

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 22-14051
(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 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 \$106.50.

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 September 18, 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

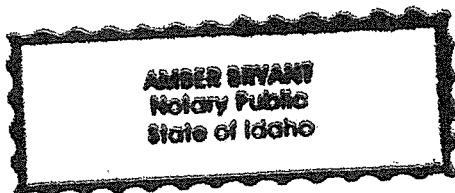
State of Idaho)
)ss.
County of Twin Falls)

Renae Miller, being first duly sworn, upon oath, deposes and says:

That I am 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.

Renae Miller
Renae Miller

Subscribed and sworn to before me this 25 day of July, 2012.



Amber Bryant
Notary Public for Idaho
Residing at US Bank Filer ID
My Commission expires: 4/21/2014

CERTIFICATE OF MAILING

I certify that on this 27th day of June, 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:

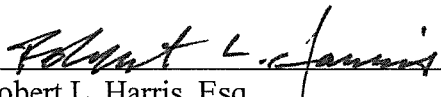
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

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\FORMS\WTRRTS\FORM.4

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 22-14051

Date Received _____

Receipt Number _____

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

1. Name of Claimant(s) Rex and Renae Miller Phone (208) 734-2788

Mailing Address PO Box 55, Filer, Idaho Zip 83328

2. Date of Priority (Only (1) per claim) July 1, 1963

3. Source of water supply (a) Paradise Springs

which is tributary to (b) Teton River

4.a. Location of existing point of diversion is:

Township 4N Range 45E Section 30, ___ 1/4 of NE 1/4 of NW 1/4, Govt. Lot _____,

County of _____

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. Pump and sprinkler system

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 .13cfs or _____

7. Total quantity claimed (a) .13 (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

9:

- 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 instruction for standard symbols.

[illegible]

Parcel (PIN) No(s). RP04N45E302400 and RP04N45E196604 Total number of acres irrigated 23

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.
22-13853 or None (

13. Remarks:

This water right is limited to the irrigation of 6.5 acres within the place of use described above. This right, in combination with Water Right No. 22-13853, is limited to the irrigation of 23 acres.

14. Basis of Claim (Check one) Beneficial Use ☒ Posted Notice _____ Permit _____ Decree ____ License _____
If applicable provide IDWR Water Right Number 22-4142
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) Ronae Miller Date 7/25/12

Last Name _____ Ident. Number _____

17. Notice of Appearance:

Notice is hereby given that I, _____, 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 _____

Address _____

Date _____

G:\WPDATA\RLH\15571 Miller, Ron\22-14051CLAIM.wpd:cdv

Last Name _____ Ident. Number _____

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 Chester H. Miller

(Name of Claimant)

Box 532 Driggs, Idaho 83422

(Mailing Address)

(Zip Code)

Telephone No. 354-8365

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:

- (1) Date of priority: (When was the water first applied to a beneficial use) 7-1-1963

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)
Paradise Spring tributary to Teton River

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

(cfs, af)		(Domestic, Irrigation, Stock, Etc.)		(Both dates inclusive)	
Quantity		Use		(Mo., Day)	(Mo., Day)
0.65 cfs		Use	Irrigation	4-1	11-1
Quantity		Use		Period of Use From	To
Quantity		Use		Period of Use From	To
Quantity		Use		Period of Use From	To
Quantity		Use		Period of Use From	To

- (4) 0.65 cfs TOTAL QUANTITY USED.
(cfs, af)

- (5) A) Point of diversion: (Location of point where water is diverted from its source)
NE % NW %, Sec. 30 Twp. 4N Rge. 45E B.M., County of Teton
 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. Pump, pipeline and sprinkler system.

- (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]

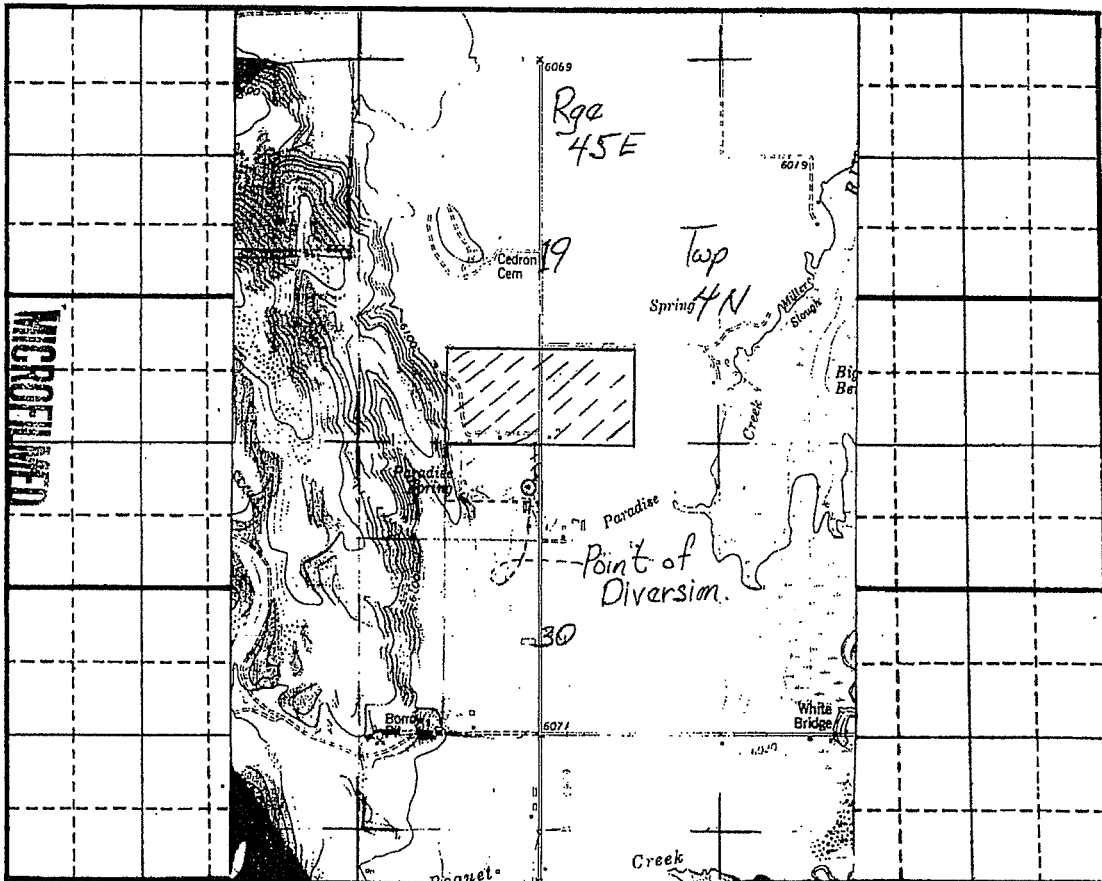
No. of acres 55

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

NOTE: Include here the type and number of stock watered:

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

(8) Remarks In 1963 I installed a pump and for the first time began to
sprinkler irrigate land that was historically flood irrigated by a
deceded right from Paradise Springs. In addition I also began irrigating
new lands not previously irrigated. Those lands are described above.



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 Bonneville) 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.

Sworn to before me this 30th day of June, 1983.

Chester H. Miller
 (Claimant)

Colleen Wray
 Notary Public
 Residing at Idaho Falls

My commission expires 6-15-83

FOR DEPARTMENT USE ONLY

Received by Emc Date 6-30-83 Exception filed by: _____ Forwarded to _____ Date _____
 Prelim. check by PMC Date 8-17-83 claimant by: _____
 \$30.00 fee received by CM Date 6-30-83
 Published in Peton Valley News # 25753
 Dates 9/28 - 9/29/83

85 1117

REX AND RENAE MILLER LATE CLAIM



Legend

- parcels
- Miller_POD
- Paradise_Springs
- RexMiller POU
- gcdb_sections
- gcdb_qq



0 0.04 0.08 0.16 Miles



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region, 900 North Skyline Drive, Suite A • Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

January 24, 2011

Dear Claimant:

As you may recall a settlement conference was recently held in Idaho Falls in hopes that the disputes regarding the water right claims from Paradise Springs could be resolved. At the settlement conference the parties in attendance and the Idaho Department of Water Resources reached a tentative agreement. However, final settlement is contingent upon additional action by the parties. The purpose of this letter is to let you know what further action needs to be taken in order to bring closure to the Paradise Springs subcases in the Snake River Basin Adjudication ("SRBA").

The table below lists the amounts agreed upon during the settlement conference followed by the tasks that need to be completed before the settlement can be finalized. Please find your subcase(s) below and take the appropriate action. IDWR would be happy to help you through the process if you need assistance, as appropriate. Because of the global nature of the settlement of Paradise Springs, SF5 settlement documents will be prepared once the late claims and amended claims are ready for resolution. In other words, all the subcases are tied together and are anticipated to progress through the SRBA resolution process as a group.

<u>Claim number</u>			<u>Owner</u>	<u>Decreed Acres</u>	<u>Beneficial Use Acres</u>	<u>Decreed Quantity</u>	<u>Beneficial Use Quantity</u>
22	587	A	KUNZ, LARELL A	25		0.35	
22	12714	B	SUSAN C ALDEEN TRUST	7.8		0.11	
22	13211		MILLER, DON LE ROY	8.5	3.3	0.17	0.07
22	13212		REID, MICHAEL L	26	9.6	0.52	0.19
22	13511		TETON RAINBOW RANCHES	72		1	
22	13586		RICHARDSON, ANDREW J	23.5	8.5	0.47	0.17
22	13853		MILLER, CHESTER H; MILLER, REX H	16.5	6.5	0.33	0.13
22	13854		RICHARDSON FAMILY PROPERTIES LLC	17	14	0.24	0.38
22	13509		FRED MILLER TRUST	25.5	9.5	0.51	0.19

22-587A: No need to amend the claim. Only needs to sign SF5.

22-12714B: Needs to amend claimed flow rate to 0.11 cfs.

JAN 25 2011

22-13211. No need to amend claim. Only needs to sign SF5. It is my understanding that the objectors to this subcase seek a subordination remark limiting a delivery call on this right to 7.6 acres and .17 cfs. Additionally, needs to set aside 22-11537, the 1969 beneficial use right, and sign an SF5 for .07 cfs and 3.3 acres.

22-13212. Needs to move to set aside and amend claim for 0.52 cfs. Eventual recommendation for -13212 will contain a subordination remark limiting a delivery call on this right to 4.5 acres and 0.16 cfs. Will receive SF5 on 22-11639 for 9.6 acres and 0.19 cfs as the beneficial use claim.

22-13511. No need to amend claim. Only needs to sign SF5.

22-13586. Needs to amend claimed flow rate to 0.47 cfs. This right is governed, in part, by the stipulation filed December 2009. Consistent with that stipulation, the eventual recommendation for -13586 will contain the following subordination remark: This water right shall not be permitted to make a delivery call against water right nos. 22-13135, 22-13961, 22-13962, 22-13963, 22-13964, 22-2280E, 22-2296B, 22-2296D, and 22-13681, and their progeny. Needs to file a new beneficial use claim for 8.5 acres and 0.17 cfs.

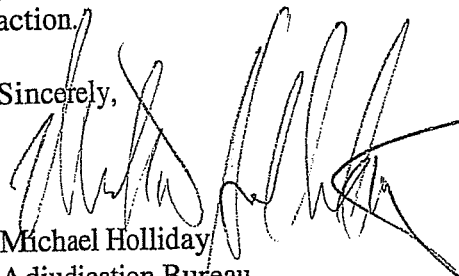
22-13853. Needs to amend claimed flow rate to 0.33 cfs and file a new beneficial use claim for 6.5 acres and 0.13 cfs.

22-13854. This right is governed, in part, by the stipulation filed December 2009. Needs to file a new beneficial use claim for 14 acres and 0.38 cfs.

22-13509. Consistent with the Amended Director's Report filed in July 2010, the eventual recommendation for -13509 will contain the following subordination remark: This water right shall not be permitted to make a delivery call against water right nos. 22-13135, 22-13961, 22-13962, 22-13963, 22-13964, 22-2280E, 22-2296B, 22-2296D, and 22-13681, and their progeny. Needs to file a new beneficial use claim for 9.5 acres and 0.19 cfs.

The next status conference on these subcases is set for February 2, 2011, at 9:30 a.m., during which Special Master Bilyeu agreed to hear motions to amend claims. Motions for late claims need to be heard by Judge Wildman. If you have questions about any of this, please contact your attorney, if applicable, or feel free to give me a call. Thanks in advance for your prompt action.

Sincerely,



Michael Holliday
Adjudication Bureau
Senior Water Right Agent



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

February 3, 2011

Rex Miller
P.O. Box 532
Driggs, ID 83422

Re: Water right 22-13853

Dear Mr. Miller:

I am a deputy attorney general representing the Idaho Department of Water Resources ("IDWR"). This letter is a follow-up to the letter Michael Holliday from IDWR sent to you last month about your subcase.

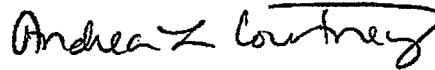
As you know, the Paradise Springs subcases in the Snake River Basin Adjudication ("SRBA") are on the road to settlement. Your water right 22-13853 is one of the subcases involved in said settlement. The SRBA Court held a hearing yesterday to discuss the status of the subcases involved in the settlement. The Court set a final deadline of February 11, 2011, in which to file an amended claim, if you intend to do so. As referenced in Mr. Holliday's letter, as part of the settlement, you can receive an increase in quantity for your water right (from .25 cfs to .33 cfs). However, IDWR can only recommend the increased amount to the SRBA Court if you file an amended claim. Amending a claim is not difficult, and you can contact Mr. Holliday for assistance. If you are content with your quantity recommendation the way it stands, .25 cfs, then you need not amend. If you choose not to amend, IDWR will, at some point after February 11, send a settlement document entitled Standard Form 5 ("SF5") for your signature. The SF5 will reflect the settlement, reducing your recommended place of use under this right to 16.5 acres (another 6.5 acres can be added via a late claim - see below). We will send more detailed instructions with the SF5.

Additionally, as part of the settlement and referenced also in Mr. Holliday's letter, you may be entitled to another water right, one based on beneficial use from Paradise Springs for .13 cfs on 6.5 acres. This additional right would necessarily have a later priority date than does 22-13853 (the other beneficial use rights that are part of this settlement grouping have priority dates in the 1960s), and you would be responsible for submitting evidence in support of the priority date. The Court set a final deadline of March 25, 2011, for filing any late claims connected to this settlement. If you do not file

a late claim associated with the potential beneficial use of Paradise Springs water, you may be forfeiting said water right.

If you have questions about these matters, please contact me at (208) 287-4810 or Mr. Holliday at (208) 525-7161.

Sincerely,

A handwritten signature in cursive script that reads "Andrea L. Courtney". The signature is written in dark ink and is positioned above the printed name.

Andrea L. Courtney

Cc: Michael Holliday