

COPY

1-29
RECEIVED
JAN 29 2013
DEPT. 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 No. <u>47-17606</u>
	)	(Insert Water Right Number)
	)	
	)	STANDARD FORM 4
Case No. 39576	)	
	)	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:

IDL manages the State endowment land identified in the Notice of Claim, attached hereto, for grazing and other uses. IDL's grazing lessees have used Cold Creek as a source for instream stockwater on the State land. IDL recently concluded that since it has leased the State land for grazing for many years, it would file a *de minimis* stockwater claim established by beneficial use.

☐ 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, April 16, 2013, 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

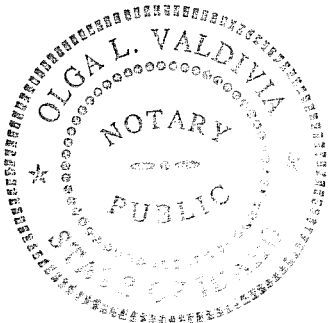
Tyson K. Nelson, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

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.

[Signature]

Attorney signing in representative capacity

Subscribed and sworn to before me on Jan. 27, 2013
(Insert Date)



Olga Valdivia
Notary Public for Idaho

Residing at: Boise, ID

My Commission expires: 2/8/18

CERTIFICATE OF MAILING

I certify that on this 28th day of January, 2013, 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.

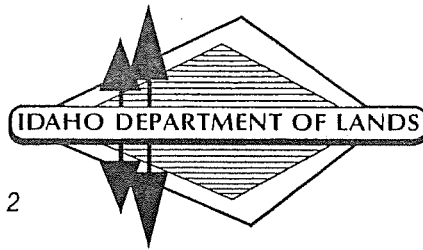
(Insert Names/address of parties)



Tyson K. Nelson
Deputy Attorney General

**SOUTH CENTRAL
SUPERVISORY AREA**

324 South 417 East, Ste. 2
Jerome, ID 83338-6206
Phone (208) 324-2561
FAX (208) 324-2917



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
Brandon Woolf, State Controller
Tom Luna, Sup't of Public Instruction

January 18, 2013

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

Re: Fee Payment for the SRBA Claims Nos. 45-14429, 47-17605, and 47-17606

Dear Mr. Saxton:

The Idaho Department of Lands ("IDL") has prepared Notices of Claim for the above-referenced water right claims and will file Motions to File Late Notice of Claim in the SRBA Court. 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 fees are as follows:

45-14429	\$25.00
47-17605	\$106.00
47-17606	\$25.00

If you have any questions, please contact me at tduffner@idl.idaho.gov or 208-324-2561. Thank you for your assistance in this matter.

Sincerely,

Tim Duffner
Area Manager
South Central Area