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 FEB 23 2012
 DEPARTMENT OF
 WATER RESOURCES

Attorneys for Mud Lake Water Users, Inc.

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

Subcase No.: 31-12181

**MOTION TO FILE
 AMENDED NOTICE OF CLAIM**

Mud Lake Water Users, Inc. ("MLWU"), by and through counsel of record, hereby submits this *Motion to File Amended Notice of Claim*. For the reasons set forth below, MLWU requests that the attached *Amended Notice of Claim* be accepted and processed by the Idaho Department of Water Resources ("IDWR").

The primary reasons for the amended claim are:

1. Since the original claim was submitted, counsel for MLWU, along with representatives of the BLM, have performed a field visit to verify the location of various features on the Lone Tree Canal system, which necessitates an amended claim to update some of these features.
2. The original claimed place of use was based upon the listed place of use for Permit No. 31-7650. A new 2011 NAIP aerial photo, with the aid of GIS technology, depicts and

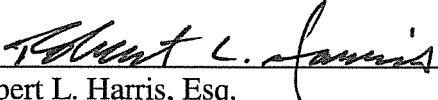
demonstrates that some of the quarter-quarters listed in the original claim should not be included, and that other quarter-quarters should be.

3. The original claimed place of use (which was based upon the listed place of use for Permit No. 31-7650) failed to include a “west-branch” overflow area that begins at the end of the constructed Lone Tree Canal where there is a split in the overflow area. Examination of 2011 NAIP aerial photography shows a defined channel where water has historically flowed. Additionally, a review of the USGS quadrangle map shows an intermittent channel designation for the west branch, just as it depicts an intermittent channel designation for the east branch. Therefore, the “west branch” area needs to be included in the water right description of this water right to ensure that these areas of recharge are properly designated as part of the place of use.
4. During the 2011 site tour, the Water District 31 watermaster, Greg Shenton, indicated water diverted at the Lone Tree Diversion actually can make it all the way back to Camas Creek. In support of this, we were able to locate a culvert next to a road near the end of the Lone Tree overflow area that was placed there because sheepherders could not get through this particularly soggy and muddy area. New area was therefore added at the tail end of the Lone Tree overflow area that connects back to Camas Creek. This new area was not originally included in the original claimed place of use that was based upon the listed place of use for Permit No. 31-7650.
5. Based on GIS data obtained from IDWR, some of the quarter-quarter designations and government lot descriptions are different than what was claimed originally, particularly those that are located on the western edge of Township 10N., Range 39E., where there are only three rows of quarter-quarter sections. For example, the northwestern-most quarter-quarter of Section 6, Township 10N., Range 39E., appears as though it should

be designated as the NE1/4NW1/4 (Government Lot No. 3), but IDWR GIS data describes this quarter-quarter as the NW1/4NW1/4. This may be a GIS error, but either way, the claimed place of use also identifies the appropriate government lots in these “short sections,” and IDWR can verify their proper description.

The map attached to the amended claim shows the route that is now being claimed, and delineates between the constructed canal and the overflow area, which is the same overflow area designated on MLWU’s application to the BLM for a right-of-way across its land.

DATED this 20th day of February, 2012.



Robert L. Harris, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, PLLC

CERTIFICATE OF MAILING

I hereby certify that on February 20 (email) and February 21 (regular mail), 2012, I mailed the original and copies of this *Response to Motion to File Late Objection*, including all attachments, to the following persons by email and regular mail:

1. Original to:

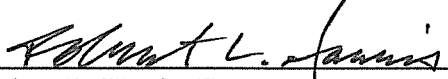
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707
bbilyeu@idcourts.net

2. Copies to:

State of Idaho Department of Lands
Tyson K. Nelson
Deputy Attorney General
P.O. Box 44449
Boise, ID 83711-4449
tyson.nelson@ag.idaho.gov

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

United States Department of Justice
Environmental and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724
David.Negri@usdoj.gov


Robert L. Harris, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

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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 31-12181

Date Received _____

Receipt Number _____

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

1. Name of Claimant(s) Mud Lake Water Users, Inc. Phone (208) 663-4359

Mailing Address PO Box 68, Terreton, ID Zip 83450

2. Date of Priority (Only (1) per claim) May 5, 1969

3. Source of water supply (a) Camas Creek

which is tributary to (b) Mud Lake

4.a. Location of existing point of diversion is:
Township 11N Range 38E Section 25, NE 1/4 of SE 1/4 of SE 1/4, Govt. Lot _____,
County of Clark
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 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. Diversion dam in Camas Creek, water conveyed through the Lone Tree Diversion Canal.

6. Water is claimed for the following purposes: _____ (Both dates are inclusive) (cfs) (acre feet)

For Ground Water Recharge purposes from 01/01 to 12/31 amount 617 cfs or _____

7. Total quantity claimed (a) 617 cfs (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.) Water is used for ground water recharge.

9. Description of place of use:
- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
 - If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instruction for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TLS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11N	38E	25															E	E	
		36		E			E			E	E					E	E	E	
10N	38E	1	L-1 E			E													
		10												E			E	E	
		13	E			E									E	E	E		
		14											E	E			E	E	
		15	E			E	E	E							E			E	
		23	E																
		24		E			E	E	E	E									
10N	39E	5	L-1 E	L-2 E	E	E	L-3 E	L-4 E		E					E		E	E	
		6	L-1 E	L-2 E	E	E		L-3 E	L-4 E			L-5 E				E	E	E	
		7	E		E	E									E	E		E	
		8		E	E								E	E		E	E		
		17						E											
		18	E	E				L-1 E	L-2 E										

Parcel (PIN) No(s). _____

Total number of acres irrigated N/A

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

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. Prescriptive easements from various owners on private ground; Applicant is in the process of obtaining easements for portion of place of use that is located on federal and state owned ground.

12. Describe any other water rights used at the same place and for the same purposes as described above. Permit No. 31-7650 or None ()

13. Remarks:

A USGS gauge report showing a maximum diversion of 617 cfs on May 5, 1969, which is the claimed priority date, has been submitted to IDWR. An Application for Permit was filed in 1997 for substantially the same water right which was numbered 31-7650. At the time, the applicant was not aware that a beneficial use water right could be claimed in the SRBA as water was put to beneficial use before the mandatory permitting requirements for surface water in 1971.

14. Basis of Claim (Check one) Beneficial Use ✓ Posted Notice Permit Decree License
If applicable provide IDWR Water Right Number _____

Last Name Mud Lake Water Users, Inc. Ident. 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 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 1

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am the attorney for Mud Lake Water Users, Inc., that I have signed the foregoing document in the space below as attorney for Mud Lake Water Users, Inc. and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent Robert L. Harris

Title and Organization Attorney, Mud Lake Water Users, Inc. Date FEB. 20, 2012

17. Notice of Appearance:

Notice is hereby given that I, Robert L. Harris, 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 Robert L. Harris
Address PO Box 50130, Idaho Falls, ID 83405-0130
Date FEB. 20, 2012

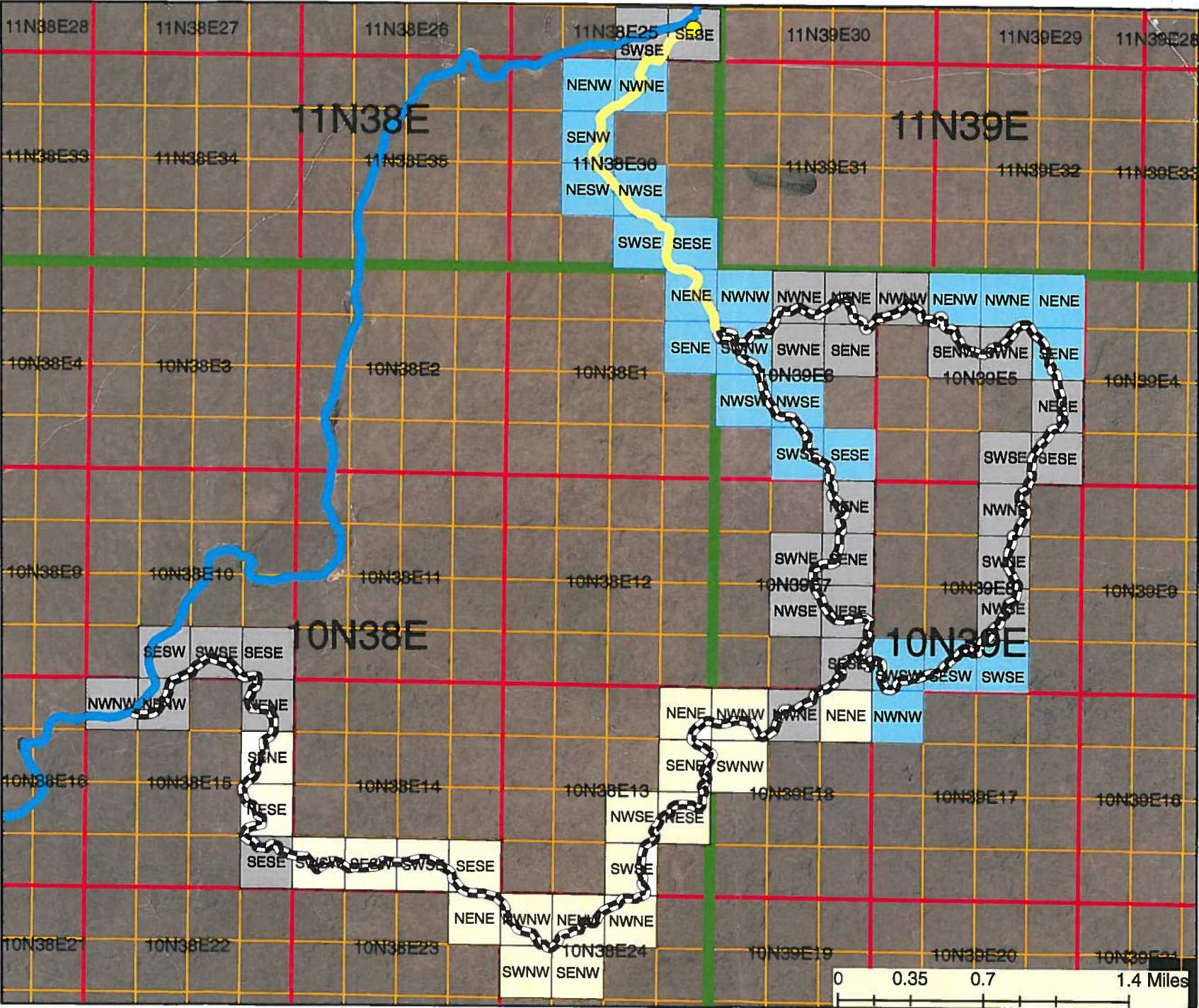
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Last Name Mud Lake Water Users, Inc. Ident. Number _____

LONE TREE CANAL - MUD LAKE WATER USERS



- Legend**
- Lone Tree Diversion
 - Lone Tree Canal
 - Lone Tree Overflow Route
 - Camas Creek
 - LT_on_Private_Land
 - LT_on_BLM
 - LT_on_State
 - gcdb_tr
 - gcdb_sections
 - gcdb_qq



Prepared by:
Robert L. Harris
2011 NAIP Aerial Photo