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JAN 18 2012

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>25-14724</u>                                  |
|            | ) | (Insert water right number)                              |
|            | ) |                                                          |
| Case 39576 | ) | STANDARD FORM 4                                          |
|            | ) |                                                          |
|            | ) | MOTION TO FILE:                                          |
|            | ) | <input checked="" type="checkbox"/> LATE NOTICE OF CLAIM |
|            | ) | <input type="checkbox"/> AMENDED NOTICE OF CLAIM         |

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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 JAMES PAUL HUDSON

My address is P.O. BOX 173  
CARMEN, ID 83462

My phone number is: Work 208-756-5233 Home 208-756-3193

I am an attorney representing N/A

My name is \_\_\_\_\_

My address is \_\_\_\_\_

My phone number is \_\_\_\_\_

#### 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 ATTACHED EXPLANATION

☐ 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.)

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER  
STATE LAW. BASIS OF CLAIM IS BENEFICIAL USE.

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 \$ 100.00.

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 APRIL 17, 2012 @ 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:

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

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I have attached:

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

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**VERIFICATION** (Must be completed)

State of IDAHO

County of LEMHI

JAMES PAUL HUDSON, 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 1-11-2012  
(Insert Date)



Natalie Stenerson  
Notary Public for East Idaho Credit Uni  
Residing at: Salmon, ID  
My Commission expires: 5-18-2016

**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 January 11, ~~199~~<sup>2012</sup>, 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:

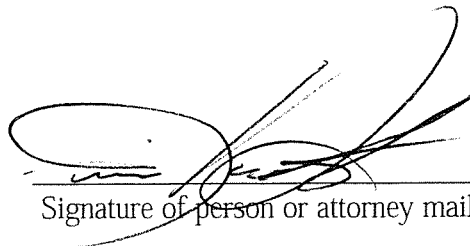
IDWR Document Depository  
PO Box 83720  
Boise, ID 83720-0098

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 'J' shape with a long horizontal stroke extending to the right, positioned above a horizontal line.

Signature of person or attorney mailing the form

## **ATTACHMENT FOR MOTION TO FILE A LATE NOTICE OF CLAIM**

**HUDSON, JAMES PAUL**

Initially, under now decreed water rights 75-10079 (waste water) and 75-10080 (springs), I received one (1) inch/acre for each of my two (2) non-Carmen Creek water rights, in addition to my then pending Carmen Creek water rights. At the time, this amounted to slightly over three (3) inches/acre, total, with an allowed diversion rate of up to three (3) inches/acre. The Partial Decrees were the result of successful objections to total diversion rate, filed through the court and approved by the Idaho Department of Water Resources (IDWR), with Mr. Garrick Baxter, representing IDWR, approving the language change involving diversion rates. Subsequently, with the arrival of the Partial Decree recommendations for my Carmen Creek water rights in 2011, the diversion rate language had been changed, without any notification to me. I was now limited to two (2) inches/acre for **all** sources. I contacted Mr. Baxter, who agreed to research the issue. Several months passed before Mr. Baxter contacted me. He informed me that a two (2) inch/acre diversion rate cap had been applied to **all** Carmen Creek drainage water users, regardless of the source, e.g. Carmen Creek water, springs, waste water, etc. Although I have historically utilized “high water” early in the irrigation season, I had not felt it necessary to file for it in light of the diversion rates that I had received Partial Decrees for, combined with the recommendations for Carmen Creek water by IDWR. This all changed when a final litigation settlement was reached prior to trial involving various Carmen Creek users (including myself), who owned property within the old Thomas Palmer ranch. The combination of the unexpected diversion rate cap, the reduction of the IDWR’s recommended water rights from Carmen Creek for my property and recent changes in irrigation practices and increased speculation concerning the subdivision of ranch land which is the source of my waste water, has required me to change my mind.

**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 25-14724

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) James Paul Hudson Phone (208) 756-3193

Mailing Address P.O. Box 173 Carmen ID 83462  
Street or Box City State

2. Date of Priority (Only one (1) per claim) 05/01/1915  
Month Day Year (YYYY)

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

4. a. Location of Point of Diversion is: Township 22N, Range 22E, Section 02,  
1/4 of, 1/4 Govt. Lot 4, BM., County of Lemhi

Parcel (PIN) no. RP22N22E022408

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. \_\_\_\_\_

12 inch diameter culvert with adjustable headgate, leading to an abandoned IDFG fish screen weir, 24  
inches wide, with an installed steel plate, which is used for measuring the diversion rate.

6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For Irrigation purposes from 04/01 to 10/31 amount .224 or

For purposes from to amount or

For purposes from to amount or

For purposes from to amount or

7. Total quantity claimed (a) .224 (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.)

9. 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.

| Twn | Rng | Sec | NE |    |    |      | NW |    |    |    | SW |    |    |    | SE  |    |    |    | Totals |
|-----|-----|-----|----|----|----|------|----|----|----|----|----|----|----|----|-----|----|----|----|--------|
|     |     |     | NE | NW | SW | SE   | NE | NW | SW | SE | NE | NW | SW | SE | NE  | NW | SW | SE |        |
| 22N | 22E | 03  |    |    |    | 10.2 |    |    |    |    |    |    |    |    | 1.0 |    |    |    | 11.2   |
|     |     |     |    |    |    |      |    |    |    |    |    |    |    |    |     |    |    |    |        |
|     |     |     |    |    |    |      |    |    |    |    |    |    |    |    |     |    |    |    |        |
|     |     |     |    |    |    |      |    |    |    |    |    |    |    |    |     |    |    |    |        |
|     |     |     |    |    |    |      |    |    |    |    |    |    |    |    |     |    |    |    |        |
|     |     |     |    |    |    |      |    |    |    |    |    |    |    |    |     |    |    |    |        |
|     |     |     |    |    |    |      |    |    |    |    |    |    |    |    |     |    |    |    |        |
|     |     |     |    |    |    |      |    |    |    |    |    |    |    |    |     |    |    |    |        |

Parcel (PIN) no(s). RP001440000050A

Total number of acres irrigated 11.2

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

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.

75-00069B, 75-00070B, 75-10061B, 75-10062C, 75-10079, 75-10080 or None ( )

13. Remarks: Location of place of use: Lot 5, Ajax Peak Subdivision.

Method of irrigation: Flood

Last Name Hudson Identification No. 25-14724

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

Court \_\_\_\_\_ Decree Date \_\_\_\_\_ Plaintiff v. Defendant \_\_\_\_\_

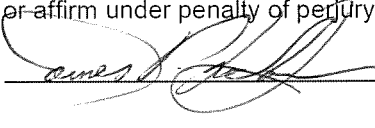
If applicable provide IDWR Water Right Number 75-14724

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: One (1)

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: 1/11/12

\_\_\_\_\_  
Date: \_\_\_\_\_

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

\_\_\_\_\_  
Title of \_\_\_\_\_ Organization

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

\_\_\_\_\_  
Title of \_\_\_\_\_ Organization

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

Signature of Authorized Agent \_\_\_\_\_ Date \_\_\_\_\_

Title and Organization \_\_\_\_\_

16. Notice of Appearance:

Notice is hereby given that I, \_\_\_\_\_, 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 \_\_\_\_\_ Date \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Last Name Hudson Identification No. 75-14724

**LOT 5, AJAX PEAK SUBDIVISION  
JAMES HUDSON - OWNER**



Point of Diversion

Sec. 8, T.022.0N., R.022.0E., 08

Place of Use

Sec. 2, T.022.0N., R.022.0E., 08

**Legend**

 Lot 5/Hudson

0 100 200 400 600 800  
Feet

Hudson

75-14774