

RECEIVED

OCT 01 1993

Department of Water Resources
Adjudication Bureau

**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.

Case No. 39576

STANDARD FORM 4

The State of Idaho, *ex rel.* R. Keith
Higginson in his official capacity as
Director of the Idaho Department
of Water Resources,

**MOTION TO FILE A LATE
NOTICE OF CLAIM**

34-07005 -0001/
93-10-0022

Petitioner,

vs.

The United States; the State of Idaho; and
all Claimants to the Use of Water From
the Snake River Basin Water System,

Respondents.

INSTRUCTIONS FOR USE

This form must be used to ask permission to file a late notice of claim in a reporting area where the director's report has been filed. This form has been adopted by the court in *SRBA Administrative Order* (amended June 21, 1993), Section 4A, which may be consulted for further information.

This motion requires you to 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.

You may copy or reproduce this form. If you do, the text must be on the front and back of each page exactly as it appears here. Fill out the form completely and attach all fees or the court will not accept the motion for filing. The Verification and Certificate of Mailing must be completed. Check each box to verify you have followed the court's instructions.

- ☒ As required by the court, I have read the *SRBA Administrative Order 1, Rules of Procedure* (amended June 21, 1993).

My name is Wild Horse Creek Ranch, A Washington General Partnership

My address is P.O. Box 398, Mackay, ID 83251

My phone number is: Work (208) 588-2575 Home _____

I am an attorney representing Wild Horse Creek Ranch

My name is Kimbell D. Gourley

My address is P.O. Box 1368, Boise, Idaho

My phone number is: (208) 344-8535

The water right number I want to file a late notice of claim for is A34-07005

I did not file a notice of claim to the use of water in the SRBA because:

The principals of the Partnership are out of state residents who were not familiar with the adjudication and the need to file the claim.

TO THE DISTRICT COURT OF THE COUNTY OF IDAHO

As required by the court, I am providing legal and factual documentation for my claimed use of water. The documents I am providing are: (You must describe the documents and attach a readable copy.)

Water Right License No. 34-7005

Quitclaim Deed dated May 17, 1993 in favor of the Devil's

Bedstead Partnership and Certificate of Assumed or Fictitious Name showing the change in the partnership name to Wild Horse Creek Ranch.

I have attached:

- ☒ A fully completed notice of claim (available from the Idaho Department of Water Resources (IDWR)).
- ☒ A claim filing fee and a late claim fee. IDWR may charge this fee pursuant to I.C. §§ 42-1414 and 42-1408A(j). To determine the 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 \$ 125.00.
- ☒ A court appearance fee in the amount of \$58.00 in the form of a check made payable to: *SRBA*. Persons filing a motion for late notice of claim do not become a party or claimant in the SRBA simply by filing this motion.

Follow these instructions regarding the hearing on this motion.

1. Contact 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 January 18, 1994 at 1:30 p.m.

(Insert Date and Time)

at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

VERIFICATION
(Must be completed)

State of IDAHO

County of Blaine

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

That I am the person or entity filing this motion and I have read the motion, know its contents and that the statements are true to the best of my knowledge and belief.

WS Shields
Signature of person filing form

By: Stephen A. Bodbury for
Attorney signing in representative capacity
Kimbell D. Gourley

Subscribed and sworn-to before me on September 15, 1993
(Insert Date)

Nicole Miller
Notary Public for IDAHO
Residing at: Letchem, ID
My Commission expires: 4-10-96

INSTRUCTIONS FOR MAILING

You must mail the form, including all attachments, to the Clerk of the SRBA Court and to the parties identified in the Certificate of Mailing. FAX filings will not be accepted by the SRBA Clerk of the Court.

You must sign the Certificate of Mailing to show that you followed these steps.

CERTIFICATE OF MAILING

I certify that on September 30, 1993, 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, Idaho 83303-2707

2. One copy to:

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

3. One copy to:

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 33
Boise, Idaho 83734

4. ~~Gary Grimes~~
~~Box 1555~~
~~Sun Valley, ID 83353~~



Signature of person or attorney mailing the form

QUITCLAIM DEED

For Value Received

C204232

TIMOTHY M. GARDINER, a single individual,

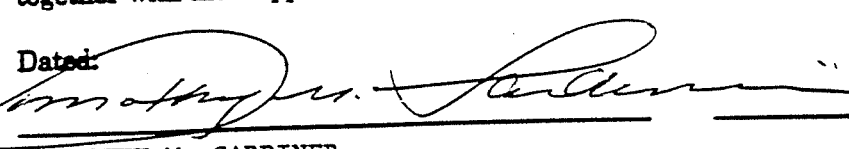
do hereby convey, release, remise and forever quit claim

unto THE DEVIL'S BEDSTEAD PARTNERSHIP, a Washington general partnership,
with its principle place of business at 1101 Ledwick Avenue, Yakima, Washington
the following described premises, to-wit:

See Exhibit "A"

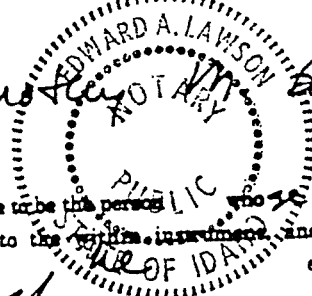
together with their appurtenances.

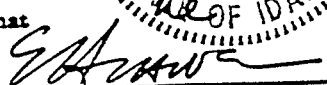
Dated:


TIMOTHY M. GARDINER

STATE OF IDAHO, COUNTY OF

On this 17 day of May, 1993
before me, a notary public in and for said State, personally
appeared


Timothy M. Gardiner
known to me to be the person whose name is
subscribed to the within instrument, and acknowledged to
me that he executed the same.


Notary Public
Idaho

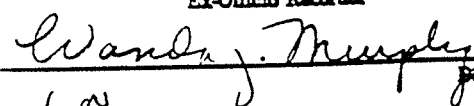
Residing at Blaine CO
Comm. Expires 5/22/94

STATE OF IDAHO, COUNTY OF Custer

I hereby certify that this instrument was filed for record at
the request of Eberle, Berlin, Kading
Turnbow & McKee
at 10 - minutes past 3 o'clock P.m.
this 26th day of June
1993, in my office, and duly recorded in Book
of Deeds at page

Ethel M. Peck

Ex-Officio Recorder

By 

Deputy

Fees \$ 6.00
Mail to:

EXHIBIT "A"

A parcel of land within H.E.S. No. 508 in unsurveyed Sections 20, 28, and 29, Meridian, Custer County, Idaho, and more particularly described as follows:

Commencing at Corner No. 5, of said H.E.S. No. 508 and said Corner being the TRUE POINT OF BEGINNING; thence North 87 degrees 49' West, 1,830.08 feet; thence North 4 degrees 51' East, 2,000.00 feet; thence North 72 degrees 04'03" East, 535.41 feet to Corner No. 3 of said H.E.S. No. 508; thence North 82 degrees 50'00" East, 866.58 feet to Corner No. 4 of said H.E.S. No. 508; thence South 7 degrees 09'00" East, 2,353.97 feet to the True Point of Beginning.

C204234

CERTIFICATE

OF ASSUMED OR FICTITIOUS NAME

(Complying with Section 53-501, Idaho Code, 1947)

STATE OF IDAHO, }
 County of _____ } ss.

THIS CERTIFIES

That there is being carried on, conducted or transacted, or is about to be conducted or transacted at
 (See Exhibit "A" attached hereto) in _____, County of Custer
 (Give street number or location)
 State of Idaho, the business of a recreational camp
 under the designation, name and style of Wild Horse Creek Ranch

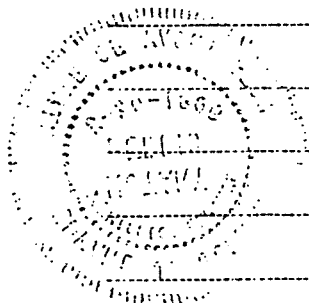
which is assumed or fictitious, being other than the true and real name of the person conducting or transacting such business or having an interest therein;

That the true or real full name of (each of) the person conducting or transacting or intending to conduct or transact said business or having an interest therein, and its post office address are as follows:

NAME

POST OFFICE ADDRESS

Wild Horse Creek Ranch, a Washington general partnership
 1101 Ledwick Avenue
 Yakima, Washington



That this certificate is executed and acknowledged by the person so named and that no other person is conducting or transacting such business or has an interest therein.

Dated this _____ day of _____, 19____.

W. H. A. 20.10

EXHIBIT "A"

A parcel of land within H.E.S. No. 508 in unsurveyed Sections 20, 28, and 29, Meridian, Custer County, Idaho, and more particularly described as follows:

Commencing at Corner No. 5, of said H.E.S. No. 508 and said Corner being the TRUE POINT OF BEGINNING; thence North 87 degrees 49' West, 1,830.08 feet; thence North 4 degrees 51' East, 2,000.00 feet; thence North 72 degrees 04'03" East, 535.41 feet to Corner No. 3 of said H.E.S. No. 508; thence North 82 degrees 50'00" East, 866.58 feet to Corner No. 4 of said H.E.S. No. 508; thence South 7 degrees 09'00" East, 2,353.97 feet to the True Point of Beginning.

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

CIVIL CASE NUMBER: 39576

Ident. Number A34-07005100A

Date Received

Receipt Number

**IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM**

NOTICE OF CLAIM

**TO A
WATER RIGHT**

ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Wild Horse Creek Ranch Phone (208) 588-2575Mailing Address A Washington General Partnership
P.O. Box 398, Mackay, ID Zip 832512. Date of Priority (Only one (1) per claim) 06-08-683. Source of water supply (a) Newton Springswhich is tributary to (b) Big Lost River4. a. Location of existing point of diversion is: Township 7N Range 20E Section 29,
1/4 of NW 1/4 of NE 1/4, Govt. Lot, B.M., County of Custer

Additional points of diversion if any:

b. If instream flow, beginning point of claimed instream flow is:

Township 7N Range 20E Section 29, 1/4 of NW 1/4 of NE 1/4Govt. Lot B.M., County ofending point is: Township 7N Range 20E Section 29, 1/4 of NW 1/4 of NE 1/4
1/4, Govt. Lot B.M., County of5. 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. Spring Box to Buried Mainline toStock Trough, Gravity Sprinkler System.

6. Water is claimed for the following purposes:

(both dates are inclusive) (cfs) (acre feet)

For Irrigation purposes from 4/15 to 10/15 amount 0.50 or 0.50

For Stock water purposes from 1/1 to 12/31 amount 0.04 or 0.04

For Domestic purposes from 1/1 to 12/31 amount 0.00 or 0.00

For Other purposes from 1/1 to 12/31 amount 0.00 or 0.00

7. Total quantity claimed (a) 0.50 (cfs) and/or (b) 0.50 (acre feet)

8. Total consumptive use claimed is 62.5 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) 30 to 50 head of horses; stock water

10. Description of place of use:

- 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 instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
7N	20E	20									8							17	25

Total number of acres irrigated 25

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

12. 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.

13. Describe any other water rights used at the same place and for the same purposes as described above.
 or None (X)

14. Remarks:

Last Name Wild Horse Ident No. A34-07005

Copies: White -State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License X Permit _____
Decree _____
If applicable provide IDWR Water Right Number 34-07005
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

16. 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 X
wish to receive and pay a small annual fee for monthly copies of the docket sheet.
Number of attachments _____

For Individuals: I do solemnly swear or affirm 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 that I am A General Partner
of Wild Horse Creek Ranch, that I have signed the foregoing
document in the space below as General Partner of Wild Horse Creek Ranch
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent [Signature]
Title and Organization General Partner, Wild Horse Creek Ranch

State of Idaho/or _____)
County of Blaine) SS.

Subscribed and sworn (or affirmed) before me this 15th day of September 19 93
SEAL Notary Public [Signature]
Residing at Ketchum, ID
My Commission Expires 4-10-96

Please Print Name

17. Notice of Appearance:
Notice is hereby given that I, Kimbell D. Gourley 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 Stephen A. Bradbury for Kimbell D. Gourley
Address P.O. Box 1368, Boise, ID 83701
Date Sept. 30, 1993

Last Name Wild Horse Ident. Number A34-07005

STATE OF IDAHO
LICENSING

APPLICATION FOR AMENDMENT OF A PERMIT

JUL 20 1982

To change the point of diversion and/or the place of use.

Department of Water Resources

Comes now Devil's Bedstead Ranch, Inc. Phone _____
f (address) Terrace Lakes, Garden Valley
c/o Lon Jarvis, Box-781, Sun Valley, Idaho 83353, and represents to the
Director of the Idaho Department of Water Resources:

That he is the owner and holder of Permit to appropriate the Public Waters of the State of Idaho
No. 34-7005, and requests that the permit and permit map be changed as follows:

1. Point of diversion: NW 1/4 NE 1/4, Section 29, Township 7N, Range 20E, B.M.,
County of Custer. Other points of diversion: _____

2. Period and nature of use: (irrigation, domestic, stockwatering, industrial, etc.)

Amount 0.50 for irrigation purposes from 4/1 to 9/15 (both dates inclusive)
(cfs or acre feet per annum)
Amount 0.02 for stockwater purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre feet per annum)
Amount 0.04 for domestic purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre feet per annum)

3. Place of use or land to be irrigated:

TWP	RGE	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
7N	20E	20													8			17	25

Total number of acres to be irrigated = 25

4. a. Who owns the property at the point of diversion? U.S.F.S.
b. Who owns the land to be irrigated or the place of use? TIM GARDNER + ASSOCIATES
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the

applicant to make this filing: The Permit application has been in my
NAME. I sold the Guest Ranch and all Rights to
F.S. permits - water - use - & LICENSES.

TIM GARDNER lives in Ketchum, Idaho

Witnessed - Lon S. Jarvis July 28/82

State of Idaho

Department of Water Resources

SEP 17 1982

WATER RIGHT LICENSE

Department of Water Resources
Eastern District Office

License of Water Right No. 34-7005 Priority June 8, 1968 Amount 0.50 cfs
(late proof)

THIS IS TO CERTIFY, that Devil's Bedstead Ranch, Inc.
of Garden Valley, Idaho, has complied with the terms and conditions of Permit
No. 34-7005 issued pursuant to Application for Permit dated April 15, 1968
and has submitted proof to the Department of Water Resources on June 3, 1974
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of 1.30 cfs of water from Newton Springs
tributary to Big Lost River, and that the permit holder has applied to a beneficial use and
established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
Irrigation	from <u>April 1</u> to <u>September 15</u>	at <u>0.50</u> cfs and	<u>75.0</u> acre feet
Stockwater	from <u>January 1</u> to <u>December 31</u>	at <u>0.02</u> cfs and	<u>0.4</u> acre feet
Domestic	from <u>January 1</u> to <u>December 31</u>	at <u>0.04</u> cfs and	<u>1.2</u> acre feet

(both dates inclusive)

Subject, however, to the condition that no more than 0.50 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
76.6 acre feet per year, said waters to be diverted within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 29, Twp.
7N, Rge. 20E in the County of Custer

Description and location of place of use:

Twp.	Range	Sec.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				Totals
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
7N	20E	20													8			17	25

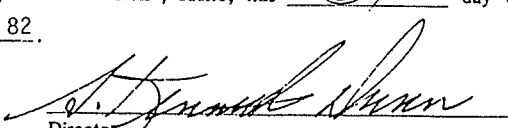
Total number of acres irrigated 25

A measuring device of a type approved by this Department shall be maintained
as a part of the diverting works.
Use of water under this license is subject to control by the watermaster of
State Water District No. 34, Big Lost River.
Domestic use is a Guest Ranch.

NOTE: Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho
Code, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands or place of use
herein described, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 31 day of
August, 19 82.


Director

NOT NECESS

Scale: 2 inches equal 1 mile.

Signed at

(Signature)

Preliminary check by KC Fee = \$20.00

NT USE ONLY
 Received by 1. J. Date 8.23.82 #24589

Publication prepared by N/A Date _____

Publication dates

ACTION OF THE DEPARTMENT OF WATER RESOURCES

A. KENNETH DUNN, of the Department of Water Resources her
Application for Amendment of Permit No. 34-7005.

I, A. KENNETH DUNN

I, A. KENNETH DUNN
APPROVE the above Application for Amendment of Permit No. 34-7005.

Witness my hand this 31 day of August, 1982
[Signature]
 Director

August

Director