

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 71-4011

(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 THOMAS R. STUART

My address is 749 HIGH POINT LN, BOISE ID 83712-6561

My phone number is: Work \_\_\_\_\_ Home 208-343-3017

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:

see attached letter -  
\_\_\_\_\_  
\_\_\_\_\_

☐ 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.)

see attached.  
\_\_\_\_\_  
\_\_\_\_\_

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 April 16, 2013, 1:30 PM  
(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:

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- ☐ I am providing legal and factual documentation to support my amended Notice of Claim. You must describe these documents and attach a readable copy.

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I have attached:

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

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**VERIFICATION** (Must be completed)

State of IDAHO

County of ADA

THOMAS R. STUART II, being first duly sworn, upon oath, deposes and says:  
(Insert name of person filing form)

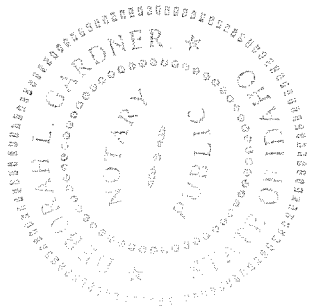
That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that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

[Signature]

Signature of person filing motion

\_\_\_\_\_  
Attorney signing in representative capacity

Subscribed and sworn to before me on January 29, 2013.  
(Insert Date)



[Signature]  
Notary Public for Idaho  
Residing at: Boise, ID  
My Commission expires: 1-13-15

**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 JANUARY 29, 2013, ~~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

Thomas R. Stuart & Anne Pasley-Stuart  
749 High Point Lane  
Boise, Idaho 83712-6561

IDWR – Western Region  
2735 Airport Way  
Boise ID 83705-5082

January 18, 2013

Re: information to supplement Notice of Claim for Water Right

Dear Sir or Madam,

This letter provides supplementary information for the enclosed Notice of Claim for a domestic Water Right at my residence in Stanley, Idaho.

Background & history: I purchased the subject property for this claim (Block 1, lots 1 and 2, Stanley Government Townsite) in 1975, and used water every year per an existing water right. The original claim #71-4011 is attached. Later, I purchased an adjacent property (Redwood Motel & Cabins - Block 1, lots 3-7, Stanley Government Townsite), and operated that business using claim #71-4012 (copy attached). During the Snake River Basin Adjudication, these two separate claims (71-4011 and 71-4012) were combined into one (#A71-4012), despite my concern that the two properties would eventually be separated again, with different owners and uses.

The two properties are now separated. The Redwood Motel & Cabins was sold in November 2005 to Mr. Greg Hogan of Ketchum, Idaho, who operates the business and continues using claim #A71-4012. Expect further correspondence from him regarding the change of ownership.

I request the original claim (#71-4011) or equivalent be reinstated for domestic purposes at my Stanley residence. Note that the priority date of 1963 would be appropriate and correct for that property, per #71-4011.

Thank you very much; contact me if I can provide any further information.

Regards,



Thomas R. Stuart

RECEIVED

JAN 13 2009

WATER RESOURCES  
DIVISION

# 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 \_\_\_\_\_  
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

- Name of Claimant(s) THOMAS R. STUART III Phone (208) 343-3017  
+ ANNE PASLEY-STUART
- Mailing Address 749 HIGH POINT LN, BOISE ID Zip 83712-6561  
Street or Box City State
- Date of Priority: (Only one per claim) MAY/01/1963  
Month/Day/Year (YYYY)
- Source of water supply (Check one) Ground Water ( ) or Other (X) (a) SALMON RIVER  
which is tributary to (b) SNAKE RIVER
- Location of Point of Diversion is: Township 11 N, Range 13 E, Section 34  
SE 1/4 of SE 1/4, or Govt. Lot \_\_\_\_\_ BM., County of CLUSTER  
BLOCK 1, LOTS 1 & 2, STANLEY GOV'T TRNSSITE  
Parcel (PIN) no. \_\_\_\_\_ (LAWEN STANLEY)
- Additional points of diversion if any: \_\_\_\_\_
- If available, GPS coordinates: N44° 14.05' W 114° 55.0'
- 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.  
PUMP: 1-1 1/2 HP, PIPELINE + HOSES TO APPROX 1/2 ACRE
- Water is claimed for the following: (limited to Domestic and/or Stockwater uses. See page 1 of the instructions.)  
For Domestic purposes from JAN 1 to DEC 31 amount <13,000 gal/day  
For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_
- Total Quantity claimed \_\_\_\_\_ cfs ( ) or AFY ( ) Not exceeding 13,000 gal/day
- Non-irrigation uses. Describe fully. (eg. Domestic: give number of households served if single ownership; Stockwater and Number of livestock) Domestic, 1 household in single ownership

9. Location of Place of Use is: Township 11 N, Range 13 E, Section 34,  
SE 1/4 of SE 1/4, Govt. Lot BEVER 1, LOTS 1 & 2, STANLEY GOV'T TOWNSHIP (SPRUE),  
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? CLUSTER

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 ( ) Well-drilled in 2006 for residence, on site

13. Remarks: See attached letter, with supplemental information.

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 ORIGINAL, 71-4011 (copy attached)  
AMENDED, A71-4012

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 Coeur d' Alene-Spokane 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 - Supplemental information letter

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) [Signature] Date: 01/15/2013  
[Signature] Date: 01/15/2013

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 forgoing 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 \_\_\_\_\_

Last Name \_\_\_\_\_ Identification No. \_\_\_\_\_

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
Southern Region

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1041 Blue Lakes Blvd. N.  
Twin Falls, Idaho 83301  
(208) 734-3578

DECEMBER 18, 1979

THOMAS R. III STUART  
1719N 11TH  
BOISE

ID 83792

RE: Claim No. 71-4011

Dear Claimant:

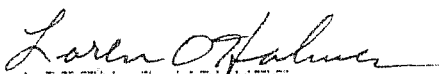
The Department of Water Resources has completed the advertising of your claim to a water right, and no further action is authorized under Section 42-243 and 42-244, IDAHO CODE. Your claim will be retained in our files and will be available at any time for use by you or the court.

The filing and advertising of the claim does not confirm the water right claimed, but will serve to record and preserve the information and the evidence which you included in your claim.

If, at a later date, you find that you have additional information or supporting evidence that you would like to have included with the claim, you may have that information or evidence added at any time. Please refer to the claim identification number when corresponding with this office.

We are enclosing a copy of your claim for your records. If you have questions, or if this office may be of further assistance, please feel free to contact us.

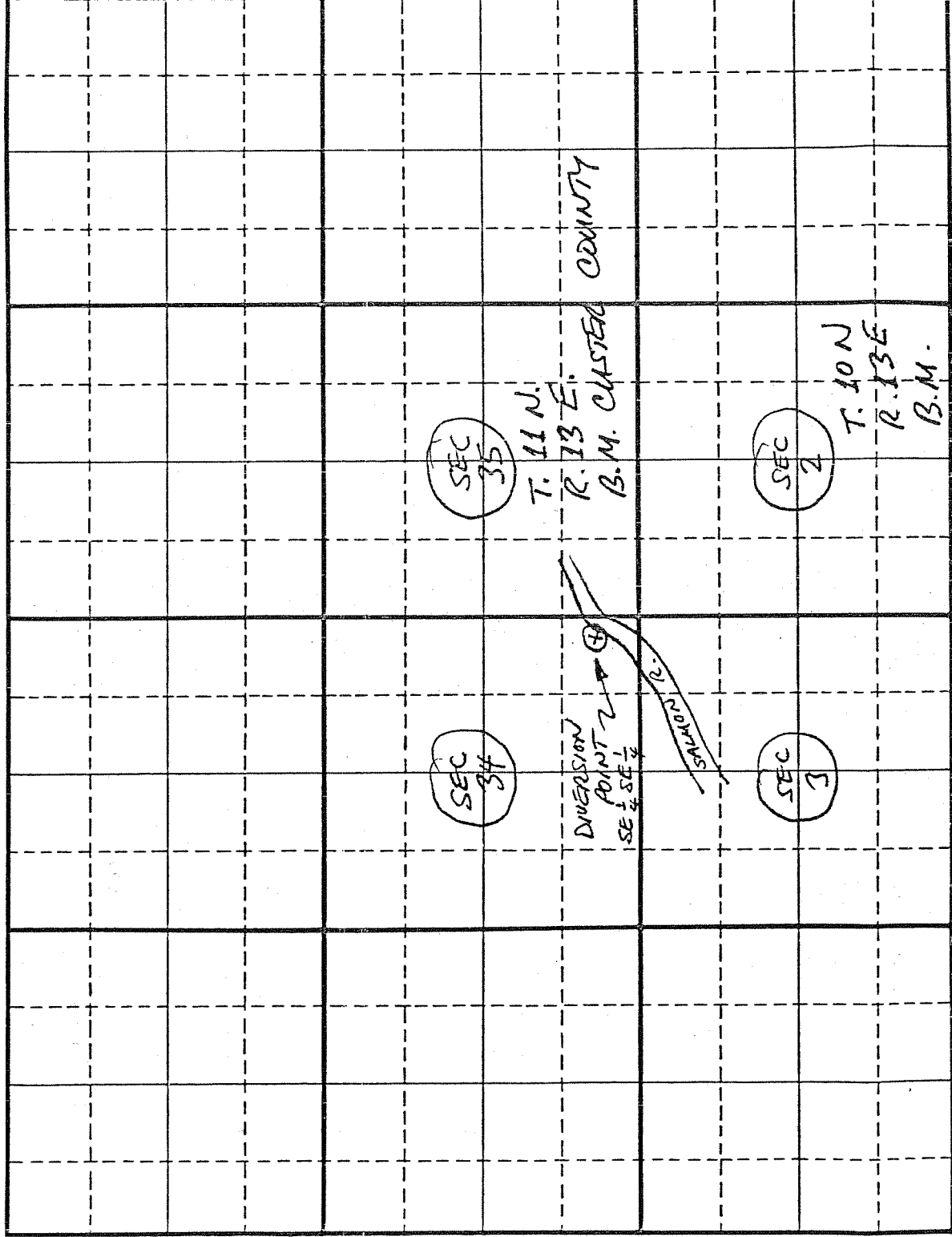
Yours truly,

  
LOREN O. HOLMES  
Southern Region Supervisor

Enclosure



(8) Remarks DIVERSION POINT: STANLEY GOV'T TOWNSITE,  
Block 1, Lots 1 AND 2.



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 Ada ) 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 29 day of October, 1929.  
Thomas H. Stewart (Claimant)  
Paula J. Knecht Notary Public  
Residing at Boise, Id.

My commission expires life

Received by maraga 10/30/29 FOR DEPARTMENT USE ONLY  
Prelim. check by KK Date 10/29/29 Exception filed by:  
\$20.00 fee received by 20.00 Date 10/29/29 # 15209  
Published in Quarter Publishing Co.  
Dates 11/29 & 12/16/29 Date

IDAHO DEPARTMENT OF WATER RESOURCES  
INDIVIDUAL LISTING FROM DIRECTOR'S REPORT  
OF WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: November 6, 1998

PAGE: 1

RIGHT NUMBER: 71-04012 - Combined original 71-04011 and 71-04012

NAME AND ADDRESS: THOMAS R STUART III  
2301 HILLWAY DRIVE  
BOISE ID 83702

SOURCE: SALMON RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 0.03 CFS

PRIORITY-DATE: 05/01/1944

POINT OF DIVERSION T11N R13E S34 LOT 2 (NESESE) Within CUSTER County  
LOT 2 (SESESE)

PURPOSE AND  
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY  
IRRIGATION 05-01 10-31 0.03 CFS

PLACE OF USE: IRRIGATION Within CUSTER County  
T11N R13E S34 LOT 2 (SESE) 1  
1 ACRES TOTAL

## OTHER MATTERS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER  
IN BASIN 71 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER  
RIGHTS IN BASIN 71:

| WATER RIGHT NO. | SOURCE |
|-----------------|--------|
| NONE            | NONE   |

THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER  
IN BASIN 71 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER  
RIGHTS IN THE SNAKE RIVER BASIN:

| WATER RIGHT NO. | SOURCE |
|-----------------|--------|
| NONE            | NONE   |

ALL WATER RIGHTS WITHIN BASIN 71 ARE FROM CONNECTED SOURCES  
OF WATER IN THE SNAKE RIVER BASIN AND SHALL BE ADMINISTERED  
CONJUNCTIVELY.

EXPLANATORY MATERIAL: BASIS OF CLAIM - BENEFICIAL USE  
PROPERTY IS KNOWN AS REDWOOD MOTEL.  
PROPERTY IS WITHIN LOTS 1 THRU 7, BLK. 1 OF STANLEY TOWNSITE  
(LOWER STANLEY).  
FIRE PROTECTION FOR MOTEL IS INCIDENTAL

Now should be  
Lots 3-7, Block 1 -  
for Redwood Motel

Redwood  
River (right bank)  
Court House - all.

|                            |                               |                      |             |
|----------------------------|-------------------------------|----------------------|-------------|
| SOURCE:                    | SALMON RIVER                  | TRIBUTARY:           | SNAKE RIVER |
| QUANTITY:                  | 0.03                          | CFS                  |             |
| PRIORITY DATE:             | 05/01/1944                    |                      |             |
| POINT OF DIVERSION:        | T11N R13E S34 LOT 02 (SESESE) | Within Custer County |             |
|                            | LOT 02 (NESESE)               |                      |             |
| PURPOSE AND PERIOD OF USE: | PURPOSE OF USE                | PERIOD OF USE        | QUANTITY    |
|                            | Irrigation                    | 05-01 TO 10-31       | 0.03 CFS    |
| PLACE OF USE:              | Irrigation                    | Within Custer County |             |
|                            | T11N R13E S34 LOT 02 (SESE)   | 1.0                  |             |
|                            | 1.0 Acres Total               |                      |             |

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

B. Wood

PAGE 1  
Mar-10-1999