



Idaho Department of Water Resources

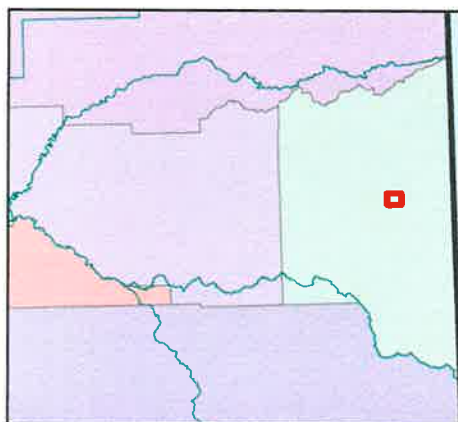
Adjudication Recommendation

22-276A, 22-276B,
22-609A, and
22-13966

(IRRIGATION)

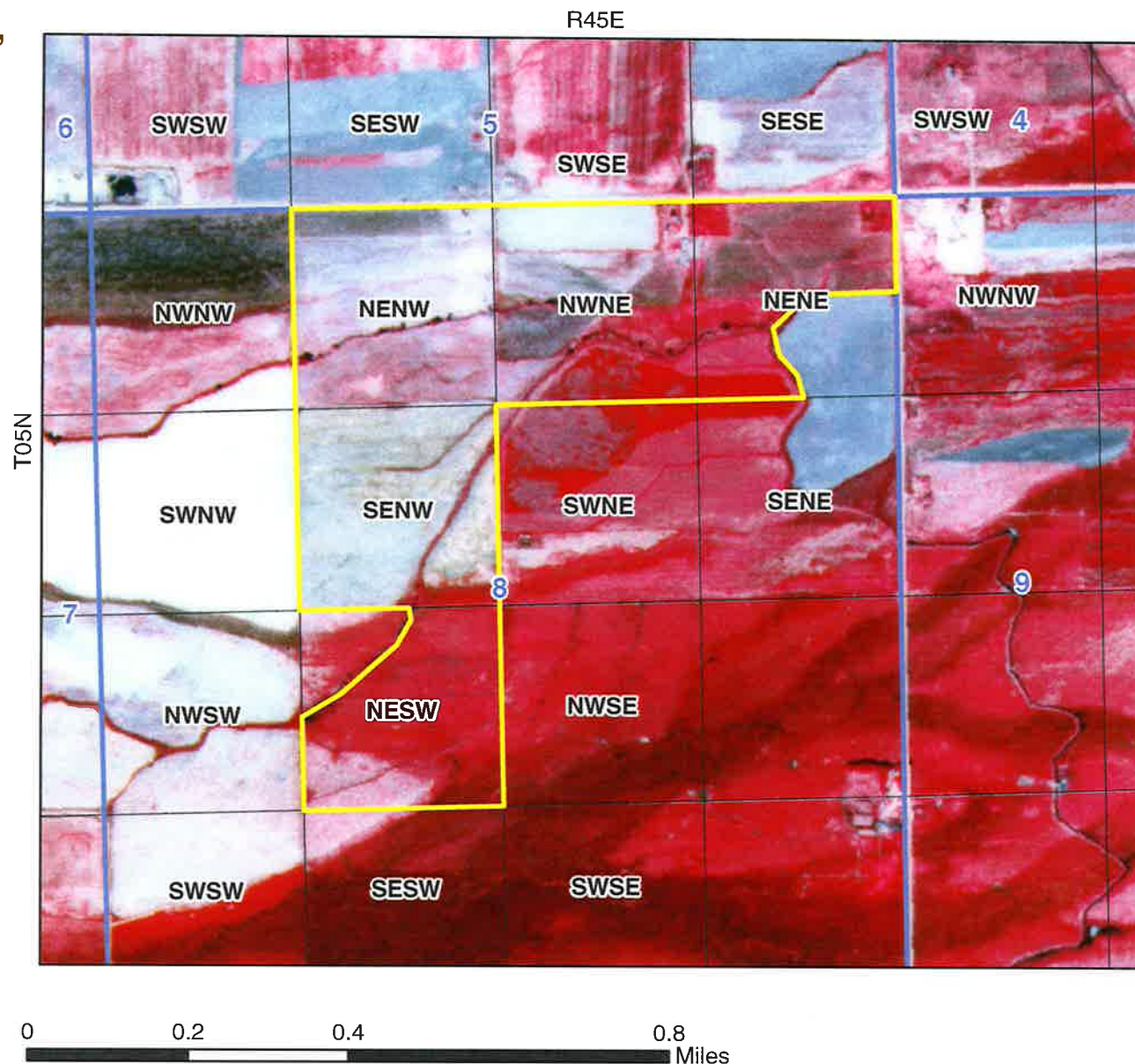
Legend

-  Place of Use
-  State Outline
-  Townships
-  PLS Sections
-  Quarter Quarters



**Teton County
IDWR Basin 22**

Prepared by Michael Holliday
On April 26, 2010
1987/88 Aerial Photography



04/26/2010

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

RIGHT NUMBER: 22-13966

NAME AND ADDRESS: H D DUNN & SON LTD PARTNERSHIP
326 N 300 W
TETONIA ID 83452

SOURCE: SOUTH LEIGH CREEK

TRIBUTARY: TETON RIVER

QUANTITY: 0.440 CFS

The rights listed below are limited to a total combined diversion rate of 4.80 cfs. Combined Right Nos.: 22-276A, 22-276B, 22-609A, and 22-13966.

PRIORITY DATE: 04/15/1987

This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right.

POINT OF
DIVERSION:

T06N R45E S33 SWSE Within TETON County

PURPOSE AND
PERIOD OF USE:

	<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
	IRRIGATION	04/15 10/31	0.440 CFS
PLACE OF USE:	<u>IRRIGATION in TETON County</u>		
	T05N R45E S08 NENE	29.00	T05N R45E S08 NWNE 40.00
	T05N R45E S08 NENW	40.00	T05N R45E S08 SENW 40.00
	T05N R45E S08 NESW	33.00	

182 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 182 acres in a single irrigation season. Combined Right Nos.: 22-276A, 22-276B, 22-609A, and 22-13966.

The rights listed below are limited to the irrigation of a combined total of 487 acres in a single irrigation season. Combined Right Nos.: 22-276A, 22-276B, 22-609A, 22-641D, 22-11450, and 22-13966.

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.

This right is based upon an enlargement of Right Nos. 22-276A, 22-276B, and 22-609A pursuant to Section 42-1426, Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

This right is for an enlargement of 22 acres within the place of use described for this right.

Use of this right is combined with water from Leigh Creek Canal Co.

Water is delivered through Gale Moffat ditch.



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

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

January 11, 2010

ROBERT L HARRIS
HOLDEN KIDWELL HAHN & CRAPO PLLC
PO BOX 50130
IDAHO FALLS ID 83405

RE: Snake River Basin Adjudication (SRBA)
Notice of Claim to a Water Right #22-13966
Your Client: HD Dunn & Sons Limited

Dear Mr. Harris:

The Notice of Claim to a Water Right you filed for your client referenced above was received from the SRBA Court recently. I have enclosed receipt #C089736 for the fees your firm paid.

Your client's Notice of Claim will be investigated and reported to the Court in a future supplemental Director's Report. Please contact me at 208/287-4916 if you have any questions.

Sincerely,

Craig L. Saxton
Water Rights Supervisor
Adjudication Bureau

CLS:ss:region
Enclosure:

Receipt Referenced Above

SCANNED

JAN 05 2010

RECEIVED
SEP 21 2009
DEPARTMENT OF
WATER RESOURCES

COPY

Hearing: 12-15-09

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

A. Subcase 22-13966

Claim Complete
Fees Good

STANDARD FORM 4

C-S
10-28-09

MOTION TO FILE LATE
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 on 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 Sept. 30, 1996), Section 4, which may be consulted for further information.

By file 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 Sept. 30, 1996).

My name is _____

My address is _____

My phone number is: _____ Work _____ Home _____

I am an attorney representing H. D. Dunn & Sons Limited Partnership

My name is Robert L. Harris, Holden, Kidwell, Hahn & Crapo, PLLC

My address is PO Box 50130, Idaho Falls, ID 83402

My phone number is 208-523-0620

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:

It was determined that it is necessary to file an enlargement claim to resolve outstanding objections to Water Right Nos. 22-276A, 22-276B, and 22-609A. This water right, 22-13966, is for an enlargement of 40 acres from these water rights.

- ☐ 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 am providing a legal and factual documentation for my claimed use of water. You must describe 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 you Notice of Claim.)

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 \$ 140.00.

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, December 15, 2009, 1:30 p.m.
 (Insert Date and Time)
 at the SRBA Court 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

State of Idaho)
)ss.
County of Bonneville)

Robert L. Harris, being first duly sworn, upon oath, deposes and says:

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.


Robert L. Harris, Attorney

Subscribed and sworn to before me this 18th day of September, 2009.




Notary Public for Idaho
Residing at: Idaho Falls, ID
My Commission expires: July 7, 2015

CERTIFICATE OF MAILING

I certify that on this 16th day of September, 2009, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

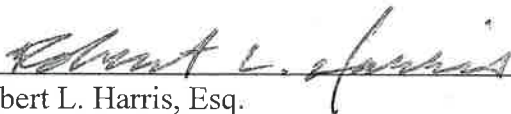
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

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, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724


Robert L. Harris, Esq.
Holden, Kidwell, Hahn & Crapo, P.L.L.C.

G:\WPDATA\RLH\15303 Dunn Trust\Motion, Late Claim, 22-13966.wpd

SEP 21 2009

9. Description of place of use:
- If water is for irrigation, indicate acreage in each subdivision in the table below.
 - If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instruction for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TLS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
5N	45E	8	40	40			40			40	33								193

Parcel (PIN) No(s) _____

Total number of acres irrigated 193

10. In which county(ies) are lands listed above as place of use located? Teton

11. 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.

12. Describe any other water rights used at the same place and for the same purposes as described above.
22-276A, 22-376B and 22-609A or None ()

13. Remarks:

This is an enlargement of 40 acres in the NENE of T5N., R45E., Section 8, to be used in conjunction with Water Right Nos. 22-276A, 22-276B and 22-609A.

14. Basis of Claim (Check one) Beneficial Use ☒ Posted Notice ☐ Permit ☐ Decree ☒ License ☐

If applicable provide IDWR Water Right Number _____

Court _____ Case Number _____ Decree Date _____

Plaintiff vs Defendant _____

15. 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 Organizations: I do solemnly swear or affirm under penalty of perjury that I am the Attorney of (Title)

H.D. Dunn & Sons Ltd. Partnership, that I have signed the foregoing document in the space below as (Organization)

Attorney of H.D. Dunn & Sons Ltd. Partnership and that the statements contained in the (Title) (Organization)

foregoing document are true and correct.

Signature of Authorized Agent Robert L. [Signature]

Title and Organization ATTORNEY Date Sept. 17, 2009

Last Name _____ Ident. Number _____

SCANNED
SEP 21 2009

17. Notice of Appearance:

Notice is hereby given that I, Robert L. Fawcett will be acting as attorney at law on behalf of the claimant signing 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 Robert L. Fawcett
Address P.O. Box 50130 Idaho Falls, ID 83405
Date 9/17/2009

G:\WPDATA\RLH\15303 Dunn Trust\Claim, Enlargement.wpd:cdv

Last Name _____ Ident. Number _____

SCANNED

SEP 21 2009

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 22-13966

Date Received _____

Receipt Number C089736

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

1. Name of Claimant(s) H.D. Dunn & Sons Limited Partnership Phone (208) 456-2215

Mailing Address 326 N. 300 W., Tetonia ID Zip 83452

2. Date of Priority (Only (1) per claim) April 15, 1916

3. Source of water supply (a) South Leigh Creek

which is tributary to (b) Teton River

4.a. Location of existing point of diversion is:
Township 6N Range 45E Section 33, ___ 1/4 of SW 1/4 of SE 1/4, Govt. Lot __,
County of TETON
Parcel (PIN) No. _____

Additional points of diversion if any: _____
If Available, GPS Coordinates: _____

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 _____

ending point 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. _____

6. Water is claimed for the following purposes: _____ (Both dates are inclusive) (cfs) (acre feet)

For Irrigation purposes from 04/15 to 10/31 amount 0.8 cfs or _____

7. Total quantity claimed (a) 0.8 (cfs) and/or (b) _____ (acre feet)

8. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of
livestock Etc.) _____

2009 SEP 21 AM 10 42
FILED
DISTRICT COURT - 5th JUDICIAL DISTRICT
TWIN FALLS CO., IDAHO

SCANNED

DEC 18 2009

9. Description of place of use:
- a. If water is for irrigation, _____ acreage in each subdivision in the _____ section 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 instruction for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TLS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
5N	45E	8	40	40			40			40	33								193

Parcel (PIN) No(s). _____ Total number of acres irrigated 193

10. In which county(ies) are lands listed above as place of use located? Teton

11. 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.

12. Describe any other water rights used at the same place and for the same purposes as described above.
22-276A, 22-376B and 22-609A or None ()

13. Remarks:

This is an enlargement of 40 acres in the NENE of T5N., R45E., Section 8, to be used in conjunction with Water Right Nos. 22-276A, 22-276B and 22-609A.

14. Basis of Claim (Check one) Beneficial Use ☒ Posted Notice ☐ Permit ☐ Decree ☒ License ☐
If applicable provide IDWR Water Right Number _____
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

15. 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 Organizations: I do solemnly swear or affirm under penalty of perjury that I am the Attorney of _____ (Title)

H.D. Dunn & Sons Ltd. Partnership, that I have signed the foregoing document in the space below as _____ (Organization)

Attorney of H.D. Dunn & Sons Ltd. Partnership and that the statements contained in the _____ (Title) _____ (Organization)
foregoing document are true and correct.

SCANNED

DEC 18 2009

Signature of Authorized Agent Robert L. James

Title and Organization ATTORNEY Date Sept. 17, 2009

Last Name _____ Ident. Number _____

17. Notice of Appearance:

Notice is hereby given that I, Robert L. Farniss will be acting as attorney at law on behalf of the claimant signing 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 Robert L. Farniss
Address P.O. Box 50130 Idaho Falls, ID 83401-5
Date 9/17/2009

G:\WPDATA\RLH\15303 Dunn Trust\Claim, Enlargement.wpd:cdv

SCANNED

DEC 18 2009

Last Name _____ Ident. Number _____

RECEIVED

DEC 17 2009

DEPARTMENT OF
WATER RESOURCES

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

DEC 16 2009

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: 22-13966

Case No. 39576

ORDER GRANTING MOTION TO FILE
LATE NOTICE OF CLAIM

On September 21, 2009, H. D. Dunn & Sons Limited, by and through counsel, Robert L. Harris, filed a *Motion to File Late Notice of Claim* for the above-captioned water right. Hearing was held on the *Motion* on December 15, 2009. This *Motion* complied with all procedural requirements under *SRBA Administrative Order 1*, and no objections were made to this late Notice of Claim.

THEREFORE, IT IS ORDERED, that the *Motion to File a Late Notice of Claim* for the above-captioned water right 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. Following investigation by the Idaho Department of Water Resources, recommendation for the claim will be reported in the next *Late Claims Director's Report* which is issued on an annual basis. This modifies the provisions of *SRBA Administrative Order 1* 4d(2)(h).

IT IS SO ORDERED.

Dated December 16, 2009.


JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

SCANNED

DEC 18 2009

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTION TO FILE LATE NOTICE OF CLAIM was mailed on December 16, 2009, with sufficient first-class postage to the following:

H D DUNN & SONS LIMITED

Represented by:

ROBERT L HARRIS

1000 RIVERWALK DR, STE 200

PO BOX 50130

IDAHO FALLS, ID 83405

Phone: 208-523-0620

DIRECTOR OF IDWR

PO BOX 83720

BOISE, ID 83720-0098

SCANNED

DEC 18 2009

ORDER

Page 1 12/16/09

FILE COPY FOR 00772


Deputy Clerk