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DEPARTMENT 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: 51-13094**

)

(Insert Water Right Number)

)

**Case No. 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: United States of America acting through  
Department of Interior, Bureau of Land Management

My address is: 1387 S. Vinnell Way  
Boise, Idaho 83709-1657

My phone number is: Work: (208) 373-3831 Home: ( ) \_\_\_\_\_

**Attorneys for the United States of America:**

David L. Negri (ISB #6697)

Bruce D. Bernard

My address is:

U.S. Department of Justice  
Environment and Natural Resources Div.  
Natural Resources Section  
550 West Fort Street, MSC 033  
Boise, Idaho 83724

U.S. Department of Justice  
Environment and Natural Resources Div.  
Natural Resources Section  
999 18th St., South Terrace, Suite 370  
Denver, Colorado 80202

Work: (208) 334-1936  
FAX: (208) 334-9375

Work: (303) 844-1361  
FAX: (303) 844-1350

## **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 (IDWR). Leave to amend a claim shall be freely given when justice so requires.

☒ I must amend my Notice of Claim to use of water in the SRBA because:

BLM filed its claims based upon provisional data from USGS regarding flows in the subject stream/river reaches. The USGS recently published its final report, therefore the claims are being amended to comport with this report. Also, the objections by the State of Idaho identified a number of issues in certain subcases with the location of Quantification Points and Beginning and Ending Points of Diversion, therefore these amendments seek to address those issues.

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

See attached Notices of Claim.

I have attached:

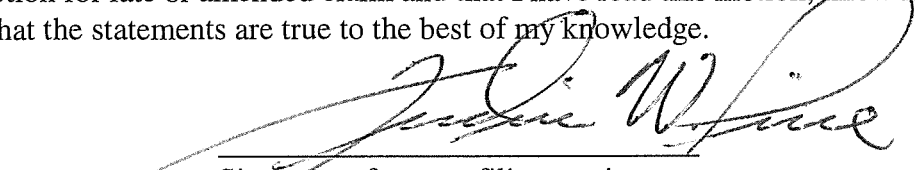
- ☒ An amended Notice of Claim (available from IDWR).  
☐ Payment of the following addition fees required by IDWR:  
N/A

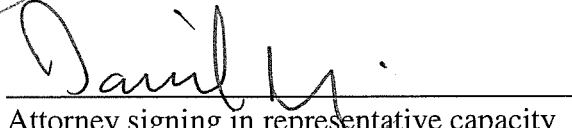
**VERIFICATION (Must be completed)**

State of Idaho            )  
                                      ) ss  
County of Ada            )

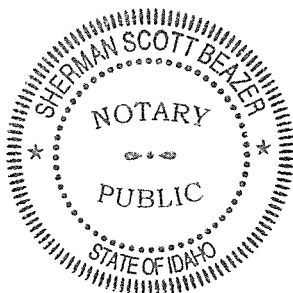
Fredric W. Price, Water Rights Specialist, being first duly sworn, upon oath, deposes and says:  
(Insert name of person filing form)

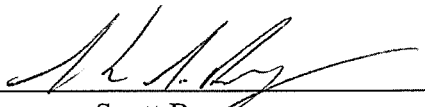
That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that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

  
\_\_\_\_\_  
Signature of person filing motion

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

Subscribed and sworn to before me on January 30, 2014  
(Insert Date)



  
\_\_\_\_\_  
Sherman Scott Beazer  
Notary Public for State of Idaho  
Residing at: Boise, ID  
My Commission expires: 12-10-2015

## 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 30, 2014, 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. Copies to:

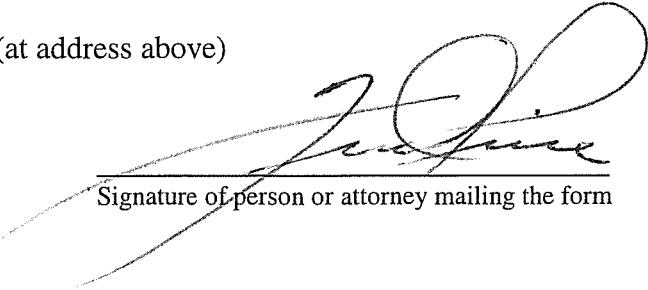
IDWR Document Depository  
P. O. Box 83720  
Boise, Idaho 83720-0098

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

United States, Department of Justice  
Environment and Natural Resources Division  
General Litigation Section  
550 West Fort Street, MSC 033  
Boise, Idaho 83724

3. If you are filing an amended Notice of Claim in a subcase being heard before the Presiding Judge or Special Master, you must serve a copy on all parties to that subcase.

State of Idaho (at address above)



Signature of person or attorney mailing the form



|            |      |                |      |
|------------|------|----------------|------|
| May 1-15   | 4.16 | November 1-15  | 1.84 |
| May 16-31  | 4.36 | November 16-30 | 1.88 |
| June 1-15  | 4.17 | December 1-15  | 1.88 |
| June 16-30 | 3.7  | December 16-31 | 1.9  |

- (2) When the stream flow at the Cottonwood Creek quantification site is greater than or equal to 4.14 cfs (as adjusted by accounting for upstream junior depletions), the United States is entitled to all flows.
  - (3) The quantification site for the flows identified above at the Cottonwood Creek quantification site is the Cottonwood Creek located in SW1/4NW1/4, Sec. 23, T.10S., R.03E., Boise Meridian; Latitude 42° 32' 41.071" N, Longitude 116° 04' 41.083" W (NAD 83).
- b. This water right does not prohibit the appropriation, diversion and use of water within the Cottonwood Creek Basin upstream from the ending point, as identified in element 5.b. below ("Cottonwood Creek Wild and Scenic River Basin"), when the stream flow at the Cottonwood Creek quantification site exceeds the flow amount in Section. 3.a.(1) and is less than 4.14 cfs.
  - c. The discharges identified in the table in Section 3.a.(1) above are intended to reflect the 20% unimpaired exceedance discharges at the Cottonwood Creek quantification site for each semi-monthly period (except for any semi-monthly period for which the discharge identified as necessary to protect recreation values exceeds the 20% exceedance discharge for that semi-monthly period). The 4.14 cfs discharge identified in the text of Section 3.a.(1), and in Section 3.a.(2) and Section 3.b. above, is intended to reflect the unimpaired 1.5 year peak flow recurrence interval discharge at the Cottonwood Creek quantification site. These discharges have been calculated based upon the best available hydrologic data and without taking into account impairment of discharges (existing upstream depletions). If additional hydrologic data and/or information concerning impairment of discharges become available that indicate a need for adjustment of the stated exceedance discharges, and/or the 1.5 year peak flow recurrence interval discharge, the claimed discharges may be modified accordingly.
  - d. This water right precludes any diversion of water out of the watershed of the Cottonwood Creek Wild and Scenic River Basin.

**4. Priority date:**

March 30, 2009

**5. Point of diversion:**

There is no diversion associated with this instream flow water right. The legal description of the beginning and ending points of the instream flow water right are as follows:

a. Location of beginning point:

At the point where the Cottonwood Creek intersects the upstream boundary of the Big Jacks Creek Wilderness:

SE1/4NW1/4NE1/4, Sec. 34, T.10S., R.03E., Boise Meridian.  
Latitude 42° 31' 02.404" N, Longitude 116° 05' 08.378" W  
(NAD 83).

b. Location of ending point:

At the point where the Cottonwood Creek intersects the confluence with Big Jacks Creek:

SE1/4NW1/4NW1/4, Sec. 23, T.10S., R.03E., Boise Meridian.  
Latitude 42° 32' 52.28" N, Longitude 116° 04' 38.844" W  
(NAD 83).

**6. Purpose of use:**

To fulfill the purposes of the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037-1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(184)).

**7. Period of use:**

January 1 - December 31

**8. Place of use:**

This instream flow water right is used throughout the designated Cottonwood Creek Wild and Scenic River from the beginning point to the ending point as identified above.

**9. Annual volume of consumptive use:**

This instream flow water right is non-consumptive (other than evaporation and evapotranspiration that may take place within the designated segment).

**10. Other Provisions Necessary for Definition or Administration of the Water Right:**

This is a federal reserved water right established pursuant to the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037-1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(184)).

## WATER RIGHT CLAIM VERIFICATION

STATE OF IDAHO                    )  
                                          ) ss:  
COUNTY OF ADA                )

### CLAIMANT VERIFICATION:

Water Right Number: 51-13094 (Cottonwood Creek)

- (a) By signing below, I acknowledge that I have received, read, and understand the form entitled "How you will receive notices in the Snake River Basin Adjudication."
- (b) I do\_\_\_ do not X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

For Organizations:

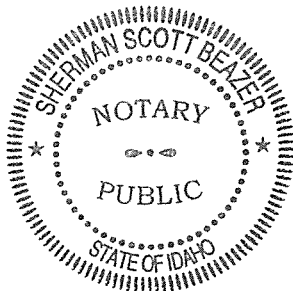
I do solemnly swear and affirm that I am Fredric W. Price, Water Rights Specialist of United States of America, acting through U.S.D.I., BLM, that I have signed the foregoing documents in the space below as Water Rights Specialist of United States of America, acting through U.S.D.I., BLM and that the statements contained in the foregoing documents are true and correct.

Signature of Authorized Agent *Fredric W. Price* for the  
United States of America, acting through U.S.D.I., BLM

### NOTARY:

Subscribed and sworn to before me on this 30<sup>th</sup> day of January, 2014.

Seal



*Sherman Scott Beazer*  
Sherman Scott Beazer  
Notary Public in and for: State of Idaho  
Residing at: Boise, Idaho  
My Commission Expires: December 10, 2015

Notice is hereby given that the United States Department of Justice will represent the United States of America, including the United States Department of Interior, Bureau of Land Management, in all matters pertaining to the Snake River Basin Adjudication.

All notices required by law should be mailed to the following identified individuals at the address below:

Bruce D. Bernard  
David L. Negri  
U.S. Department of Justice  
Environment and Natural Resources Division  
Natural Resources Section  
550 W. Fort Street, MSC 33  
Boise, Idaho 83724

This form is an attachment to a general Notice of United States' claims. The signature and affirmation on such Notice constitutes the required signature of the authorized agent representing the United States.

# Wild and Scenic Claim Map

## Cottonwood Creek

Land Status:  
yellow = BLM land  
blue = State land  
clear = private land

0 0.175 0.35 0.7 1.05 1.4 Miles

1:15,097



"No warranty is made by the Bureau of Land Management as to the completeness or accuracy of these data for use other than for general reference."

