

RECEIVED
MAR 26 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

Case No. 39576

A. Subcase 22-4028
(Insert water right number
From the Objection Form)

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 Teton, Idaho

My name is _____ Robert L. Harris, Holden Kidwell Hahn & Crapo, P.L.L.C.

My address is _____ 1000 Riverwalk Drive, Suite 200, Idaho Falls, ID 83402

My phone number is _____ 208-523-0620

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:

A council person was assigned to file claims in the SRBA over 10 years ago, but it was only recently discovered that no claims were filed after a recent list was sent by the SRBA Court indicating that the City of Teton had not filed claims in the SRBA. The list was provided to Robert Harris, an attorney, who then contacted Phil Sutherin, the Mayor of the City of Teton, regarding the problem.

- ☐ 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 a 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 you Notice of Claim.)

See attached 42-243 statutory claim documents.

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 \$ 220.00.

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 June 19th, 2012 at 1:30 p.m.
(Insert Date and Time)
at the SRBA Court 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:

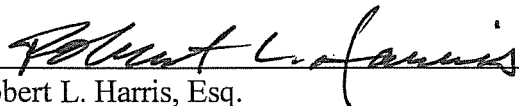
- ☐ An amended Notice of Claim (available from IDWR).
- ☐ Payment of the following additional fees required by IDWR:

VERIFICATION

State of Idaho)
)ss.
County of Bonneville)

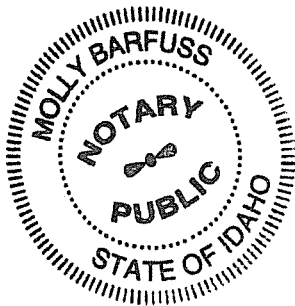
Robert L. Harris, being first duly sworn, upon oath, deposes and says:

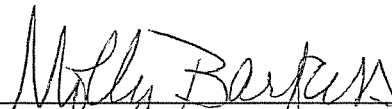
That I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.



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

Subscribed and sworn to before me this 23rd day of March, 2012.





Notary Public for Idaho
Notary Public for the State of Idaho
Residing at _____
Residing in Idaho Falls
My Commission expires _____
Commission Expires 02-16-18

CERTIFICATE OF MAILING

I certify that on this 23rd day of March, 2012, 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:

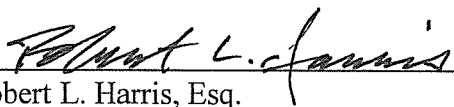
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

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

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. 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


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

G:\WPDATA\IRLH\City of Teton\22-4028 FORM.4, Mot.wpd

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

3-26
RECEIVED
MAR 26 2012

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39578
Ident. Number 22-4028
Date Received _____
Receipt Number _____

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s) City of Teton Phone (208) 339-4592
Mailing Address PO Box 386, Teton, ID Zip 83451
2. Date of Priority (Only (1) per claim) 01/01/1948
3. Source of water supply (a) Ground Water
which is tributary to (b) _____
- 4.a. Location of existing point of diversion is:
Township 7N Range 41E Section 31, _____ 1/4 of NW 1/4 of SE 1/4, Govt. Lot _____,
County of Fremont
Parcel (PIN) No. _____
Additional points of diversion if any: 7N 41E Section 31 NW1/4 SE1/4
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. 12" well and pump, drilled in 1948. This was the 1st of the City's two (2) wells that were drilled. Since then, water under this right has been diverted from Well #2 prior to November 1987, resulting in an accomplished transfer to include Well #2 as a point of diversion under this right.
6. Water is claimed for the following purposes: _____ (Both dates are inclusive) (cfs) (acre feet)
For Municipal purposes from 01/01 to 12/31 amount _____ or _____
7. Total quantity claimed (a) 1.2 (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.) Municipal uses

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	

**PLACE OF USE IS WITHIN THE SERVICE AREA OF THE CITY OF TETON MUNICIPAL
WATER SUPPLY SYSTEM AS PROVIDED FOR UNDER IDAHO LAW.**

Parcel (PIN) No(s). _____ Total number of acres irrigated _____

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

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.
22-4028 and 22-7251. Combined, all of the City's water rights can divert 3.42 cfs.
_____ or None ()

13. Remarks: The Claimant is a municipality that services its residents through a municipal water system.
There are two (2) wells that pump into one storage tank.

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

If applicable provide IDWR Water Right Number 22-4028 (see attached)
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

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 _____

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 the attorney of
(Title)

Last Name _____ Ident. Number _____

The City of Teton, that I have signed the foregoing document in the space below as
(Organization)
attorney of the City of Teton and that the statements contained in the
(Title) (Organization)
foregoing document are true and correct.

Signature of Authorized Agent Robert L. Harris

Title and Organization CITY OF TETON ATTORNEY Date MARCH 23, 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: Holden, Kidwell, Hahn & Crapo, P.L.L.C.
PO Box 50130, Idaho Falls, ID 83405-0130
Date: MARCH 23, 2012

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

CLAIM TO A WATER RIGHT

Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that City of Teton (Name of Claimant)
City Hall, Teton, Idaho 85451 Telephone No. 458-4309 (clerk)
(Mailing Address) (Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

- follows:
- (1) Date of priority: (When was the water first applied to a beneficial use) Jan. 1948

A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

- (2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)
groundwater (well) tributary to _____

- (3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed: _____ (Each date inclusive)

claimed:		(Both dates inclusive)	
(cfs, gpd, AFA)	(Domestic, Irrigation, Stock, Etc.)	(Mo., Day)	(Mo., Day)
Quantity <u>1.2cfs</u>	Use <u>municipal</u>	Period of Use From <u>1-1</u>	To <u>12-31</u>
Quantity _____	Use _____	Period of Use From _____	To _____
Quantity _____	Use _____	Period of Use From _____	To _____
Quantity _____	Use _____	Period of Use From _____	To _____
Quantity <u>1.2cfs</u>	Use _____	Period of Use From _____	To _____
TOTAL QUANTITY USED.			

- (4) 1.2618 TOTAL QUANTITY USED.
(cfs, gpd, AFA)
- (5) A) Point of diversion: (Location of point where water is diverted from its source)
NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 31 Twp. 7N Rge. 41E B.M., County of Freemont
Additional points of diversion: _____

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. 40 HP pump with 700 GPM capacity 250' well 12" diameter

- (6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

[illegible]

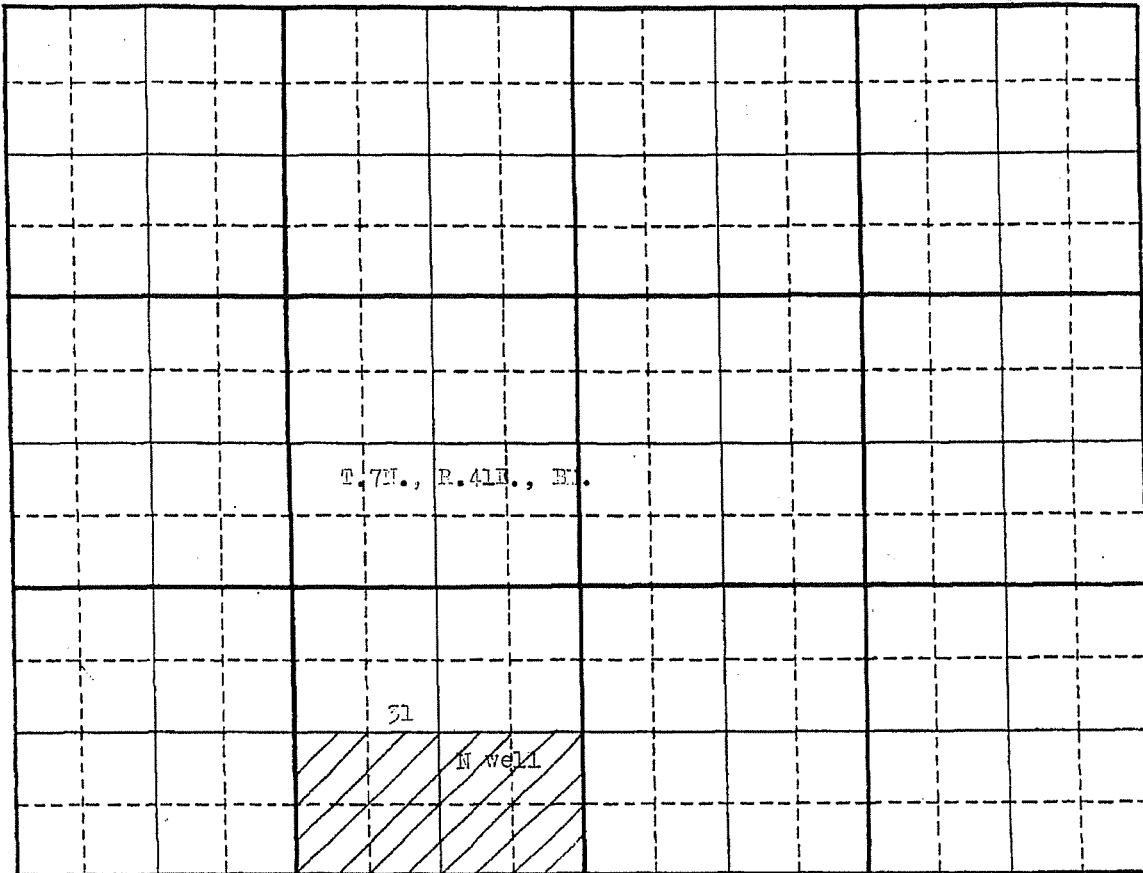
No. of acres _____

- B) If water is used for other than irrigation, fully describe that use, being as specific as possible: municipal water for City of Teton

NOTE: Include here the type and number of stock watered: none City of Detroit

- (7) If you are claiming water as a member of an organization, list name of organization _____

(B) Remarks _____



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of Fremont) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Byron E. Ward (Mayor)
(Claimant)

Sworn to before me this 17 day of February, 19 80.

Joseph E. Nielsen
Notary Public
Residing at Rehoboth, Idaho

My commission expires Life

FOR DEPARTMENT USE ONLY

Received by EW Date 2/28/80 Exception filed by: _____ Date _____
Prelim. check by ARK Date 2/28/80 claimant by: _____
\$20.00 fee received by EW Date 20.00 #138210
Published in Fremont County Chronicle News
Dates 3/13 & 3/20/80