

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 45-14290
Date Received: 4/27/2010
Receipt No: C091404
Received By:

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name of Claimant(s)

CITY OF BURLEY Phone: (208)878-2224
PO BOX 1090
BURLEY ID USA 83318

2. Date of Priority: 04/01/1944

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot		County	Type
10S	23E	20	SW	NE	CASSIA	
10S	23E	20	SW	NW	CASSIA	
10S	23E	20	SE	NW	CASSIA	
10S	23E	20	NW	SW	CASSIA	
10S	23E	20	SW	SE	CASSIA	
10S	23E	20	SW	SE	CASSIA	
10S	23E	20	SW	SE	CASSIA	
10S	23E	20	SW	SE	CASSIA	
10S	23E	29	SE	NE	CASSIA	
10S	23E	29	NE	NW	CASSIA	
10S	23E	29	SW	NW	CASSIA	
10S	23E	30	SE	NE	CASSIA	
10S	23E	30	SE	NE	CASSIA	
10S	23E	32	SE	NE	CASSIA	

5. Description of diverting works:

Well, pump and pipeline to distribute water into the City of Burley Municipal Water System; 20 hp pump with capacity of 1100 gpm and an approximate well depth of 100 ft.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)
A.F.A				
MUNICIPAL	01/01	12/31	0.44	

7. Total Quantity Appropriated is:
0.44 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of	1/4 Lot	Use	Acres
10S	23E	17	NE	NE	MUNICIPAL	
			NW	NE	MUNICIPAL	
			NE	NW	MUNICIPAL	
			NE	SW	MUNICIPAL	
			SE	SW	MUNICIPAL	
			NE	SE	MUNICIPAL	
			NW	SE	MUNICIPAL	
			SW	SE	MUNICIPAL	
10S	23E	19	NE	SE	MUNICIPAL	
			NW	SE	MUNICIPAL	
			SW	SE	MUNICIPAL	
			SE	SE	MUNICIPAL	
10S	23E	20	NE	NE	MUNICIPAL	
			NW	NE	MUNICIPAL	
			SW	NE	MUNICIPAL	
			SE	NE	MUNICIPAL	
			NE	NW	MUNICIPAL	
			NW	NW	MUNICIPAL	
			SW	NW	MUNICIPAL	
			SE	NW	MUNICIPAL	
			NE	SW	MUNICIPAL	
			NW	SW	MUNICIPAL	
			SW	SW	MUNICIPAL	
			SE	SW	MUNICIPAL	
			NE	SE	MUNICIPAL	
			NW	SE	MUNICIPAL	
			SW	SE	MUNICIPAL	
			SE	SE	MUNICIPAL	
10S	23E	21	NE	NE	MUNICIPAL	
			NW	NE	MUNICIPAL	
			SW	NE	MUNICIPAL	
			SE	NE	MUNICIPAL	

			NE	NW	MUNICIPAL
			NW	NW	MUNICIPAL
			SW	NW	MUNICIPAL
			SE	NW	MUNICIPAL
			NE	SW	MUNICIPAL
			NW	SW	MUNICIPAL
			SW	SW	MUNICIPAL
			SE	SW	MUNICIPAL
			NE	SE	MUNICIPAL
			NW	SE	MUNICIPAL
			SW	SE	MUNICIPAL
			SE	SE	MUNICIPAL
10S	23E	22	NW	SW	MUNICIPAL
			SW	SW	MUNICIPAL
10S	23E	27	NE	NW	MUNICIPAL
			NW	NW	MUNICIPAL
10S	23E	28	NW	NW	MUNICIPAL
10S	23E	29	NE	NE	MUNICIPAL
			NW	NE	MUNICIPAL
			SW	NE	MUNICIPAL
			NE	NW	MUNICIPAL
			NW	NW	MUNICIPAL
			SW	NW	MUNICIPAL
			SE	NW	MUNICIPAL
			NE	SW	MUNICIPAL
			NW	SW	MUNICIPAL
			SW	SW	MUNICIPAL
			SE	SW	MUNICIPAL
			NE	SE	MUNICIPAL
			NW	SE	MUNICIPAL
			SW	SE	MUNICIPAL
			SE	SE	MUNICIPAL
10S	23E	30	NE	NE	MUNICIPAL
			SE	NE	MUNICIPAL
10S	23E	32	NE	NE	MUNICIPAL
			NW	NE	MUNICIPAL
			NE	NW	MUNICIPAL
			NW	NW	MUNICIPAL

11. Place of use in counties: MINIDOKA, CASSIA

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

Place of use is within the service area of the City of Burley municipal water supply system.

Additional water rights: 36-4080, 45-4089, 45-4090, 45-4091, 45-4092, 45-4093, 45-4094, 45-4095, 45-4096, 45-4097, 45-4098, 45-4099, 45-7269, 45-7436, 45-11133, 45-13895, 45-14083

15. Basis of Claim: Beneficial Use

RECEIVED
JUL 22 2010
DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JUL 21 2010	
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	) Subcase: 45-14290
	)
Case No. 39576	) ORDER GRANTING LATE NOTICE OF
	) CLAIM
	)
	) ORDER FOR EXPEDITED LATE
	) CLAIM DIRECTOR'S REPORT AND
	) SETTING FORTH PROCEDURES AND
	) DEADLINES FOR EXPEDITED
	) PROCESS
	)

On April 27, 2010, the City of Burley filed a *Motion to File Late Notice of Claim* for the above-captioned water right. A hearing on the *Motion* was held on July 20, 2010. No party appeared in opposition to the *Motion*. In addition to the above-captioned late notice of claim, the City of Burley has various other water right claims presently pending unresolved in the SRBA. At the hearing, it was represented to the Court that the late claim is associated with the resolution of the City of Burley's other claims. Therefore, in the event the late notice of claim is granted and a *Partial Decree* entered, objections to the City's other claims will be resolved.

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. Good cause exists for granting the instant *Motion*.

2. The next regularly scheduled *Late and Miscellaneous Claims Director's Report* will not be issued prior to any trial set for the City of Burley's other water right claims. The issuance of a partial decree for the late claim will settle the objections to the City's other water right claims.

3. The subcases involving the City's other water right claims either need to be set for trial or are currently set for trial. The scheduling or continuation of trials beyond the issuance of the next regularly scheduled *Late and Miscellaneous Claims Director's Report* is not a feasible solution due to limited available trial dates and the need to have said dates available to schedule and process other SRBA matters.

4. In furtherance of the winding down process for the SRBA it is imperative that matter be timely set for trial. Therefore in limited circumstances such as this it is preferable to have a *Late Claims Director's Report* for certain late claims individually prepared and filed in advance of the next regularly scheduled *Late and Miscellaneous Claims Director's Report*. This is on a case-by-case basis and provided the Idaho Department of Water Resources (IDWR) is in a position to prepare the recommendation in advance and does not oppose preparing and filing a *Director's Report* in advance.

5. In this case IDWR does not oppose filing a *Director's Report* for the late claim and represented that it would be able to prepare a *Director's Report* and recommendation in a short time period.

6. This Court therefore finds that under the circumstances the issuance of an expedited *Late Claim Director's Report* 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 **45-14290** is **granted**. The original Notice of Claim, as well as any attached filing fees, and a copy of this **Order** will be forwarded to the Idaho Department of Water Resources 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 **July 30, 2010** 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 within 21 days following the notice of filing of the *Late Claim Director's Report* in the Docket Sheet, or on or before **August 30, 2010**.

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 within 14 days following the close of the objection period, or on or before **September 13, 2010**.

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 **Tuesday, September 21, 2010, at 3:00 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 August 2010 docket sheet.

IT IS SO ORDERED

Dated July 21, 2010.

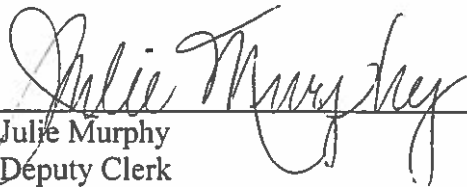

ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

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 July 21, 2010, by first-class mail to the following:

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

CITY OF BURLEY
Represented by:
Michael P. Tribe
615 H Street
PO Box 396
Rupert, ID 83350-0396


Julie Murphy
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 THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number: 45-14290

Date Received: 7/22/2010Receipt No.: CO91409

**NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW**

RECEIVED**JUL 22 2010****DEPARTMENT OF
WATER RESOURCES**

1. Name of Claimant(s): City of Burley

Phone: (208-878-2224)

Mailing Address: P.O. Box 1090, Burley, Idaho

Zip: 83318

2. Date of Priority (Only one (1) per claim): April 1, 1944

3. Source of water supply (a): groundwater

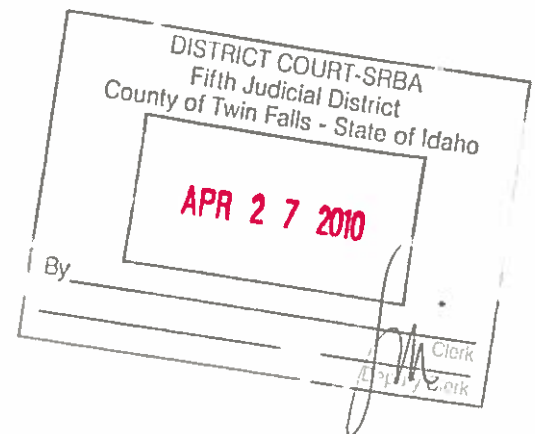
which is tributary to (b):

4. a. Location of existing point of diversion is: Township 10S Range 23E Section 17

NE 1/4 NW 1/4, E.B.M., County of Minidoka County.

Additional points of diversion if any:

T10S R23E S20 SW1/4NE1/4 within Cassia County
T10S R23E S20 SW1/4NW1/4 within Cassia County
T10S R23E S20 SE1/4NW1/4 within Cassia County
T10S R23E S20 NW1/4SW1/4 within Cassia County
T10S R23E S20 SW1/4SE1/4 within Cassia County
T10S R23E S20 SW1/4SE1/4 within Cassia County
T10S R23E S20 SW1/4SE1/4 within Cassia County
T10S R23E S20 SW1/4SE1/4 within Cassia County
T10S R23E S29 SE1/4NE1/4 within Cassia County
T10S R23E S29 NE1/4NW1/4 within Cassia County
T10S R23E S29 SW1/4NW1/4 within Cassia County
T10S R23E S30 SE1/4NE1/4 within Cassia County
T10S R23E S30 SE1/4NE1/4 within Cassia County
T10S R23E S32 SE1/4NE1/4 within Cassia County

Last Name City of Burley Ident.No. 45-14290

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____ 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc.); including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well.

Well, pump and pipeline to distribute water into the City of Burley Municipal Water System: 20 HP pump with a capacity of 1100 gmp and an approximate well depth of 100 feet.

6. Water is claimed for the following purposes:

(both dates are inclusive) (cfs) (acre feet)

For Municipal purposes from 01/01 to 12/31 amount 0.44 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed: (a) 0.44 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses – Describe fully (e.g., Domestic: Give number of households served; Stockwater: Type and number of livestock, etc.) _____

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

WITHIN CORPORATE LIMITS OF CITY OF BURLEY

TWP	RNG	SEC	NE¼				NW¼				SW¼				SE¼				Total
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Last Name City of Burley Ident.No. 45-14290

Subscribed and sworn (or affirmed) before me this ____ day of ____, 2010.

[SEAL]

Notary Public, State of Idaho

Residing at: _____

My Commission expires: _____

17. Notice of Appearance:

Notice is hereby given that I, Michael P. Tribe, will be acting as attorney at law on behalf of the claimant signing the above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature

Michael P. Tribe

Address: 615 H Street, P. O. Box 396, Rupert, Idaho 83350

Date: April 20, 2010

Last Name City of Burley Ident.No. 45-14290

DEPARTMENT OF
WATER RESOURCES

Page 1

☒ I have read *SRBA Administrative Order 1, Rules of Procedure* (amended October 16, 1997).

My name is

My address is

My phone number is: Work:

Home:

I am an attorney representing City of Burley

My name is Michael P. Tribe

My address is P. O. Box 396
Rupert, Idaho 83350

My phone number is (208) 436-4717

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.

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

This claim is for an increased diversion rate due to additional development from the well associated with Water Right No. 45-4090. Since the filing of the claim for 45-4090, it has been determined that the full beneficial use could not be recognized in one right because of the additional development. Evidence has been provided to the Idaho Department of Water Resources showing the establishment of such additional rate right with the later priority date. IDWR has no objection to the late claim and if it is granted the rest of the City of Burley claims will be resolved.

☐ 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.

☒ I have provided legal and factual documentation for my claimed use of water.

SCANNED
APR 27 2010

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 \$144.00 (\$50.00 late fee, \$50.00 filing fee and \$44.00 variable fee).

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 July 20, 2010, at 1:30 p. m.

(Insert date and time)

at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

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. Leave to amend a claim shall be freely given when justice so requires.

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

SCANNED

APR 27 2010

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

I have attached:

- ☐ An amended Notice of Claim (available from IDWR).
- ☐ Payment of the following additional fees required by IDWR:

SCANNED
APR 27 2010

VERIFICATION (Must be Completed)

State of Idaho

County of Minidoka

Michael P. Tribe, duly sworn, upon oath, deposes and says:
(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.

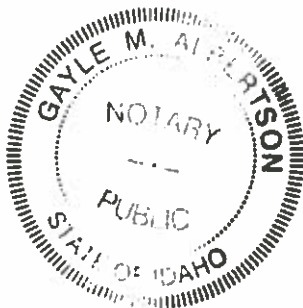
Signature of person filing motion

Michael P. Tribe

Attorney signing in representative capacity

Subscribed and sworn to before me on: _____

April 26, 2010
(Insert Date)



Gayle M. Albertson
Notary Public for State of Idaho
Residing at: Durley
My Commission expires: 7-16-2015

INSTRUCTION FOR MAILING

You must mail the motion, including all attachments, to the Clerk of the Court. **filings will not be accepted by the 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 hereby certify that on April 26, 2010, I mailed the original and copies of this motion, 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, ID 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 Resource Division
550 West Fort Street, Box 033
Boise, Idaho 83734

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

(Insert names/addresses of parties)



Signature of person or attorney mailing the form

SCANNED
APR 27 2010

LATE CLAIM DIRECTOR'S REPORT

Water Right No. 45-14290

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, Interim Director
Carter Fritschle, Manager, Adjudication Section**

September 30, 2010

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 Judge's *Order Amending Deadlines for Expedited Process and Resetting Hearing* dated September 1, 2010 (see attached), the Director submits this Late Claim Director's Report for water right 45-14209.

Respectfully submitted this 30th day of Sept., 2010.

for Kelly K. Christensen
CARTER FRITSCHLE
Manager, Adjudication Section

LATE CLAIM DIRECTOR'S REPORT

CERTIFICATE OF SERVICE

I certify that on _____, 2010, I caused to be served a true and correct copy of this Amended 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

Michael P. Tribe
615 H Street
P.O. Box 396
Rupert, ID 83350-0396

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

Cassia County Courthouse
1459 Overland Ave.
Burley, ID 83318

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

Minidoka County Courthouse
8th & G St.
P.O. Box 368
Rupert, ID 83350-0396

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

Signature of person delivering form

07/21/2010

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

RIGHT NUMBER: 45-14290

NAME AND ADDRESS: CITY OF BURLEY
PO BOX 1090
BURLEY ID 83318

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.440 CFS

PRIORITY DATE: 04/01/1944

POINT OF
DIVERSION:

T10S R23E S17 NENW Within MINIDOKA County
T10S R23E S20 SWNE Within CASSIA County
T10S R23E S20 SWNW Within CASSIA County
T10S R23E S20 SENW Within CASSIA County
T10S R23E S20 NWSW Within CASSIA County
T10S R23E S20 SWSE Within CASSIA County
T10S R23E S20 SWSE Within CASSIA County
T10S R23E S20 SWSE Within CASSIA County
T10S R23E S20 SWSE Within CASSIA County
T10S R23E S29 SENE Within CASSIA County
T10S R23E S29 NENW Within CASSIA County
T10S R23E S29 SWNW Within CASSIA County
T10S R23E S30 SENE Within CASSIA County
T10S R23E S30 SENE Within CASSIA County
T10S R23E S32 SENE Within CASSIA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
MUNICIPAL	01/01 12/31	0.440 CFS

PLACE OF USE:

Place of use is within the service area of the City of Burley municipal water supply system.

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.

To the extent necessary for administration between points of diversion for ground water, and between points of diversion for ground water and hydraulically connected surface sources, ground water was first diverted under this right from the Northside Park Well # 8 located in T10S, R23E, S20, SESENW.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

The rights listed below are associated with an irrigation delivery system north of the railroad tracks, an irrigation delivery system south of the railroad tracks and a culinary system. The three systems normally operated independently are physically connected. Combined rights 36-4080, 45-4089, 45-4090, 45-4091, 45-4092, 45-4093, 45-4094, 45-4095, 45-4096, 45-4097, 45-4098, 45-4099, 45-7269, 45-7436, 45-11133, 45-13895, 45-14083 and 45-14290.

07/21/2010

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

RIGHT NUMBER: 45-14290
NAME AND ADDRESS: CITY OF BURLEY
PO BOX 1090
BURLEY ID 83318

VERIFIED BY

KKC
7-21-10

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.440 CFS

PRIORITY DATE: 04/01/1944

POINT OF
DIVERSION:

T10S R23E S17 NENW Within MINIDOKA County
T10S R23E S20 SWNE Within CASSIA County
T10S R23E S20 SWNW Within CASSIA County
T10S R23E S20 SENW Within CASSIA County
T10S R23E S20 NWSW Within CASSIA County
T10S R23E S20 SWSE Within CASSIA County
T10S R23E S20 SWSE Within CASSIA County
T10S R23E S20 SWSE Within CASSIA County
T10S R23E S20 SWSE Within CASSIA County
T10S R23E S29 SENE Within CASSIA County
T10S R23E S29 NENW Within CASSIA County
T10S R23E S29 SWNW Within CASSIA County
T10S R23E S30 SENE Within CASSIA County
T10S R23E S30 SENE Within CASSIA County
T10S R23E S32 SENE Within CASSIA County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
MUNICIPAL

PERIOD OF USE
01/01 12/31

QUANTITY
0.440 CFS

PLACE OF USE:

Place of use is within the service area of the City of Burley municipal water supply system.

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.

To the extent necessary for administration between points of diversion for ground water, and between points of diversion for ground water and hydraulically connected surface sources, ground water was first diverted under this right from the Northside Park Well # 8 located in T10S, R23E, S20, SESENW.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

The rights listed below are associated with an irrigation delivery system north of the railroad tracks, an irrigation delivery system south of the railroad tracks and a culinary system. The three systems normally operated independently are physically connected. Combined rights 36-4080, 45-4089, 45-4090, 45-4091, 45-4092, 45-4093, 45-4094, 45-4095, 45-4096, 45-4097, 45-4098, 45-4099, 45-7269, 45-7436, 45-11133, 45-13895, 45-14083 and 45-14290.

07/20/2010

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 45-14290

NAME AND ADDRESS: CITY OF BURLEY
PO BOX 1090
BURLEY ID 83318

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.440 CFS

PRIORITY DATE: 04/01/1944

POINT OF DIVERSION:

T10S R23E S17 NENW Within MINIDOKA County
T10S R23E S20 SWNE Within CASSIA County
T10S R23E S20 SWNW Within CASSIA County
T10S R23E S20 SENW Within CASSIA County
T10S R23E S20 NWSW Within CASSIA County
T10S R23E S20 SWSE Within CASSIA County
T10S R23E S20 SWSE Within CASSIA County
T10S R23E S20 SWSE Within CASSIA County
T10S R23E S20 SWSE Within CASSIA County
T10S R23E S29 SENE Within CASSIA County
T10S R23E S29 NENW Within CASSIA County
T10S R23E S29 SWNW Within CASSIA County
T10S R23E S30 SENE Within CASSIA County
T10S R23E S30 SENE Within CASSIA County
T10S R23E S32 SENE Within CASSIA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
MUNICIPAL	01/01 12/31	0.440 CFS

PLACE OF USE:

Place of use is within the service area of the City of Burley municipal water supply system.

135
The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

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 - Beneficial Use

The rights listed below are associated with an irrigation delivery system north of the railroad tracks, an irrigation delivery system south of the railroad tracks and a culinary system. The three systems normally operated independently are physically connected. Combined rights 36-4080, 45-4089, 45-4090, 45-4091, 45-4092, 45-4093, 45-4094, 45-4095, 45-4096, 45-4097, ~~45-4098~~, 45-4099, 45-7269, 45-7436, 45-11133, 45-13895, 45-14083 and 45-14290.

Add

Name of Party Filing Document:
City Of Burley

Attorney Name & Address:
Michael P. Tribe, ISB No. 6816
ROBINSON, ANTHON & TRIBE
615 H Street, P. O. Box 396
Rupert, Idaho 83350

Comment [jkb1]: Court heading must be 4 inches from the top of the page; this form is duplexed: even pages are be upsidedown on the back of the odd pages

**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. 45-14290
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 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 October 16, 1997), 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 October 16, 1997).

My name is

My address is

My phone number is: Work:

Home:

I am an attorney representing City of Burley

My name is Michael P. Tribe

My address is P. O. Box 396
Rupert, Idaho 83350

My phone number is (208) 436-4717

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.

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

This claim is for an increased diversion rate due to additional development from the well associated with Water Right No. 45-4090. Since the filing of the claim for 45-4090, it has been determined that the full beneficial use could not be recognized in one right because of the additional development. Evidence has been provided to the Idaho Department of Water Resources showing the establishment of such additional rate right with the later priority date. IDWR has no objection to the late claim and if granted the rest of the City of Burley claims will be resolved.

☐ 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.

☒ I have provided legal and factual documentation for my claimed use of water.

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 \$144.00 (\$50.00 late fee, \$50.00 filing fee and \$44.00 variable fee).

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 _____
(Insert date and time)

at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

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. Leave to amend a claim shall be freely given when justice so requires.

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

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

I have attached:

- ☐ An amended Notice of Claim (available from IDWR).
- ☐ Payment of the following additional fees required by IDWR:

VERIFICATION (Must be Completed)

State of Idaho

County of Minidoka

Michael P. Tribe, duly sworn, upon oath, deposes and says:
(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: _____
(Insert Date)

Notary Public for State of Idaho
Residing at: _____
My Commission expires: _____

INSTRUCTION FOR MAILING

You must mail the motion, including all attachments, to the Clerk of the Court. **FAX filings will not be accepted by the 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 hereby certify that on April 26, 2010, I mailed the original and copies of this motion, 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, ID 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 Resource Division
550 West Fort Street, Box 033
Boise, Idaho 83734

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

(Insert names/addresses of parties)

Signature of person or attorney 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 THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number: 45-14290

Date Received: _____

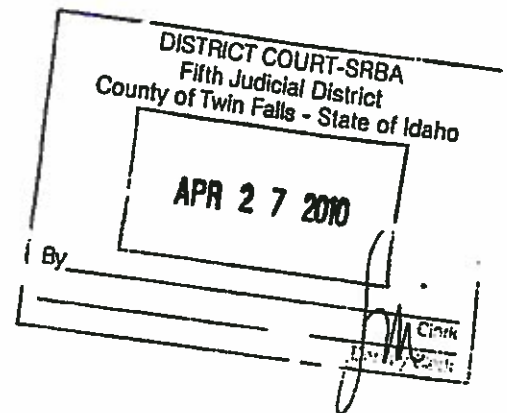
Receipt No.: _____

**NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name of Claimant(s): City of Burley Phone: (208-878-2224)
Mailing Address: P.O. Box 1090, Burley, Idaho Zip: 83318
2. Date of Priority (Only one (1) per claim): April 1, 1944
3. Source of water supply (a): groundwater
which is tributary to (b):
4. a. Location of existing point of diversion is: Township 10S Range 23E Section 17

NE 1/4 NW 1/4, E.B.M., County of Minidoka County.
Additional points of diversion if any:

T10S R23E S20 SW1/4NE1/4 within Cassia County
T10S R23E S20 SW1/4NW1/4 within Cassia County
T10S R23E S20 SE1/4NW1/4 within Cassia County
T10S R23E S20 NW1/4SW1/4 within Cassia County
T10S R23E S20 SW1/4SE1/4 within Cassia County
T10S R23E S20 SW1/4SE1/4 within Cassia County
T10S R23E S20 SW1/4SE1/4 within Cassia County
T10S R23E S20 SW1/4SE1/4 within Cassia County
T10S R23E S29 SE1/4NE1/4 within Cassia County
T10S R23E S29 NE1/4NW1/4 within Cassia County
T10S R23E S29 SW1/4NW1/4 within Cassia County
T10S R23E S30 SE1/4NE1/4 within Cassia County
T10S R23E S30 SE1/4NE1/4 within Cassia County
T10S R23E S32 SE1/4NE1/4 within Cassia County



*same well
no 4090*

Last Name City of Burley Ident.No. 45-14290

- b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____ 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc.); including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well.

Well, pump and pipeline to distribute water into the City of Burley Municipal Water System; 20 HP pump with a capacity of 1100 gmp and an approximate well depth of 100 feet.

6. Water is claimed for the following purposes:

(both dates are inclusive) (cfs) (acre feet)

For Municipal purposes from 01/01 to 12/31 amount 0.44 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed: (a) 0.44 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses – Describe fully (e.g., Domestic: Give number of households served; Stockwater: Type and number of livestock, etc.) _____

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

WITHIN CORPORATE LIMITS OF CITY OF BURLEY

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Total
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Last Name City of Burley Ident.No. 45-14290

Total number of acres irrigated: _____

11. In which county(ies) are lands listed above as place of use located? CASSIA COUNTY
12. Do you own the property listed above as place of use? Yes ☒ No ☐
If your answer is No, describe in Remarks below the authority you have to claim this water right.
13. Describe any other water rights used at the same place and for the same purposes as described above. 36-4080, 45-4089, 45-4090, 45-4091, 45-4092, 45-4093, 45-4094, 45-4095, 45-4096, 45-4097, 45-4098, 45-4099, 45-4099, 45-7269, 45-7436, 45-11133, 45-13895, and 45-14083.
14. Remarks: Place of use is within the service area of the City of Burley Municipal water supply system.
15. Basis of Claim (check one): Beneficial Use ☒ Posted Notice ☐ License ☐ Permit ☐
Decree ☐
If applicable, provide IDWR Water Right Number.: 45-14290
Court _____ Case No. _____ Decree Date _____
Plaintiff vs. Defendant: _____
16. Signature(s):
(a) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b) I/We do ☐ do not ☒ wish to receive and pay a small annual fee for monthly copies of the docket sheet.
Number of attachments: _____

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s) _____ Date _____

_____ Date _____

For Organizations: I do solemnly swear or affirm that I am _____ of _____, that I have signed the foregoing document in the space below as _____ of _____ and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization _____ Date _____

State of Idaho)
County of Minidoka) ss.

Last Name City of Burley Ident.No. 45-14290

Subscribed and sworn (or affirmed) before me this ____ day of April, 2010.

[SEAL]

Notary Public, State of Idaho

Residing at: _____

My Commission expires: _____

17. Notice of Appearance:

Notice is hereby given that I, Michael P. Tribe, will be acting as attorney at law on behalf of the claimant signing the above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature

_____

Address: 615 H Street, P. O. Box 396, Rupert, Idaho 83350

Date: April 20, 2010



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 • Web Site: www.idwr.idaho.gov

August 11, 2010

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

MICHAEL TRIBE
ROBINSON & ASSOCIATES
PO BOX 396
RUPERT ID 83350-0396

Re: Snake River Basin Adjudication (SRBA)
Late Notice of Claim to a Water Right No. 45-14290

Dear Michael:

The Notice of Claim you filed on behalf of City of Burley has been received from the SRBA Court. I have enclosed Receipt No. C091404 for the filing fees you paid. Please retain the receipt for your records.

The Notice of Claim will be investigated and reported to the Court in a future supplemental Director's Report. If you have any questions, please feel free to contact our office.

Sincerely,

Lori Harris
Technical Records Specialist 2
Adjudication Section

LH:I
Enclosure