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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

) Subcase 55-10135
) (Insert water right number)
)
) **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 Richard L. Harris

My address is 1023 Arthur Street, Caldwell, ID 83605

My phone number is Work 208/459-1588 Home _____

I am an attorney representing Joyce Livestock Co.

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: _____

☐ 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.)

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 \$ _____.

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 hearing on _____
(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:
Investigation and discovery have shown that the claimed and reported priority date of
1865 should be amended to be 1898.

- ☐ I am providing legal and factual documentation to support my amended Notice of Claim. You must describe these documents and attach a readable copy.
Attached are homestead patents for Joyce Livestock's predecessors-in-interest, reflecting 1898 as the year that Joyce Livestock's predecessors first acquired fee title to portions of the real property to which the claimed water rights are appurtenant, and use of the claimed stockwater rights in connection with said real properties.

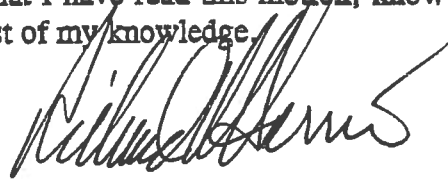
I have attached:

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

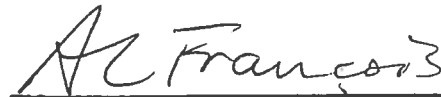
VERIFICATION (Must be completed)State of CaliforniaCounty of San Francisco

Richard L. Harris, 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.

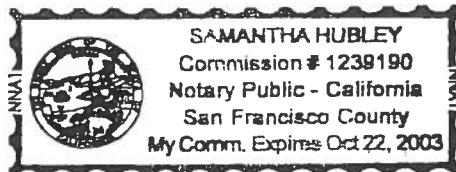


Signature of person filing motion



Attorney signing in representative capacity

Subscribe and sworn to before me on November 28, 2001
 (Insert Date)



Samantha Hubley
 Notary Public for California, San Francisco
 Residing at: 221 Main St. 16th Floor SF, CA 94104
 My Commission expires: 10/22/03

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.

The United States of America

To all to whom these Presents shall come, Greeting:

Whereas, There has been deposited in the General Land Office of the United States a Certificate of the Register of the Land Office at Boise City, Idaho,

showing a grant of land, pursuant to the Act of Congress approved 30th May, 1862, "To secure Homesteads to actual Settlers on the Public Domain," and the act supplemental thereto, the claim of Anna F. Joyce

has been satisfied and duly consummated, in conformity to law, for the North half of the South East quarter of the South West quarter of the South East quarter of the South East quarter of the South West quarter of Section thirty in Township three South of Range one West of Boise Meridian in Idaho containing one hundred and sixty acres.

according to the Official Plat of the Survey of said Land, returned to the General Land Office by the Surveyor General.

Now know ye that there is, therefore, granted by the United States unto the said Anna F. Joyce

the tract of Land above described: To have and to hold the said tract of Land with the appurtenances thereto, unto the said Anna F. Joyce and to her heirs and assigns forever, subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local customs, laws, and decisions of courts, and also subject to the right of the proprietor of a mine or lode to extract and remove his ore therefrom, should the same be found to penetrate or interfere with the premises hereby granted, as provided by law, and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

In testimony whereof, I, William McKim, PRESIDENT OF THE UNITED STATES OF AMERICA, have caused these letters to be made Patent, and the Seal of the General Land Office to be hereunto affixed.

Given under my hand at the City of Washington, the fourth day of June 1898, on the year of our Lord one thousand eight hundred and ninety eight and of the Independence of the United States the one hundred twentieth.

By the President, William McKim
By E. N. Bouché Secretary
Recorder of the General Land Office



The United States of America,

To all to whom these Presents shall come, Greeting:

Homestead Certificate No. 13518-
Application 4012-

Whereas, There has been deposited in the General Land Office of the United States a Certificate of the Register of the Land Office at Boise City, Idaho

whereby it appears that, pursuant to the Act of Congress approved 20th May, 1862, "To secure Homesteads to actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of Mary Joyce

has been established and duly commuted in conformity to law, for the East half of the North West quarter and the Lot numbered two and three of Section thirty-one in Town ship three South of Range one West of Boise & Meridian in Idaho containing one hundred and forty-one acres and thirty-four hundredths of an acre.

according to the Official Plat of the Survey of said Land, returned to the General Land Office by the Surveyor General.

Now know ye that there is, therefore, granted by the United States unto the said Mary Joyce

the tract of Land above described: To have and to hold the said tract of Land with the appurtenances thereof, unto the said Mary Joyce and to her heirs and assigns forever, subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local customs, laws, and decisions of courts, and also subject to the right of the proprietor of a mine or lode to radiate and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law, and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

In testimony whereof, J. William McKim, PRESIDENT OF THE UNITED STATES OF AMERICA, have caused these letters to be made Patent, and the Seal of the General Land Office to be hereunto affixed.

Given under my hand, at the City of Washington, the fourth day of June on the year of our Lord one thousand eight hundred and eighty-eight and of the Independence of the United States the one hundred and thirty

By the President, William McKim
By J. M. McKim Secretary
E. A. Brush Recorder of the General Land Office

The United States of America

To all to whom these Presents shall come Greeting.

I have the honor to acknowledge the receipt of your letter of the 10th inst. in relation to the above named subject. I have been informed by the General Land Office that the same has been referred to the Committee on the Public Domain, and that the same will be reported to the House of Representatives at the next session. I am, Sir, very respectfully,
 Yours, &c.
 Matthew Joyce

the west half of the South East quarter and the
South East quarter of the South East quarter of section
thirty six of Township three South and the lot numbered
one of section one in Township four South of range
four of Range Meridian and Idaho containing one
hundred and fifty nine acres and thirty eight cents
of an acre

...to the ... of the ... of ... and ... returned to the General ... by the ...

How long it had been a duplicate journal by the General Journal and the end Matthew 14

the use of land when granted. To have and to hold the said part of land with the appurtenances thereto
unto the said Matthew Fryer
his heirs and assigns forever, unto his heirs and assigns with several waste rights for mining, agricultural, manufacturing, &c.
and purposes and rights to strike and remove coal in connection with such waste rights as may be assigned and
granted by the land owners here and hereafter of, unto, and also subject to the right of the purchaser of a copy
of the same and hence his or their heirs should be free to find it profitable to remove the premises and
gravel, or gravel of them, and there is reserved from the land hereby granted, a right of way therein for foot-
paths, and for the use of the same, of the General Public.

By William H. Kiley PRESIDENT OF THE

Black money in the hands of James A. Smith.

John _____ in the year of our Lord
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MEMORANDUM TO ACCOMPANY BREAKDOWN:

The original Joyce Livestock Company controlled base lands during the priority years and for a period some 35 years before that time as are owned today (with the exception of the Bruneau ranch). This outfit has always operated from Murphy to Josephine with an area bounded on the north by the Snake River and on the west extending on to the Jordan Creek drainage and as far South as Josephine which was used always as a range for beef cattle on the east area around Triangle, Box T, Castle Creek, Bates Creek, Fossil Creek and at one time took in the range through Grandview to Bruneau. Used all of Sinker Creek.

The number of livestock operated during the priority period reached as high as 2100 or 2200 head. Of these several horses were grazed and by an Advisory Board ruling, any such livestock running outside for twelve months of the year, could claim no priority. Through various eliminations on numbers, the figure of 1822 head was agreed upon as those using the base at least four months out of every year and being dependent upon the Federal Range. One State School Section Lease, T 7 N - R 3 W - Section 16 was acquired by Henry Hatton and ruled as being dependent for twelve animal units leaving 1810 animal units for the Joyce outfit.

In 1936, James Nettleton was deeded a portion of the Joyce base properties which broke down to be commensurate for 198 animal units. This outfit grazes more on the Oreana side, Castle Creek and Box T. The remaining animal units on the Joyce outfit were rated at 1612. On the basis of this number, the transfer from the Bruneau Ranch was made under date of November 15, 1943 transferring 7325 ADUs of Federal Range demand to the deeded lands in the original outfit. This number of 1612 with the Federal Range demand has been used as a basis for the attached breakdown entitled "Summary after Bruneau Ranch Transfer".

At times through the years, the Joyce Livestock outfit acquired various properties intermingled with the land on which they operated. Some of these properties were dependent on the Federal Range and others were not. The above mentioned breakdown sets out all of these facts.

In order to definitely set up the base properties now owned by the Joyce Livestock Company and to consolidate their holdings into the most practical and economical type of operation, applications for three transfers were made to the Advisory Board at their regular meeting, September 28, 1951.

Upon allowance of these three transfers by the Advisory Board, Joyce Livestock Company would like to have the second breakdown (attached hereto) filed as a record in their case. This will completely set out all of the lands now owned with priority or without priority and the privileges affixed to each.

CERTIFICATE OF MAILING

I certify that on November 28, 2001, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage paid and addressed as follows:

1. Original to:

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

2. Copies to:

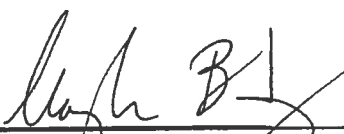
IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

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

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)



Signature of person or attorney mailing this form

RECEIVED

DEC - 4 2001

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

Department of Water Resources

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

CIVIL CASE NUMBER: 39576

Identification No. 55-10135

Data Entered

Receipt Number

AMENDED
**NOTICE OF CLAIM
TO A
WATER RIGHT**

ACQUIRED UNDER STATE LAW
For Domestic and/or Stockwater Purposes
Where Daily Use is less than 13,000 gallons per day.

Filing Fee \$25

Please type or print clearly

1. Name of Claimant (s) Joyce Livestock Co., Ltd. Phone (208) 834-2237Mailing Address c/o Paul Nettleton, Sinker Creek, Box 2050, Murphy, ID Zip 836502. Date of Priority (Only one per claim) June 1, 1998 Month/Day/Year3. Source of water supply (Check one) () Groundwater or Other (X) (a) Jordan Creek
Name or kind of sourcewhich is tributary to (b) Owyhee River(instream beginning point of)
4. Location of point of diversion is: Township 5 South Range 3 WestSection 19 SE 1/4 of NW 1/4 of SW 1/4, Govt. Lot SM.County of OwyheeAdditional points of diversion if any: See attachment for Instream Ending Point5. Description of existing diversion works (Ditches, Wells, Pumps, Pipelines, Headgate 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. Instream stockwater use

6. Water is claimed for the following: (limited to Domestic and/or Stockwater only. See Instructions.)

For stockwater purposes from 01/01 ^{Month/Day} to 12/31 ^{Month/Day} amount 102 cfs ^(cfs)
(Both dates are inclusive)

For purposes from to amount

7. Total quantity claimed 102 cfs (cfs)8. Total consumptive use claimed is de minimus9. Non-irrigation uses. Describe fully. (Domestic: give number of households served if single ownership; Stockwater: Type and Number of livestock) Instream stockwater, 1000 Range Cattle.

10. Place of use is: Township: 4 South Range 3 West
Section 21 NW 1/4 of NW 1/4, Govt. Lot _____ B.M.
County of Owyhee for (Circle One) Domestic Stock Domestic and Stock
Additional places of use, if any See attached

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

12. Do you own the property listed above as place of use? Yes _____ No XX not in fee simple
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
See attached.

14. Remarks: See attached re: Item 12.

15. Basis of Claim (Circle One) Beneficial Use Posted Notice License Permit Decree
Court _____ Decree Date _____ Plaintiff vs Defendant _____
If applicable provide IDWR Water Right Number 55-10135

16. Signature (s)
(a.) By signing below, I/We acknowledge that I/We have received, read and understood 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 2 pages

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

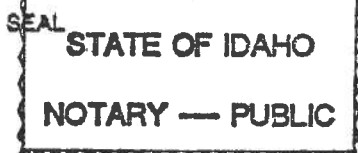
Signature of Claimant (s) _____ Date _____
_____ Date _____

For Organizations: I do solemnly swear or affirm that I am a general partner
of Joyce Livestock Company, Limited Partnership that I have signed the foregoing
document in the space below as a general partner of Joyce Livestock Company Limited Partnership
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent [Signature] Date 11-21-49
Title and Organization General Partner, Joyce Livestock Company, Limited Partnership

State of Idaho/or _____ }
County of Owyhee } ss.

Subscribed and sworn to and affirmed before me this 21st day of Nov 1949



Notary Public [Signature]
Residing at Murphy Id.
My Commission Expires 12-15-04

Last Name _____ Ident No. _____

Attachment to Amended Notice of Claim For Domestic/Stockwater Purposes, Subcase 55-10135

Claimant: Joyce Livestock Co.

Item #:

4. Instream Ending Point is as follows:

Township 4 South, Range 3 West, Section 31, SW 1/4 of NW 1/4 of NW 1/4, Boise Meridian, County of Owyhee.

10. Additional Places of Use (for ease of reference, includes the place of use stated at item 10 in the main form):

T 04 S	R 03 W	S 31	NW NW	SW NW
			SE NW	NE SW
			NW SE	SW SE
T 06 S	R 03 W	S 06	NW NE	SW NE
			SE NE	NE SE
			SE SE	
		S 07	NE NE	SE NE
			NE SE	
		S 08	NW SW	SW SW
		S 17	NW NW	SW NW
			NW SW	SW SW
		S 18	SE SE	
		S 19	NE NE	NW NE
			SW NE	SE NW
			NE SW	NW SW

13. Joyce Livestock Co. is aware that the United States of America has filed claims for instream stockwater from the same source, subcases 55-11061, 55-11385, and 55-12452. Joyce Livestock Co. has filed timely objections to these three claims with the SRBA, on the basis that the rights claimed therein are in fact the same water rights claimed in this Amended Notice of Claim, and Joyce's original Notice of Claim to these water rights, and to which water rights the United States has no entitlement under the law. Joyce's objection to the United States claim is based upon the facts that the United States has never owned livestock which drank from the waters at issue, nor has the United States ever acquired the subject water rights from any actual appropriator or beneficial user, nor has any actual appropriator or beneficial user ever acted as the agent of the United States for the purpose of appropriating, perfecting, owning, or conveying the water rights claimed herein. The three listed United States claims are consolidated with the present subcases for trial in the SRBA.

Joyce Livestock is not aware of any other claimant to the stockwater rights asserted herein, or any other actual user of stockwater from the claimed source.

Most of the listed places of use are portions of the Silver City Allotment, a federally administered grazing allotment in which the United States owns the underlying property interest. As to these places of use, Joyce Livestock Co., and its predecessors in interest, appropriated the stockwaters claimed herein while those places of use were part of the unreserved and unoccupied public domain, prior to the enactment of the Taylor Grazing Act in 1934. As a result, under Section 9 of the Mining Act of 1866, Joyce Livestock and its predecessors acquired vested stockwater rights under Idaho state law, and access rights under said provision of the Mining Act. Since the establishment of the federal grazing allotment and permit system, Joyce Livestock and its predecessors in interest have continuously held and used grazing permits for the places of use in question.

Three areas within the listed places of use are patented mining claims owned in fee by Joyce Livestock, located in portions of sections 7, and 8 of Township 5 South, Range 3 West, B. M.

The remaining places of use, located in Township 5 South, Range 3 West, Sections 17 (SW NW, NW SW, and SW SW), 18 (SE SE), and 19 (NE NE, and NW NE), are owned in fee by the heirs or transferees of Joseph Snell. This parcel was patented to Joseph Snell in 1939, after Joyce Livestock Co. and its predecessors in interest had already appropriated and perfected vested instream stockwater rights for the reach of Jordan Creek that passes through this parcel. To protect this prior appropriation of water rights, and in keeping with the usual practice and with statutory requirements, Snell's patent was issued subject to prior vested water rights and access rights of way. Joyce Livestock is informed and believes that since 1939 this parcel has never been fenced so as to prevent grazing by livestock owned by Joyce and its predecessors in interest, and that its owners have never objected to grazing use of said parcel by Joyce Livestock and its predecessors in interest. Thus, the claimed water right was not appropriated in trespass, but rather was appropriated and perfected prior to homestead entry by Mr. Snell; the property interest of Mr. Snell and his successors in interest is subject to the prior appropriation, as stated expressly on Mr. Snell's patent.

CERTIFICATE OF MAILING

I certify that on November 28, 2001, I mailed the original and copies of this form, including all attachments to the following persons by mailing the original and/or copies, postage paid and addressed as follows:

Original to:

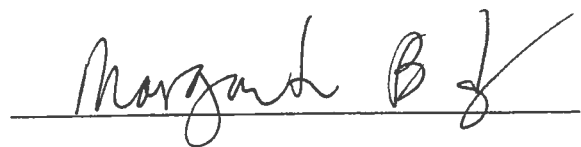
Clerk of the Court
Snake River Basin Adjudication
253 Third Avenue North
Twin Falls, ID 83303-2707

Copies to:

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

US Department of Justice
Environment and Natl' Resources
550 West Fort Street, MSC 033
Boise, ID 83724

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

A handwritten signature in cursive script, appearing to read "Margaret B. J.", is written over a horizontal line.