

05/14/2012

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

RIGHT NUMBER: 22-13974

NAME AND ADDRESS: MARK HARRINGTON
PO BOX 300
DRIGGS ID 83422

SOURCE: SPRING

TRIBUTARY: FISH CREEK

QUANTITY: 0.310 CFS

PRIORITY DATE: 10/31/1945

POINT OF DIVERSION:

T04N R45E S15 SWSWNE Within TETON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/15 10/31

0.310 CFS

PLACE OF USE:

IRRIGATION in TETON County

T04N R45E S15

NESW

5.10

T04N R45E S15

NWSW

10.40

15.5 ACRES TOTAL

Right Nos. 22-12784 and 22-13974 are limited to the irrigation of a combined total of 47 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 - Beneficial Use



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

October 6, 2010

JERRY RIGBY
PO BOX 250
REXBURG ID 83440

Re: Snake River Basin Adjudication (SRBA)
Late Notice of Claim to a Water Right No. 22-13974

Dear Jerry:

The Notice of Claim you filed on behalf of Mark Harrington has been received from the SRBA Court. I have enclosed Receipt No. C091743 for the filing fees you paid. Please retain the receipt for your records.

The 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,

A handwritten signature in cursive script that reads "Lori Harris". The signature is written in dark ink and is positioned above the printed name and title.

Lori Harris
Technical Records Specialist 2
Adjudication Section

LH:I
Enclosure

RECEIVED

SEP 22 2010

DEPARTMENT OF
WATER RESOURCES

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

SEP 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: 22-13974

Case No. 39576

ORDER GRANTING MOTION TO FILE
LATE NOTICE OF CLAIM

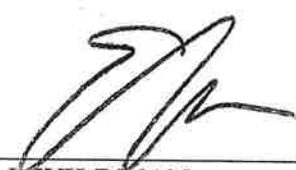
On June 24, 2010, Mark Harrington, by and through counsel, Jerry R. Rigby, filed a *Motion to File Late Notice of Claim* for the above-captioned water right. Hearing was held on the *Motion* on September 21, 2010. This *Motion* complied with all procedural requirements under *SRBA Administrative Order 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: September 21, 2010.


ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

SCANNED

SEP 23 2010

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 September 21, 2010, with sufficient first-class postage to the following:

MARK HARRINGTON

Represented by:

JERRY R. RIGBY

25 N 2ND E

PO BOX 250

REXBURG, ID 83440-0250

Phone: 208-356-3633

DIRECTOR OF IDWR

PO BOX 83720

BOISE, ID 83720-0098

SCANNED

SEP 23 2010

ORDER

Page 1 9/21/10

FILE COPY FOR 00778

Deputy Clerk

Shirley Murphy

9-21-10
Hearing

RECEIVED
JUN 25 2010
DEPARTMENT OF
WATER RESOURCES

6-29

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 *Feeds - Variable fee paid*
under 22-12784

Subcase: 22-13974

Case 39576 *Claim is complete:*
2-1-10 CG

STANDARD FORM 4

MOTION TO FILE

☒ LATE NOTICE OF CLAIM

☐ AMENDED NOTICE OF CLAIM

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

My name is Mark Harrington

My address is: P.O. Box 300, Driggs, ID 83422

My phone number is: (208)354-2900

I am an attorney representing Mark Harrington

My name is Jerry R. Rigby

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

My phone number is: (208) 356-3633

SCANNED
JUN 25 2010

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 the water in the SRBA because:
Claimant recently hired a water engineer in order to review some of his water rights. In the investigation, the Engineer discovered a spring which originated on or near Claimant's lands which Claimant uses. Until the Engineer informed Claimant otherwise, Claimant was unaware that a claim must be filed on a spring in the same manner as any other water right. Immediately upon being made aware of the necessity to file the claim on the spring, Claimant hired this Firm to proceed with this Motion to File a Late Notice of Claim.

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

I have attached:

- ☒ A fully completed Notice of Claim (available from IDWR). Also, an affidavit and map of Clair Hillman which verifies the beneficial use of the spring as well as the priority date.
- ☐ 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 \$100.00 (acre fee may have previously been paid under 22-12784).

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, September 21, 2010 at 1:30 p.m.
at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

SCANNED
JUN 25 2010

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

A *Motion to File and 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 the 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:
Fees have been paid when the claims were originally filed.

SCANNED

JUN 25 2017

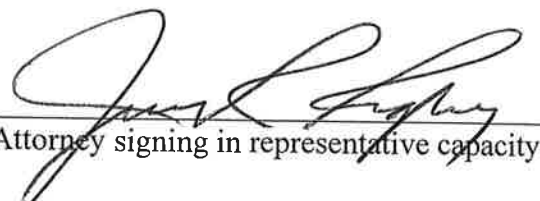
VERIFICATION

STATE OF IDAHO,)
 ss
County of Madison.)

Jerry R. Rigby, being first duly sworn, upon oath, deposes and says:

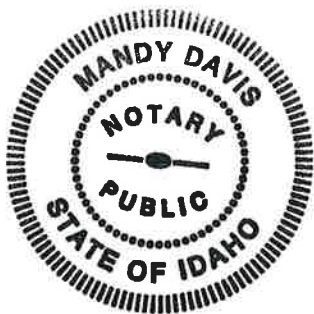
That I am the Secretary of party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 4204101A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

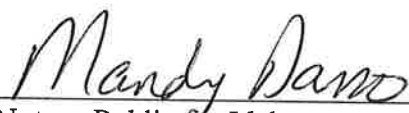
Signature of person filing motion



Attorney signing in representative capacity.

Subscribed and sworn to before me on this 23rd day of June, 2010.





Notary Public for Idaho
Residing at St. Anthony
My Commission Expires: 06/24/2011

SCANNED

JUN 25 2010

CERTIFICATE OF MAILING

I certify that on ~~March~~^{June} 23, 2010, 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

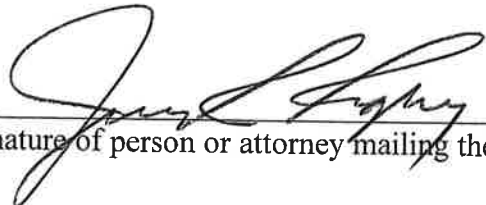
2. Copies to:

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 Resources Division
550 West Fort Street, MSC 033
Boise, ID 83724

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



Signature of person or attorney mailing the form

SCANNED

JUN 25 2010

6-24

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 22-13974

Date Received: _____

Receipt No: _____

Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Mark Harrington Phone (208) 354-2900

Mailing Address PO Box 300 Driggs ID 83422

2. Date of Priority (Only one (1) per claim) April 15, 1945
Street or Box City State
Month Day Year (YYYY)

3. Source of water supply (Check one) Ground Water () or Other (✓) (a) Spring
which is tributary to (b) Sinks

4. a. Location of Point of Diversion is: Township 4N, Range 45E, Section 15
SW, 1/4 of NE, 1/4 Govt. Lot _____, BM., 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

Govt. Lot _____, BM., County of _____

ending point is: Township _____, Range _____, Section _____, _____, 1/4 of _____, 1/4

Govt. Lot _____, BM., 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. _____

Spring flows into ditch, through a culvert under the road, and onto the claimants land through the same ditch onto the property for flood irrigation.

SCANNED
JUN 25 2019

6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For Irrigation purposes from 4/15 to 10/31 amount 1.0 or _____
 For _____ purposes from _____ to _____ amount _____ or _____
 For _____ purposes from _____ to _____ amount _____ or _____
 For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 1.0 (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.) none

9. 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.

Twn	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	45E	15								0.1	4.4	11							15.5

Parcel (PIN) no(s). _____

Total number of acres irrigated 15.5

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.

Water right 22-12784 from Darby Creek for irrigation overlaps this same place of use _____ or None ()

13. Remarks: This water right was developed by previous owners to the property and has been used since. Mr.

Clair Hillman, a neighbor to the claimed property, has provided an affidavit supporting the use of the Spring for

irrigation of the place of use. Please find attached said affidavit accompanied by a map outlined by Mr. Hillman.

According to the claimant, the spring is used as a primary source of irrigation water for the place of use.

Last Name Harrington

Identification No. 22-13974

SCANNED

JUN 25 2017

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

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number _____

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 notices 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: 1

For Individuals: I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) [Signature] Date: 6-3-2010

Date: _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am

Title of _____ Organization

that I have signed the foregoing document in the space below as

Title of _____ Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____ Date _____

Title and Organization _____

16. Notice of Appearance:

Notice is hereby given that I, Jerry R. Rigby, will be acting as attorney at law of 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 [Signature] Date 6-23-10

Address PO Box 250
Rexburg ID 83440

SCANNED

JUN 25 2010

Last Name Harrington Identification No. 22-13974

Affidavit of Clair Hillman

I, Clair Hillman, have lived in Teton Valley all my life, most of which, I have lived by Darby Creek on the east side of the highway. My father owned 80 acres adjacent to the Harrington property.

Ed Reagan originally owned the property. It may have been Ed Reagan who dug the original ditches. Arthur Bowles purchased the property from Ed Reagan. Sarah and Lloyd Delaney inherited the property from Arthur Bowles, Sarah's brother, and Mark Harrington purchased the property from the Delaney's. I remember that in about 1945, when Arthur Bowles owned the Harrington property, he used the spring located on the east property boundary for irrigation. From the spring, it was diverted through a culvert under the road into a ditch on the north side of the road. The ditch ran down to irrigate some meadows on the west side of the property, approximately 15 acres, as indicated on the attached map. There were also about 5 acres irrigated along the ditch.

Clair Hillman
Clair Hillman

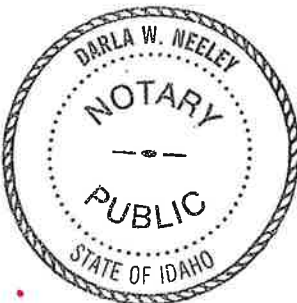
5-5-10

State of Idaho)

County of Teton)

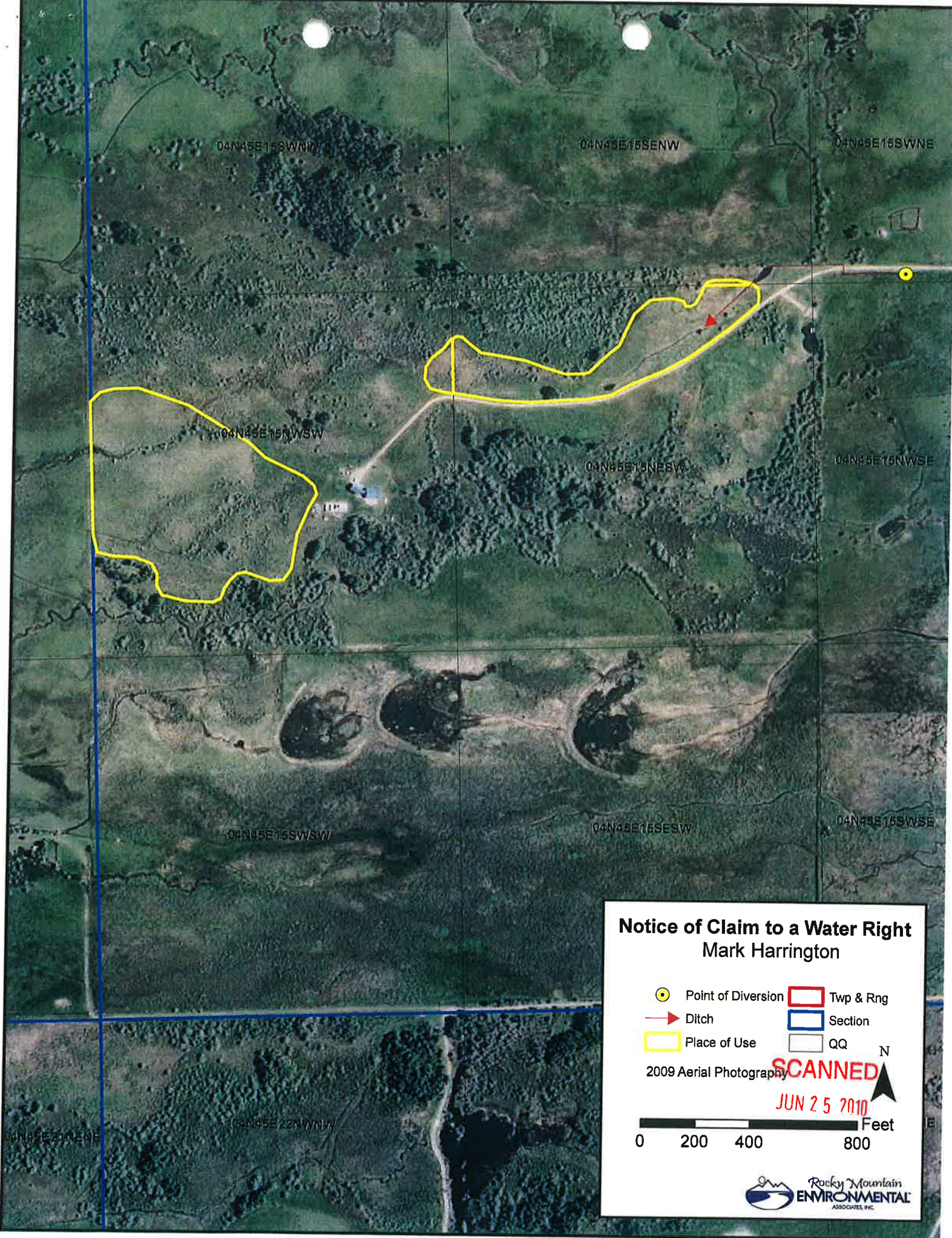
On this 5th day of May, in the year of 20 10, before
me DARLA W. NEELEY a notary public, personally appeared
Clair Hillman

proved to me on the basis of satisfactory evidence to be the person(s) whose
name(s) is (are) subscribed to the within instrument, and acknowledged that
he (she) (they) executed the same.



Darla W. Neeley
Notary Public
My Commission expires on 02-25-2015

SCANNED
JUN 25 2010



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 22-13974
Date Received: 6/24/2010
Receipt No: C091743
Received By:

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

1. Name of Claimant(s)

MARK HARRINGTON Phone: (208)354-2900
PO BOX 300
DRIGGS ID USA 83422

2. Date of Priority: 04/15/1945

3. Source: SPRING Trib. to: SINKS

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
04N	45E	15	SW NE	TETON	

5. Description of diverting works:

Spring flows into ditch, through a culvert under the road, and onto the claimants land through the same ditch onto the property for flood irrigation.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)
A.F.A IRRIGATION	04/15	10/31	1	

7. Total Quantity Appropriated is:
1 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
04N	45E	15	SE NW	IRRIGATION	0.1
			NE SW	IRRIGATION	4.4

NW	SW	IRRIGATION	11
		Section Acres	15.5
		Total Acres	15.5

11. Place of use in counties: TETON

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

13. Other Water Rights Used:

14. Remarks:

Other water rights used: 22-12784 from Darby Creek for irrigation overlaps this same place of use.

This water right was developed by previous owners to the property and has been used since. Mr. Clair Hillman, a neighbor to the claimed property, has provided an affidavit supporting the use of the Spring for irrigation of the place of use. Please find attached said affidavit accompanied by a map outlined by Mr. Hillman. According to the claimant, the spring is used as a primary source of irrigation water for the place of use.

15. Basis of Claim: Beneficial Use

RECEIVED

SEP 22 2010

DEPARTMENT OF
WATER RESOURCES

SRBA Form No.42-1409-1 (Internet 2/09)

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

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

CIVIL CASE NUMBER: 39576

Ident. Number 22-13974

Date Received: 9/22/2010

Received By: SRBA

County of Twin Falls - State of Idaho

NOTICE OF CLAIM
TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

JUN 24 2010

Please type or print clearly

1. Name of Claimant (s) Mark Harrington

Mailing Address PO Box 300

Driggs

ID

ZIP 83422

Street or Box

City

State

2. Date of Priority (Only one (1) per claim) April 15, 1945
Month Day Year (YYYY)

3. Source of water supply (Check one) Ground Water () or Other (✓) (a) Spring

which is tributary to (b) Sinks

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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

Govt. Lot _____, BM., County of _____

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and as enlarged and the depth of each well. _____

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the property for flood irrigation.

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SEP 23 2010

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(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For Irrigation purposes from 4/15 to 10/31 amount 1.0 or

For purposes from to amount or

For purposes from to amount or

For purposes from to amount or

7. Total quantity claimed (a) 1.0 (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.) none

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			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	45E	15								0.1	4.4	11							15.5

Parcel (PIN) no(s).

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SCANNED

SEP 23 2010

Last Name Harrington Identification No. 22-13974

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

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number _____

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 notices 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: 1

For Individuals: I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) [Signature] Date: 6-3-2010

Date: _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am

Title of _____ Organization

that I have signed the foregoing document in the space below as

Title of _____ Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____ Date _____

Title and Organization _____

16. Notice of Appearance:

Notice is hereby given that I, Jerry R. Rigby, will be acting as attorney at law of 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 [Signature] Date 6-23-10

Address Po Box 250

Rexburg ID 83440

SCANNED

SEP 23 2010

Last Name Harrington Identification No. 22-13974

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Clair Hillman
Clair Hillman

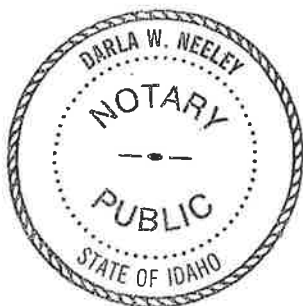
5-5-10

State of Idaho)

County of Teton)

On this 5th day of May, in the year of 20 10, before me DARLA W NEELEY a notary public, personally appeared CLAIR HILLMAN

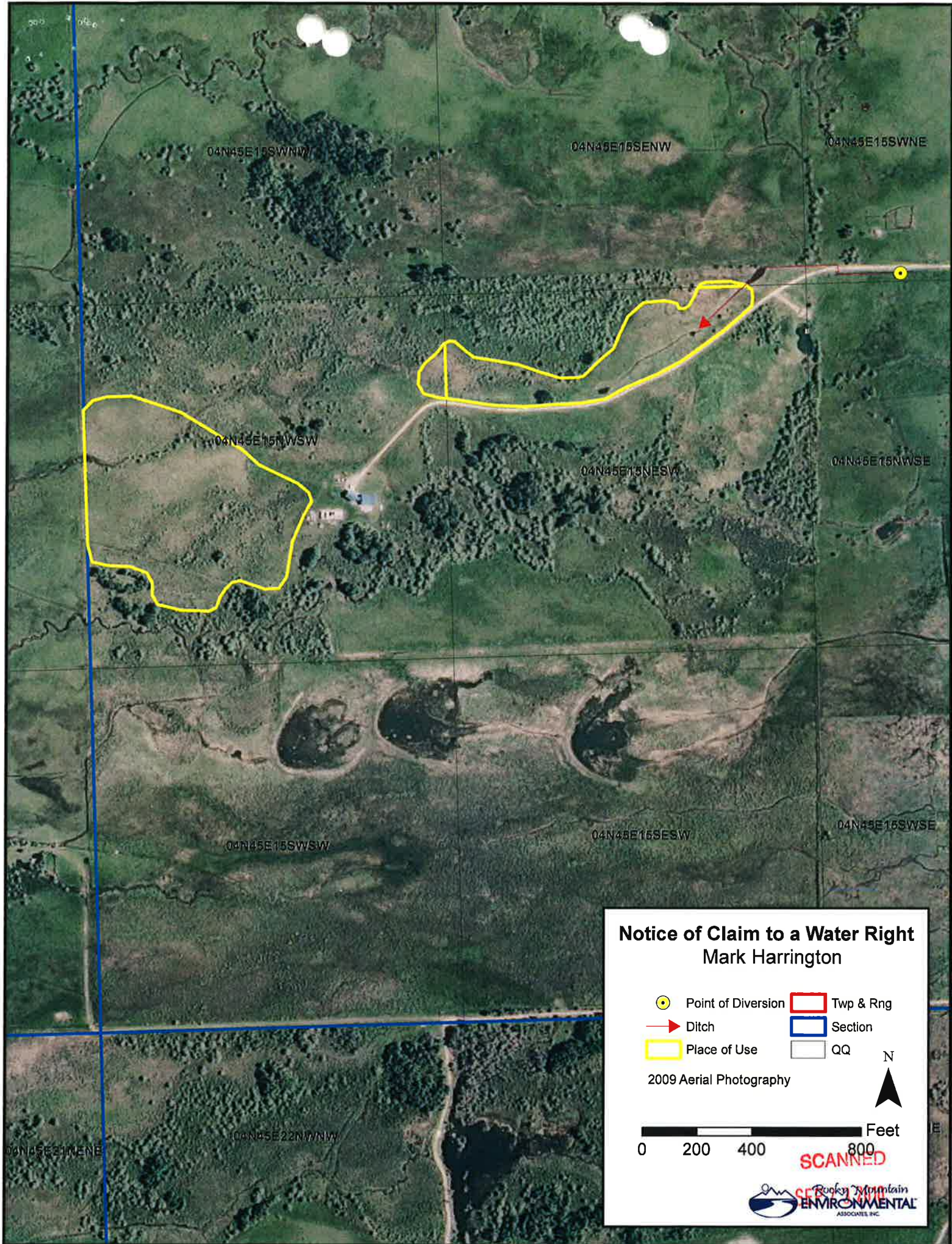
proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is (are) subscribed to the within instrument, and acknowledged that he (she) (they) executed the same.

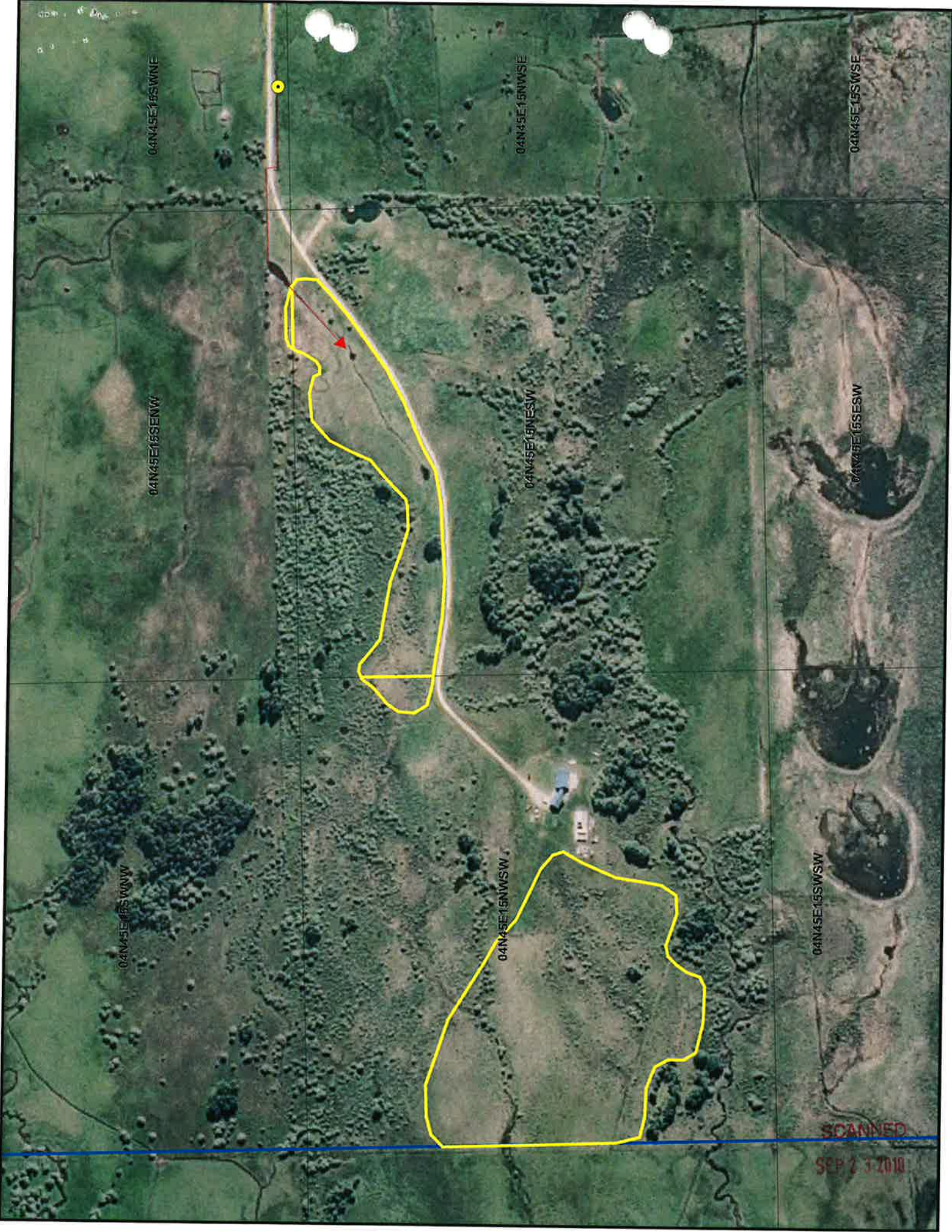


Darla W Neeley
Notary Public
My Commission expires on 02-25-2015

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SEP 23 2010





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SEP 23 2010