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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 <u>N/A</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.

COPY

☒ 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 The U.S. Army Corps of Engineers

My name is Chloe Eloise Pullman

My address is Office of Counsel, USACE, 201 N. Third Avenue,
Walla Walla, WA 99362

My phone number is (509) 527-7706

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:

See Enclosure No. 1

☐ 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 ~~claims~~ 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.)

Notice of water usage, map, and copy of filing previously sent to State of Idaho in 1990's.

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 \$ _____.
- ☒ Filing fees are not applicable to the United States.

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:

N/A

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

N/A

I have attached:

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

N/A

VERIFICATION (Must be completed)

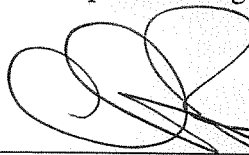
State of Washington

County of Walla Walla

Chloe Eloise Pullman, 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.

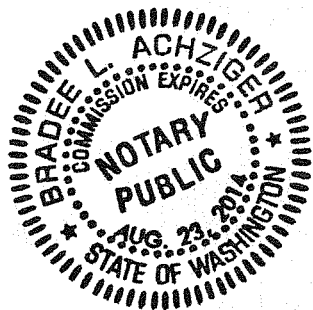
Signature of person filing motion



Attorney signing in representative capacity

Subscribed and sworn to before me on 17 November 2011

(Insert Date)



Bradlee L. Achziger

Notary Public for State of Washington

Residing at: Walla Walla County

My Commission expires: 23 Aug 2014

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 17 November, 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:

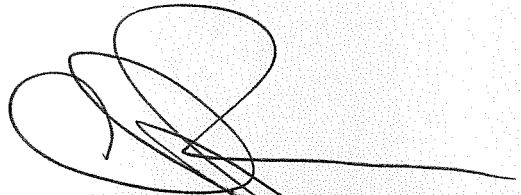
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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 black ink, consisting of a large, stylized 'S' or 'R' shape with a horizontal line extending to the right.

Signature of person or attorney mailing the form

Enclosure No. 1

I did not file a Notice of claim to the use of the water in the SRBA because:

The Dworshak Dam and Reservoir Project ("Project") was authorized by the Flood Control Act of 1962 (Pub. L. No. 87-874, 76 Stat. 1193) pursuant to an assertion by Congress of the Commerce Clause power, Article 1, Section 8, Clause 3, of the U.S. Constitution. The United States has not asserted water rights in connection with the operation of the Project; nor is the use, storage, or control of water in this project for its authorized purposes, amenable to administration by the State of Idaho. Federal use and control of water utilized for the project involves the exercise of said Commerce Clause power.

This information is being sent to assist the State of Idaho in administering the water resources, but does not waive the assertion by Congress of the Commerce Clause power in providing for the operation of the Project. The State should acknowledge the quantities of water referenced in the notice and supporting documentation without purporting to alter, deny, or restrict such use and control of water, and should acknowledge that the information has been provided by the United States as a matter of comity for information use only.

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~~ USAGE
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) U.S. Army Corps of Engineers/Real Estate Division Phone (509) 527-7320

Mailing Address 201 N. Third Avenue, Walla Walla, WA ZIP 99362

2. Date of Priority (Only one (1) per claim) N/A
Street or Box City State
Month Day Year (YYYY)

3. Source of water supply (Check one) Ground Water () or Other (✓) (a) North Fork Clearwater River
which is tributary to (b) Clearwater River

4. a. Location of Point of Diversion is: Township 38N, Range 1E, Section 36,
SE, 1/4 of SW, 1/4 Govt. Lot 7, BM., County of Clearwater

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. Surface intake from Dworshak Reservoir

COPY

6. Water is claimed for the following purposes:

Domestic use at Dworshak State Park (Freeman Creek)

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

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

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) _____ (cfs) and/or (b) 4 acre ft. per year (acre feet)

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

9. Description of place of use: SE 1/4, SW 1/4, S36, T38N, R1E, Boise Meridian

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.

Twn	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
37N	1E	1					D	D	D	D	D	D	D	D					
37N	1E	12					D	D											
38N	1E	36											D	D					

Parcel (PIN) no(s). _____

Total number of acres irrigated _____

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

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.

N/A

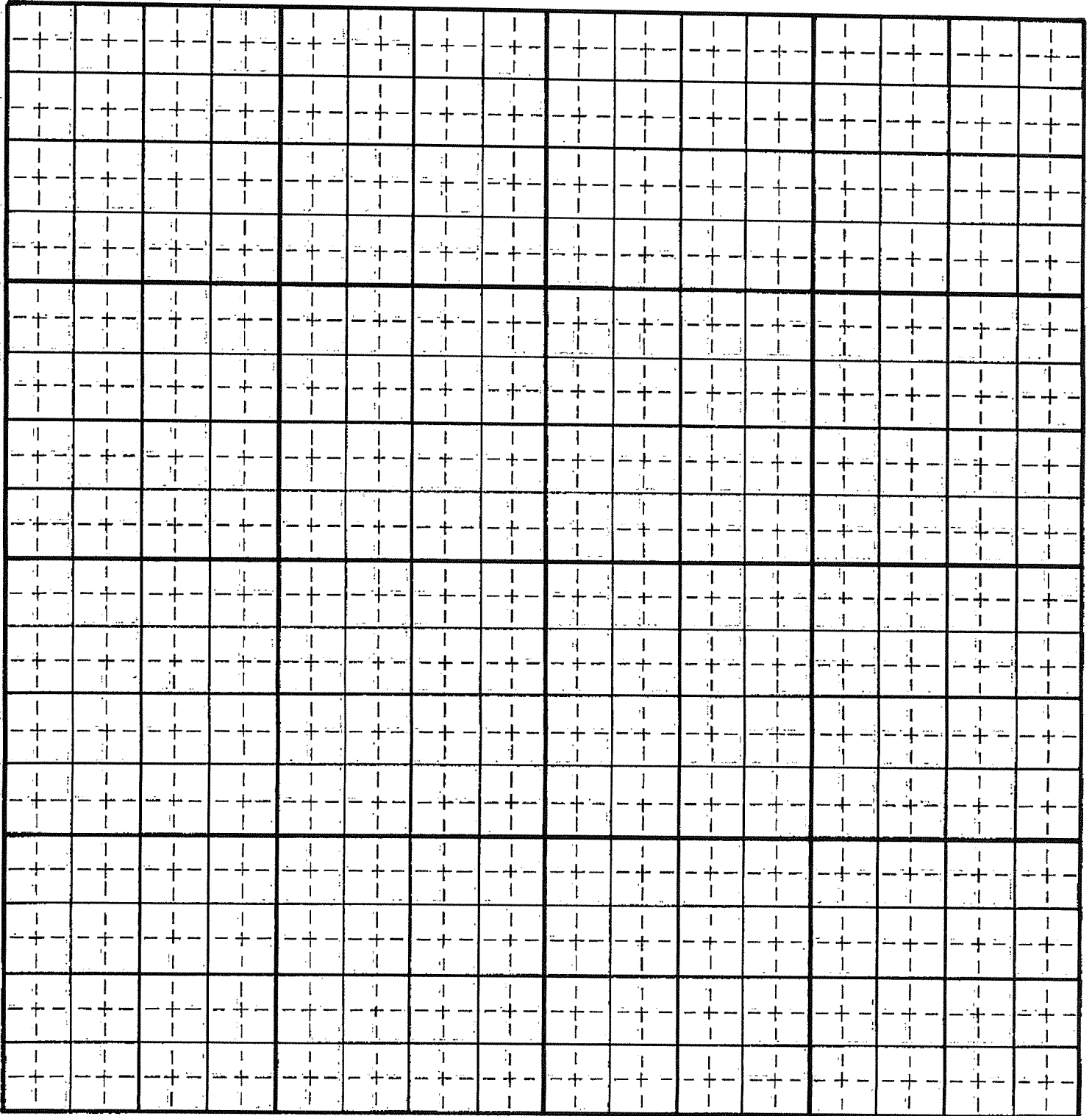
or None ()

13. Remarks: The Dworshak Dam and Reservoir Project ("Project") was authorized by the Flood Control Act of 1962 (Pub. L. No. 87-874 Stat. 1193) pursuant to an assertion by Congress of the Commerce Clause power, Art. 1 Section 8, Clause 3, of the U.S. Constitution. The United States has not asserted water rights in connection with the operation of the Project, nor is the use, storage, or control of water in this project for its authorized purposes, amenable to administration by the State of ID. Federal use and control of water utilized for the project involves the exercise of said Commerce Clause Power. This information is being sent to assist the State of ID in administering water resources, but does not waive the assertion by Congress of the Commerce Clause power in providing for the operation of the Project. The State should acknowledge the quantities of water referenced in the notice and supporting documentation without purporting to alter, deny, or restrict such use and control of water, and should acknowledge that the information has been provided by the United States as a matter of comity for informational use only.

Last Name U.S. Army Corps of Engineers Identification No. _____

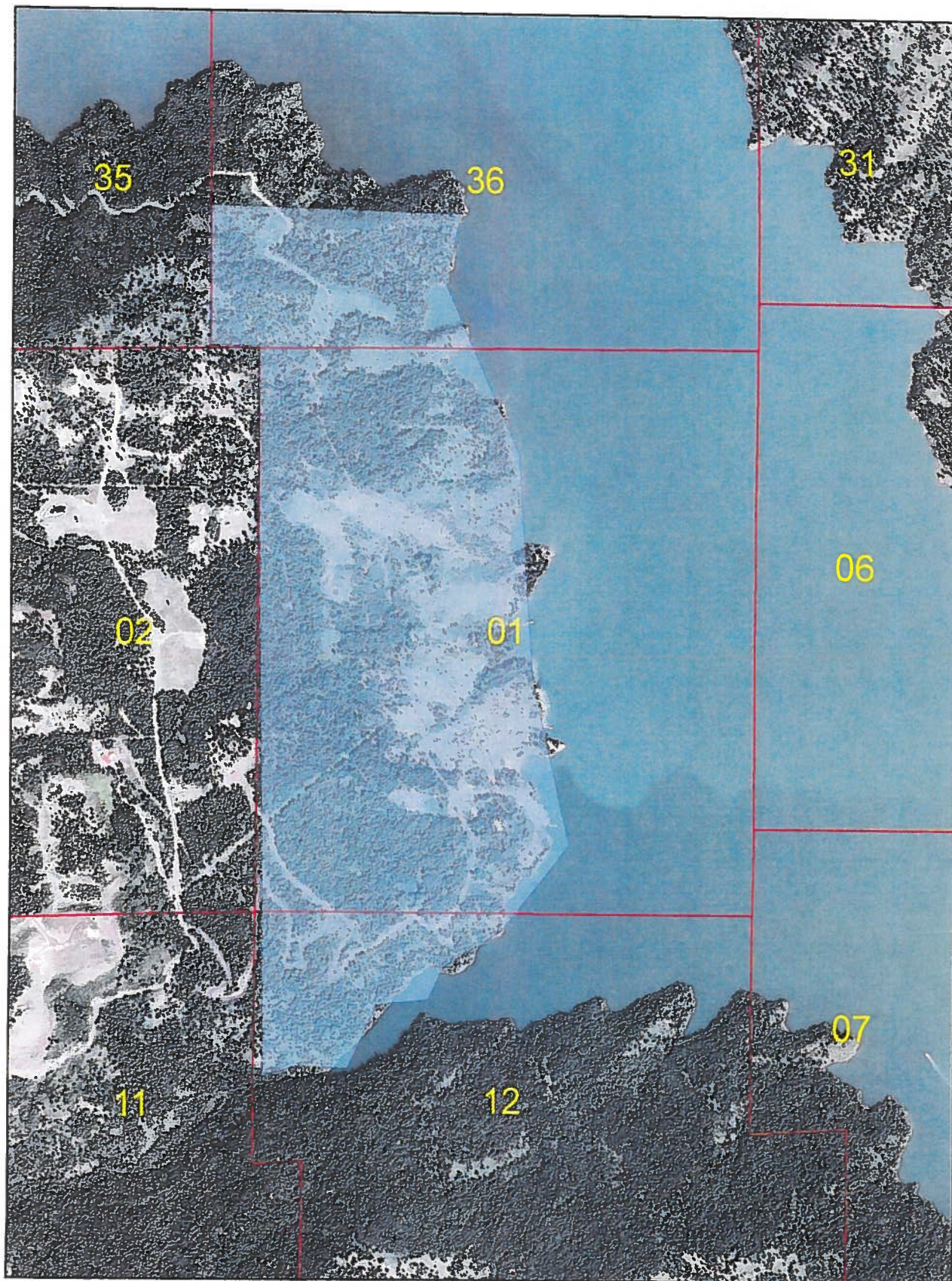
Map of Project: Attach aerial photograph or topographic map showing clearly the point of diversion, place of use, section number, township, and range number, unless unavailable. Otherwise sketch the elements above on the grid below.

Scale: 2 Inches equals 1 mile



Last Name U.S. Army Corps Eng. Identification No. _____

MAP TO ACCOMPANY NOTICE OF WATER USAGE FOR
DWORSHAK DAM
SECTIONS 1 AND 12, T. 37 N., R. 1 E., B.M.
SECTION 36, T. 38 N., 4. 1 E., B.M.



1 inch = 2,000 feet

 Place of Use

 Diversion Point
US Army Corps of Engineers
Walla Walla District

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

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number _____

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: 2 (map and previous informational filing)

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

Acting Real Estate District Chief _____ of U.S. Army Corps of Engineers _____,
Title Organization

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

Acting Real Estate District Chief _____ of U.S. Army Corps of Engineers _____,
Title Organization

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

Signature of Authorized Agent Rodney Huffman Date 11/18/2011

Title and Organization Rodney Huffman, Acting District Chief of Real Estate, U.S. Army Corps of Engineers

16. Notice of Appearance:

Notice is hereby given that I, Chloe Eloise Pullman, 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 17 November 2011

Address 201 N. Third Avenue
Walla Walla, WA 99362

COPY

Last Name U.S. Army Corps of Engineers Identification No. _____



REPLY TO
ATTENTION OF

1. Claimant: U.S. Army Corps of Engineers, Walla Walla District
Walla Walla, WA 99362-9265
(509) 522-6500
2. Permit/License No.: Water Right License No. 83-7029
3. Source of water: North Fork of Clearwater River
4. Annual Diversion: 4 acre ft.
5. Diversion Rate: 0.1 cfs
6. Annual Volume of Consumptive Use: 4 acre ft.
7. Total Qty Claimed: 4 acre ft. per year
8. Priority Date: Not Applicable
9. Pts of Diversion: SE1/4 SW1/4, S36, T38N, R1E, Boise Meridian
10. Description of Diversion Works: Surface intake from Dworshak Reservoir
11. Instream Flow Begin & End Points: Not Applicable
12. Purpose and period of Use: Domestic use at Dworshak State Park (Freeman Creek)
January 1 - December 31.
13. Place of Use: SE1/4 SW1/4, S36, T38N, R1E, Boise Meridian
14. County: Clearwater County
15. Land Owner: United States of America (Corps of Engineers,
Walla Walla)
16. Other Claims-Same Place & Purpose: Not Applicable
17. Basis of Right: Information filed as a matter of comity.
18. Remarks: Dworshak Dam and Reservoir was originally authorized by the Flood Control Act of 1958, Public Law 85-500 and authorized for construction and operation by the Flood Control Act of 1962, Public Law 87-874 and operated for the purpose of flood control, power generation, navigation, fish and wildlife conservation, and recreation.

U.S. Army Corps of Engineers
Walla Walla District