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OCT 21 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>37-417</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 _____

My address is _____

My phone number is: Work _____ Home _____

I am an attorney representing City of Ketchum

My name is Bruce M. Smith

My address is 950 W. Bannock St., Ste. 520, Boise, ID 83702

My phone number is 208-331-1800

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:

Historical records related to the water right were unclear as to ownership. As the City
worked to address its claims, it became aware of records establishing its ownership of
this right.

☐ 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.)

Historical record indicating conveyance of this water right to the City of Ketchum.

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 \$ 500.00.

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 Tuesday, January 17, 2012 at 1:30 p.m.
(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)

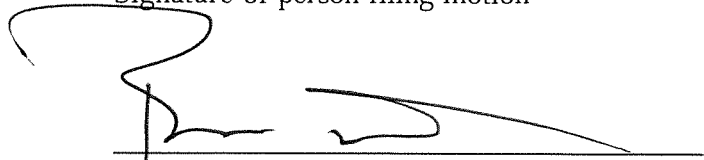
State of Idaho

County of Ada

Bruce M. Smith, 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



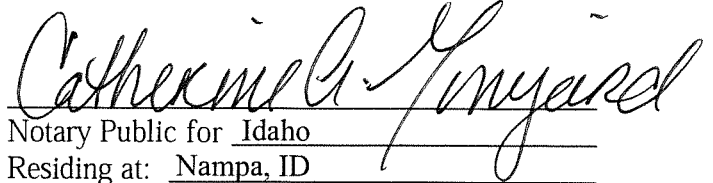
Attorney signing in representative capacity

Subscribed and sworn to before me on

October 20, 2011

(Insert Date)





Notary Public for Idaho
Residing at: Nampa, ID
My Commission expires: 04/15/2016

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 October , 2011, ~~199~~____, 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:

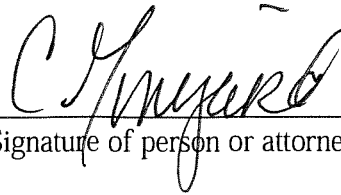
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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)

A handwritten signature in cursive script, appearing to read "C. Myer", is written over a horizontal line.

Signature of person or attorney mailing the form

[Close](#)IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

10/6/2011

WATER RIGHT NO. 37-417

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	HORACE C LEWIS

Priority Date: 10/05/1883

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
TRAIL CREEK	BIG WOOD RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
MUNICIPAL	/	/	4 CFS	
Total Diversion			4 CFS	

Location of Point(s) of Diversion:

TRAIL CREEK	NENW Lt 3	Sec. 05	Township 04N	Range 18E	BLAINE County
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Place(s) of use: No POUs found for this right

Conditions of Approval:

1.	RT. IS FOR MUNICIPAL USE WITHIN CITY OF KETCHUM; SEE FINDINGS #20 P/D NOT GIVEN IN DECREE BUT DETERMINED FROM WATERMASTER. RT. IS NOW DELIVERED TO SUN VALLEY CO. FOR IRRIG. OF ITS LANDS.
----	--

Dates:

Licensed Date:

Decreed Date: 12/13/1909

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal:

Owner Name Connector:

Water District Number: 37

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

ing in the said Little Wood River, and the use of the waters of the said creeks by the said defendant, John J. Grey, has not and does not conflict with anyone using or having the right to the use of the waters of the said Little Wood River.

19. That the defendant, John Krall, and his predecessors in interest, on or about the 10th day of August, 1894, appropriated and diverted of the waters of Big Wood River 400 inches, for the purpose of irrigating his said lands; that a portion of such water was used upon the said lands up to and including the year 1898, but that since said date no water has been used upon said lands for the purpose of irrigating the same, or for any other purpose; that the said lands have been allowed to return to a state of nature, and the fences permitted to be destroyed thereon, and that said water right which had become attached thereto has been abandoned.

20. That the defendant, Horace C. Lewis, on or about the 5th day of October, 1883, appropriated and diverted of the waters of Trail Creek, a tributary of Big Wood River, 200 inches, for the purpose of supplying the inhabitants of the village of Ketchum with water for domestic and other purposes, and conveyed the said water to the said village of Ketchum by means of a reservoir and pipe-line, and has ever since the said date continued to use, when necessary, the said amount of 200 inches of water for such purpose.

21. That the Little Wood River Canal Company, a corporation, and its predecessors in interest, for the purpose of irrigating lands belonging to its stockholders, and to those persons who first diverted water through its canals, on or about the 15th day of April, 1893, appropriated and diverted of the waters of Little Wood River 1600 inches of water, and that subsequently thereto, and on or about the 2nd day of September, 1899, appropriated and diverted of the waters of Little Wood River the further amount of 8400 inches for such purpose; that the lands for which said water was appropriated and diverted are situated in Townships 1 and 2

37 0402	Lakes, Harold and Arthur, Jr.	8 200 inches.	Nov. 26, 1886.	Big Wood River.
37 0403	Lane, Jennie	4 160 "	Oct. 28, 1891.	Little Wood River.
37 0404	Lawrence, Frank N.	60 "	June 1, 1898.	Soldier Creek. ✓
37 0405	Lawson, Martin	8 15 "	Aug. 1, 1880.	Little Wood River.
37 0406	"	80 "	Apr. 1, 1881.	" " "
37 0407	Lawson, M. S.	8 100 "	May 31, 1886.	Silver Creek. Order - 2-20-14
37 0408	"	50 "	Oct. 25, 1892.	" " Trans # 1023
37 0409	Lenman, E. B.	160 "	Apr. 1, 1907.	Three Mile Creek or Four Mile Creek. Trans # 599
37 0410	Leonard, William	12-1/2 "	May 9, 1883.	Deer Creek.
37 0411	"	70 "	May 15, 1883.	" "
37 0412	"	150 "	July 5, 1884.	" " 835
37 0413	"	100 "	June 15, 1885.	" "
37 0414	"	100 "	July 1, 1893.	" "
37 0415	Lewis, Horace C.	1250 "	Apr. 25, 1881.	Trail Creek.
37 0416	"	325 "	Oct. 5, 1883.	" "
37 0417	"	200 "	Oct. 5, 1883.	" " (For pipe-line.)
37 0418	"	200 "	June 23, 1888.	Warm Springs Creek.
37 0419	"	100 "	Aug. 2, 1889.	" " "
37 0420	Little, John H.	8 160 "	Oct. 31, 1889.	Big Wood River.
37 0421	Little Wood River Canal Company	1600 "	Apr. 15, 1893.	Little Wood River. } 501
37 0422	Do.	8400 "	Sept. 2, 1899.	" " "
37 0423	Little Wood River Swine Raising Co.	4 15 "	Apr. 1, 1883.	" " " TRANS # 2008
37 0424	Do.	110 "	Apr. 1, 1884.	" " " " # 2008
37 0425	Do.	110 "	Apr. 1, 1887.	" " " # 719- " # 2008
37 0426	Lloyd, Bruce	8 125 "	Apr. 1, 1887.	Silver Creek. # 900
37 0427	Logan, James	4 150 "	Dec. 18, 1903.	Big Wood River.
37 0428	Loving, Henry	8 40 "	June 1, 1889.	Butte Creek.
37 0429	Loving, John T.	8 160 "	Oct. 31, 1889.	Big Wood River.
37 0430	Lumb, John	4 160 "	June 1, 1902.	" " "

**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 _____

Date Received: _____

Receipt No: _____

Received By: _____

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

Please type or print clearly

1. Name of Claimant (s) City of Ketchum Phone (208) 726-3841

Mailing Address P.O. Box 2315 Ketchum ID ZIP 83340
Street or Box City State

2. Date of Priority (Only one (1) per claim) 10/05/1883
Month Day Year (YYYY)

3. Source of water supply (Check one) Ground Water () or Other (☒) (a) Trail Creek
which is tributary to (b) Big Wood River

4. a. Location of Point of Diversion is: Township 04N, Range 18E, Section 05,
NE, 1/4 of NW, 1/4 Govt. Lot 3, BM., County of Blaine

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

Govt. Lot _____, BM., County of _____

ending point is: Township _____, Range _____, Section _____, _____, 1/4 of _____, 1/4

Govt. Lot _____, BM., 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 - water is delivered by Watermaster.

(both dates are inclusive MM-DD) (cfs) (acre feet)

For Municipal purposes from 01/01 to 12/31 amount 4 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

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

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.

[illegible]

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

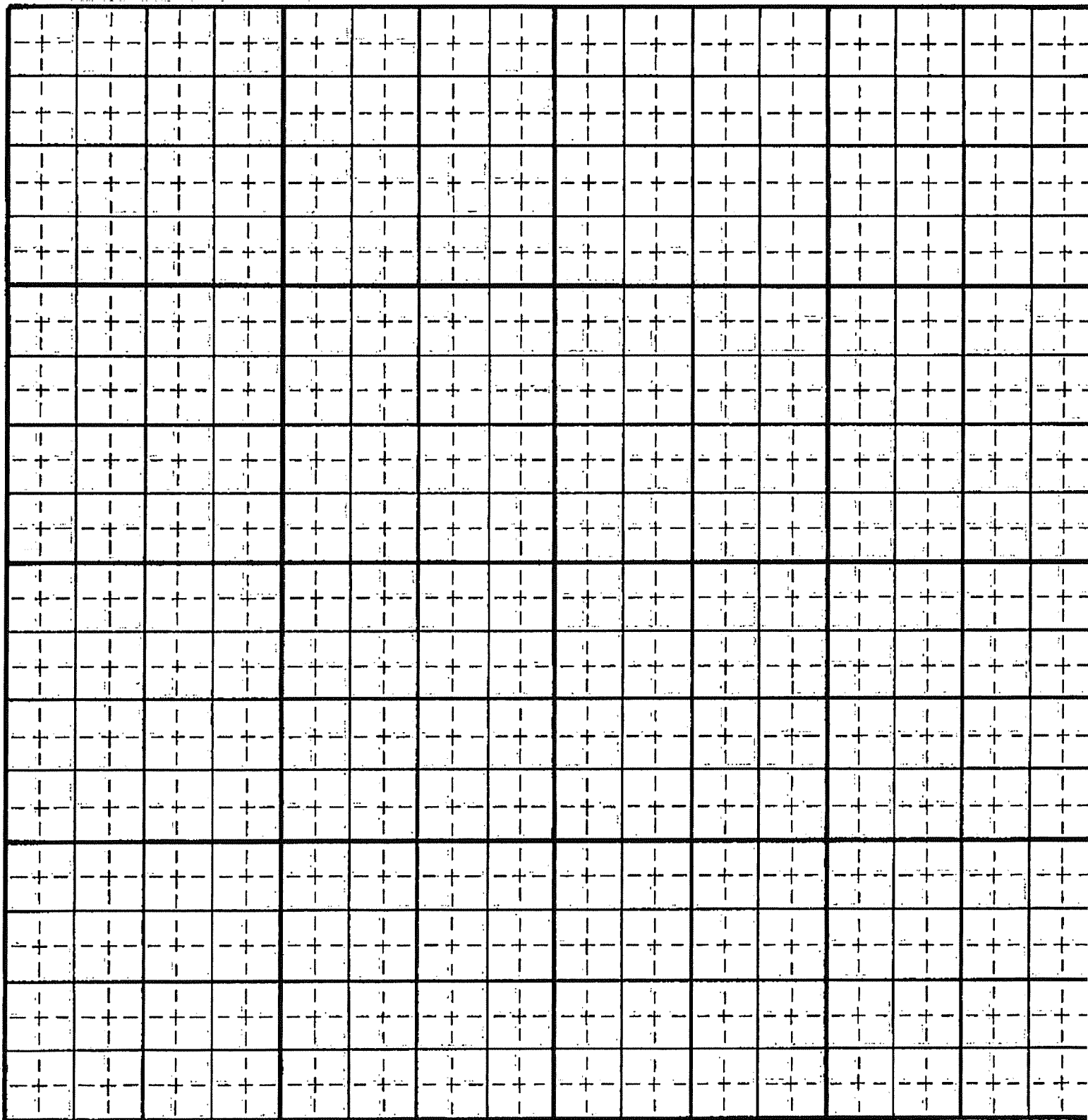
12. Describe any other water rights used at the same place and for the same purposes as described above.
See other City of Ketchum water rights. _____ or None ()

13. Remarks: This right is necessary for present and future needs of the City.

Last Name _____ Identification No. _____

Map of Project: Attach aerial photograph or topographic map showing clearly the point of diversion, place of use, section number, township, and range number, unless unavailable. Otherwise sketch the elements above on the grid below.

Scale: 2 Inches equals 1 mile



Last Name _____ Identification No. _____

14. Basis of Claim (Check One) Beneficial Use () Posted Notice () License () Permit () Decree ()

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number 37-417

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 notices 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: _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am

Public Works Director of City of Ketchum,
Title Organization

that I have signed the foregoing document in the space below as

Public Works Director of City of Ketchum,
Title Organization

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

Signature of Authorized Agent _____ Date _____

Title and Organization Public Works Director, City of Ketchum

16. Notice of Appearance:

Notice is hereby given that I, Bruce M. Smith, will be acting as attorney at law of 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 [Signature] Date 10/20/11

Address 950 W. Bannock St., Ste. 520, Boise, ID 83702

Last Name _____ Identification No. _____