

RECEIVED

FEB 20 2013

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho
FEB 19 2013
By _____
_____ Clerk Deputy Clerk

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

) Water Right Claim: 31-12313

Case No. 39576

)
) ORDER CONDITIONALLY GRANTING
) LATE NOTICE OF CLAIM
)
)
)
)

On November 19, 2012, the State of Idaho Department of Lands filed a *Motion to File Late Notice of Claim* for the above-captioned water right. A hearing on the *Motion* was held on February 19, 2013. No party appeared in opposition to the *Motion*. However, at the hearing an issue was raised regarding the payment of the appropriate filing fee associated with the late claim. Counsel for the Idaho Department of Lands represented that the standard practice for the payment of filing fees as between the Department of Lands and the Idaho Department of Water Resources is that if the late claim is granted, the Department of Lands effectuates payment through an interagency billing. Therefore, following a review of the file and after hearing the comments made in open court, the Court finds that good cause exists for granting the instant *Motion*, provided that the Idaho Department of Lands submits the appropriate filing fee associated with the late claim pursuant to its standard practices.

THEREFORE, IT IS HEREBY ORDERED that the *Motion to File a Late Notice of Claim* for the above-captioned water right is **conditionally granted** subject to the Idaho Department of Lands submitting the appropriate late claim filing fee to the Idaho Department of Water Resources pursuant to the standard practice of an interagency billing.

Dated February 19, 2013

ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER CONDITIONAL GRANTING LATE NOTICE OF CLAIM was mailed on February 19, 2013, with sufficient first-class postage to the following:

STATE OF IDAHO

Represented by:

STATE OF IDAHO

JRW BUILDING, SECOND FLOOR

700 W STATE ST, PO BOX 44449

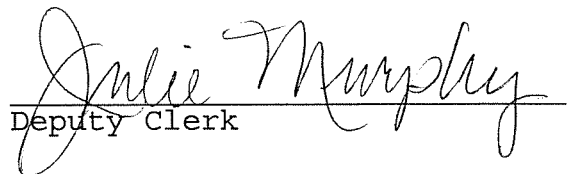
BOISE, ID 83711-4449

Phone: 208-334-2400

DIRECTOR OF IDWR

PO BOX 83720

BOISE, ID 83720-0098

A handwritten signature in cursive script, reading "Julie Murphy", is written over a horizontal line. The signature is in dark ink and is positioned to the right of the printed text "Deputy Clerk".

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DEPT. OF WATER RESOURCES

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

DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

NOV 19 2012

Clerk
Deputy Clerk

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 31-12313

Date Received: _____

Receipt No: _____

Received By: _____

NOTICE OF CLAIM
TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

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 Boise ID ZIP 83720-0050
Street or Box City State

2. Date of Priority (Only one (1) per claim) 05/02/1948
Month Day Year (YYYY)

3. Source of water supply (Check one) Ground Water () or Other (✓) (a) Waste Water
which is tributary to (b) Sinks

4. a. Location of Point of Diversion is: Township 13N, Range 39E, Section 13
SE, 1/4 of NE, 1/4 Govt. Lot, BM., County of Clark

Parcel (PIN) no. _____

Additional points of diversion if any: See attached additional information.

If available, GPS Coordinates _____

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

Township, Range, Section, 1/4 of, 1/4

Govt. Lot, BM., County of

ending point is: Township, Range, Section, 1/4 of, 1/4

Govt. Lot, BM., 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. Water is diverted from springs and applied to privately-owned land.

Water flows from private land onto adjacent State land and is applied to State land through a series of ditches.

6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For Irrigation purposes from 05/01 to 10/31 amount 17.46 or

For purposes from to amount or

For purposes from to amount or

For purposes from to amount or

7. Total quantity claimed (a) 17.46 (cfs) and/or (b) (acre feet)

8. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.)

9. 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.

Twn	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13N	39E	13			40	40				39	40				40	40	20	17	276
13N	40E	18			38	18			35	23	40	40	9	38	13	40	40	19	353
		19	40	31	9	39									27			3	149
		20					5	30	39	3		18							95

Parcel (PIN) no(s).

Total number of acres irrigated 873

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

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

or None (✓)

13. Remarks:

Last Name Idaho Department of Lands

Identification No. 31-12313

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 _____

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 Snake River Basin Adjudication." (b.) I/We do (☐) do not (☒) wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 3

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

Patrick Brown, Area Manager for Eastern Area of State of Idaho, Department of Lands,

Title

Organization

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

Area Manager for the Eastern Area of State of Idaho, Department of Lands,

Title

Organization

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

Signature of Authorized Agent [Signature] Date 11/2/12

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

16. Notice of Appearance:

Notice is hereby given that I, Tyson K. 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 [Signature] Date 11/16/2012

Address Office of the Attorney General, Natural Resources Division

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

Last Name Idaho Department of Lands Identification No. 31-12313

Notice of Claim Attachment 1

Description of Points of Diversion

NOTICE OF CLAIM TO A WATER RIGHT
Claim No. 31-12313

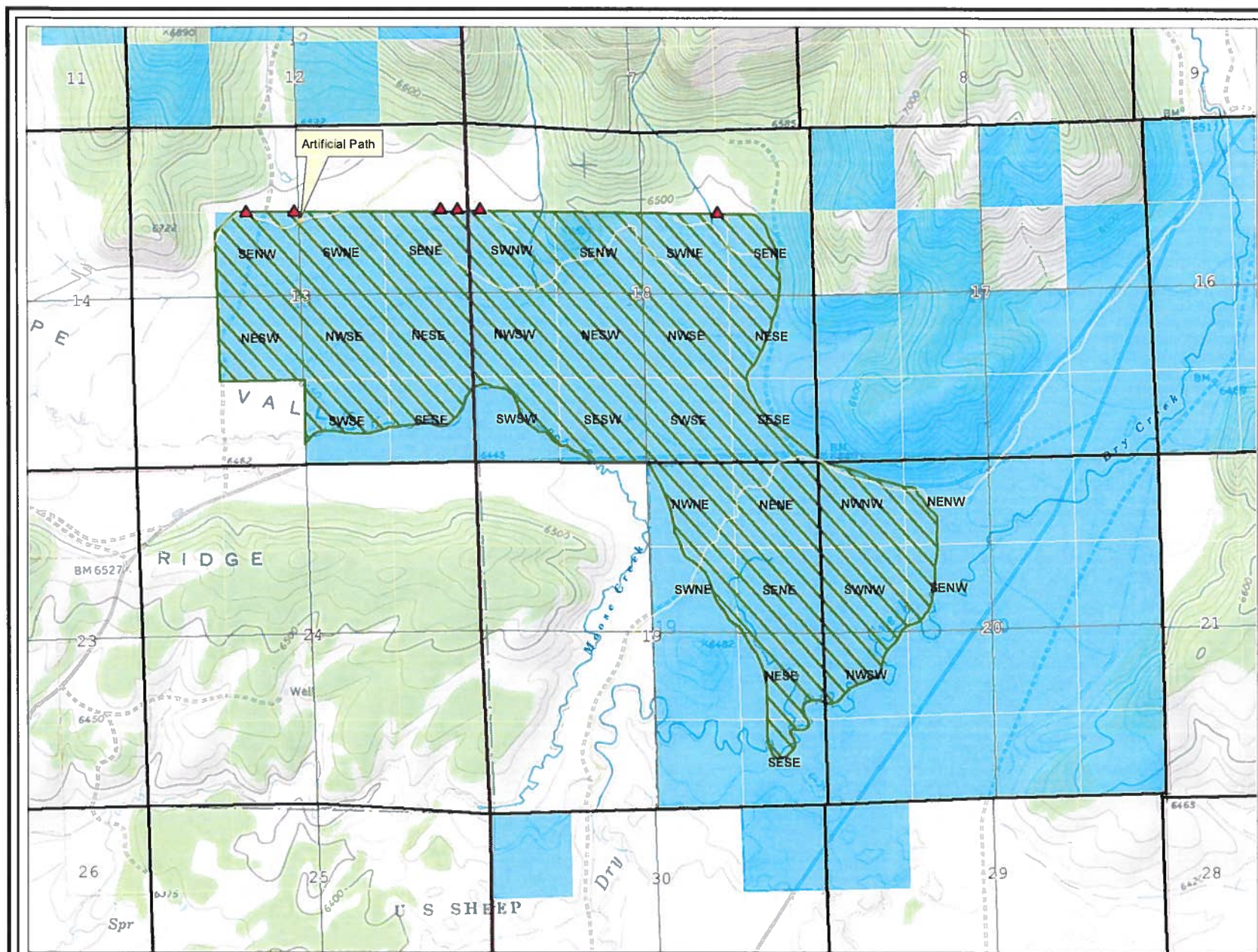
Additional Information for Section 4 - Location of Point of Diversion:

The points of diversion are at the following locations.

Township 13N, Range 39E, Section 13,	NESENE NESENE NESENW NWSENW
Township 13N, Range 40E, Section 18,	NESWNE NWSWNW (Lot 2)

Notice of Claim Attachment 2

Map



Place of Use and Diversion 31-12313

Legend

- Points of Diversion
- Places of Use
- IDL Endowment Ownership
- Artificial Path
- Stream/River
- Canal/Ditch
- Township
- Sections
- Quarter Quarter
- Quarter Lines

Explanation

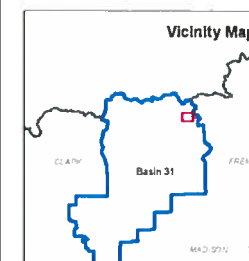
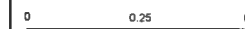
Projection: Idaho Transverse Mercator, NAD 83

Map Notes and Data Sources
Endowment Lands current as of map date
Hagenbarth Map 1 POU derived from
Anelopa Valley-Hagenbarth Map 7/2/2012
IDWR Canal data, downloaded 7/3/2012
ESRI USA Topo Service

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.

10/05/2012

Scale 1:17,000



Notice of Claim Attachment 3

Affidavit of James F. Hagenbarth

*Counsel for the State of Idaho,
Department of Lands*

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

Case No. 39576

Subcase No. 31-12313

**AFFIDAVIT OF JAMES F.
HAGENBARTH**

STATE OF MONTANA)
County of Beaverhead) ss.

JAMES F. HAGENBARTH, being first duly sworn upon oath, deposes and states as follows:

1. My name is James F. Hagenbarth. My mailing address is P.O. Box 1128, Dillon, MT 59725. I am of sound mind and majority age, and the below facts are based on my personal knowledge.

2. I, along with Laurel A. Hagenbarth, David J. Hagenbarth, and Pat Carrick, lease land from the State of Idaho under Idaho Department of Lands Lease No. G8407 (“Lease”).

3. I have leased the State Land since 1991.

4. The Lease covers certain parcels of State land located in Township 13 North, Range 39 East, Section 13; and Township 13 North, Range 40 East, Sections 18, 19, and 20, Boise Meridian, Clark County, Idaho. The State land is identified in Exhibit A attached hereto (hereinafter "State Land").

5. My family owns real property adjacent to the State Land, generally located north and west of the State Land.

6. My family irrigates our private land adjacent to the State Land under water right nos. 31-253, 31-254, 31-2077, 31-2125, 31-4027, 31-10208, 31-10212, 31-10216, and 31-10218.

7. I am familiar with the historic irrigation practices on my family's private land and on the State Land.

8. In the fall of 1947, my father, D.V. Hagenbarth, constructed a massive sub-flood water delivery system for Antelope Valley, where the State Land is located.

9. During spring months of the year when there is sufficient water, water flows off my family's private land onto the adjacent State Land through a series of ditches on the State and private land.

10. Based upon my knowledge of my family's historic practices in this area of Idaho, water from my family's private land has flowed onto and irrigated the State Land beginning with the irrigation season in May 1948.

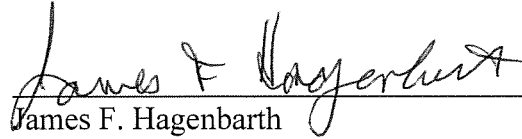
11. During times of high flow during runoff, approximately one inch per acre of water flows from the private land onto the State Land.

/

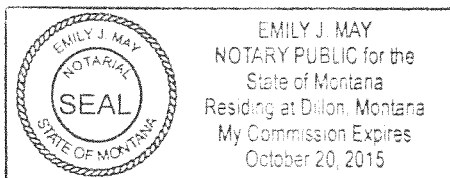
/

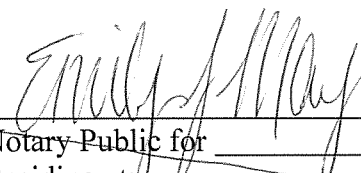
Further your affiant sayeth naught.

DATED this 6th day of November 2012.


James F. Hagenbarth

Subscribed and sworn to before me on this 6th day of November 2012.





Notary Public for _____
Residing at: _____
My commission expires: _____

Affidavit of James F. Hagenbarth Exhibit A

Map of Place of Use for Water Right 31-12313

