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APR 18 1996

Department of Water Resources
Adjudication Bureau

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

57-11513

In Re SRBA

Case No. 39576

STANDARD FORM 4

MOTION TO FILE A LATE
NOTICE OF CLAIM

INSTRUCTIONS

96-04-0026

This form is to be used to file a late notice of claim in a reporting area where the director's report has been filed and is made a part of *SRBA Administrative Order* 1, Section 4A (amended June 21, 1993), which may be consulted for further information.

A motion for permission to file a late notice of claim 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 instructions.

You do not have to fill this out if you are reinstating a notice of claim for domestic or stock water use but you **must** attach a copy of your notice of claim.

I have attached:

- ☒ A fully completed notice of claim (available from the Idaho Department of Water Resources (IDWR)).
- ☐ A claim filing fee for a domestic and stock water 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 \$_____.
- ☒ A claim filing fee and a late claim fee for those claims other than a domestic or stock water 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 \$ 100.00.
- ☒ For those claimants who did not previously file a notice of claim, a court appearance fee in the amount of \$65.00 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 July 16, 1996 @ 1:30 pm
(Insert Date and Time)

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

INSTRUCTIONS FOR MAILING

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 hereby certify that on April 16, 1996, 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:

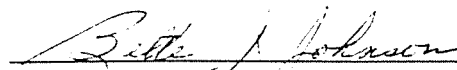
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

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



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 SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 57-11513

Date Received _____

Receipt Number _____

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) ERNEST C. & BETTE J. JOHNSON Phone (208) 337-4128Mailing Address Route 2 Box 90, Homedale, Idaho Zip 836282. Date of Priority (Only one (1) per claim) May 10, 19603. Source of water supply (a) Un-named stream
which is tributary to (b) Succor Creek4. a. Location of existing point of diversion is: Township 3N Range 6W Section 11,
SE 1/4 of SW 1/4 of _____ 1/4, Govt. Lot, _____ B.M., County of Owyhee

Additional points of diversion if any: _____

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

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

Govt. Lot _____ B.M., County of _____

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

_____ 1/4, 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 diversion works consist
of a small dam, reservoir, two headgates, and two ditches.

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Irrigation storage purposes from 1-1 to 12-31 amount _____ or 15

For Irrigation from storage purposes from 3-15 to 11-15 amount _____ or 15

For Stockwater storage purposes from 1-1 to 12-31 amount _____ or 15

For Stockwater from storage purposes from 1-1 to 12-31 amount _____ or 15

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

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

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) Stockwater 30 HD COW - CALF 1 Bull

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	
3N	6W	14		30			15												45
6W	6W	14					22	13											35
3N	6W	11																Storage	

Total number of acres irrigated 80

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

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.

Water rights 57-00003 & 57-00004 or None ()

14. Remarks:

The description of place of use above (#10) is a description of the land the Johnsons irrigate pursuant to Water Rights Nos. 57-00003 & 57-00004. The reservoir in which they store this water and from which they irrigate is located on property owned by a third party (SE 1/4, SW 1/4, Twp 3N Rng 6W, Sec 11). The Johnsons have an easement for the construction and maintenance of the reservoir, dam & ditches located at 3N, 6W, Sec 11 listed above in No. 10.

Last Name _____ Ident No. _____

Copies: White -State, Yellow-Claimant

3 N 6 W

Sec 11

Ditch

POU (POND)

POD (DAM)

POU for 57-00003 57-00004

Sec 14

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use X Posted Notice _____ License _____ Permit _____
Decree _____
If applicable provide IDWR Water Right Number _____
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 2

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true
and correct.

Signature of Claimant (s) Bette J Johnson Date 4-16-96

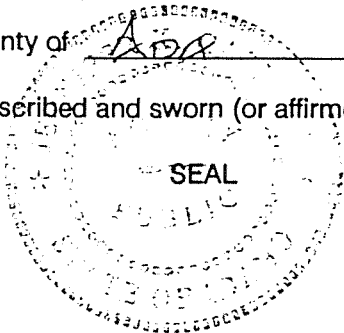
Date _____

For Organizations: I do solemnly swear or affirm that I am _____ Title _____
of _____, that I have signed the foregoing
Organization
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 _____
Title and Organization _____ Date _____

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 16 day of April 19 96



Notary Public Jennifer Carlson

Residing at Merton, ID

My Commission Expires 9.3.99

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ 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 _____

Address _____

Date _____

Last Name _____ Ident. Number _____

Copies White-State, Yellow-Claimant

1 IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE STATE
2 OF IDAHO, IN AND FOR THE COUNTY OF OWYHEE
3

4 ERNEST C. JOHNSON, et ux,) CIVIL ACTION # 2659

5 Plaintiffs,)

6 -vs- : JUDGMENT

7 ROSS A. EVANS, et ux,)

8 Defendants.)
9

10 Upon reading and filing the stipulation of the parties and
11 upon motion of plaintiffs for entry of judgment in conformity
12 with the stipulation of the parties and good cause appearing
13 therefore;

14 IT IS HEREBY ORDERED ADJUDGED AND DECREED THAT:

15 plaintiffs, ERNEST C. JOHNSON and BETTY JOHNSON, husband and
16 wife, have a water right on the unnamed water course as set forth
17 in the State of Idaho water license #22566, to-wit:

18 STATE OF IDAHO

19 LICENSE AND CERTIFICATE OF WATER RIGHT
20

21 Water License No. 22566 Priority January 19, 1952 Amount .9 c.f.s.

22 THIS IS TO CERTIFY that ELMER G. MITCHELL - ERNEST C.
23 JOHNSON, Assignee, of Homedale, Idaho, made application for a
24 permit to appropriate the public waters of the State of Idaho,
25 dated January 19, 1952; that Permit No. 22566 was issued under said
26 application; that Certificate of Completion of works, with a
27 carrying capacity of 1.6 second feet, was issued thereunder on
28 February 27, 1952, showing that said works were completed on the
29 23 day of February, 1952; and that on the 10th day of February, 1952,
30 ERNEST C. JOHNSON of Homedale, State of Idaho, made proof to the
31 satisfaction of the State Reclamation Engineer of Idaho, of a right
32 to the use of the waters of an Un-named Stream a tributary of
Sucker Creek for the purpose of Irrigation under Use Permit No.
22566 of the Department of Reclamation, and that said right to the
use of said waters has been perfected in accordance with the laws
of Idaho, and is hereby confirmed by the State Reclamation Engineer
of Idaho and entered of record in Volume 10 of Licenses, at Page
6361, on the 25th day of June, 1958;

The right hereby confirmed dates from January 19, 1952;

The Point of Diversion is located in the SE 1/4, Sec. 11,
Tp. 3 N., R. 6 W., B.M. Owyhee County.

That the amount of water to which such right is entitled and
hereby confirmed, for the purposes aforesaid, is limited to an

1 amount actually needed and beneficially used for said purposes,
2 and shall not exceed .9 cubic feet per second.

Description and location of use:

TWP.	RANGE	SECTION	FORTY-ACRE TRACT	NO. ACRES DESCRIBED IN PERMIT	NO. ACRES ACTUALLY IRRIGATED
3 N.	6 W.	14	NW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$	34 34	30 15

Total number of acres irrigated-45

7 The right to the use of the water aforesaid hereby confirmed
8 is restricted to the lands or place of use herein described, as
9 provided by the laws of Idaho.

10 "WITNESS the seal and signature of the State Reclamation
11 Engineer, affixed at Boise, Idaho, this 1st day of July, 1958

(SEAL)

Geo. N. Carter

State Reclamation Engineer.

12 And State of Idaho water license No. 22566 (Supplemental),
13 to-wit:

STATE OF IDAHO

LICENSE AND CERTIFICATE OF WATER RIGHT

(supplemental)

Water License No. 22566 Priority March 26, 1953 Amount 0.7 c.f.s.

17 THIS IS TO CERTIFY that ELMER G. MITCHELL-Assignee- ERNEST C.
18 JOHNSON of Homedale, Idaho, made application for a permit to
19 appropriate the public waters of the State of Idaho, dated January
20 19, 1952; that Permit No. 22566 was issued under said application;
21 that Certificate of Completion of works, with a carrying capacity
22 of 1.6 second feet, was issued thereunder on February 27, 1952,
23 showing that said works were completed on the 23rd day of
24 February, 1952; and that on the 6th day of July, 1959, ERNEST C.
25 JOHNSON of Homedale, State of Idaho, made proof to the satis-
26 faction of the State Reclamation Engineer of Idaho, of a right
27 to the use of the waters of unnamed stream a tributary of Succor
28 Creek for the purpose of irrigation, under Use Permit No. 22566
29 of the Department of Reclamation, and that said right to the use of
said waters has been perfected in accordance with the laws of
Idaho, and is hereby confirmed by the State Reclamation Engineer
of Idaho and entered of record in Volume 11 of Licenses, at Page
6733, on the 20 day of August, 1959;

The right hereby confirmed dates from March 26, 1953;

26 The Point of Diversion is located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 11,
27 Tp. 3 N., R. 6 W., B.M. Owyhee County.

28 That the amount of water to which such right is entitled and
29 hereby confirmed, for the purposes aforesaid, is limited to an
amount actually needed and beneficially used for said purposes,
and shall not exceed 0.7 cubic feet per second.

Description and location of use:

TWP.	RANGE	SECTION	FORTY-ACRE TRACT	NO. ACRES DESCRIBED IN PERMIT	NO. ACRES ACTUALLY IRRIGATED
3 N.	6 W.	14	NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$	34 12	22 13

Total acres to be irrigated:

35

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

3 WITNESS the seal and signature of the State Reclamation
Engineer, affixed at Boise, Idaho, this 20th day of August, 1959

4 Geo. N. Carter
State Reclamation Engineer.

5
6 Which right is prior to and superior to any and all water
rights ^{IN THE SAID UN-NAMED STREAM ONLY} of the defendants, ROSS A. EVANS and MARY K. EVANS.

8 IT IS FURTHER ORDERED ADJUDGED AND DECREED THAT:
9 the defendants, ROSS A. EVANS and MARY K. EVANS are hereby
10 restrained and enjoined from doing any acts which will interfere
11 in any manner with the plaintiffs, ERNEST C. JOHNSON and BETTY
12 JOHNSON's use, appropriation and priority of eighty inches of
13 water from the un-named stream as set forth above.

14 IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT:
15 the plaintiffs claim for damages as set forth in their complaint
16 on file herein be and the same is hereby dismissed with prejudice.

17 Dated this 9th day of MAY, 1960.

18
19 S/
District Judge

GRANT OF EASEMENT

THIS INDENTURE, made and entered into this 7th day of December, 1951, by and between ROSS A. EVANS and MARY K. EVANS, husband and wife, and WILLIS VERN EVANS and MINA LAVERN EVANS, husband and wife, the parties of the first part, and ELMER G. MITCHELL and OLIVE MITCHELL, husband and wife, the parties of the second part;

WHEREAS, the parties of the first part own that certain real property situated in the County of Owyhee, State of Idaho, and described as follows:

The Southeast Quarter of the Southwest Quarter of Section 11, Township 3 North, Range 6 West of the Boise Meridian, Idaho.

WHEREAS, the parties of the second part own that certain real property situated in the County of Owyhee, State of Idaho, and described as follows:

Lot 1 and the Northwest Quarter of the Northeast Quarter and the Northeast Quarter of the Northwest Quarter of Section 14, all in Township 3 North of Range 6 West of the Boise Meridian, Idaho.

WHEREAS, a well defined un-named water course runs in a general Northsouth direction approximately through the center of the above described real property belonging to the parties of the first part, and the parties of the second part have constructed a dam upon the above described real property belonging to the parties of the first part in said un-named water course approximately 500 feet North of the South line of the above described real property belonging to the parties of the first part;

WHEREAS, said dam is used to divert water into two ditches constructed by the parties of the second part upon the above described real property belonging to the parties of the first part for the purpose of conveying irrigation water to the above described real property belonging to the parties of the second part;

WHEREAS, one of said ditches commences at said dam and flows in a Southeasterly direction to the above described real property belonging to the parties of the second part, and the other of said ditches commences at said dam and flows in a southwesterly direction to the above described real property belonging to the parties of the second part;

WHEREAS, the parties of the first part have agreed to give the parties of the second part an easement for the construction and maintenance of said dam and said two ditches over the above described real property belonging to the parties of the first part.

NOW THEREFORE, in consideration of the concurrent conveyance of certain real property from the parties of the second part herein to the parties of the first part herein, and other good and valuable consideration paid by the parties of the second part to the parties of the first part, receipt of which is hereby acknowledged, the parties of the first part for themselves, their heirs, executors, administrators, successors and assigns, do hereby grant, sell and convey unto the parties of the second part, their heirs, and assigns forever, a perpetual easement and full and free right and authority to build, construct, reconstruct, maintain and repair the aforementioned dam and two ditches where the same are presently constructed and situated upon the above described real property belonging to the parties of the first part, subject, however, to the following conditions, to-wit:

The above described easement is appurtenant to the aforementioned real property belonging to the parties of the second part, and is appurtenant to that land only; this easement is subject to the equal right of the parties of the first part, their heirs and assigns, to an equal use of the water stored in said dam in order to water the stock of the first parties, their heirs and assigns, during the wintertime; the parties of the first part, their heirs and assigns, do further reserve the right to put a dam site on the same water course in a position above that of the parties of the second

part, provided that the parties of the first part do not interfere with the parties of the second Part's use of said water, water right, and dam; the parties of the first part do hereby expressly agree and consent that the parties of the second part may take dirt for the repair and maintenance of said dam from any point within sixty yards from either side of said dam; this easement is specifically subject to the duty of the parties of the second part to repair any damage to the property of the parties of the first part in the construction of said dam and/or ditches, or to pay for the said damages.

This grant is intended only as an easement and the parties of the second part are to acquire no greater interest in and to the property of the parties of the first part.

IN WITNESS WHEREOF, the parties of the first part have hereunto set their hands and seals the day and year first above written.

Ross A. Evans (SEAL)
Ross A. Evans

Willis Vern Evans (SEAL)
Willis Vern Evans

Mary K. Evans (SEAL)
Mary K. Evans

Mina Lavern Evans (SEAL)
Mina Lavern Evans

STATE OF IDAHO)
) ss
COUNTY OF Owyhee)

On this 17th day of January, 1952, before me, the undersigned, a notary public in and for said State, personally appeared Ross A. Evans and Mary K. Evans, husband and wife, known to me to be the persons whose names are subscribed to the within and foregoing instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

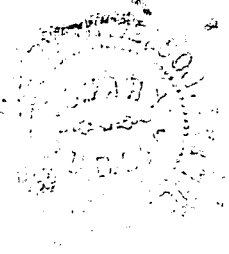
Richard F. Schumann
Notary Public for Idaho
Residing at Homedale, Idaho

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STATE OF IDAHO)
COUNTY OF BANNOCK) ss

On this 14th day of March, 1952, before me, the undersigned, a notary public in and for said State, personally appeared Willis Vern Evans and Mina Lavern Evans, husband and wife, known to me to be the persons whose names are subscribed to the within and foregoing instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.



Henry D. Nelson
Notary Public for Idaho
Residing at Armo, Idaho