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DEPARTMENT OF
WATER RESOURCES

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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

In Re SRBA	)	Subcase: 22-14112
	)	
	)	STANDARD FORM 4
Case 39576	)	
	)	EXPEDITED MOTION TO FILE
	)	X LATE NOTICE OF CLAIM
	)	☐ AMENDED NOTICE OF CLAIM
_____	)	

X I have read *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996).

My name is: W-Diamond Ranches, LLC

My address is: 2655 S Stateline Rd, Driggs ID 83422

My phone number is: (208)-705-0123

I am an attorney representing W-Diamond Ranches, LLC

My name is Jerry R. Rigby and Rob Wood

My address is: 25 North 2nd East, P.O. Box 250, Rexburg, Idaho 83440

My phone number is: (208) 356-3633

MOTION TO FILE A LATE NOTICE OF CLAIM

A Motion to File a Late Notice of Claim will require a hearing before the Presiding Judge.

X I did not file a Notice of Claim to the use of the water in the SRBA because:

Claimant is the holder of a Wyoming natural flow water right diverted from Teton Creek in Wyoming but used to irrigate land in Idaho. Said Wyoming right is listed with the Wyoming State Engineer's office as Permint 7420. Due to the fact that Claimant has this valid water right in Wyoming, and also due to IDWR's prior policy of not allowing or requiring Wyoming water rights to be adjudicated in the SRBA, Claimant did not believe a need existed to file a claim in the SRBA. Claimant only recently became aware of the need to file a claim on this right when Claimant's counsel was made aware that Claimant owned the Wyoming right listed above. Because this water originates in Wyoming, and has only been used on Claimant's land, allowing this late claim will cause no hardship or injury to any other water user.

Claimant recognizes that basin 22 has been closed. Nevertheless, due to the fact that Claimant did not purposefully delay filing a late claim, and due to the fact that no other parties will be injured by this late claim, the Motion to File a Late Claim should be granted.

The water right claimed pursuant to this Motion is extremely valuable to Claimant. Due to the excusable and clearly unintentional delay by Claimant, Claimant should not be penalized and should be granted the right to finalize the filing of his late claim and pursue it as he would have prior to the closing of Basin 22.

No party will be injured by this Motion as these rights are based upon valid water right permits.

☐ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or stock watering use. I desire to reinstate my Notice of claim for domestic or stock watering use.

X I am providing legal and factual documentation for my claimed use of water. You must described these documents and attach a readable copy. (You do not need to fill this out if you are reinstating a Notice of Claim for domestic or stock watering use, but you **must** attach a copy of your Notice of Claim.)

A copy of a portion of State of Wyoming Certificate of Appropriation of Water for Permit No. 7420.

A copy of a section of a Wyoming State Engineer's map, dated 1938, which clearly establishes that the lands claimed were being irrigated pursuant to Wyoming Permit 2740.

I have attached:

- ☒ A fully completed Notice of Claim (available from IDWR).
- ☐ A claim filing fee for a domestic and stock watering 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 watering 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 \$340.00.

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of 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: Tuesday May 20, 2014 at 1:30 P.M.,
at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

VERIFICATION

STATE OF IDAHO,)

ss

County of Madison.)

Robert H. Wood, being first duly sworn, upon oath, deposes and says:

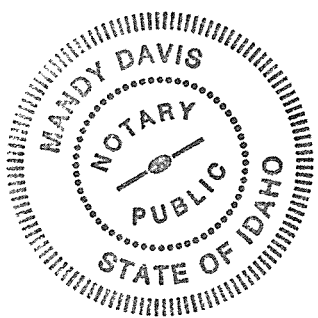
That I am the _____ of party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 4204101A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe 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 this 30th day of April, 2014.





Notary Public for Idaho
Residing at St. Anthony
My Commission Expires: 06/24/2017

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of April, 2014, I caused the foregoing document to be filed with the Court and true and correct copies served on the following parties by the methods indicated:

1. Original to:

CLERK OF THE DISTRICT COURT SNAKE RIVER BASIN ADJUDICATION 253 THIRD AVENUE NORTH PO BOX 2707 TWIN FALLS, ID 83303-2707	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: <u>(208) 736-2121</u>
---	---

2. Copies to:

IDWR DOCUMENT DEPOSITORY P.O. BOX 83720 BOISE, ID 83720-0098	☒ U.S. Mail, Postage Prepaid ☐ Hand Delivery ☐ Federal Express ☐ Statehouse Mail
C. THOMAS ARKOOSH ARKOOSH LAW OFFICES PO BOX 2900 BOISE, ID 83701	☒ U.S. Mail, Postage Prepaid ☐ Hand Delivery ☐ Federal Express ☐ Statehouse Mail
ALBERT B. BARKER JOHN K SIMPSON SHELLEY M. DAVIS BARKER ROSHOLT & SIMPSON LLP PO BOX 2139 BOISE, ID 83701-2139	☒ U.S. Mail, Postage Prepaid ☐ Hand Delivery ☐ Federal Express ☐ Statehouse Mail
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UNITED STATES DEPT. OF JUSTICE ENVIRONMENT & NATURAL RESOURCE 550 WEST FORT STREET, MSC 033 BOISE, ID 83724-0101	☒ U.S. Mail, Postage Prepaid ☐ Hand Delivery ☐ Federal Express ☐ Statehouse Mail
BLAIR J. GROVER BEARD ST. CLAIR GAFFNEY PA 2105 CORONADO ST. IDAHO FALLS, ID 83404-7495	☒ U.S. Mail, Postage Prepaid ☐ Hand Delivery ☐ Federal Express ☐ Statehouse Mail
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