rights Settlement Agreement” between Sunset Heights Water District, Cecil Jackson and Judith Bailey Jackson, Michael Joseph Tyacke, and the State of Idaho Department of Lands (recorded in Lemhi County as Instrument #287204). The original claim for 75-14180 described only 145 acres. The amended claim describes 159.2 acres, which matches the Director’s recommendation for water rights 75-14608 and 75- 14609.

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

Water Rights Settlement Agreement, Instrument #287204.

I have attached:

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

☒ Payment of the following additional fees required by IDWR:

Enclosed check payable to IDWR for \$14.00.

VERIFICATION (Must be completed)

State of IDAHO

County of MADISON

JERRY R. RIGBY, 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

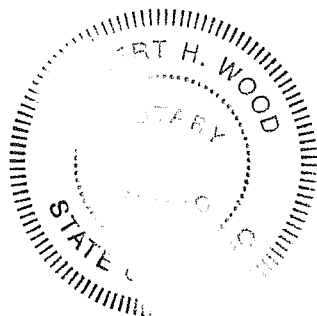
[Signature]
Attorney signing in representative capacity

Subscribed and sworn to before me on September 29 2011
(Insert Date)

[Signature]
Notary Public for Idaho

Residing at: Rexburg

My Commission expires: 8-20-2015



INSTRUCTIONS FOR MAILING

You must mail this form, including all attachments, to the Clerk of the SRBA 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 SEPTEMBER 29, 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

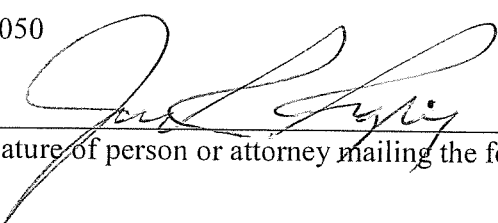
2. Copies to:

Director of IDWR
PO Box 83720
Boise, ID 83720-0098

Cecil Jackson and Judith Bailey-Jackson
Represented by:
Robert L. Harris
P.O. Box 50130
Idaho Falls, ID 83405

Michael Tyacke
P.O. Box 2156
Idaho Falls, ID 83403

State of Idaho Department of Lands
P.O. Box 83720
Boise, ID 83720-0050



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 75-14180 (amended)

Date Received

Receipt Number

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Sunset Heights Water District Phone ()

Mailing Address P.O. Box 4, Salmon, ID Zip 83467

2. Date of Priority (Only one (1) per claim) 6/6/1895

3. Source of water supply (a) South Fork Sevenmile Creek
which is tributary to (b) Salmon River

4. a. Location of existing point of diversion is: Township 20N Range 22E Section 20,
1/4 of NE 1/4 of NW 1/4, Govt. Lot, B.M., County of Lemhi

Additional points of diversion if any:

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.

Existing headgate and ditches.

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For irrigation purposes from 4/1 to 10/31 amount 0.40 or _____
 For _____ purposes from _____ to _____ amount _____ or _____
 For _____ purposes from _____ to _____ amount _____ or _____
 For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.40 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is n/a acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) _____

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
21N	22E	32		33	22		25			41	30			3.8		4.4			159.2

Total number of acres irrigated 159.2

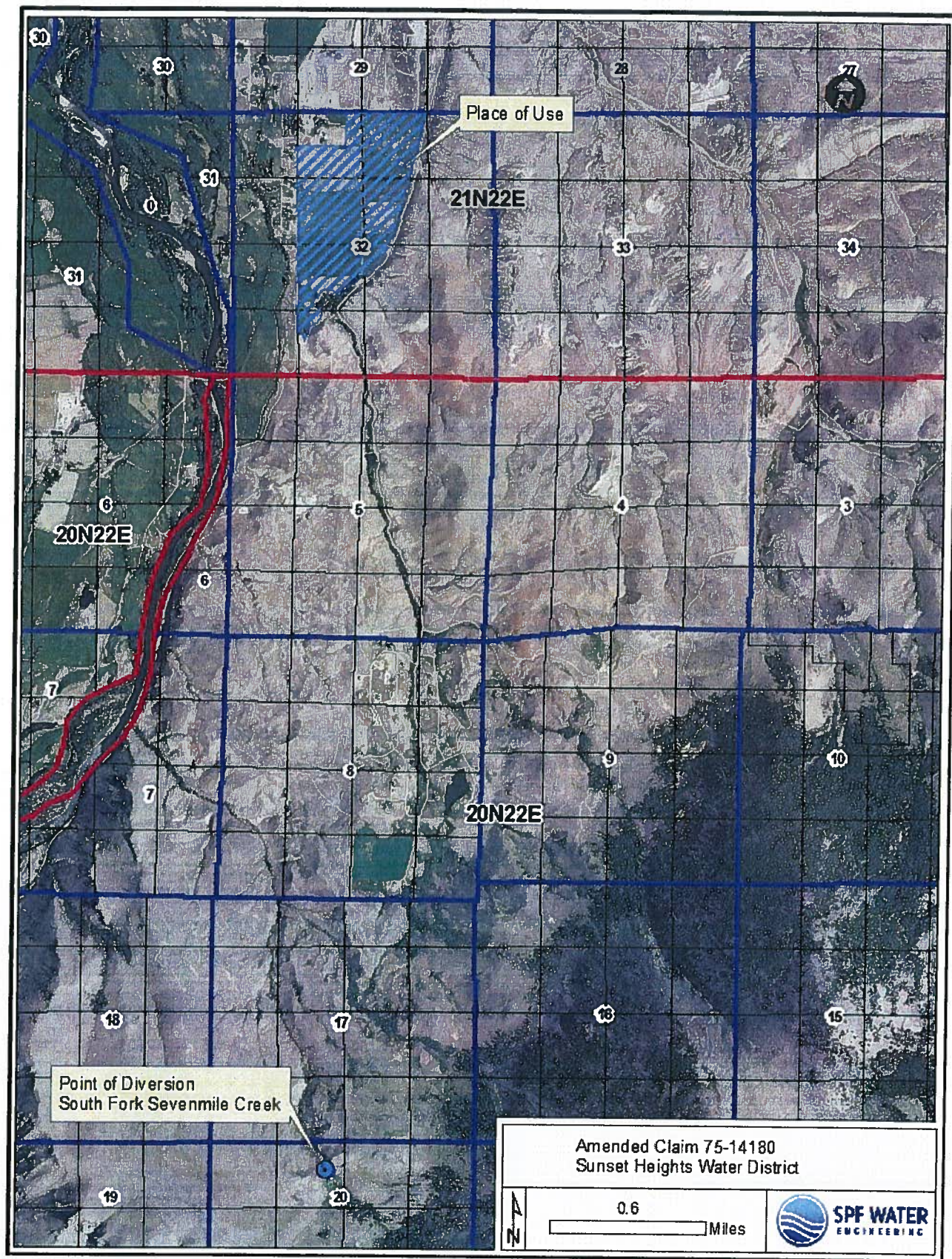
11. In which county (ies) are lands listed above as place of use located? Lemhi

12. Do you own the property listed above as place of use? Yes _____ No X
 If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
75-114608, 75-14609 or None ()

14. Remarks: The claimant has entered into a Water Rights Settlement Agreement (recorded in Lemhi County as Instrument #287204), in which Sunset Heights Water District agrees to mitigate its use of a spring under water right 75-7032 by providing "replacement" water from South Fork Sevensmile Creek to the lands irrigated under water rights 75-14608 and 75-14609.

Last Name Sunset Heights Ident No. 75-14180



SCANNED
OCT - 5 2011

15. Basis of Claim (check one) Beneficial Use ☒ Posted Notice _____ License _____ Permit _____

Decree _____
If applicable provide IDWR Water Right Number 75-14180

Court _____ Case Number _____ Decree Date _____

Plaintiff vs Defendant _____

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 Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date _____

_____ Date _____

For Organizations: I do solemnly swear or affirm that I am THE ATTORNEY

of SUNSET HEIGHTS WATER DISTRICT that I have signed the foregoing

document in the space below as ITS AUTHORIZED AGENT of SUNSET HEIGHTS WATER DISTRICT

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

Signature of Authorized Agent _____

Title and Organization ATTORNEY FOR DISTRICT Date 11-29-11

State of Idaho/or _____)

County of Madison) SS.

Subscribed and sworn (or affirmed) before me this 29th day of September 2011

Notary Public Robert H. Wood

Residing at Rexburg

My Commission Expires 8-20-2015

Please Print Name

17. Notice of Appearance
Notice is hereby given that I, JERRY R. RIGBY 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 _____

Address 25 N. 2nd E. REXBURG, ID 83440

Date 9-29-11

Last Name Sunset Heights Ident. Number 75-14180