



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

February 27, 2014

Lyle and Susanne Smith
194 Clearwater Main St.
Clearwater, ID 83552

RE: Recommendation of Late Claim Water Right 82-12250
Snake River Basin Adjudication (SRBA)

Dear Lyle and Susanne Smith:

Please find enclosed the Idaho Department of Water Resources (IDWR) recommendation of your domestic water right claim 82-12250. I have also enclosed a Notice of Late Claim Director's Report (Notice) which contains instructions for reviewing the recommendation, and other important information. Most Basin 82 water rights for domestic and / or stockwater uses, as well as water rights for irrigation and other uses, were recommended in earlier reports, and those water rights have now been decreed by the SRBA Court.

Please note you have until March 31, 2014, in which to review the recommendation of your water right and to file any objection you may have to the recommendation, should you disagree with it. Information on filing objections is contained in the Notice. If the SRBA Court does not receive any objections to the recommendation of right 82-12250, the right will be partially decreed as recommended in the near future.

Completion of the SRBA is important for the future of water management in Idaho. I invite you to contact IDWR's regional offices with any questions you have about your water right(s) or this adjudication process. Questions also can be directed to the adjudication staff at 1-800-451-4129 or 208-287-4909.

Sincerely,

Carter Fritschle
Manager, Adjudication Section

Enclosures

NOTICE OF LATE CLAIM DIRECTOR'S REPORT FOR WATER RIGHT NUMBER 82-12250

Pursuant to Judge Eric Wildman's *Order Granting Late Notices of Claim* and *Order for Expedited Late Claim Director's Report and Setting Forth Procedures and Deadlines for Expedited Process* dated February 19, 2014, the Director of the Idaho Department of Water Resources (IDWR) has filed with the Snake River Basin Adjudication (SRBA) District Court the Late Claim Director's Report for Water Right No. 82-12250, claimed by Lyle E. and Susanne A. Smith. Although Basin 82 was closed to non-deferrable claims taking on December 1, 2011, claims of deferred *de minimis* uses (small domestic and / or stockwater) were exempted from that closure. This Late Claim Director's Report (LCDR) contains the Director's recommendation to the SRBA Court as to how your claimed domestic water right should be decreed in the SRBA.

Why am I getting this mailing?

You have received this mailing because you filed a late claim for water right no. 82-12250 in the SRBA. This mailing contains only the Director's recommendations to the SRBA Court of your claim. Your mailing **does not** contain the Director's recommendations of any claims other than your own. Should you wish to review the Director's recommendations of other late claims--if any--in your basin, the reports are available at the SRBA courthouse in Twin Falls and at the locations listed at the end of this notice. Copies of the reports can be made, but you may be charged for copying and mailing. Maps of these reporting areas, as well as other information pertaining to the SRBA can be accessed on the internet.

With the SRBA nearing completion, IDWR currently has no plans for filing future Director's Reports of Late Claims, the vehicle formerly used to report numerous late claims at one time. These reports were filed biannually, each spring and fall. The last one was filed in December, 2013. Should the SRBA Court grant future motions for leave to file late claims, LCDR on those individual water right claims will be submitted to the SRBA Court on an expedited basis (the procedure being used to report your claim), prior to issuance of the SRBA final decree. You will not receive notice of these future individual LCDR as they are filed with the SRBA Court unless you have an ownership interest in the water right claim that is being reported. Therefore, if you are interested in the status of water rights belonging to other people that have not yet been recommended by IDWR, you should periodically review the Court's docket sheet or check the status of the water right on the Court's internet web page located at: <http://www.srba.state.id.us>. Information about subscribing to the Court's docket sheet is provided on page three of this notice.

INSTRUCTIONS FOR REVIEWING YOUR OWN WATER RIGHT

The description of your right, which is enclosed, is only the Director's *recommendation* to the SRBA Court on your water right. The Court will decide how it will decree your water right. You are free to agree or disagree with the Director's recommendation. If you agree with the Director's recommendation you do not need to do anything, pending further notice as described below. If you disagree with the Director's recommendation, you need to file an objection as described below.

INSTRUCTIONS FOR TAKING A WATER RIGHT CLAIM TO COURT

What do I do if I disagree with the recommendation?

If you disagree with any element of the recommendation for your water right and want to be heard in court, file an objection with the SRBA Court. Objections must be made on the standard objection form ("Standard Form 1") available from any IDWR office or from the SRBA Court. You may also download a copy of the objection form from the SRBA web site at: <http://www.srba.state.id.us>.

Your objection must be **received** by the SRBA Court on or before **March 31, 2014**.

What do I do if someone else objects to my water right recommendation?

If someone files an objection to your water right, you may file a response to that objection, but are not required to. Responses to objections must be made on the standard response form ("Standard Form 2") available from any IDWR office or from the SRBA Court. You may also download a copy of the response form from the SRBA web site at: <http://www.srba.state.id.us>.

Your response must be **received** by the SRBA Court on or before **April 14, 2014**.

What happens if there are no objections to my water right?

Should the deadline for filing objections and responses to your water right pass--with no objections or responses filed--the SRBA Court will hear the uncontested recommendation on **May 20, 2014, at 1:30 p.m. (Mountain Time)** at the SRBA courthouse. A partial decree will be issued following this hearing.

How will I know about the proceedings on my water right recommendation if objections are filed?

A notice will be mailed to you for court dates on your water right or for those where you filed an objection or a response. You will not receive notice of court dates on any other water right recommendations.

Additional information regarding water right claims can be found on the SRBA Court's web site at: <http://www.srba.state.id.us>.

Note: The SRBA Court publishes a monthly Docket Sheet listing all objections and responses filed, as well as when Director's Reports are filed. It does not list court dates for individual water right cases, but provides general information helpful to all participants in the SRBA.

The Docket Sheet is available at your county courthouse and all IDWR offices, or you may subscribe by contacting the SRBA Court or IDWR. The annual subscription fee is \$7.50. The Docket Sheet is also available on the SRBA web site at: <http://www.srba.state.id.us>.

IMPORTANT INFORMATION REGARDING GENERAL PROVISIONS

General provisions are those parts of the SRBA Court's decree that apply to all the water rights in a basin, or to classes of similarly situated water rights within a basin. IDWR recommends to the SRBA Court the general provisions it believes should be decreed in a basin when it files with the Court its Director's Report for the basin. At that time, any party may object to the recommended general provisions.

The Director recommended the general provisions for Basin 82 in the Director's Reports for Irrigation and Other Uses & Federal Reserved Rights, IDWR Reporting Area 22, IDWR Basin 82 filed in January 2005. The objection period for the general provisions in the Basin 82 has expired. Therefore, it is too late for you to object to the general provisions governing your late claim. You may obtain a copy of the general provisions for your basin from the SRBA District Court in Twin Falls or at the courthouse location nearest to your basin. You may be charged for copying and mailing. You may also view the general provisions for every basin within the SRBA by going to IDWR's website at: <http://www.idwr.idaho.gov>. It is possible that in the future the SRBA Court will entertain recommendations for additional general provisions. Should that occur, an opportunity to object to those additional general provisions will be provided. It is your responsibility to monitor the SRBA case through the Docket Sheet discussed above.

CHANGES OF ADDRESS OR OWNERSHIP DURING THE SRBA COURT CASE

You must contact your regional IDWR office with your address change or if the ownership of your water right changes. Failure to notify IDWR may result in the loss of your water rights.

ADDITIONAL INFORMATION

If you have questions about the SRBA, public information brochures are available at any IDWR office. Maps and aerial photography of this reporting area, as well as assistance in using the maps and the photography, are available at the IDWR Regional office nearest to the location of your water right. You are also welcome to call IDWR at any of its offices or its adjudication hotline at 1-800-451-4129. You may contact the SRBA Court, or you may also want to consider contacting an attorney to assist you.

Snake River Basin Adjudication District Court

253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707
(208) 736-3011
<http://www.srba.state.id.us>

Idaho Department of Water Resources

322 East Front Street
P.O. Box 83720
Boise, Idaho 83720-0098
(208) 287-4809
(800) 451-4129
<http://www.idwr.idaho.gov>

Idaho Department of Water Resources Western Region

2735 Airport Way
Boise, Idaho 83705-5082
(208) 334-2190

Idaho Department of Water Resources Northern Region

7600 N. Mineral Drive, Suite 100
Coeur d'Alene, Idaho 83815
(208) 762-2800

Idaho Department of Water Resources
Southern Region

650 Addison Avenue West, Suite 500
Twin Falls, Idaho 83301-3380
(208) 736-3033

Idaho County Courthouse

320 W. Main
Grangeville, ID 83530

Idaho Department of Water Resources
Eastern Region

900 North Skyline, Suite A
Idaho Falls, Idaho 83402
(208) 525-7161

DEFINITIONS OF THE ELEMENTS OF YOUR WATER RIGHT

RIGHT NUMBER: Your water right is identified by a number assigned by IDWR. The first two digits identify IDWR's administrative basin number; for example, 29, 43, or 72.

NAME AND ADDRESS: Your name and address should appear here. IDWR will use the most recent name and address in its records for the water right.

SOURCE: The name and/or type of the source where you divert your water. For example: "groundwater," "unnamed spring," or "Common Creek."

QUANTITY: The amount of water recommended in either cubic feet per second (cfs) and/or the volume of water in acre feet per year (AFY).

PRIORITY DATE: The date used to determine the priority of your right in relation to other rights using water from the same source.

POINT OF DIVERSION: The legal location where you divert water from its source; generally described as 1/4 1/4 sections down to a 40-acre tract, or smaller. Other legal descriptions that might be used are government lots, block, subdivision, parcel numbers, townsite names, mining claim information, homestead entry surveys, or other survey information.

PURPOSE OF USE: The general category of the type of use you can make of your water. Typical purposes of use include irrigation, domestic, or stock watering.

PERIOD OF USE: The period of time during the year when you can use the water for your right.

PLACE OF USE: The legal location where you use your water right; generally described as 1/4 1/4 sections down to a 40-acre tract. Other legal descriptions that might be used are government lots, block, subdivision, parcel numbers, townsite names, mining claim information, homestead entry surveys, or other survey information.

PLACE OF USE FOR IRRIGATION PROJECTS: Pursuant to Idaho Code Sections 42-219(2) and 42-1411(2)(h). IDWR has included GIS mapping for describing the place of use (digital boundary) for water rights meeting certain criteria (i.e. irrigation projects). The **PLACE OF USE** for irrigation projects is reported in digital format and uses GIS technology to particularly identify and display a geographic area encompassing the place of use with the aid of a computer. The GIS data is stored in digital format and contained on a CD-ROM and is properly marked for identification with the water right number. The CD-ROM will be retained by the SRBA Court. IDWR also retains a duplicate of the original CD-ROM. The electronic data contained on the CD-ROM is available for public use and is also accessible through the IDWR internet website (<http://www.idwr.idaho.gov>). *Upon request, IDWR will provide a copy of the CD-ROM with the electronic data to claimants.*

BASIS OF CLAIM: The method that was used to establish your claim. Examples include prior decree, posted notice, beneficial use (historical) method, license, or permit.

DUAL BASED CLAIMS: In some cases, the federal government has claimed one right under two theories: a state basis and a federal law basis. Both theories will be reported on one form for that single water right. In most cases, the priority dates are different and will be listed separately. The federal law basis is separately indicated by a remark under the priority date that reads:

4/17/1926 CLAIMED UNDER FEDERAL RESERVED WATER RIGHT
THIS WATER RIGHT IS ALSO CLAIMED BASED ON FEDERAL LAW WITH AN APRIL 17, 1926,
DATE OF PRIORITY PURSUANT TO AN EXECUTIVE ORDER SIGNED THE SAME DATE AND
KNOWN AS PUBLIC WATER RESERVE 107.

IDWR does not investigate or make recommendations regarding federal law based claims.

LATE CLAIM DIRECTOR'S REPORT

Water Right No. 82-12250

In Re SRBA

Twin Falls County Civil Case No. 39576

Report to the SRBA District Court

Prepared by the Idaho Department of Water Resources
Gary Spackman, Director
Carter Fritschle, Manager, Adjudication Section

February 27, 2014

DESCRIPTIVE SUMMARY

This is a Late Claim Director's Report submitted by the Director of the Idaho Department of Water Resources.

DISCUSSION

Pursuant to the *Order Granting Late Notice of Claim* and the *Order for Expedited Late Claim Director's Report and Setting Forth Procedures and Deadlines for Expedited Process* issued by Judge Eric J. Wildman on February 19, 2014 (see attached), the Director submits this Late Claim Director's Report for subcase 82-12250.

Respectfully submitted this 27th day of February, 2014.


CARTER FRITSCHLE
Manager, Adjudication Section

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 82-12250

NAME AND ADDRESS: LYLE E SMITH
194 CLEARWATER MAIN ST
CLEARWATER ID 83552

SUSANNE A SMITH
194 CLEARWATER MAIN ST
CLEARWATER ID 83552

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.040 CFS

The quantity of water under this right shall not exceed 13,000 gallons per day.

PRIORITY DATE: 09/27/2000

POINT OF
DIVERSION:

T31N R04E S13 SESE Within IDAHO County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
DOMESTIC	01/01 12/31	0.040 CFS
Domestic use is for 1 home.		

PLACE OF USE: DOMESTIC in IDAHO County

T31N R04E S13 SESE

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

The quantity of water decreed for this water right is not a determination of historical beneficial use.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Parcel No. RP00600000001H

CERTIFICATE OF SERVICE

I certify that on February 27, 2014, I caused to be served a true and correct copy of this Late Claim Director's Report, to the following persons, in the manner indicated 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, ID 83303-2707

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☒ Facsimile

2. Copies to:

Chief, Natural Resources Div.
Office of the Attorney General
P.O. Box 44449
Boise, ID 83711-4449

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

United States Department of Justice
Environment & Natural Resources Div.
550 W. Fort Street MSC 033
Boise, ID 83724

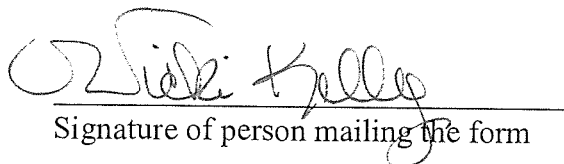
☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

Idaho County Courthouse
320 W. Main
Grangeville, ID 83445

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

Lyle E. Smith
Susanne A. Smith
194 Clearwater Main St.
Clearwater, ID 83552

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile


Signature of person mailing the form

RECEIVED

FEB 21 2014

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
FEB 19 2014	
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

Case No. 39576

) Subcase nos.: 82-12250
)
) ORDER GRANTING LATE NOTICE OF
) CLAIM
)
) ORDER FOR EXPEDITED LATE
) CLAIM DIRECTOR'S REPORT AND
) SETTING FORTH PROCEDURES AND
) DEADLINES FOR EXPEDITED
) PROCESS
)
)

On November 29, 2013, Lyle E. and Susanne A. Smith filed a *Motion to File Late Notice of Claim* for the above-captioned water right. A hearing on the *Motion* was held on February 18, 2014. No party appeared in opposition to the *Motion*. Although Basin 82 has been closed to the taking of non-deferrable late claims, the Court found at the hearing that this claim meets the criteria of a deferrable domestic claim. Therefore good cause has been shown. At the hearing, it was represented to the Court by the Idaho Department of Water Resources ("IDWR") that, if granted, this late claim would be a candidate for expedited late claim director's reports given the current stage of Snake River Basin Adjudication.

Accordingly, following a review of the file and after hearing the comments made in open court, the Court makes the following findings:

1. This *Motion* complied with all procedural requirements under **SRBA Administrative Order 1**, and no objections were made to this late notice of claim. Although this Court previously entered an *Order* in Basin 82 closing the Basin to the filing of late claims generally, an exception to that *Closure Order* was that late claims could be filed for deferrable domestic and stock water claims. The Court finds that this claim meets the criteria of a deferrable domestic claim. Therefore, good cause exists for granting the instant *Motion*.

ORDER GRANTING LATE NOTICES OF CLAIM;
ORDER FOR EXPEDITED LATE CLAIM DIRECTOR'S REPORT

- 1 -

2. In limited circumstances it is preferable to have a *Late Claims Director's Report* for certain late claims individually prepared and filed. This is on a case-by-case basis and provided IDWR does not oppose preparing and filing an expedited *Late Claims Director's Report*.

3. In this case IDWR does not oppose preparing and filing an expedited *Late Claim Director's Report* for the late claim, given that the final regularly scheduled SRBA late claims director's report was filed December 31, 2013. IDWR represented that it would be able to prepare the expedited *Late Claim Director's Report* in a short time period.

4. This Court therefore finds that under the circumstances the issuance of expedited *Late Claim Director's Reports* for the above-captioned claim is appropriate.

THEREFORE, IT IS HEREBY ORDERED that the *Motion to File a Late Notice of Claim* for water right claim **82-12250** is **granted**. The original Notice of Claim, as well as any attached filing fees, and a copy of this **Order** will be forwarded to IDWR for further action.

IT IS HEREBY FURTHER ORDERED that the Director issue an expedited *Late Claim Director's Report* for the above-captioned water right claim, and that the parties abide by the following schedule with respect to the late claim:

1. Deadline for filing *Late Claim Director's Report*: The Director shall file an original of the *Late Claim Director's Report* for the above-captioned water right claim with this Court on or before **February 28, 2014**, and shall distribute for display and review at least one (1) copy of the *Late Claim Director's Report* to the office of the clerk of the district court for each county in which any part of the water system is located, together with a copy of this **Order**. The Director shall also serve on each claimant or the claimant's attorney a notice of filing of the *Late Claim Director's Report*. Last, the Director shall file with the Court an affidavit demonstrating compliance with the notice requirements of Idaho Code § 42-1411(6).

2. Deadline for the filing of objections to *Late Claim Director's Report*: Any party wishing to file an objection to the *Late Claim Director's Report* may do so on or before **March 31, 2014**.

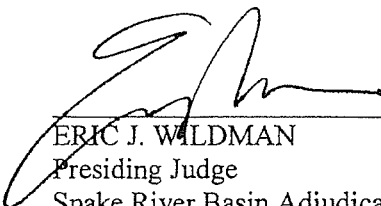
3. Deadline for the filing of responses to objections to *Late Claim Director's Report*: Responses to objections to the *Late Claim Director's Report* must be filed on or before **April 14, 2014**.

4. Hearing on uncontested claim: In the event no objections are filed, the Court will hold a hearing on the entry of the *Partial Decree* as required by I.C. § 42- 1412(7). **NOTICE IS HEREBY GIVEN** that the hearing will be held on **May 20, 2014, at 1:30 p.m. (Mountain Time)**, at the Snake River Basin Adjudication District Court, 253 - 3rd Avenue North, Twin Falls, Idaho. Parties may participate by telephone by dialing the number 1-215-446-0193 and when prompted entering code 406128#.

5. Publication of Notice: The clerk of the court is instructed to publish a notice of the issuance of this order, together with the applicable objection, response and hearing date, on the March 2014 docket sheet.

IT IS SO ORDERED.

Dated Feb 19 2014


ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

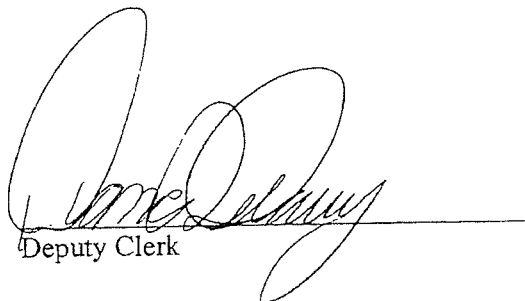
I hereby certify that true and correct copies of the *Order Granting Late Notice of Claim* and *Order for Expedited Late Claim Director's Report and Setting Forth Procedures and Deadlines for Expedited Process* were mailed on February 19, 2014, by first-class mail to the following:

Lyle E Smith
Susanne A Smith
194 Clearwater Main St
Clearwater, ID 83552

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief Natural Resources Division
Office of the Attorney General
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment & Natural Resources Div
550 West Fort Street, MSC 033
Boise, ID 83724



Deputy Clerk