

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

RIGHT NUMBER: 22-13999

NAME AND ADDRESS: DAVID W MILLER
C/O RONALD K MILLER
707 ROOSEVELT
AMERICAN FALLS ID 83211

LARRY J MILLER
C/O RONALD K MILLER
707 ROOSEVELT
AMERICAN FALLS ID 83211

M PHILLIP MILLER
C/O RONALD K MILLER
707 ROOSEVELT
AMERICAN FALLS ID 83211

LEWIS J MILLER
C/O RONALD K MILLER
707 ROOSEVELT
AMERICAN FALLS ID 83211

DANIEL D MILLER
C/O RONALD K MILLER
707 ROOSEVELT
AMERICAN FALLS ID 83211

RONALD K MILLER
707 ROOSEVELT
AMERICAN FALLS ID 83211

SOURCE: PARADISE SPRINGS TRIBUTARY: TETON RIVER

QUANTITY: 0.190 CFS

PRIORITY DATE: 07/01/1963

POINT OF
DIVERSION: T04N R45E S30 NENW 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	0.190 CFS

PLACE OF USE: IRRIGATION in TETON County

T04N R45E S19 NESW 35.00

35 ACRES TOTAL

This right is limited to the irrigation of 9.5 acres within the place of use described above in a single irrigation season.

Right Nos. 22-13509 and 22-13999 are limited to the irrigation of a combined total of 35 acres in a single irrigation season.

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

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This water right shall not be permitted to make a delivery call against water right nos. 22-13135, 22-13961, 22-13962, 22-13963, 22-13964, 22-2280E, 22-2296B, 22-2296D, and 22-13681, and their progeny.

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 following rights are diverted through point of diversion described above: 22-12714B, 22-13509, 22-13586, 22-13853, 22-13854, 22-13997, 22-13998, and 22-13999.

22-13999

Robert L. Harris, Esq. (ISB # 7018)
rharris@holdenlegal.com
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.
P.O. Box 50130
1000 Riverwalk Dr., Ste. 200
Idaho Falls, Idaho 83405
Telephone: (208) 523-0620
Facsimile: (208) 523-9518

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: 22-13999

AFFIDAVIT OF RONALD K. MILLER

Case No. 39576

STATE OF IDAHO)
) ss.
County of Bonneville)

I, Ronald K. Miller, do solemnly swear (or affirm) that the testimony given in this sworn statement is the truth, the whole truth, and nothing but the truth, that it is made on my personal knowledge, and that I would so testify in open court if called upon to do so.

And being so sworn I depose and say:

1. I am over the age of eighteen (18) and competent to testify as the matters contained herein.
2. I was raised in the Teton Valley of Idaho, and am familiar with the historic irrigation practices of my father, Fred Miller, and his brother (my uncle) Chester Miller. Both my father Fred and my Uncle Chester irrigated lands obtained by their father, John J. Miller. The

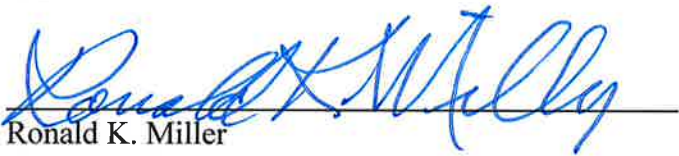
property irrigated by my father is now owned by myself and my brothers, and its legal description is the NE1/4SW1/4 of Township 04N, Range 45E, Section 19.

3. I am familiar with the historic irrigation practices of the property because I personally helped irrigate it. I am also familiar with the irrigation practices of the land formerly owned by Chester (or "Chet") Miller, which is located in the SE1/4SW1/4 and SW1/4SE1/4 of Township 04N, Range 45E, Section 19. Uncle Chet's land was located directly south of my father's property.
4. Both my father's property and Uncle Chet's property were irrigated, and continue to be irrigated, with water from Paradise Springs. I have reviewed the statutory claim submitted by Chester Miller dated June 30, 1983, as well as the affidavit of Chester Miller dated August 14, 2001, and agree with the general time frames in those documents as to when the entirety of these properties began to be irrigated with sprinklers after conversion from flood irrigation. Copies of both of these documents are attached to this affidavit.
5. The project to install a sprinkler pipeline and to pump water to sprinkle the properties was a joint project between my father and uncle. The pump was installed where Uncle Chet indicated it was in his statutory claim. The line ended with a riser just inside the southern boundary of my father's property, and we ran irrigation pipe off of that riser to sprinkle our property.
6. I remember installation of this pipeline because of its time frame. I served a mission for The Church of Jesus Christ of Latter-day Saints from between 1955 and 1957, and then attended school at Idaho State University from between 1957 to 1960. I then attended dental school at the University of Washington up until 1964. During that time frame, I assisted during the

summer months with the irrigation of the property, and otherwise visited the property occasionally, and observed the system in use.

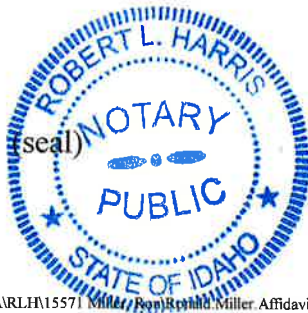
7. In the statutory claim document filed by Chester Miller, he states at section 8 of that affidavit that the pump was first installed in 1963. While that is true of the permanent pump, I recall that a tractor pump was used prior to that time, probably beginning in 1960. Nevertheless, the permanent placement of the pump was likely accomplished on July 1, 1963, as contained in the statutory claim and the Chester Miller affidavit, and this should be the priority date of Water Right No. 22-13999, the same as the water rights appurtenant to the property formerly owned by Uncle Chet have. The water system was a joint project, and my father converted to full-scale sprinkler irrigation when the property was flood irrigated before. The change to sprinkler irrigation happened at the same time for both my father and my uncle.

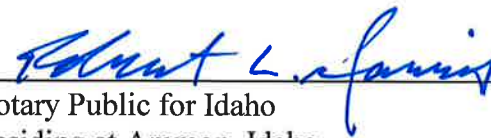
DATED this 18 ^{August} day of ~~July~~, 2011.



Ronald K. Miller

SUBSCRIBED AND SWORN TO before me this 18th day of August, 2011.





Notary Public for Idaho
Residing at Ammon, Idaho
My Commission Expires: 11/18/2016

G:\WPDATA\RLH\15571 Miller, Ron\Ronald Miller Affidavit.wpd:cdv

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

CLAIM TO A WATER RIGHT



Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that Chester H. Miller

(Name of Claimant)

Box 532 Driggs, Idaho 83422

(Mailing Address)

Telephone No. 354-8365

(Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

- (1) Date of priority: (When was the water first applied to a beneficial use) 7-1-1963

A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

- (2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)
Paradise Spring tributary to Teton River

- (3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

(cfs, sf)		(Domestic, Irrigation, Stock, Etc.)	[Both dates inclusive]	
			(Mo., Day)	(Mo., Day)
Quantity	0.65 cfs	Use Irrigation	Period of Use From 4-1	To 11-1
Quantity		Use	Period of Use From	To
Quantity		Use	Period of Use From	To
Quantity		Use	Period of Use From	To
Quantity		Use	Period of Use From	To

- (4) $\frac{0.65 \text{ cfs}}{(\text{cfs, at})}$ TOTAL QUANTITY USED.

- (5) A) Point of diversion: (Location of point where water is diverted from its source)
NE 1/4 NW 1/4, Sec. 30 Twp. 4N Rge. 45E B.M., County of Teton
 Additional points of diversion:

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. Pump, pipeline and sprinkler system.

- (6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

[illegible]

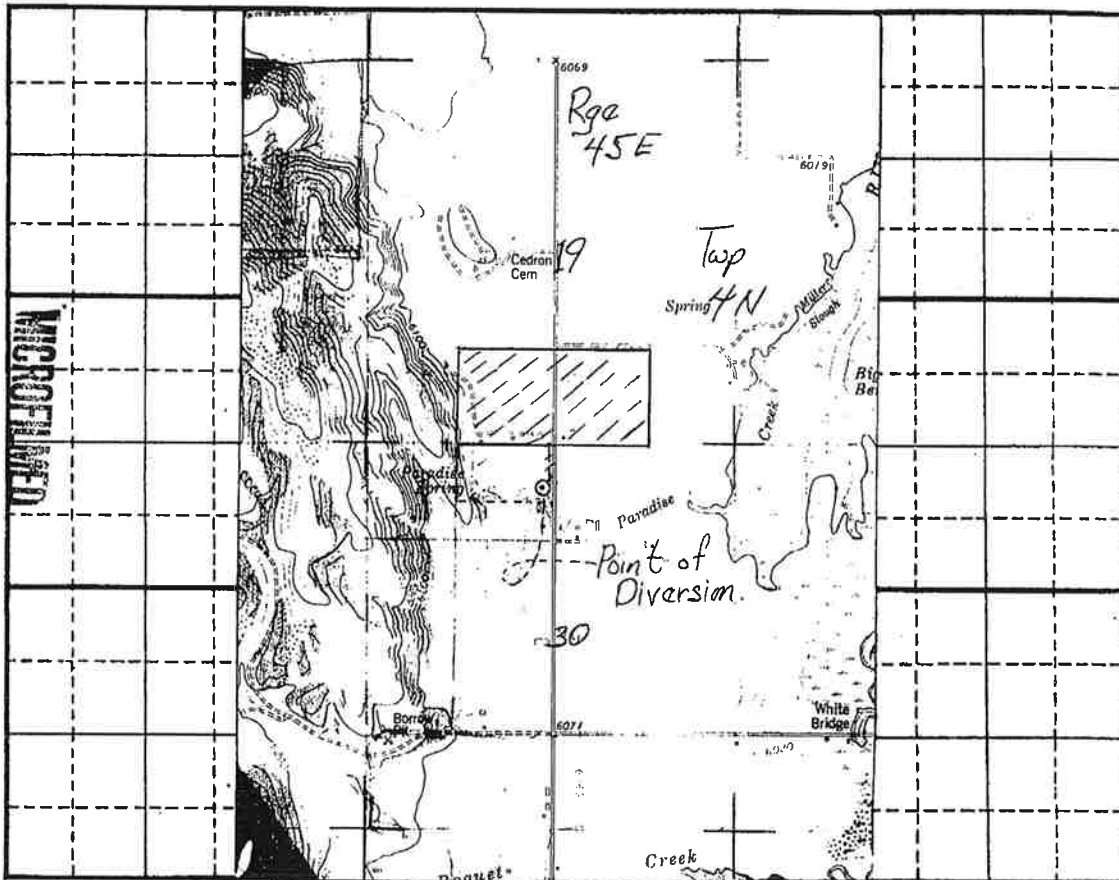
No. of acres 55

- B) If water is used for other than irrigation, fully describe that use, being as specific as possible: _____

NOTE: Include here the type and number of stock watered:

- (7) If you are claiming water as a member of an organization, list name of organization: _____

- (8) Remarks In 1963 I installed a pump and for the first time began to sprinkler irrigate land that was historically flood irrigated by a decreed right from Paradise Springs. In addition I also began irrigating new lands not previously irrigated. Those lands are described above.



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho

County of Bonneville

ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Sworn to before me this 30th day of June, 1983.

Chester H. Miller
(Claimant)

Calvin Wray
Notary Public
Residing at Idaho Falls

My commission expires 6-15-83

FOR DEPARTMENT USE ONLY

Received by <u>Emc</u>	Date <u>6-30-83</u>	Exception filed by:	Forwarded to	Date
Prelim. check by <u>PMC</u>	Date <u>8-17-83</u>		claimant by:	
\$30.00 fee received by <u>W</u>	Date <u>6-30-83</u>			
Published in <u>Peton Valley News</u>	Date <u>7-25-83</u>			
Dates <u>9/28 - 9/29/83</u>				

Aug 14, 2001

To Whom it may Concern:

One of the first ditches to be made was the one that led to our home. It came directly from the top of the upper dam over to the house by the hill and was used for drinking water and irrigation. There was a nice big culvert and the ditch was always full. In 1917 Mother got Typhoid fever and the doctor told us not to drink from the ditch so we had to carry our drinking water from the spring.

The first head gate that was put in the ditch was directly in front of the old house. A stream of water was diverted East where it was used to irrigate the South and East side of the pasture. Near the head gate Dad built a shed with a large trough where we cooled the milk. This shed also housed the cream separator and a small grist mill.

The second head gate was farther North on the main ditch. Here more water was diverted onto the North side of the pasture. There was a small section on the Northeast corner of the pasture that we could not get under irrigation.

The rest of the water continued on North to the next 40 acre field. We had a series of small ditches that ran North and East. We had water down to the house in the field and we brought some back South where we had a garden.

Dad asked me to check on the water rights for the ranch in 19390. I went to the courthouse in Driggs and found that the water rights had been altered. My Fathers name was on the paper but so were Monroe Dustin Sr. and Milford Kunz. I was very upset and we searched all of the records but could not find how their names got there. The man in charge, William Strong who was a good friend of the two men who's names had been added, finally told me that it must have been by accident but he wouldn't correct it. I then drove to Idaho Falls to check the records. I did not see the records there but the man I talked to went into the back and took down a book to see what was in it. He came back and told me that Dustin and Kunz did lay claim to some water, however he said that

he was well acquainted with the area and that if Monroe Dustin had ever got any water from Paradise Spring up to his property where he claimed he would have had to carry it in a barrel and Milford Kunz would have had the same problem. I believe that the man I talked with in Idaho Falls was a Mr. Christofferson.

He advised me that the claim was so silly that no one would ever try to use it or honor it. I asked him how I could make sure and he made out a little paper that he gave me. He told me to take it to the two men and have them sign it and return it to him. Monroe Dustin Sr. had died and Monroe Dustin Jr. had taken over his land and Grant Kunz had the place that Milford Kunz had owned.

I came home and drove up to see Grant Kunz. He read the paper and then said Chet, I can't imagine how my Dad's name got on that paper but any fool would know that there was no way for us to get that water up here. He signed the paper and I left to see Monroe Dustin Jr. He was out in the field so I drove out to talk to him. When I gave him the paper he read it and then said, I may need that water someday and I won't sign this paper. So much for good honest men!

About 1960 when I started going to college, Ervin Schiess rented the home place from me. He opened some of the Northern ditches and extended some of them.

When I came home from school I installed a pump at the bottom of the pond by the road. This pump was used to irrigate our farm by means of sprinklers lines. After the pump was installed out by the graveyard we began having problems using our pump because the water flow would drop too much when they were pumping out of it.

Signed Chet H. Miller

James M. McDaniel
Notary Public for Idaho
Comm Exp 8/14/2004





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 3, 2011

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

ROBERT L HARRIS
HOLDEN KIDWELL HAHN & CRAPO PLLC
PO BOX 50130
IDAHO FALLS ID 83405-0130

Re: Snake River Basin Adjudication (SRBA)
Late Notice of Claim to a Water Right No. 22-13999

Dear Robert:

The Notice of Claim you filed on behalf of the Miller Family has been received from the SRBA Court. I have enclosed Receipt No. C093607 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:l
Enclosure



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region, 900 North Skyline Drive, Suite A • Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

January 24, 2011

Dear Claimant:

As you may recall a settlement conference was recently held in Idaho Falls in hopes that the disputes regarding the water right claims from Paradise Springs could be resolved. At the settlement conference the parties in attendance and the Idaho Department of Water Resources reached a tentative agreement. However, final settlement is contingent upon additional action by the parties. The purpose of this letter is to let you know what further action needs to be taken in order to bring closure to the Paradise Springs subcases in the Snake River Basin Adjudication ("SRBA").

The table below lists the amounts agreed upon during the settlement conference followed by the tasks that need to be completed before the settlement can be finalized. Please find your subcase(s) below and take the appropriate action. IDWR would be happy to help you through the process if you need assistance, as appropriate. Because of the global nature of the settlement of Paradise Springs, SF5 settlement documents will be prepared once the late claims and amended claims are ready for resolution. In other words, all the subcases are tied together and are anticipated to progress through the SRBA resolution process as a group.

<u>Claim number</u>			<u>Owner</u>	<u>Decreed</u>	<u>Beneficial</u>	<u>Decreed</u>	<u>Beneficial</u>
- - -			-	<u>Acres</u>	<u>Use Acres</u>	<u>Quantity</u>	<u>Use Quantity</u>
22	587	A	KUNZ, LARELL A	25		0.35	
22	12714	B	SUSAN C ALDEEN TRUST	7.8		0.11	
22	13211		MILLER, DON LE ROY	8.5	3.3	0.17	0.07
22	13212		REID, MICHAEL L	26	9.6	0.52	0.19
22	13511		TETON RAINBOW RANCHES	72		1	
22	13586		RICHARDSON, ANDREW J	23.5	8.5	0.47	0.17
22	13853		MILLER, CHESTER H; MILLER, REX H	16.5	6.5	0.33	0.13
22	13854		RICHARDSON FAMILY PROPERTIES LLC	17	14	0.24	0.38
22	13509		FRED MILLER TRUST	25.5	9.5	0.51	0.19

22-587A. No need to amend the claim. Only needs to sign SF5.

22-12714B. Needs to amend claimed flow rate to 0.11 cfs.

SCANNED

JUL 21 2011

10:41:13 AM 7/21/2011
3/29/2011 2:02:20 PM

22-13211. No need to amend claim. Only needs to sign SF5. It is my understanding that the objectors to this subcase seek a subordination remark limiting a delivery call on this right to 7.6 acres and .17 cfs. Additionally, needs to set aside 22-11537, the 1969 beneficial use right, and sign an SF5 for .07 cfs and 3.3 acres.

22-13212. Needs to move to set aside and amend claim for 0.52 cfs. Eventual recommendation for -13212 will contain a subordination remark limiting a delivery call on this right to 4.5 acres and 0.16 cfs. Will receive SF5 on 22-11639 for 9.6 acres and 0.19 cfs as the beneficial use claim.

22-13511. No need to amend claim. Only needs to sign SF5.

22-13586. Needs to amend claimed flow rate to 0.47 cfs. This right is governed, in part, by the stipulation filed December 2009. Consistent with that stipulation, the eventual recommendation for -13586 will contain the following subordination remark: This water right shall not be permitted to make a delivery call against water right nos. 22-13135, 22-13961, 22-13962, 22-13963, 22-13964, 22-2280E, 22-2296B, 22-2296D, and 22-13681, and their progeny. Needs to file a new beneficial use claim for 8.5 acres and 0.17 cfs.

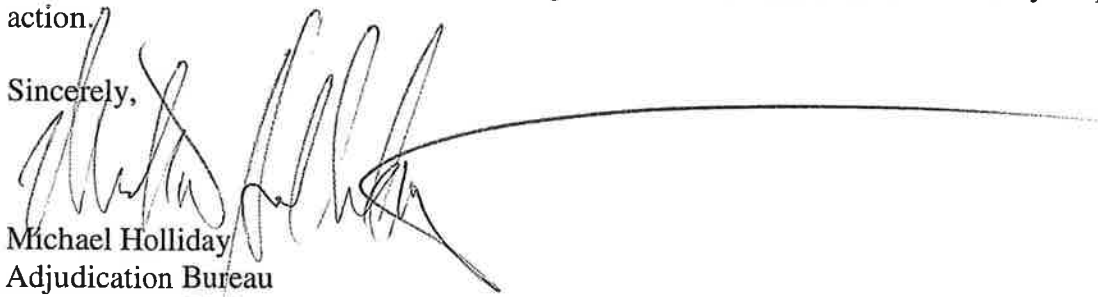
22-13853. Needs to amend claimed flow rate to 0.33 cfs and file a new beneficial use claim for 6.5 acres and 0.13 cfs.

22-13854. This right is governed, in part, by the stipulation filed December 2009. Needs to file a new beneficial use claim for 14 acres and 0.38 cfs.

22-13509. Consistent with the Amended Director's Report filed in July 2010, the eventual recommendation for -13509 will contain the following subordination remark: This water right shall not be permitted to make a delivery call against water right nos. 22-13135, 22-13961, 22-13962, 22-13963, 22-13964, 22-2280E, 22-2296B, 22-2296D, and 22-13681, and their progeny. Needs to file a new beneficial use claim for 9.5 acres and 0.19 cfs.

The next status conference on these subcases is set for February 2, 2011, at 9:30 a.m., during which Special Master Bilyeu agreed to hear motions to amend claims. Motions for late claims need to be heard by Judge Wildman. If you have questions about any of this, please contact your attorney, if applicable, or feel free to give me a call. Thanks in advance for your prompt action.

Sincerely,


Michael Holliday
Adjudication Bureau
Senior Water Right Agent

SCANNED
JUL 21 2011

RECEIVED

JUL 21 2011

DEPARTMENT OF
WATER RESOURCES

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

JUL 20 2011

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: 22-13997, 22-13998 and 22-13999
)
Case No. 39576) ORDER GRANTING LATE NOTICES
) OF CLAIM
)
) ORDER FOR EXPEDITED LATE
) CLAIM DIRECTOR'S REPORTS AND
) SETTING FORTH PROCEDURES AND
) DEADLINES FOR EXPEDITED
) PROCESS
)

On April 1, 2011, a *Motion to File Late Notice of Claim* was filed for each of the above-captioned water right claims. A hearing on the *Motions* was held on July 19, 2011. No party appeared in opposition to the *Motions*. At the hearing, it was represented to the Court that the late claims were filed as a necessary component to a global settlement agreement between various Paradise Springs water users. It was also represented to the Court by the Idaho Department of Water Resources that, if granted, the late claims would be candidates for expedited late claim director's reports, given that a hearing on related claims presently pending in the SRBA, which the late claims are associated with and relate to, is presently set for September 2011 before Special Master Bilyeu.

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

1. These *Motions* complied with all procedural requirements under **SRBA Administrative Order 1**, and no objections were made to these Late Notices of Claim. Good cause exists for granting the instant *Motions*.

2. The next regularly scheduled *Late and Miscellaneous Claims Director's Report* will not be issued in time to accommodate the hearing presently set in September 2011 before Special Master Bilyeu on related claims.

3. In furtherance of the winding down process for the SRBA it is imperative that matters be timely set for resolution. 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.

4. In this case IDWR does not oppose filing *Director's Reports* for the late claims and represented that it would be able to prepare such *Director's Reports* and recommendations on or before August 31, 2011.

5. This Court therefore finds that under the circumstances the issuance of expedited *Late Claim Director's Reports* for the above-captioned claims is appropriate.

THEREFORE, IT IS HEREBY ORDERED that the *Motions to File a Late Notice of Claim* for water right claims 22-13997, 22-13998 and 22-13999 are **granted**. The original Notices 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 expedited *Late Claim Director's Reports* 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 originals of the *Late Claim Director's Reports* for the above-captioned water right claims with this Court on or before **August 31, 2011** and shall distribute for display and review at least one (1) copy of the *Late Claim Director's Reports* 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 Reports*. Last, the

SCANNED
JUL 21 2011

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 Reports* may do so within 21 days following the notice of filing of the *Late Claim Director's Reports* in the Docket Sheet, or on or before **September 28, 2011**.

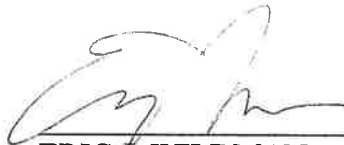
3. Deadline for the filing of responses to objections to *Late Claim Director's Report*: Responses to objections to the *Late Claim Director's Report* must be filed within 14 days following the close of the objection period, or on or before **October 12, 2011**.

4. Hearing on uncontested claims: 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, November 15, 2011, 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 August 2011 docket sheet.

IT IS SO ORDERED.

Dated July 20, 2011


ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

SCANNED
JUL 21 2011

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER FOR EXPEDITED LATE CLAIM DIRECTOR'S REPORTS AND SETTING FORTH PROCEDURES AND DEADLINES FOR EXPEDITED PROCESS was mailed on July 20, 2011, with sufficient first-class postage to the following:

AL SHIVER
CEDRON IRRIGATION LLC
MAHOGANY RANCH HOLDINGS
TETON RAINBOW RANCHES INC
TREES INC

Represented by:
BUDGE, THOMAS J
201 E CENTER ST
PO BOX 1391
POCATELLO, ID 83204-1391
Phone: 208-232-6101

DANIEL D MILLER
DAVID W MILLER
LARRY J MILLER
LEWIS J MILLER
M PHILLIP MILLER
RALPH P MILLER
RICHARDSON FAMILY
RONALD K MILLER

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

ORDER

Page 1 7/20/11

FILE COPY FOR 00784

Deputy Clerk

SCANNED

JUL 21 2011

Julie Murphy

7-19-2011

4-1

RECEIVED

APR 05 2011

DEPARTMENT OF
WATER RESOURCES

COPY

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 22-13999

(Insert water right number
From the Objection Form)

STANDARD FORM 4

MOTION TO FILE:

☒ LATE NOTICE OF CLAIM

☐ AMENDED NOTICE OF CLAIM

*Claim is complete
Fees Good - This
Right limited to 9.5
acres.*

*C. Smith
4-22-11*

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 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.

SCANNED
APR - 6 2011

X 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 David W. Miller, Larry J. Miller, Ralph P. Miller, M. Phillip Miller, Lewis J. Miller, Daniel D. Miller, Ronald K. Miller

My name is Robert L. Harris

My address is Holden, Kidwell, Hahn & Crapo, PLLC; 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.

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

This late claim is a necessary component to a global settlement agreement between various Paradise Springs water users. See attached letter from IDWR agent Michael Holliday.

- ☐ 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.)

SCANNED
APR - 6 2011

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 \$ 109.50.

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 19, 2011 at 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:

SCANNED
APR - 6 2011

- ☐ 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:

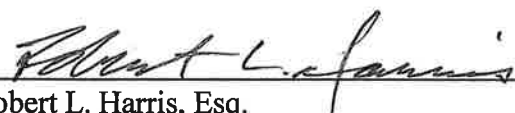
SCANNED
APR - 6 2011

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, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Subscribed and sworn to before me this 31 day of March, 2011.




Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission expires: Feb 10/17

SCANNED
APR - 6 2011

CERTIFICATE OF MAILING

I certify that on this 31st day of March, 2011, 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:

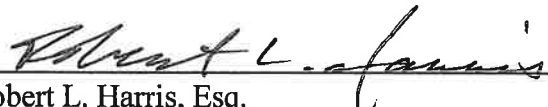
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

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\15571 Miller, Ron\FORM.4, Mot.22-13999.wpd

SCANNED
APR - 6 2011

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLSIN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 22-13999

Date Received _____

Receipt Number _____

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW1. Name of Claimant(s) David W. Miller, Larry J. Miller, Ralph P. Miller, M. Phillip Miller, Lewis J. Miller, Daniel D. Miller, Ronald K. Miller Phone (208)Mailing Address c/o Ronald K. Miller, 707 Roosevelt, American Falls, ID Zip 832112. Date of Priority (Only (1) per claim) June 1, 19603. Source of water supply (a) Paradise Springswhich is tributary to (b) Teton River

4.a. Location of existing point of diversion is:

Township 4N Range 45E Section 30, SE 1/4 of NE 1/4 of NW 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 0.19 cfs or _____7. Total quantity claimed (a) 0.19 (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.) _____

SCANNED
APR - 6 2011

9. Description of place of use:
- If water is for irrigation, indicate acreage in each subdivision in the tabulation 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	
4N	45E	19									35								35

Parcel (PIN) No(s). _____ Total number of acres irrigated 35

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.
22-13509 or None ()

13. Remarks:

This water right, 22-13999, in combination with Water Right No. 22-13509, is limited to the irrigation of 35 acres. Water Right No. 22-13999 is limited to the irrigation of 9.5 acres. Also, Water Right Nos. 22-13509 and 22-13999 are limited to the diversion of .7 cfs.

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

SCANNED
APR - 6 2011

Signature of Claimant(s) Robert L. Jannis Date March 31, 2011
Attorney Date _____

Last Name Miller Ident. Number 22-13999

17. Notice of Appearance:

Notice is hereby given that I, Robert L. Harris, 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. Harris

Address: Holden, Kidwell, Hahn & Crapo, PLLC
PO Box 50130, Idaho Falls, ID 83405-0130

Date March 31, 2011

G:\WPDATA\RLH\15571 Miller, Ron\Late Claim 22-13999.wpd:cdv

SCANNED
APR - 6 2011

Last Name Miller Ident. Number 22-13999



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region, 900 North Skyline Drive, Suite A • Idaho Falls, Idaho 83402-1718
Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

January 24, 2011

Dear Claimant:

As you may recall a settlement conference was recently held in Idaho Falls in hopes that the disputes regarding the water right claims from Paradise Springs could be resolved. At the settlement conference the parties in attendance and the Idaho Department of Water Resources reached a tentative agreement. However, final settlement is contingent upon additional action by the parties. The purpose of this letter is to let you know what further action needs to be taken in order to bring closure to the Paradise Springs subcases in the Snake River Basin Adjudication ("SRBA").

The table below lists the amounts agreed upon during the settlement conference followed by the tasks that need to be completed before the settlement can be finalized. Please find your subcase(s) below and take the appropriate action. IDWR would be happy to help you through the process if you need assistance, as appropriate. Because of the global nature of the settlement of Paradise Springs, SF5 settlement documents will be prepared once the late claims and amended claims are ready for resolution. In other words, all the subcases are tied together and are anticipated to progress through the SRBA resolution process as a group.

<u>Claim number</u>			<u>Owner</u>	<u>Decreed</u>	<u>Beneficial</u>	<u>Decreed</u>	<u>Beneficial</u>
- - -			-	<u>Acres</u>	<u>Use Acres</u>	<u>Quantity</u>	<u>Use Quantity</u>
22	587	A	KUNZ, LARELL A	25		0.35	
22	12714	B	SUSAN C ALDEEN TRUST	7.8		0.11	
22	13211		MILLER, DON LE ROY	8.5	3.3	0.17	0.07
22	13212		REID, MICHAEL L	26	9.6	0.52	0.19
22	13511		TETON RAINBOW RANCHES	72		1	
22	13586		RICHARDSON, ANDREW J	23.5	8.5	0.47	0.17
22	13853		MILLER, CHESTER H; MILLER, REX H	16.5	6.5	0.33	0.13
22	13854		RICHARDSON FAMILY PROPERTIES LLC	17	14	0.24	0.38
22	13509		FRED MILLER TRUST	25.5	9.5	0.51	0.19

22-587A. No need to amend the claim. Only needs to sign SF5.

22-12714B. Needs to amend claimed flow rate to 0.11 cfs.

SCANNED
APR - 6 2011

2011 4 6 11:11
2011 4 6 11:11

22-13211. No need to amend claim. Only needs to sign SF5. It is my understanding that the objectors to this subcase seek a subordination remark limiting a delivery call on this right to 7.6 acres and .17 cfs. Additionally, needs to set aside 22-11537, the 1969 beneficial use right, and sign an SF5 for .07 cfs and 3.3 acres.

22-13212. Needs to move to set aside and amend claim for 0.52 cfs. Eventual recommendation for -13212 will contain a subordination remark limiting a delivery call on this right to 4.5 acres and 0.16 cfs. Will receive SF5 on 22-11639 for 9.6 acres and 0.19 cfs as the beneficial use claim.

22-13511. No need to amend claim. Only needs to sign SF5.

22-13586. Needs to amend claimed flow rate to 0.47 cfs. This right is governed, in part, by the stipulation filed December 2009. Consistent with that stipulation, the eventual recommendation for -13586 will contain the following subordination remark: This water right shall not be permitted to make a delivery call against water right nos. 22-13135, 22-13961, 22-13962, 22-13963, 22-13964, 22-2280E, 22-2296B, 22-2296D, and 22-13681, and their progeny. Needs to file a new beneficial use claim for 8.5 acres and 0.17 cfs.

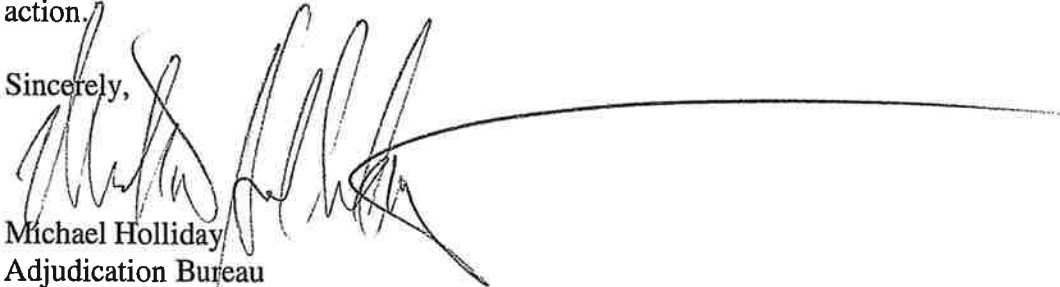
22-13853. Needs to amend claimed flow rate to 0.33 cfs and file a new beneficial use claim for 6.5 acres and 0.13 cfs.

22-13854. This right is governed, in part, by the stipulation filed December 2009. Needs to file a new beneficial use claim for 14 acres and 0.38 cfs.

22-13509. Consistent with the Amended Director's Report filed in July 2010, the eventual recommendation for -13509 will contain the following subordination remark: This water right shall not be permitted to make a delivery call against water right nos. 22-13135, 22-13961, 22-13962, 22-13963, 22-13964, 22-2280E, 22-2296B, 22-2296D, and 22-13681, and their progeny. Needs to file a new beneficial use claim for 9.5 acres and 0.19 cfs.

The next status conference on these subcases is set for February 2, 2011, at 9:30 a.m., during which Special Master Bilyeu agreed to hear motions to amend claims. Motions for late claims need to be heard by Judge Wildman. If you have questions about any of this, please contact your attorney, if applicable, or feel free to give me a call. Thanks in advance for your prompt action.

Sincerely,



Michael Holliday
Adjudication Bureau
Senior Water Right Agent

SCANNED
APR - 6 2011

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 22-13999
Date Received: 4/1/2011
Receipt No: C093607
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

DAVID W MILLER Phone: (208)226-2976
C/O RONALD K MILLER
707 ROOSEVELT
AMERICAN FALLS ID USA 83211

LARRY J MILLER Phone: (208)226-2976
C/O RONALD K MILLER
707 ROOSEVELT
AMERICAN FALLS ID USA 83211

M PHILLIP MILLER Phone: (208)226-2976
C/O RONALD K MILLER
707 ROOSEVELT
AMERICAN FALLS ID USA 83211

LEWIS J MILLER Phone: (208)226-2976
C/O RONALD K MILLER
707 ROOSEVELT
AMERICAN FALLS ID USA 83211

DANIEL D MILLER Phone: (208)226-2976
C/O RONALD K MILLER
707 ROOSEVELT
AMERICAN FALLS ID USA 83211

RONALD K MILLER Phone: (208)226-2976
707 ROOSEVELT
AMERICAN FALLS ID USA 83211

2. Date of Priority: 06/01/1960

3. Source: PARADISE SPRINGS Trib. to: TETON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
04N	45E	30	SE NE NW	TETON	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose
IRRIGATION

From To C.F.S.
04/15 10/31 0.19

(or) A.F.A

7. Total Quantity Appropriated is:
0.19 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	19	NE	SW	IRRIGATION	35
					Section Acres	35
					Total Acres	35

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:

This water right, 22-13999, in combination with Water Right No. 22-13509, is limited to the irrigation of 35 acres. Water Right No. 22-13999 is limited to the irrigation of 9.5 acres. Also, Water Right nos. 22-13509 and 22-13999 are limited to the diversion of 0.7 cfs.

15. Basis of Claim: Beneficial Use

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS4-1-11
RECEIVED

JUL 21 2011

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

CIVIL CASE NUMBER: 39576

Ident. Number 22-13999

Date Received 7/21/2011

Receipt Number 6093607

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW1. Name of Claimant(s) David W. Miller, Larry J. Miller, Ralph P. Miller, M. Phillip Miller, Lewis J. Miller, Daniel D. Miller, Ronald K. Miller Phone (208)Mailing Address c/o Ronald K. Miller, 707 Roosevelt, American Falls, ID Zip 832112. Date of Priority (Only (1) per claim) June 1, 19603. Source of water supply (a) Paradise Springswhich is tributary to (b) Teton River4.a. Location of existing point of diversion is:
Township 4N Range 45E Section 30, SE 1/4 of NE 1/4 of NW 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 0.19 cfs or _____7. Total quantity claimed (a) 0.19 (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.) _____

SCANNED
JUL 21 2011

9. Description of place of use:
- If water is for irrigation, indicate acreage in each subdivision in the tabulation 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	
4N	45E	19									35								35

Parcel (PIN) No(s). _____

Total number of acres irrigated 35

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.
22-13509 or None ()

13. Remarks:

This water right, 22-13999, in combination with Water Right No. 22-13509, is limited to the irrigation of 35 acres. Water Right No. 22-13999 is limited to the irrigation of 9.5 acres. Also, Water Right Nos. 22-13509 and 22-13999 are limited to the diversion of .7 cfs.

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 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) Robert L. Jannis Date March 31, 2011
Attorney Date _____

SCANNED
JUL 21 2011

Last Name Miller Ident. Number 22-13999

17. Notice of Appearance:

Notice is hereby given that I, Robert L. Harris, 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. Harris
Address: Holden, Kidwell, Hahn & Crapo, PLLC
PO Box 50130, Idaho Falls, ID 83405-0130
Date March 31, 2011

G:\WPDATA\RLH\15571 Miller, Ron\Late Claim.22-13999.wpd.cdv

SCANNED
JUL 21 2011

Last Name Miller Ident. Number 22-13999