

RECEIVED 3-29

MAR 29 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 22-290D
(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 _____ Richard J. Max and Carolyn K. Max _____

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:

The Claimant initially had some correspondence with IDWR in 2003 regarding water rights on the property, but Claimant was confused as to what needed to be filed.

- ☐ 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 your Notice of Claim.)

Rexburg Decree documentation for Water Right Nos. 22-289D and 22-290D.

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 \$ 115.00.

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:

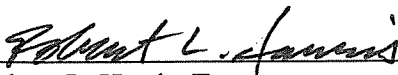
- ☐ An amended Notice of Claim (available from IDWR).
- ☐ Payment of the following additional fees required by IDWR:

VERIFICATION

State of Idaho)
)ss.
County of Bonneville)

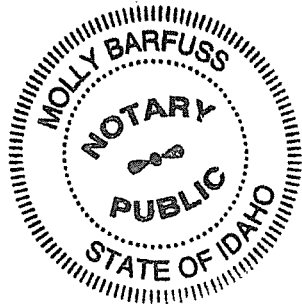
Robert L. Harris, being first duly sworn, upon oath, deposes and says:

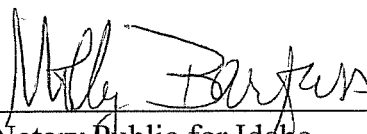
That I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.



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

Subscribed and sworn to before me this 27th day of March, 2012.





Notary Public for Idaho
~~Notary Public for the State of Idaho~~
My Commission Expires ~~02-16-18~~

CERTIFICATE OF MAILING

I certify that on this 27th 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:

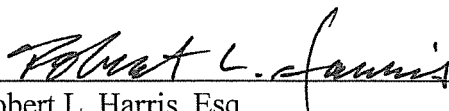
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

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\RLH\Richard Max\22-290D FORM.4, Mot.wpd

3-29
RECEIVED
MAR 29 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 THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576
Ident. Number 22-290D
Date Received _____
Receipt Number _____

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

1. Name of Claimant(s) Richard J. Max and Carolyn K. Max Phone (919) 971-6510
Mailing Address 313 Baybrook Ct., Cary, NC Zip 27511
2. Date of Priority (Only (1) per claim) September 1, 1898
3. Source of water supply (a) North Leigh Creek
which is tributary to (b) Spring Creek
- 4.a. Location of existing point of diversion is:
Township 6N Range 45E Section 25, SE 1/4 of NW 1/4 of NW 1/4, Govt. Lot _____,
County of Fremont
Parcel (PIN) No. _____

Additional points of diversion if any: 6N 46E Section 29 NE1/4 NW1/4 NE1/4 (Lot 1)
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 into headgate and ditches for flood irrigation.

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

For Irrigation purposes from 04/15 to 10/31 amount _____ or _____

7. Total quantity claimed (a) .22 (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.) None

COPY

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	

Parcel (PIN) No(s). Teton County Tax Parcel No. RP06N45E260016 Total number of acres irrigated 14.2

10. In which county(ies) are lands listed above as place of use located? Teton
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.
22-289D
_____ or None ()
13. Remarks: Water is delivered through a private ditch, as well as the North Leigh Canal. The point at which the North Leigh Canal enters Idaho is the second point of diversion listed. The actual POD is in Wyoming at 45N 118W S32 SENW (L2), 6 PM
14. Basis of Claim (Check one) Beneficial Use ☐ Posted Notice ☐ Permit ☐ Decree ☒ License ☐
If applicable provide IDWR Water Right Number Part of Water Right No. 22-289
Court _____ Case Number _____ Decree Date 12/16/1910
Plaintiff vs Defendant Rexburg Irrigation Co. v. Teton Irrigation Canal Co.

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) Robert L. Jannin Date March 27, 2012
ATTORNEY FOR CLAIMANTS

Date _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am the attorney of
(Title)

Last Name _____ Ident. Number _____

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

Signature of Authorized Agent _____

Title and Organization _____ Date _____

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 27, 2012

T. 2 S. R. 45 E. B. M.

Grove, M. K., $W\frac{1}{2}$ of $NE\frac{1}{4}$ and Lots 1, 4 and 4, of Sec. 13, T. 2 S. R. 45 E. B. M.

Grover, J. A., $SW\frac{1}{4}$ of Sec. 4, T. 5 S. R. 32 E. B. M.

Grow, William, $SE\frac{1}{4}$ of Sec. 35, T. 2 N. R. 38 E. B. M., containing 160 acres.

Gustafson, Fred, $NW\frac{1}{4}$ of Sec. 5, T. 1 N. R. 38 E. B. M., $E\frac{1}{2}$ of $SW\frac{1}{4}$ of Sec. 2, T. 1 N. R. 38 E. B. M., and $W\frac{1}{2}$ of $NW\frac{1}{4}$ of Sec. 32, T. 2 N. R. 38 E. B. M., containing 320 acres.

Guyman, Edward, $S\frac{1}{2}$ of $NE\frac{1}{4}$ and Lot 2 of Sec. 5, T. 5 N. R. 45 E. B. M., and $SW\frac{1}{4}$ of $SE\frac{1}{4}$ of Sec. 32, T. 6 N. R. 45 E. B. M., containing 160 acres.

Gwinn, James G., $NW\frac{1}{4}$ of Sec. 3, T. 13 N. R. 44 E. B. M., containing 160 acres.

H.

Haden Canal Company, lands of stockholders of said Company, the description of said lands and the names of said stockholders not being given in the pleadings of said Company.

Hague, William A., $NW\frac{1}{4}$ of $SW\frac{1}{4}$ and $SW\frac{1}{4}$ of $NW\frac{1}{4}$ of Sec. 14, and $SE\frac{1}{4}$ of $NE\frac{1}{4}$ of Sec. 15, T. 7 N. R. 41 E. B. M.

Hainline, Thomas, $NE\frac{1}{4}$ of $NE\frac{1}{4}$ of Sec. 20, $W\frac{1}{2}$ of $NW\frac{1}{4}$ of Sec. 21, Lot 4 of Sec. 16, and Lot 8 of Sec. 17, T. 1 S. R. 45 E. B. M., containing 160 acres.

Hamblin, Joseph R., $W\frac{1}{2}$ of $SW\frac{1}{4}$ and $W\frac{1}{2}$ of $NW\frac{1}{4}$ of Sec. 9, T. 3 N. R. 45 E. B. M., containing 160 acres.

Hamblin, Kate, $S\frac{1}{2}$ of $SW\frac{1}{4}$ of Sec. 2, and $W\frac{1}{2}$ of $NW\frac{1}{4}$ of Sec. 11, T. 3 N. R. 45 E. B. M., containing 160 acres.

Hamilton, Harry, $E\frac{1}{2}$ of $NE\frac{1}{4}$ and $W\frac{1}{2}$ of $SE\frac{1}{4}$ of Sec. 35, T. 4 S. R. 32 E. B. M., containing 160 acres; also Lots 1 and 2 of Sec. 1 and Lots 1 and 2 of Sec. 2, T. 5 S. R. 32 E. B. M., containing 112 acres; also 500 acres, unsurveyed lands, riparian to and lying on the southwest side of the above described land and between the same and Snake River.

Hamilton, Robert, Lots 1, 2 and 3, and $S\frac{1}{2}$ of $NE\frac{1}{4}$ of Sec. 1, T. 6 N. R. 44 E. B. M.

Hanks, E. K., $NW\frac{1}{4}$ of $NE\frac{1}{4}$ of Sec. 25, T. 1 N. R. 37 E. B. M., containing 40 acres.

Hanks, Harriet A. (No description given.)

Hansen, E. P. (No description given.)

Hansen, Hans R., $NE\frac{1}{4}$ of $NE\frac{1}{4}$ of Sec. 26, $N\frac{1}{2}$ of $NW\frac{1}{4}$ of Sec. 25, $SW\frac{1}{4}$ of $SW\frac{1}{4}$ of Sec. 24, Lots 1, 2 and 3 of Sec. 24, Lot 6 of Sec. 23, Lot 5 of Sec. 23, and $E\frac{1}{2}$ of $SW\frac{1}{4}$ of Sec. 24, T. 2 S. R. 35 E. B. M.

Hansen, Lars, $NW\frac{1}{4}$ of Sec. 23, T. 2 N. R. 38 E. B. M., containing 160 acres.

Hansen, N. P., Lots 1 and 2 and $S\frac{1}{2}$ of $SE\frac{1}{4}$ of Sec. 2, T. 6 N. R. 40 E. B. M., containing 160.95 acres.

Hansen, R. E., $W\frac{1}{2}$ of $SE\frac{1}{4}$ and $E\frac{1}{2}$ of $SW\frac{1}{4}$ of Sec. 34, T. 1 N. R. 37 E. B. M., containing 160 acres.

Hansen, Alfred, $NE\frac{1}{4}$ of $NE\frac{1}{4}$ of Sec. 26, $NW\frac{1}{4}$ of $NW\frac{1}{4}$ of Sec. 25, and $S\frac{1}{2}$ of $SW\frac{1}{4}$ of Sec. 24, T. 6 N. R. 45 E. B. M.

Hansen, Andrew C., $SE\frac{1}{4}$ of Sec. 14, T. 4 N. R. 45 E. B. M.

Harman, D. R., $SW\frac{1}{4}$ of Sec. 9, T. 3 S. R. 34 E. B. M.

Harmon, D. R., $SW\frac{1}{4}$ of Sec. 9, T. 3 S. R. 34 E. B. M., containing 160 acres.

Harmison, J. S., $S\frac{1}{2}$ of $NE\frac{1}{4}$, $NW\frac{1}{4}$ of $NE\frac{1}{4}$, and $NE\frac{1}{4}$ of $NW\frac{1}{4}$ of Sec. 23, T. 4 N. R. 45 E. B. M., containing 160 acres.

Harrigfeld Canal & Irrigation Company, lands of stockholders of said Company and other persons, lying under the canal of said Company, the description of said lands and the names of said stockholders and other persons not being given in the pleadings of said Company.

Harris, J. W., $SW\frac{1}{4}$ of $SE\frac{1}{4}$ of Sec. 7, T. 2 N. R. 38 E. B. M., containing 40 acres.

Harrison Canal & Irrigating Company, lands of stockholders of said Company, lying under the canal of said Company, the description of said

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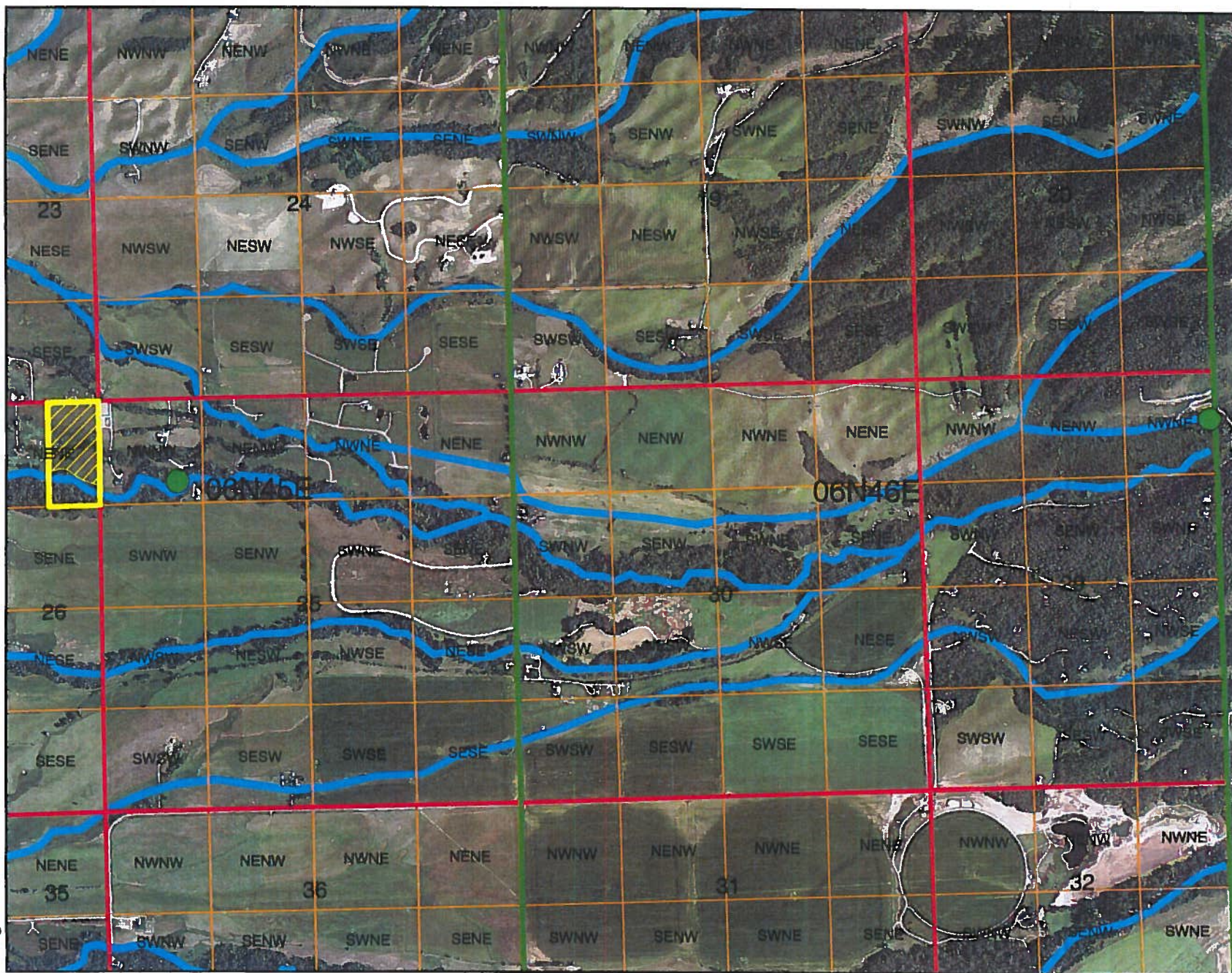
- Hanks, Harriet A., 80 inches, June 1, 1896, North Leigh Creek.
Hansen, E. P., 50 inches, May 1, 1904, Game Creek.
Hansen, Hans R., 500 inches, June 1, 1883, Snake River.
Hansen, John, Good Luck Canal Company.
288 Hansen, N. P., 160 inches, May 15, 1883, South Fork of Teton River.
(Sold to Lee Burrows.)
Hanson, Alfred, 40 inches, June 1, 1898, North Leigh Creek.
Hanson, Alfred, 120 inches, Sept. 1, 1898, North Leigh Creek.
Hansen, Andrew C., 80 inches, June 1, 1896, Teton Creek.
Harman, D. R., Wearyrick Ditch Company.
Harmon, Mrs. Charles, The Farmers' Friend Canal Company.
Harrigfeld Canal & Irrigation Company, 3,000 inches, Aug. 4, 1900, Fall River.
Harrigfeld Canal & Irrigation Company, 4,000 inches, May 1, 1906, Fall River.
Harris, R. E., Enterprise Canal Company.
Harrison Canal & Irrigating Company, 12,000 inches, July 12, 1890, South Fork of Snake River.
Harrison Canal & Irrigating Company, 8,000 inches, Jan. 9, 1895, South Fork of Snake River.
Harrop, Samuel, 200 inches, June 1, 1891, Leigh Creek.
Hart, J. W., Anderson Canal Company.
Hartvigsen, Mary, Watson Slough Irrigation Company.
Harwood, Spencer, 160 inches, Mar. 19, 1902, Sheridan Creek and a small tributary.
Haskins, H. F., Enterprise Canal Company.
Hatch, Hyrum, 160 inches, June 1, 1894, Trail Creek.
Hatch, Lamoine, 40 inches, Sept. 1, 1901, Spring Creek.
Hatch, Mary E., 40 inches, July 15, 1896, Trail Creek.
Hatch, William, Trego Ditch Company.
Hatfield, Frederick, 160 inches, June 1, 1890, Snake River.
Hathaway, John, 205 inches, June 10, 1887, Fall River.
Hathaway, William, 240 inches, June 10, 1887, Fall River.
Hawley, C. B., May 1, 1884, 3-5 of the flow of Elkhorn and Hawley Springs, up to 210 inches.
Hawley, E. L., and Grace, 100 inches, Sept. 5, 1905, Hawley Springs. (Permit.)
Hay, J. D., Anderson Canal Company.
Hearst, H. T., 160 inches, June 1, 1898, Leigh Creek.
Heath, James H., The Farmers' Friend Canal Company.
Heath, William A., The Farmers' Friend Canal Company.
Hegsted, Victor, 30 inches, Sept. 1, 1887, Horse Shoe Creek.
Hegsted, Victor, 290 inches, June 1, 1888, Horse Shoe Creek.
Hegsted, Victor, 160 inches, June 1, 1900, Horse Shoe Creek.
Hegsted, Victor C., North Salem Agricultural & Milling Canal Company.
Heise Canal, Bertha Heise Gavin, Blanche Heise, and R. C. Heise, 260 inches, May 1, 1902, South Fork of Snake River.
Hendrickson, Adolphus, 100 inches, July 5, 1900, Badger Creek.
Hendrickson, Alfred, 40 inches, June 1, 1898, Badger Creek.
Hendrickson, Alvira E., 60 inches, June 1, 1896, South Leigh Creek.
Hendrickson, Alvira E., 60 inches, June 1, 1898, South Leigh Creek.
Hendrickson, Cornelius, 130 inches, June 30, 1898, Badger Creek.
Hendrickson, Frank, 160 inches, May 1, 1898, Badger Creek.
Hendrickson, G. W., 100 inches, May 15, 1899, South Leigh Creek.
Hendrickson, G. W., 60 inches, June 1, 1901, North Leigh Creek.
Hendrickson, Milton, 100 inches, June 1, 1899, Badger Creek.
Hendrickson, William, 120 inches, June 15, 1899, Badger Creek.
Henrie, James D., 130 inches, June 20, 1897, Leigh Creek.
Henrie, John, 150 inches, June 1, 1897, North Leigh Creek.
Henrie, John, 10 inches, June 1, 1900, North Leigh Creek.

RICHARD MAX WATER RIGHT CLAIMS



Legend

- Max.Parcel
- POU
- PODs
- gcdb_tr
- gcdb_sections
- gcdb_qq
- idhydro



Prepared by:
Robert L. Harris
2011 NAIP Aerial Photo

