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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

) Subcase

85-15748 - 9-28-12

) (Insert water right number)

Case 39576

) 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 Patrick O. Seubert

My address is 232 Ute Way, Carbondale CO 81623

My phone number is: Work (970) 618-1114 Home Same

I am an attorney representing _____

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:

We purchased the property from my wife's (Annie M. Seubert) mother
in 2010 and found for the first time that my wife's father had filed
in 1991 for Water Right No. 8511802, but not for a domestic right.

☐ 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 \$ 25.00.
- ☐ 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 heard on Tuesday, December 18 at 1:30 p.m.
(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:
- _____
- _____
- _____

- ☐ 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 (Must be completed)

State of Colorado

County of Garfield

Patrick O. Seubert

being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

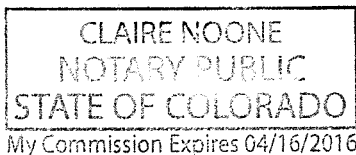
That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

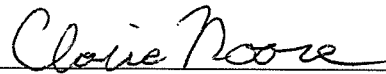


Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on September 24, 2012
(Insert Date)





Notary Public for _____

Residing at: 1001 Grand Avenue, GWS, CO 81601

My Commission expires: 4/16/2016

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.

CERTIFICATE OF MAILING

I certify that on September 25, ²⁰¹²~~199~~, 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
PO Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

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

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO 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 the form

**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 COEUR D'ALENE-SPOKANE RIVER
BASIN WATER SYSTEM**

CIVIL CASE NUMBER: 49576

ID Number: 85-15748

Date Received: _____

Receipt No: _____

Amount: _____ By: _____

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

Please type or print clearly

1. Name of claimant(s) Patrick O. Seubert and Annie M. Seubert Phone (970) 618-1114
Mailing address 232 Ute Way Carbondale CO ZIP 81623

Street or Box City State
2. Date of priority (only one (1) per claim) December 31, 1957

Month Day Year (yyyy)
3. Source of water supply (check one) Ground Water () or Other (x) (a) Spring
which is tributary to (b) Sinks
4. a. Location of point of diversion is: Township 33N, Range 2W, Section 36,
NW 1/4 of NE 1/4, or Govt. Lot _____, B.M., County of Lewis County
Parcel (PIN) no. RP330N02W360600T
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, or Govt. Lot _____, B.M., County of _____
ending point is: Township _____, Range _____, Section _____, _____ 1/4 of _____ 1/4 or
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.
The Spring is located on the Claimants' property and is collected in a 6'x6'x6' spring box and delivered by pipe
to the residence on the property for in-house domestic use and the associated irrigation of up to 1/2 acre of
adjoining lawns and gardens.

6. Water is claimed for the following purposes:

(both dates are inclusive mm-dd) (cfs) (acre-feet)

For Domestic purposes from 1-1 to 12-31 amount 0.04 or _____

For Irrigation of up to 1/2 ac. purposes from 4-1 to 0-31 amount 0.04 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.04 (cfs) and/or (b) _____ (acre-feet)

8. Non-irrigation uses; describe fully (e.g. Domestic: give number of households served; Stockwater: type and number of livestock, etc.): Domestic water for one residence including the irrigation of up to 1/2 acres

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 (e.g. D for domestic) in the corresponding place of use below. See instructions for standard symbols.

Twn	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
33N	2W	36		D															0.04

Parcel (PIN) no(s). RP330N02W360600T

Total number of acres irrigated up to 1/2 ac

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

11. Do you own the property listed above as place of use? Yes (x) 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.

(Although for a different purpose, Right No. 8511802 is a Stockwater right on the same property.) or None (x)

13. Remarks:

This water right is located on the same property as Stockwater Right No. 8511802, filed by Claimant Annie M. Seubert's father, Herman Trautman, on October 15, 1991. Mr. Trautman owned the subject property with his wife, M. Patricia Trautman. Prior to his death in 2004, Mr. Trautman had entered into a certain "Agreement to Pass Property to Surviving Spouse," with Mrs. Trautman and when he died, title to the property and water right passed to her. When Ms. Trautman later sold the subject property to the Seubert's in 2010, it was discovered that Mr. Trautman had previously completed, but inexplicably had not filed, a companion "Notice of Claim to a Water Right" for a domestic right on the same property. This "Notice of Claim," therefore, is intended to add this Domestic claim to the Stockwater Right No. 8511802 on the property.

Last name Seubert Identification no. 85-15748

14. Basis of claim (check one) Beneficial Use (X) Posted Notice () License () Permit () Decree ()

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable, provide IDWR water right number _____

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 notices in the Coeur d'Alene-Spokane River Basin Adjudication".

b. I/We do () do not (X) wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 2: Aerial & Topo

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)

Patricia J. Seubert

Date:

Sept 24, 2012

Annie Seubert

Date:

Sept 24, 2012

For organizations:

I do solemnly swear or affirm under penalty of perjury that I am

_____ of _____,
Title Organization

that I have signed the foregoing document in the space below as

_____ of _____,
Title Organization

and that the statements contained in the foregoing document are true and correct.

Signature of authorized agent _____ Date _____

Title and organization _____

16. Notice of appearance:

Notice is hereby given that I, _____, 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 _____ Date _____

Address _____

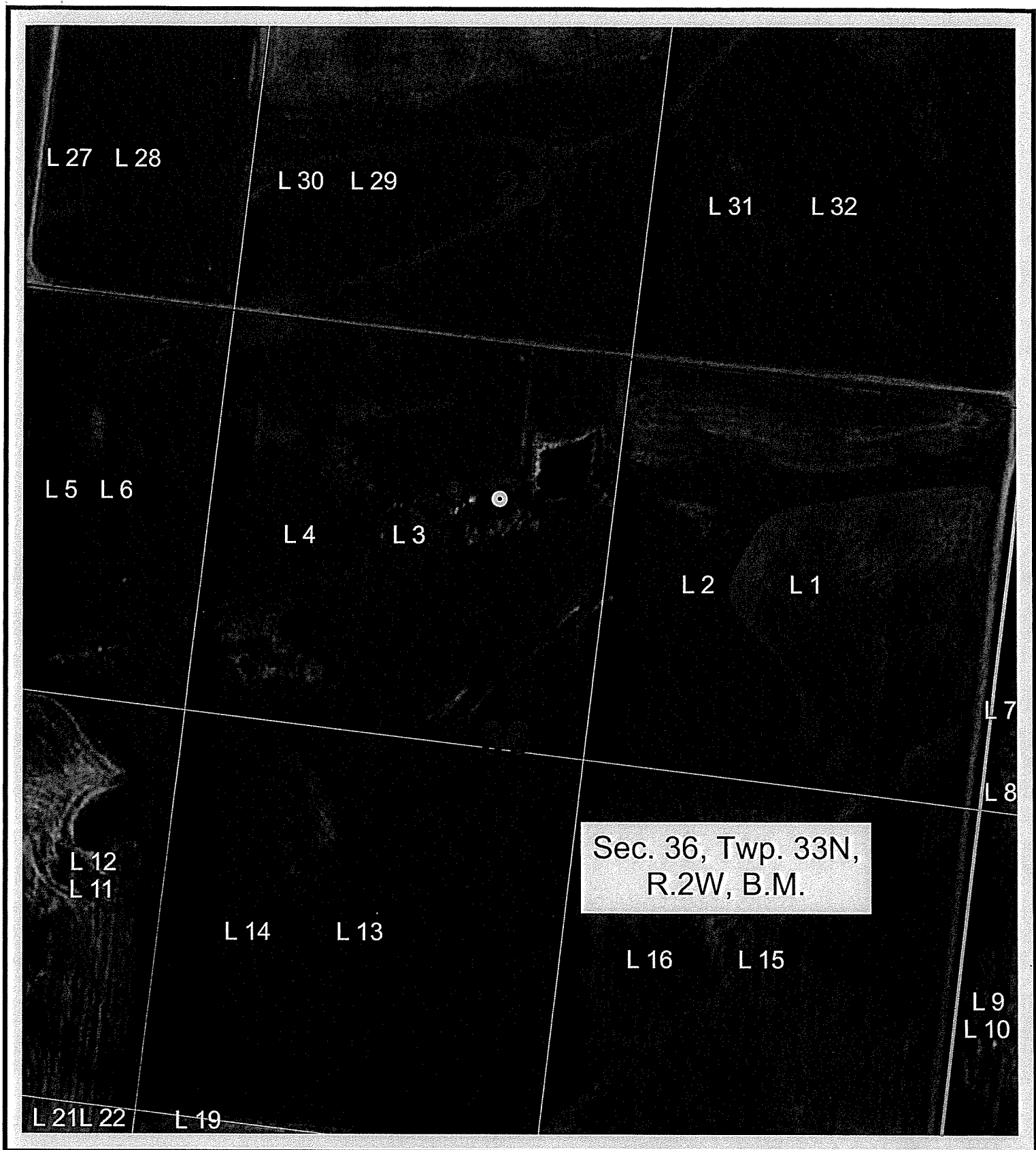


Image Date: 2011

0 212.5 425 850 1,275 1,700 Feet



Township

Section

Quarter-Quarter Section

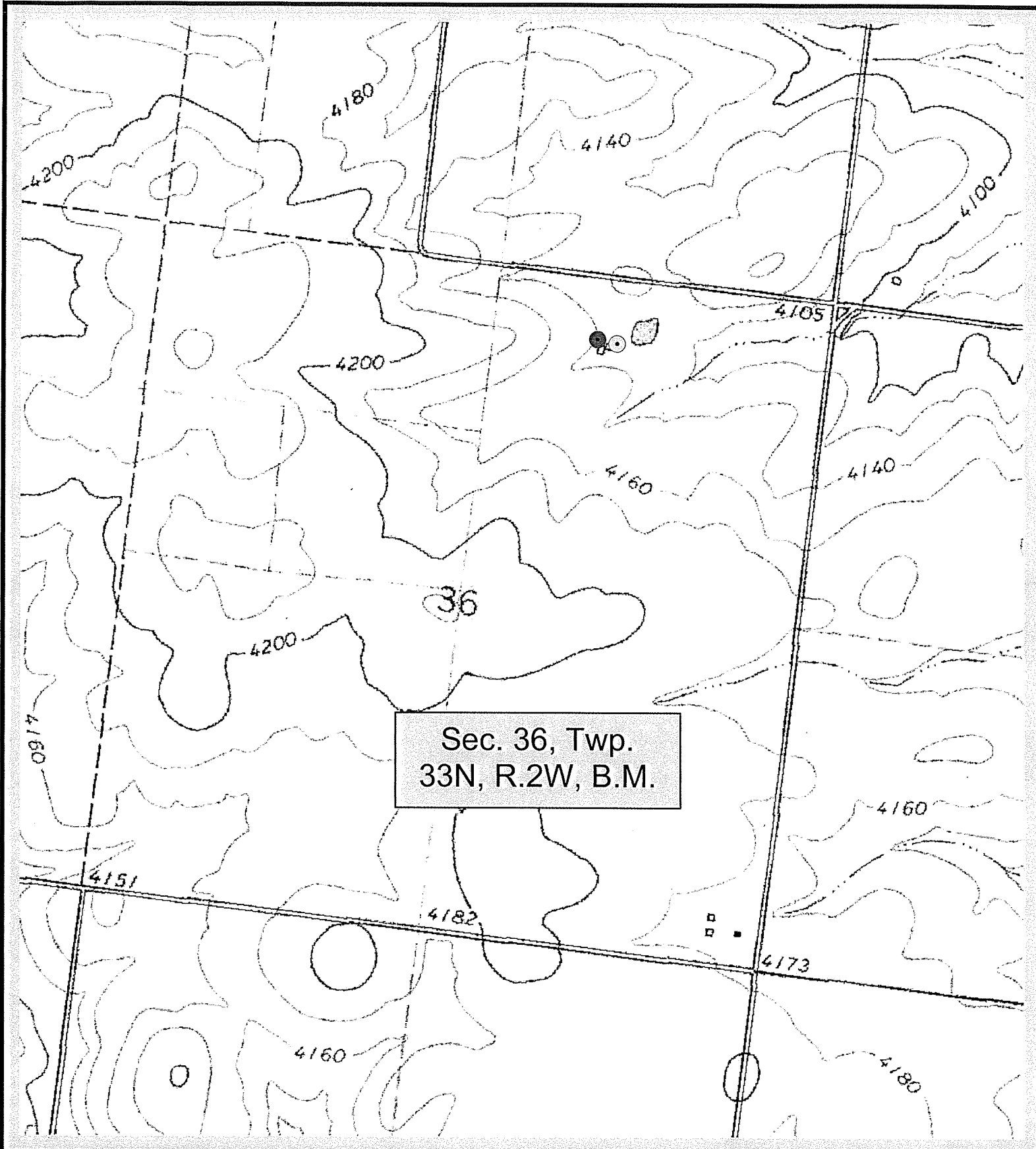


Point of Diversion



Place of Use

Claimants: Patrick O. Seubert and
Annie M. Seubert
232 Ute Way
Carbondale, CO 81623



Sec. 36, Twp.
33N, R.2W, B.M.

Base Mapping USGS Quad
Winchester East, 1967

0 550 1,100 2,200 3,300 4,400 Feet



- Point of Diversion
- Place of Use

Claimants: Patrick O. Seubert
and Annie M. Seubert
232 Ute Way
Carbondale, CO 81623

Down to Earth Landscapes and Construction, LLC

03/11

U.S. BANK NATIONAL ASSOCIATION
23-002/1020

3531

PO Box 680
Basalt, CO 81621
970-618-9707

9/24/2012

PAY TO THE ORDER OF State of Idaho Dept. of Water Resources

\$ **25.00

Twenty-Five and 00/100*****

DOLLARS

State of Idaho Dept. of Water Resources

MEMO

Case No. 49576

⑈003531⑈

Detlev Schubert

MP

DOWN TO EARTH LANDSCAPES AND CONSTRUCTION, LLC

3531

State of Idaho Dept. of Water Resources

9/24/2012

ID No. 85-15748

25.00

Notice of Claim- Schubert

US Bank Checking DT Case No. 49576

25.00