

LAWRENCE G. WASDEN
Attorney General
State of Idaho

CLIVE J. STRONG
Chief, Natural Resources Division

NICHOLAS B. SPENCER
Deputy Attorney General
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098
Telephone: (208) 287-4800
Fax: (208) 287-6700
Idaho State Bar # 2911

**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	)	AFFIDAVIT OF SERVICE:
	)	NOTICE OF FILING LATE CLAIM
	)	DIRECTOR'S REPORT FOR
	)	WATER RIGHT 63-33516
	)	
	)	
_____	)	

STATE OF IDAHO)
) ss.
County of Ada)

I, Carter Fritschle, being first duly sworn on oath, depose and state as follows:

1. I am the Manager, Adjudication Section, for the Idaho Department of Water Resources (IDWR). I am authorized by the Director of IDWR to make this affidavit pursuant

to Idaho Code § 42-1701(3). I make this affidavit pursuant to the requirements of Idaho Code § 42-1411(7). The following actions were taken under my direction by IDWR.

2. The original Late Claim Director's Report for Water Right 63-33516 was filed by IDWR with the SRBA District Court on October 7, 2011.

3. A Notice of Filing of Director's Report for the Late Claim Director's Report for Water Right 63-33516, a copy of which is attached as Exhibit 1 and hereinafter referred to as "Notice", was prepared by IDWR pursuant to Idaho Code § 42-1411(6) and orders of this Court.

4. The Notice and IDWR's Late Claim Director's Report, which contained the individual recommendation for the claimant's water right, was served on the claimant's attorney, Michael P. Lawrence, P.O. Box 2720, Boise, ID 83701, by deposit into the U.S. Mail before 5:00 p.m., on October 7, 2011.

5. A complete copy of the Late Claim Director's Report was delivered via statehouse mail on October 7, 2011, to the Office of the Attorney General for the State of Idaho.

6. A complete copy of the Late Claim Director's Report was mailed to the U.S. Department of Justice, Environment & Natural Resources Division, 550 West Fort Street, MSC Box 033, Boise, ID 83706 by deposit into the U.S. Mail prior to 5:00 p.m., on October 7, 2011.

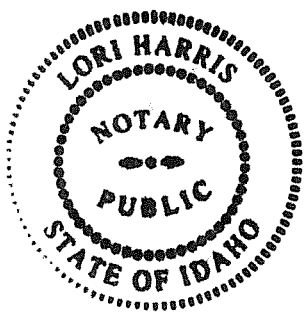
7. A complete copy of the Late Claim Director's Report was mailed to the Canyon County Courthouse by deposit into the U.S. Mail prior to 5:00 p.m., on October 7, 2011.

8. The Notice and a complete copy of the Late Claim Director's Report were delivered via mail to IDWR's Eastern, Western, Southern and Northern Regional Offices on October 7, 2011.

DATED this 12th day of December, 2011.

Carter Fritschle
Carter Fritschle
Manager, Adjudication Section
Idaho Department of Water Resources

SUBSCRIBED AND SWORN before me this 12th day of December, 2011.



Lori Harris
NOTARY PUBLIC FOR IDAHO
Residing at: Boise, Idaho
My commission expires: 12 12 2012

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of December, 2011, I served a true and correct copy of this affidavit of service on the following persons by mailing in the U.S. Mail, with correct postage affixed thereto.

U.S. Department of Justice
Environment and Natural Resources Division
550 West Fort Street
Box 033
Boise, ID 83706

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

John Harris

Signature of person or attorney mailing the form

Exhibit 1

**NOTICE OF LATE CLAIM DIRECTOR'S REPORT
FOR WATER RIGHT 63-33516**

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
OCT - 7 2011	
By _____	_____ Clerk
	Deputy Clerk

Pursuant to Judge Eric Wildman's *Order Conditionally Granting Late Notice of Claim; Order for Expedited Late Claim Director's Report and Setting Forth Procedures and Deadlines for Expedited Process* issued on August 17, 2011, and subsequent *Order Amending Deadlines for Expedited Process and Resetting Hearing* issued on September 30, 2011, the Director of the Idaho Department of Water Resources (IDWR) has filed with the Snake River Basin Adjudication (SRBA) District Court the Director's Report of Late Claim 63-33516 claimed by Vale Island Farms. In order for this water right recommendation to be used for interim administration, the Director is reporting this late claim in advance of the Director's Report of Late Claims and Miscellaneous Claims normally filed with the court each spring and fall. The Director's Report of Late Claim 63-33516 contains the Director's recommendations to the SRBA Court as to how your claimed water right should be decreed in the SRBA.

Why am I getting this mailing?

You have received this mailing because you filed late claim 63-33516 in the SRBA. This mailing contains only the Director's recommendations to the SRBA Court of your claim number 63-33516. Your mailing **does not** contain the Director's recommendations of any claims other than your own. Related water rights were originally reported to the Court in the Director's Report, Basin 63, Part 3, for Irrigation and Other Uses which was filed with the SRBA Court on December 19, 2006. Copies of the report can be made, but you may be charged for copying and mailing. Maps of these reporting areas, as well as other information pertaining to the SRBA can be accessed on the internet at: <http://www.idwr.idaho.gov/water/srba/mainpage/>.

You may need to review subsequent Late Claims Director's Reports as claims in which you have an interest may be reported in them. You will not receive notice of future Director's Reports as they are filed with the SRBA Court unless you have water right claims that are reported in them. Therefore, if you are interested in the status of other water rights belonging to other people that have not yet been recommended by IDWR, you should check in periodically with the Court's docket sheet or the internet web page about the schedule for filing future reports. The Court's internet web page can be found at: <http://www.srba.state.id.us>. Information about subscribing to the court's docket sheet is provided on page three of this notice.

INSTRUCTIONS FOR REVIEWING YOUR OWN WATER RIGHT

The description of your right, which is enclosed, is only the Director's *recommendation* to the SRBA Court on your water right. The Court will decide how it will decree your water right. You are free to agree or disagree with the Director's recommendation. If you agree with the Director's recommendation, you do not need to do anything, pending further notice as described below. If you disagree with the Director's recommendation, you need to file an objection as described below.

INSTRUCTIONS FOR REVIEWING THE WATER RIGHTS OF OTHERS

The Director's Report of Late Claim contains the recommendation to the SRBA Court of water right 63-33516 only. If you want to review someone else's water right you need to look at the complete Director's Reports, which are available at the SRBA courthouse in Twin Falls and at the locations listed below. Copies of the complete report can be made, but you may be charged for copying and mailing. These Director's Reports contain:

- 1) **List of Recommended Water Rights**--Water right recommendations are listed numerically by water right number.
- 2) **List of Claims Recommended to Be Disallowed**--Water rights recommended to be disallowed are listed numerically by water right number. A short statement of the reason for IDWR's recommendation for disallowance is provided.

INSTRUCTIONS FOR TAKING THIS WATER RIGHT CLAIM TO COURT

What do I do if I disagree with a recommendation?

If you disagree with any element of the recommendation for your water right and want to be heard in court, file an objection with the SRBA Court. Objections must be made on the standard objection form ("Standard Form 1") available from any IDWR office or from the SRBA Court. You may also download a copy of the objection form from the SRBA web site at: <http://www.srba.state.id.us>.

Your objection must be **received** by the SRBA Court on or before **November 28, 2011**.

What do I do if someone else objects to my water right recommendation?

If someone files an objection to your water right, or anyone else's water right, you may file a response to that objection. Responses to objections must be made on the standard response form ("Standard Form 2") available from any IDWR office or from the SRBA Court. You may also download a copy of the response form from the SRBA web site at: [http:// www.srba.state.id.us](http://www.srba.state.id.us).

Your response must be **received** by the SRBA Court on or before **December 12, 2011**.

What happens if there are no objections to my water right?

After the deadline for filing objections and responses, the SRBA Court will hear the uncontested recommendation on **December 20, 2011, at 1:30 p.m.** at the SRBA courthouse. A Partial decree will be issued following this hearing.

How will I know about the proceedings on water right recommendations to which objections were filed?

A notice will be mailed to you for court dates on your water right or for those where you filed an objection or a response. You will not receive notice of court dates on any other water right recommendations.

Additional information regarding water right claims can be found on the SRBA Court's web site at: <http://www.srba.state.id.us>.

Note: The SRBA Court publishes a monthly Docket Sheet listing all objections and responses filed, as well as when Director's Reports are filed. It does not list court dates for individual water right cases, but provides general information helpful to all participants in the SRBA.

The Docket Sheet is available at your county courthouse and all IDWR offices, or you may subscribe by contacting the SRBA Court or IDWR. The annual subscription fee is \$7.50. The Docket Sheet is also available on the SRBA web site at: <http://www.srba.state.id.us>.

IMPORTANT INFORMATION REGARDING GENERAL PROVISIONS

General provisions are those parts of the SRBA Court's decree that apply to all the water rights in a basin, or to classes of similarly situated water rights within a basin. IDWR recommends to the SRBA Court the general provisions it believes should be decreed in a basin when it files with the court its Director's Report for the basin. At that time, any party may object to the recommended general provisions.

The Director in his previous Director's Reports for irrigation and other water rights in the basins included in this Late Claim Director's Report, has already recommended the general provisions for the above-listed basins. The objection period for the general provisions in the above-listed basins has expired. Therefore, it is too late for you to object to the general provisions governing your late claim. You may obtain a copy of the General Provisions for your basin from the SRBA District Court in Twin Falls or at the courthouse location nearest to your basin. You may be charged for copying and mailing. You may also view the General Provisions for every basin within the SRBA by going to IDWR's website at: <http://www.idwr.idaho.gov>. It is possible that in the future the SRBA Court will entertain recommendations for additional general provisions. Should that occur, an opportunity to object to those additional general provisions will be provided. It is your responsibility to monitor the SRBA case through the Docket Sheet discussed above.

CHANGES OF ADDRESS OR OWNERSHIP DURING THE SRBA COURT CASE

You must contact your regional IDWR office with your address change or if the ownership of your water right changes. Failure to notify IDWR may result in the loss of your water rights.

ADDITIONAL INFORMATION

If you have questions about the SRBA, public information brochures are available at any IDWR office. Maps and aerial photography of this reporting area, as well as assistance in using the maps and the photography, are available at the IDWR Regional office nearest to the location of your water right. You are also welcome to call IDWR at any of its offices or the SRBA Court. You may also want to consider contacting an attorney to assist you.

**Snake River Basin Adjudication
District Court**
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707
(208) 736-3011
<http://www.srba.state.id.us>

Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, Idaho 83720-0098
(208) 287-4800
(800) 451-4129
<http://www.idwr.idaho.gov>

**Idaho Department of Water Resources
Western Region**
2735 Airport Way
Boise, Idaho 83705-5082
(208) 334-2190

**Idaho Department of Water Resources
Northern Region**
7600 N. Mineral Drive, Suite 100
Coeur d'Alene, Idaho 83815
(208) 762-2800

**Idaho Department of Water Resources
Southern Region**
1341 Fillmore, Suite 200
Twin Falls, Idaho 83301-3380
(208) 736-3033

**Idaho Department of Water Resources
Eastern Region**
900 North Skyline, Suite A
Idaho Falls, Idaho 83402-3653
(208) 525-7177

Canyon County Courthouse
1115 Albany Street
Caldwell, ID 83605

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

NOV 01 2007

DEPARTMENT OF
WATER RESOURCES

CHANGE IN ADDRESS

This form can be used to notify the Department of a change in
address of the owners of record for the listed water rights.

(Please print or type)

[] Water Right Number(s): 35-08359

[] Name(s): John B. Kugler

Diane K. Kugler

[] Old Mailing Address: 147 Stanford Ave.

Pocatello, ID 83201

[] New Mailing Address: 2913 Galleon Ct. N.E.

Tacoma, WA 98422

Telephone Number: (253) 568-6529

[] Signature(s) of Owner(s) John B. Kugler

Diane K. Kugler
(Include your title if on behalf of company or organization)

Date: 10/30/07

Updated database 11/9/07-dg

00072

SCANNED
DEC 21 2007

For Office Use Only:
\$50 Fee Received by AMB
Date 11-1-07
Receipt No. 2085245

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

REQUEST FOR EXTENSION OF TIME
TO PROVIDE ADDITIONAL TIME IN WHICH TO SUBMIT PROOF OF
BENEFICIAL USE FOR A WATER RIGHT PERMIT

RECEIVED
NOV 9 1 2007
DEPARTMENT OF
WATER RESOURCES

The Idaho Department of Water Resources will consider this form as a request that the permit holder(s) be granted an additional period of time under the provisions of Section 42-204, Idaho Code in which to complete development of a water right and file proof of beneficial use of water. There is a **FILING FEE of \$50.00** to be included with this form when filed with IDWR.

Permit No. 35-08359 Date Proof is Due: Dec. 1, 2007
Name(s) of Permit Holder: John B. Kugler or Diane K. Kugler
Address: 2913 Gallen Ct N.E City Tacoma State WA Zip 98422
Telephone No. (253) 568-6529 Email: jbk55@wem2il.net

Describe what work has been completed toward the development of this water right:
(This must be filled out! If no work has been completed, show "none".)

None

Costing \$ _____

The permit holder(s) has been unable to complete the remainder of the work for the following reasons:

All of the land has been set aside under a federal cropland
program 25 practicable lands (CRP). The federal set aside will be
completed in October of 2009. One year additional is needed
in which to complete the works. Additionally for the last four years I have
been ill with cancer and resulting side effects of treatment.

Permit holder(s) request an extension to Dec. 1, 20 10.

John B. Kugler Diane K. Kugler 11/30/07
(Signature)* (Date)
*If other than permit holder, Power of Attorney must be supplied.

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be

See Order Continuing Indefinite Stay in Development Period,
Dated December 6, 2007.

Signed this _____ day of _____, 20____.

SCANNED
DEC 21 2007