

LATE CLAIM DIRECTOR'S REPORT

Water Right Nos. 74-361, 74-362, 74-363, 74-364, 74-365, 74-367 & 74-368

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

June 19, 2014

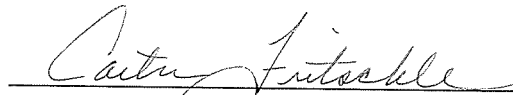
DESCRIPTIVE SUMMARY

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

DISCUSSION

Pursuant to the *Order for Expedited Late Claim Director's Report and Setting Forth Procedures and Deadlines for Expedited Process* issued by Judge Eric J. Wildman on May 21, 2014 (see attached), the Director submits this Late Claim Director's Report for subcases 74-361, 74-362, 74-363, 74-364, 74-365, 74-367 and 74-368.

Respectfully submitted this 19th day of June, 2014.

A handwritten signature in cursive script, reading "Carter Fritschle", written over a horizontal line.

CARTER FRITSCHLE
Manager, Adjudication Section

06/16/2014

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

RIGHT NUMBER: 74-361
NAME AND ADDRESS: BRUCE MC CONNELL
100 COTTOM LN
LEADORE ID 83464
GLEND MC CONNELL
100 COTTOM LN
LEADORE ID 83464
SOURCE: LEE CREEK TRIBUTARY: LEMHI RIVER
QUANTITY: 1.200 CFS
The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

PRIORITY DATE: 05/12/1883
POINT OF DIVERSION: T16N R25E S30 SENE Within LEMHI County
PURPOSE AND PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 11/15	1.180 CFS
STOCKWATER	01/01 12/31	0.020 CFS

PLACE OF USE: IRRIGATION in LEMHI County

T16N R25E S08	SWSE	34.00	T16N R25E S08	SESE	35.00
T16N R25E S17	NENE	9.00	T16N R25E S17	NWNE	39.80
T16N R25E S17	SWNE	26.90	T16N R25E S17	NENW	40.00
T16N R25E S17	SENE	27.00			

STOCKWATER same as IRRIGATION

211.7 ACRES TOTAL

Right Nos. 74-361 and 74-362 are limited to the irrigation of a combined total of 211.7 acres in a single irrigation season.

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 for stockwater use is not a determination of historical beneficial use.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Parcel Nos. RP16N25E170001 and RP16N25E088400

Stockwater use is for 200 head cattle.

Right includes accomplished change in purpose of use pursuant to Section 42-1425, Idaho Code.

06/16/2014

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

RIGHT NUMBER: 74-362
NAME AND ADDRESS: GLENDA MC CONNELL
100 COTTOM LN
LEADORE ID 83464
BRUCE MC CONNELL
100 COTTOM LN
LEADORE ID 83464
SOURCE: LEE CREEK TRIBUTARY: LEMHI RIVER
QUANTITY: 4.100 CFS
PRIORITY DATE: 05/01/1906
POINT OF
DIVERSION: T16N R25E S30 SENE Within LEMHI County
PURPOSE AND
PERIOD OF USE:

	<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
	IRRIGATION	3/15 11/15	4.100 CFS
PLACE OF USE:	<u>IRRIGATION in LEMHI County</u>		
	T16N R25E S08 SWSE	34.00 T16N R25E S08	SESE 35.00
	T16N R25E S17 NENE	9.00 T16N R25E S17	NWNE 39.80
	T16N R25E S17 SWNE	26.90 T16N R25E S17	NENW 40.00
	T16N R25E S17 SENW	27.00	

211.7 ACRES TOTAL

Right Nos. 74-361 and 74-362 are limited to the irrigation of a combined total of 211.7 acres in a single irrigation season.

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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Parcel Nos. RP16N25E170001 and RP16N25E088400

06/16/2014

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

RIGHT NUMBER: 74-363

NAME AND ADDRESS: BRUCE MC CONNELL
100 COTTOM LN
LEADORE ID 83464

GLENDIA MC CONNELL
100 COTTOM LN
LEADORE ID 83464

SOURCE: LEE CREEK

TRIBUTARY: LEMHI RIVER

QUANTITY: 1.000 CFS

PRIORITY DATE: 05/12/1883

POINT OF

DIVERSION: T16N R25E S30 SENE Within LEMHI County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

3/15 11/15

1.000 CFS

PLACE OF USE: IRRIGATION in LEMHI County

T16N R25E S09

SWNW

3.10

T16N R25E S09

NWSW

34.70

T16N R25E S09

SWSW

8.30

46.1 ACRES TOTAL

Right Nos. 74-363 and 74-364 are limited to the irrigation of a combined total of 46.1 acres in a single irrigation season.

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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Parcel Nos. RP16N25E090600 and RP16N25E092400

06/16/2014

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

RIGHT NUMBER: 74-364

NAME AND ADDRESS: BRUCE MC CONNELL
100 COTTOM LN
LEADORE ID 83464

GLEND A MC CONNELL
100 COTTOM LN
LEADORE ID 83464

SOURCE: LEE CREEK

TRIBUTARY: LEMHI RIVER

QUANTITY: 1.300 CFS

PRIORITY DATE: 06/01/1900

POINT OF

DIVERSION: T16N R25E S30 SENE Within LEMHI County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

3/15 11/15

1.300 CFS

PLACE OF USE: IRRIGATION in LEMHI County

T16N R25E S09

SWNW

3.10

T16N R25E S09

NWSW

34.70

T16N R25E S09

SWSW

8.30

46.1 ACRES TOTAL

Right Nos. 74-363 and 74-364 are limited to the irrigation of a combined total of 46.1 acres in a single irrigation season.

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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Parcel Nos. RP16N25E090600 and RP16N25E092400

06/16/2014

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

RIGHT NUMBER: 74-365

NAME AND ADDRESS: BRUCE MC CONNELL
100 COTTOM LN
LEADORE ID 83464

GLEND A MC CONNELL
100 COTTOM LN
LEADORE ID 83464

SOURCE: LEE CREEK

TRIBUTARY: LEMHI RIVER

QUANTITY: 1.200 CFS

PRIORITY DATE: 05/12/1883

POINT OF

DIVERSION: T16N R25E S30 SENE Within LEMHI County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

3/15 11/15

1.200 CFS

PLACE OF USE: IRRIGATION in LEMHI County

T16N R25E S09

SENE

14.50

T16N R25E S09

NESW

6.30

20.8 ACRES TOTAL

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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Parcel No. RP16N25E090600

06/16/2014

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

RIGHT NUMBER: 74-367
NAME AND ADDRESS: BRUCE MC CONNELL
100 COTTOM LN
LEADORE ID 83464
GLEND A MC CONNELL
100 COTTOM LN
LEADORE ID 83464
SOURCE: LEE CREEK TRIBUTARY: LEMHI RIVER
QUANTITY: 0.600 CFS
PRIORITY DATE: 05/12/1883
POINT OF
DIVERSION: T16N R25E S30 SENE Within LEMHI County
PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	3/15 11/15	0.600 CFS

PLACE OF USE: IRRIGATION in LEMHI County

T16N R25E S17	NESW	8.80	T16N R25E S17	SWSW	40.00
T16N R25E S17	SESW	28.20	T16N R25E S17	NWSE	5.70
T16N R25E S17	SWSE	13.80	T16N R25E S18	SESE	38.40
T16N R25E S19	NENE	26.30	T16N R25E S20	NWNW	40.00
T16N R25E S20	SWNW	39.10	T16N R25E S20	NWSW	28.50

268.8 ACRES TOTAL

Right Nos. 74-367 and 74-368 are limited to the irrigation of a combined total of 268.8 acres in a single irrigation season.

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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Parcel Nos. RP16N25E170001, RP16N25E189000, RP16N25E203000 and RP16N25E190000

06/16/2014

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

RIGHT NUMBER: 74-368

NAME AND ADDRESS: BRUCE MC CONNELL
100 COTTOM LN
LEADORE ID 83464

GLENDIA MC CONNELL
100 COTTOM LN
LEADORE ID 83464

SOURCE: LEE CREEK

TRIBUTARY: LEMHI RIVER

QUANTITY: 5.800 CFS

PRIORITY DATE: 11/05/1909

POINT OF

DIVERSION: T16N R25E S30 SENE Within LEMHI County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	3/15 11/15	5.800 CFS

PLACE OF USE: IRRIGATION in LEMHI County

T16N R25E S17	NESW	8.80	T16N R25E S17	SWSW	40.00
T16N R25E S17	SESW	28.20	T16N R25E S17	NWSE	5.70
T16N R25E S17	SWSE	13.80	T16N R25E S18	SESE	38.40
T16N R25E S19	NENE	26.30	T16N R25E S20	NWNW	40.00
T16N R25E S20	SWNW	39.10	T16N R25E S20	NWSW	28.50

268.8 ACRES TOTAL

Right Nos. 74-367 and 74-368 are limited to the irrigation of a combined total of 268.8 acres in a single irrigation season.

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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Parcel Nos. RP16N25E170001, RP16N25E189000, RP16N25E203000 and RP16N25E190000

CERTIFICATE OF SERVICE

I certify that on June 20TH, 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

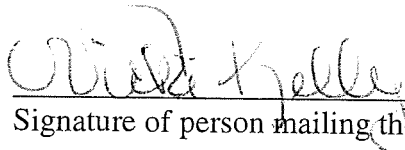
☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

Lemhi County Courthouse
206 Courthouse Dr
Salmon, ID 83467

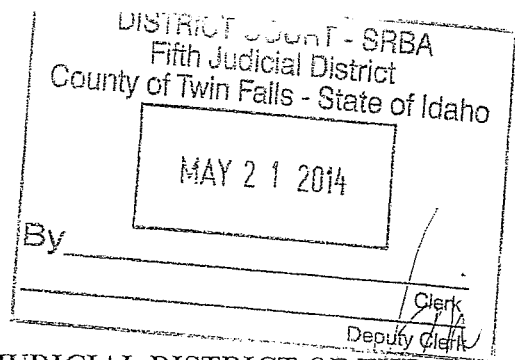
☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

Chris M. Bromley
McHugh Bromley
380 S. 4th Street Ste 103
Boise, ID 83702

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



Signature of person 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 SRBA

Case No. 39576

-) WATER RIGHT NOS.: 74-361, 74-362, 74-
-) 363, 74-364, 74-365, 74-367 and 74-368
-)
-) ORDER SETTING ASIDE DISALLOWAL
-) OF UNCLAIMED WATER RIGHTS
-)
-) ORDER GRANTING LATE NOTICE OF
-) CLAIM
-)
-) ORDER FOR EXPEDITED LATE CLAIM
-) DIRECTOR'S REPORT AND
-) SETTING FORTH PROCEDURES AND
-) DEADLINES FOR EXPEDITED PROCESS
-)

RECEIVED
MAY 22 2014
DEPARTMENT OF
WATER RESOURCES

On April 25, 2012, this Court entered an *Order* in SRBA subcase no. 00-92099 and Twin Falls County Case No. 39576 closing Basin 74 to the filing of non-deferrable late claims and disallowing certain unclaimed water rights ("*Order*"), including the above-captioned water rights.¹ On April 29, 2014, Bruce and Glenda McConnell (collectively "McConnell") filed *Motions to File Late Notice of Claim* for the above-captioned water rights. As part of their *Motions*, McConnell requested that this Court set aside the *Order* disallowing the above-captioned water rights as well as the *Order* closing claims taking in Basin 74 under Idaho Rule of Civil Procedure 60(b) to allow for the filing of the instant late claims. A hearing on the *Motions* was held on May 20, 2014. No one appeared in opposition to the *Motions*.

Following a review of the files and after hearing the comments made in open court, the Court found that McConnell had set forth sufficient grounds to justify the setting aside the *Order* disallowing the above-captioned water rights, as well as the *Order* closing claims taking in Basin 74 pursuant to Idaho Rule of Civil Procedure 60(b)(6). The justifications and rationale

¹ The *Order* was entitled *Order Closing Claims Taking Basins 21, 22, 29, 32, 33, 65, 67, 69, 71, 72, 73, 74, 75, 77, 78 and 79 and Disallowal of Unclaimed Water Rights*.

supporting the Court's holding were orally set forth on the record at the May 20, 2014, hearing. Additionally, the Court, for the reasons set forth on the record, found good cause and a meritorious position for the *Motions to File Late Notice of Claim*. At the hearing, it was represented to the Court by the Idaho Department of Water Resources ("IDWR") that, if granted, these late claims would be candidates for expedited late claim director's reports given the current stage of Snake River Basin Adjudication.

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

1. The *Motions to File Late Notice of Claim* complied with all procedural requirements under *SRBA Administrative Order I*, and no objections were made to the *Motions*. Although this Court previously entered an *Order* disallowing the above-captioned water rights and closing Basin 74 to the filing of late claims generally, the Court finds that McConnell has set forth sufficient grounds to justify the setting aside of that *Order* for the limited purposes of allowing the filing of the instant late claims.

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 disallowal of the above-captioned water rights in this Court's *Order Closing Claims Taking Basins 21, 22, 29, 32, 33, 65, 67, 69, 71, 72, 73, 74, 75, 77, 78 and 79 and Disallowal of Unclaimed Water Rights* dated April 25, 2012, is hereby set aside

IT IS HEREBY FURTHER ORDERED that this Court's *Order Closing Claims Taking Basins 21, 22, 29, 32, 33, 65, 67, 69, 71, 72, 73, 74, 75, 77, 78 and 79 and Disallowal of Unclaimed Water Rights* dated April 25, 2012, is hereby set aside for the limited purpose of allowing for the filing of the instant *Motions to File Late Notice of Claim*.

IT IS HEREBY FURTHER ORDERED that the *Motions to File a Late Notice of Claim* for the above-captioned water right claims are **granted**.

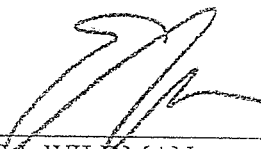
IT IS HEREBY FURTHER ORDERED that the Director issue an expedited *Late Claim Director's Report* for the above-captioned water right claims, and that the parties abide by the following schedule with respect to the late claim:

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 claims with this Court on or before **June 30, 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 **July 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 **August 15, 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 **August 19, 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 June 2014 docket sheet.

IT IS SO ORDERED.

Dated May 21, 2014



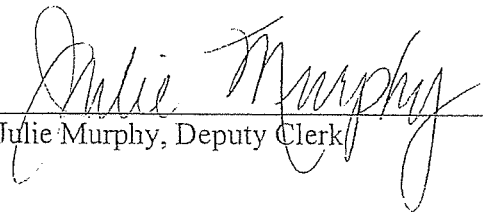
ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I hereby certify that true and correct copies of the **ORDER SETTING ASIDE
DISALLOWAL OF UNCLAIMED WATER RIGHTS / ORDER GRANTING LATE
NOTICE OF CLAIM / ORDER FOR EXPEDITED LATE CLAIM DIRECTOR'S
REPORT AND SETTING FORTH PROCEDURES AND DEADLINES FOR
EXPEDITED PROCESS**, were mailed on May 21, 2014, by first-class mail to the following:

DIRECTOR OF IDWR
PO Box 83720
Boise, ID 83720-0098

Bruce Mc Connell
Glenda Mc Connell
Represented by:
Chris M. Bromley
380 S 4th Street Ste 103
Boise, ID 83702



Julie Murphy, Deputy Clerk