COPY

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AUG 30 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)
)
)
)
)

Subcase No. 63-9534
(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 State of Idaho, Department of Lands ("IDL")

My address is 300 North 6th Street, Suite 103, P.O. Box 83720, Boise, Idaho 83720-0050

My phone number is: Work (208) 334-0200 Home Not Applicable

I am an attorney representing the IDL

My name is Tyson K. Nelson, Deputy Attorney General

My address is JRW Building, Second Floor, 700 West State Street, P.O. Box 44449, Boise, Idaho 83711-4449

My phone number is (208) 334-2400

MOTION TO FILE 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 State of Idaho acquired the land identified as the place of use for this claim from the United States through a clear list in 1907. Subsequently, the United States Forest Service obtained a license for this water right. IDL recently discovered that this water right had not been claimed in the SRBA. Since this water right is appurtenant to State land, IDL is filing a claim for the water right in the SRBA.

☐ 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 described 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.)

The Notice of Claim form is attached hereto.

I have attached:

☑ A fully completed Notice of Claim (available from IDWR) is attached.

☑ A claim filing fee and a late claim fee for those claims other than domestic or stock water use for which a notice of claim was filed. To determine this amount, contact IDWR at (800) 451-4129. IDWR has advised that the claim filing fee for this notice of claim is $25.00. IDL requests that IDWR initiate an SA-50 Interagency Billing Statement to bill IDL for the fees (see attached letter from IDL to IDWR).

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 Tuesday, November 20, 2012, at 1:30 p.m.
   at the SRBA courthouse, 253 Third Avenue, Twin Falls, Idaho.

VERIFICATION (Must be completed)

State of Idaho

County of Ada

Tyson K. Nelson, 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 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.

Attorney signing in representative capacity

Subscribed and sworn to before me on 8/29/12
(Insert Date)

OLGA L. VALDIVIA NOTARY PUBLIC STATE OF IDAHO

Notary Public for Idaho
Residing at: Boise
My Commission expires: 2/8/18

CERTIFICATE OF MAILING

I certify that on this 29th day of August, 2012, I caused to be served the original and/or copy of this form on the following persons by the indicated method:

1. Original to:

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

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Federal Express
- ☐ Facsimile: (208) 736-2121
- ☐ Statehouse Mail

2. Copies to

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Federal Express
- ☐ Facsimile: (303) 312-7379
- ☐ Statehouse Mail

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Federal Express
- ☐ Facsimile: _____
- ☒ Statehouse Mail

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

Not Applicable

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)

Tyson K. Nelson
Deputy Attorney General

SOUTHWEST
SUPERVISORY AREA
8355 West State Street
Boise ID 83714
Phone (208) 334-3488
Fax (208) 853-6372

IDAHO DEPARTMENT OF LANDS

TOM SCHULTZ, DIRECTOR
EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF LAND COMMISSIONERS
C.L. "Butch Otter, Governor
Ben Ysursa, Secretary of State
Lawrence G. Wasden, Attorney General
Donna M. Jones, State Controller
Tom Luna, Sup't of Public Instruction

August 28, 2012

Idaho Department of Water Resources
Attn: Craig Saxton
Idaho Water Center
322 East Front Street
P.O. Box 83720
Boise, Idaho 83720-0098

Re: Fee Payment for the following claims:

51-2277	61-7413	61-7414	61-7415	61-7416	61-7417
61-7418	61-7419	61-7456	63-9456	63-9457	63-9462
63-9465	63-9479	63-9480	63-9534	63-9569	63-9577
63-9587	63-9588	63-9589	63-9590	63-9591	63-9657
63-9804					

Dear Mr. Saxton:

The Idaho Department of Lands ("IDL") has prepared a Notice of Claim for the above-referenced water right claims and will file Motions to File Late Notice of Claim in the SRBA Court for each of the claims. In the event the SRBA Court grants IDL's motions, IDL requests that the Idaho Department of Water Resources initiate a SA-50 Interagency Billing Statement to bill IDL for the filing fees. The filing fee is $25.00 for each of the above-referenced claims.

If you have any questions, please contact me at sdouglas@idl.idaho.gov or 208-334-3488. Thank you for your assistance in this matter.

Sincerely,

Steve Douglas
Area Manager
Southwest Supervisory Area

SRBA Form No. 42-1409-2 (Internet 1/09)

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 63-9534
Date Received: _____
Receipt No: _____
Received By: _____

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

1. Name of Claimant(s) State of Idaho, Department of Lands Phone (208) 334-0200

Mailing Address 300 N. 6th St., Ste. 103, P.O. Box 83720 (Street or Box) Boise (City) ID (State) Zip 83720

2. Date of Priority: (Only one per claim) 09/26/1980 (Month/Day/Year (YYYY))

3. Source of water supply (Check one) Ground Water ☐ or Other ☑ (a) Spring

which is tributary to (b) Washboard Creek

4. Location of Point of Diversion is: Township 02N, Range 08E, Section 4,

NW 1/4 of NW 1/4, or Govt. Lot _____ BM., County of Elmore;

Parcel (PIN) no. _____

Additional points of diversion if any: _____

If available, GPS coordinates: _____

5. Description of diverting works (Wells, Pumps, Spring boxes, Pipelines, 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.

Headbox on a spring.

6. Water is claimed for the following: (limited to Domestic and/or Stockwater uses. See page 1 of the instructions.)

					cfs(☑) or AFY(☐)
For Stockwater	purposes from	Month/Day 6/1	to	Month/Day 10/31	amount 0.01
For _____	purposes from	_____	to	_____	amount _____

7. Total Quantity claimed 0.01 cfs ☑ or AFY ☐

8. Non-irrigation uses. Describe fully. (eg. Domestic: give number of households served if single ownership; Stockwater and Number of livestock) Stockwater for 199 head of cattle.

9. Location of Place of Use is: Township 02N, Range 08E, Section 4,
NW 1/4 of NW 1/4, Govt. Lot _____ BM. Parcel (PIN) no. _____
If different than shown in Item 4

for (Check One) **Domestic** ☐ **Stock** ☑ **Domestic and Stock** ☐

Additional places of use, if any _____

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

11. Do you own the property listed above as place of use? Yes ☑ No ☐
If the 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.

None (✓) _____

13. Remarks:
See the water right backfile for additional information to support this claim.

14. Basis of Claim (Check One) Beneficial Use ☐ Posted Notice ☐ License ☑ Permit ☐ Decree ☐

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number 63-9534

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 ☐ wish to receive do not ☑ and pay a small annual fee for monthly copies of the docket sheet

Number of attachments: 1

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
Steve Douglas, Area Manager (Title) of Idaho Department of Lands (Organization),
that I have signed the foregoing document in the space below as
Area Manager, Southwest Area (Title) of Idaho Department of Lands (Organization)
And that the statements contained in the forgoing document are true and correct.

Signature of Authorized Agent Steven J. Daugherty Date 8/28/12

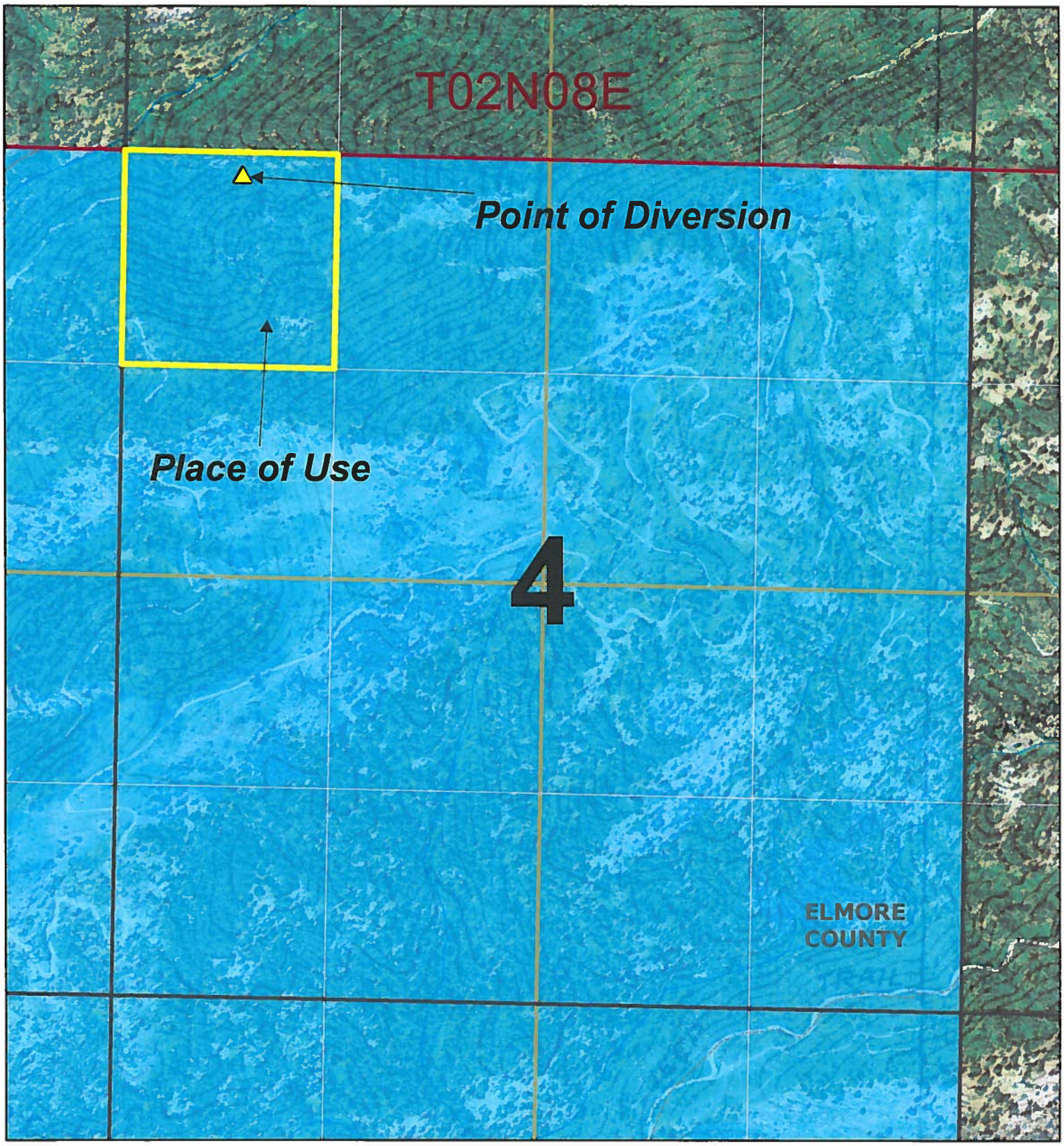
Title and Organization Area Manager, Southwest Area, Idaho Department of Lands

16. Notice of Appearance:
Notice is hereby given that I, Tyson Nelson, Deputy Attorney General, will be acting as attorney at law of 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 TNelson Date 8/29/2012

Address P.O. Box 44449, Boise, ID 83711-4449

Last Name Idaho Dept. of Lands Identification No. 63-9534



Legend

- 63-9534 Point of Diversion
- 63-9534 Place of Use
- All Streams
- Township
- Sections
- Quarter Lines
- Quarter Quarter
- IDL Endowment Ownership

Place of Use and Diversion 63-9534

7/03/2012

Scale 1:10,000

0 0.1 0.2 Miles

Map Notes

Projection: IDTM 83
Map Notes and Data Sources:
IDL Ownership current as of map date.
2011 NAIP Imagery
USGS 24K Topo Maps

Disclaimer:
This map has been compiled using the best information available to the Idaho Department of Lands at the time and may be updated and/or revised without notice. In situations where known accuracy and completeness is required, the user has the responsibility to verify the accuracy of the map and the underlying data sources.

Vicinity Map

\\Bureau\Legal\Water Rights\IDL Rights\Bv Area\IDL Ponds\...UnclaimedWRSouthwest.mxd dbooker-lair