

LATE CLAIM DIRECTOR'S REPORT

**Water Right Nos. 21-94C, 21-96C,
21-97D, 21-2038 and 21-2062**

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

September 30, 2014

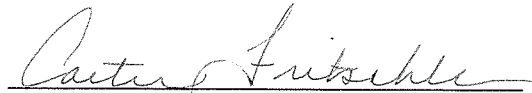
DESCRIPTIVE SUMMARY

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 August 12, 2014 (see attached), the Director submits this Late Claim Director's Report for subcases 21-94C, 21-96C, 21-97D, 21-2038 and 21-2062.

Respectfully submitted this 30th day of September, 2014.



CARTER FRITSCHLE
Manager, Adjudication Section

CERTIFICATE OF SERVICE

I certify that on Sept 30TH, 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
☒ Electronic Delivery

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
☐ Electronic Delivery

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

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Electronic Delivery

Fremont County Courthouse
151 W 1st N Suite 15
St Anthony, ID 83445

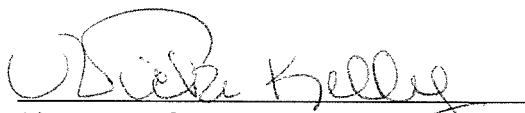
☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
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Jerry R. Rigby
Rigby, Andrus & Rigby Law PLLC
25 North Second East
Rexburg, ID 83340

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Electronic Delivery

Michael Moedl
3325 E. Skyview Drive
Idaho Falls, ID 83401

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Electronic Delivery


Signature of person mailing the form

09/29/2014

IDAHO DEPARTMENT OF WATER RESOURCES
CLAIMS / RIGHTS NOT RECOMMENDED

<u>W.R. NUMBER</u>	<u>NAME AND ADDRESS</u>	<u>CLAIM DISPOSITION</u>	<u>REASON</u>
21-94C	MICHAEL BRYAN MOEDL 3325 E SKYVIEW DR IDAHO FALLS ID 83401	Disallowed	Recommended as Right No. 21-97D.

09/29/2014

IDAHO DEPARTMENT OF WATER RESOURCES
CLAIMS / RIGHTS NOT RECOMMENDED

<u>W.R. NUMBER</u>	<u>NAME AND ADDRESS</u>	<u>CLAIM DISPOSITION</u>	<u>REASON</u>
21-96C	MICHAEL BRYAN MOEDL 3325 E SKYVIEW DR IDAHO FALLS ID 83401	Disallowed	Recommended as Right No. 21-97D.

09/29/2014

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

RIGHT NUMBER: 21-97D
NAME AND ADDRESS: MICHAEL BRYAN MOEDL
3325 E SKYVIEW DR
IDAHO FALLS ID 83401
SOURCE: ROCK CREEK TRIBUTARY: DUCK CREEK
Point of injection into and points of redirection from Hope Creek.
QUANTITY: 2.750 CFS
Right Nos. 21-97D and 21-2038 are limited to a total combined diversion rate of 4.00 cfs from Rock Creek.

PRIORITY DATE: 06/01/1895

POINT OF
DIVERSION: T15N R42E S25 NENE Lot 1 Injection Within FREMONT County
T15N R42E S25 NENE Lot 1 Rediversion Within FREMONT County
T15N R42E S25 NWNW Within FREMONT County
T15N R43E S19 SWSW Lot 4 Rediversion Within FREMONT County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	05/01 10/31	2.750 CFS

PLACE OF USE: IRRIGATION in FREMONT County

T15N R43E S19 Lot 2 SWNW	9.80	T15N R43E S19	SENW	13.00	
T15N R43E S19	NESW	35.00	T15N R43E S19 Lot 3 NWSW	28.00	
T15N R43E S19 Lot 4 SWSW	17.00	T15N R43E S19	SESW	33.00	
T15N R43E S19	NWSE	17.00	T15N R43E S19	SWSE	21.00
T15N R43E S19	SESE	3.00			

176.8 ACRES TOTAL

Right Nos. 21-97D, 21-2038 and 21-2062 are limited to the irrigation of a combined total of 176.8 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

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

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

09/29/2014

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

RIGHT NUMBER: 21-2038

NAME AND ADDRESS: MICHAEL BRYAN MOEDL
3325 E SKYVIEW DR
IDAHO FALLS ID 83401

SOURCE: HOPE CREEK
ROCK CREEK

TRIBUTARY: HENRYS LAKE
TRIBUTARY: DUCK CREEK

Rock Creek water is injected into Hope Creek at the point of injection, and
rediverted from Hope Creek at the points of rediversion.

QUANTITY: 1.900 CFS

Right Nos. 21-97D and 21-2038 are limited to a total combined diversion rate
of 4.00 cfs from Rock Creek.

PRIORITY DATE: 11/11/1911

POINT OF
DIVERSION:

T15N R42E S25 NENE Lot 1 Rediversion Within FREMONT County
T15N R42E S25 NENE Lot 1 Within FREMONT County
T15N R42E S25 NENE Lot 1 Injection Within FREMONT County
T15N R42E S25 NWNW Within FREMONT County
T15N R43E S19 SWSW Lot 4 Within FREMONT County
T15N R43E S19 SWSW Lot 4 Rediversion Within FREMONT County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	05/01 10/31	1.900 CFS

PLACE OF USE: IRRIGATION in FREMONT County

T15N R43E S19 Lot 2 SWNW	9.80	T15N R43E S19	SENW	13.00	
T15N R43E S19	NESW	35.00	T15N R43E S19 Lot 3 NWSW	28.00	
T15N R43E S19 Lot 4 SWSW	17.00	T15N R43E S19	SESW	33.00	
T15N R43E S19	NWSE	17.00	T15N R43E S19	SWSE	21.00
T15N R43E S19	SESE	3.00			

176.8 ACRES TOTAL

This right is limited to the irrigation of 95 acres within the place of use
described above in a single irrigation season.

Right Nos. 21-97D, 21-2038 and 21-2062 are limited to the irrigation of a
combined total of 176.8 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 - License

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

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

09/29/2014

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

RIGHT NUMBER: 21-2062

NAME AND ADDRESS: MICHAEL BRYAN MOEDL
3325 E SKYVIEW DR
IDAHO FALLS ID 83401

SOURCE: HOPE CREEK

TRIBUTARY: HENRYS LAKE

QUANTITY: 1.000 CFS

PRIORITY DATE: 03/27/1915

POINT OF

DIVERSION: T15N R42E S25 NENE Lot 1 Within FREMONT County

T15N R43E S19 SWSW Lot 4 Within FREMONT County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

05/01 10/31

1.000 CFS

PLACE OF USE: IRRIGATION in FREMONT County

T15N R43E S19	SESW	13.00	T15N R43E S19	NESW	35.00
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T15N R43E S19 Lot 3	NWSW	9.80	T15N R43E S19 Lot 4	SWSW	14.00
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T15N R43E S19	SESW	33.00	T15N R43E S19	NWSE	17.00
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T15N R43E S19	SWSE	21.00	T15N R43E S19	SESE	3.00
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145.8 ACRES TOTAL

This right is limited to the irrigation of 50 acres within the place of use described above in a single irrigation season.

Right Nos. 21-97D, 21-2038 and 21-2062 are limited to the irrigation of a combined total of 176.8 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 - License

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

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

RECEIVED

AUG 14 2014

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
AUG 13 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. 21-94C, 21-96C, 21-97D, 21-
-) 2038 and 21-2062
-)
-) ORDER SETTING ASIDE
-) DISALLOWAL OF UNCLAIMED
-) WATER RIGHTS FOR WATER RIGHT
-) CLAIMS 21-2038 AND 21-2062
-)
-) ORDER GRANTING MOTION TO FILE
-) LATE NOTICE OF CLAIM
-)
-) ORDER FOR EXPEDITED LATE
-) CLAIM DIRECTOR'S REPORT AND
-) SETTING FORTH PROCEDURES AND
-) DEADLINES FOR EXPEDITED
-) PROCESS
-)

I.

PROCEDURAL BACKGROUND

1. On January 31, 2012, this Court entered its *Order Establishing Deadline for Late Claim Filings* in basin 21 ("*Deadline Order*").¹ It directed that except for *de minimis* domestic and stockwater uses and late claims required to resolve litigation pending in the SRBA, the last date to file a *Motion to File Late Claim* in basin 21 "shall be March 30, 2012."

2. The Court subsequently entered an *Order Closing Claims Taking* in basin 21, closing the basin to the filing of late claims in accordance with the *Deadline Order* ("*Closure*

¹ *Order Establishing Deadline for Late Claim Filings in Basins 21, 22, 29, 32, 33, 65, 67, 69, 71, 72, 73, 74, 75, 77, 78 and 79*, SRBA main case no. 39576, SRBA subcase no. 00-92099 (Jan. 31, 2012)

Order”).² The *Closure Order* also disallowed certain unclaimed water rights, including water right claims 21-2038 and 21-2062.

3. On July 16, 2014, Michael Moedl filed a *Motion to Set Aside* and *Motion to File Late Notice of Claim* in the above-captioned subcases.

4. Water right claim 21-94C is a surface water claim for the diversion of 1.0 cfs from Rock Creek tributary to Duck Creek for the irrigation of 130 acres. The claim is based on a prior decree. The claimed priority date is June 1, 1886.

5. Water right claim 21-96C is a surface water claim for the diversion of 1.25 cfs from Rock Creek tributary to Duck Creek for the irrigation of 130 acres. The claim is based on a prior decree. The claimed priority date is June 8, 1893.

6. Water right claim 21-97D is a surface water claim for the diversion of 0.5 cfs from Rock Creek tributary to Duck Creek for the irrigation of 130 acres. The claim is based on a prior decree. The claimed priority date is June 1, 1895.

7. Water right claim 21-2038 is a surface water claim for the diversion of 1.9 cfs from Hope Creek tributary to Henrys Lake for the irrigation of 85 acres. The claim is based on a license. The claimed priority date is November 11, 1911.

8. Water right claim 21-2062 is a surface water claim for the diversion of 1.0 cfs from Hope Creek tributary to Henrys Lake for the irrigation of 50 acres. The claim is based on a license. The claimed priority date is March 27, 1915.

9. A hearing on the *Motions* was held on August 12, 2014. After reviewing the files and for the reasons set forth on the record, the Court granted the *Motion to Set Aside* pursuant to Idaho Rule of Civil Procedure 60(b)(6) and the *Motion to File Late Notice of Claim* pursuant to Idaho Rule of Civil Procedure 55(c).

II.

ORDER

THEREFORE, IT IS HEREBY ORDERED that the disallowal of water right claims 21-2038 and 21-2062 in this Court’s *Order Closing Claims Taking Basins 21, 22, 29, 32, 33, 65, 67,*

² *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*, SRBA main case no. 39576, SRBA subcase no. 00-92099 (April 25, 2012).

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 *Motion to File Late Notice of Claim*.

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

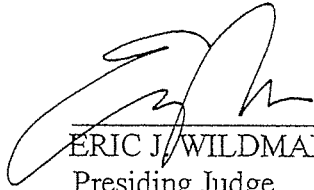
IT IS HEREBY FURTHER ORDERED that the Director issue an expedited *Late Claim Director's Report* for the above-captioned water right claims, and that the parties abide by the following schedule with respect to the late claims:

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 **September 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 **October 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 **November 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 Decrees*** as required by I.C. § 42-1412(7). **NOTICE IS HEREBY GIVEN** that the hearing will be held on **November 18, 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 September 2014 docket sheet.

IT IS SO ORDERED.

Dated August 12, 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 FOR WATER RIGHT CLAIMS
21-2038 AND 21-2062 / ORDER GRANTING MOTION TO FILE LATE NOTICE OF
CLAIM / ORDER FOR EXPEDITED LATE CLAIM DIRECTOR'S REPORT AND
SETTING FORTH PROCEDURES AND DEADLINES FOR EXPEDITED PROCESS**,
were mailed on August 13, 2014, by first-class mail to the following:

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

Michael Bryan Moedl
Represented by:
Jerry R. Rigby
PO Box 250
Rexburg, ID 83440-0250


Julie Murphy, Deputy Clerk