

05/21/2013

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

RIGHT NUMBER: 22-14052

NAME AND ADDRESS: SAUREY SOMMER CANAL CO
C/O DON HARRIS
4431 N 2000 W
REXBURG ID 83440

SOURCE: TETON RIVER

TRIBUTARY: HENRYS FORK

QUANTITY: 5.000 CFS

Right Nos. 22-11329 and 22-14052 are limited to a total combined diversion rate of 27 cfs.

PRIORITY DATE: 10/17/1885

POINT OF DIVERSION:

T07N R39E S35 SESE Within MADISON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	01/01 12/31	5.000 CFS

PLACE OF USE: STOCKWATER in FREMONT County and MADISON County

T07N R39E S26 Lot 5 SWSW	T07N R39E S34 Lot 7 NENE
T07N R39E S34 Lot 2 SWNE	T07N R39E S34 Lot 7 SWNE
T07N R39E S34 Lot 12 SWNE	T07N R39E S34 Lot 7 SENE
T07N R39E S34 SENW	T07N R39E S34 Lot 3 NESW
T07N R39E S34 Lot 6 NESW	T07N R39E S34 Lot 18 NESW
T07N R39E S34 Lot 5 SESW	T07N R39E S34 Lot 18 SESW
T07N R39E S34 NESE	T07N R39E S34 Lot 3 NWSE
T07N R39E S34 Lot 6 NWSE	T07N R39E S34 Lot 13 NWSE
T07N R39E S34 Lot 5 SWSE	T07N R39E S34 SESE
T07N R39E S35 SWNE	T07N R39E S35 NENW
T07N R39E S35 Lot 1 NWNW	T07N R39E S35 SWNW
T07N R39E S35 SENW	T07N R39E S35 NESW
T07N R39E S35 NWSW	T07N R39E S35 SWSW
T07N R39E S35 SESW	T07N R39E S35 NWSE

Place of use does not include federal public lands.

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

Water is delivered through Saurey-Sommer Ditch.

1-15-13

10-31

RECEIVED

OCT 31 2012

DEPARTMENT OF
WATER RESOURCES

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	<i>Fees Good</i>	)	Subcase: 22-14052
		)	
		)	STANDARD FORM 4
Case 39576		)	
		)	MOTION TO FILE
		)	X LATE NOTICE OF CLAIM
		)	☐ AMENDED NOTICE OF CLAIM
		)	

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

My name is Saurey-Sommer Canal Company - C/O Don Harris

My address is: 4431 N. 2000 W., Rexburg, ID 83440

My phone number is:

I am an attorney representing Saurey-Sommer Canal Company

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

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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 the water in the SRBA because:

Until recently, it was fully understood and believed by the officers of the canal company that this stockwater claim was part and parcel with the irrigation right contained in 1885 water right No. 22-11329. In fact, the original recommendation to 22-11329 actually DID recommend this stockwater right along with the irrigation right. Although said officers are confident that this right was beneficially applied from the 1885 date, the canal company is attempting to obtain the necessary proof of such date. Presently, affidavits verifying the beneficial use from at least 1920 have been obtained and further records will be searched prior to final hearing to be held on this matter.

☐ 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.

X 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.)

Affidavit of Reed Oldham

Affidavit of Marion Stoddard

Affidavit of Ray W. Rigby

Affidavit of Don Harris

Affidavit of Brett Bell

I have attached:

X 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 \$_____.

X 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 \$600.00.

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.

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OCT 31 2017

2. Fill in the following information:

This motion will be heard on: Tuesday, January 15, 2013 at 1:30 p.m.
at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

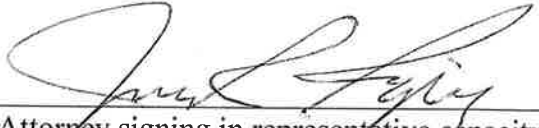
VERIFICATION

STATE OF IDAHO,)
 ss
County of Madison.)

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

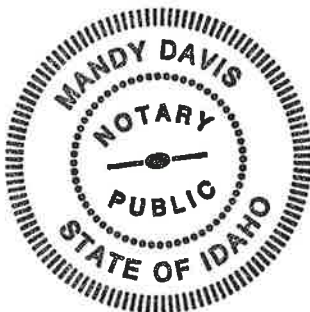
That I am the Secretary of party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 4204101A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and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

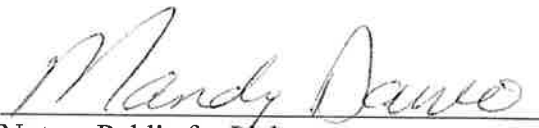
Signature of person filing motion



Attorney signing in representative capacity.

Subscribed and sworn to before me on this 29th day of October, 2012.





Notary Public for Idaho
Residing at St. Anthony
My Commission Expires: 06/24/2017

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OCT 31 2012

CERTIFICATE OF MAILING

I certify that on October 29, 2012, 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

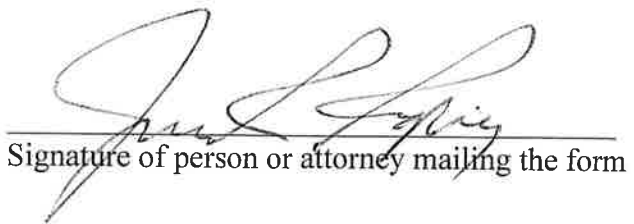
2. Copies to:

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

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OCT 31 2012

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
22-14052

Date Received:

Receipt Nos:

Received By:

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

1. Name of Claimant(s)

Saurey-Sommer Canal Company
C/O Don Harris
4431 N. 2000 W.
Rexburg, ID 83440
2. Date of Priority:
10-17-1885
3. Source: Teton River Trib. to: Henry's Fork
4. Point of Diversion:

Township 7N Range 39E Section 35 SE1/4 of SE1/4 Madison County
5. Description of diverting works:

The diversions are the same as for Water Right No. 22-11329
6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A
Stockwater	01/01	12/31	5.0		
7. Total Quantity Appropriated is:
5.0 C.F.S. (Not to exceed the combined diversion of 22-11329 & 22-660 during the irrigation season)
8. Total consumptive use:
9. Non-irrigation uses:
Number of homes:

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OCT 31 2012

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
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The Place of Use is the same as for Water Right No. 22-11329

Total Acres

11. Place of use in counties: Madison

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

YES

13. Other Water Rights Used: 22-11329 & 22-660

14. Remarks:

During the irrigation season, the rights claimed shall not exceed the irrigation rights.

15. Basis of Claim: Beneficial Use

16. Signature(s)

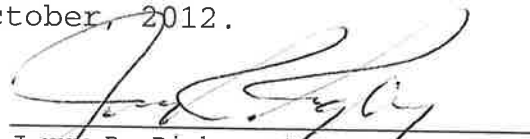
(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not XX wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments:

5 Affidavits

For Organizations:

DATED this 29th day of October, 2012.


Jerry R. Rigby, Attorney for
Saurey-Sommer Canal Company

SCANNED

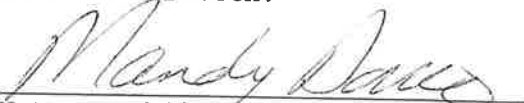
OCT 31 2012

STATE OF IDAHO,)
 ss.
County of Madison.)

On this 29th day of October, 2012, before me, the undersigned, a Notary Public in and for said State, personally appeared Jerry R. Rigby, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.




Notary Public for Idaho
Residing at: St. Anthony
My Commission Expires: 6/24/2017

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OCT 31 2012

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:

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

OCT 31 2012

By _____

Clerk

Deputy Clerk

Ident. Number
22-14052

Date Received:

Receipt Nos: C 196442

Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

Saurey-Sommer Canal Company
C/O Don Harris
4431 N. 2000 W.
Rexburg, ID 83440

2. Date of Priority:
10-17-1885

3. Source: Teton River Trib. to: Henry's Fork

4. Point of Diversion:

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Purpose	From	To	C.F.S.	(or) A.F.A
Stockwater	01/01	12/31	5.0	

7. Total Quantity Appropriated is:
5.0 C.F.S. (Not to exceed the combined diversion of 22-11329 & 22-660
during the irrigation season)

8. Total consumptive use:

9. Non-irrigation uses:

Number of homes:

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JAN 17 2013

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
----------	-------	---------	------------	-----	-----	-------

The Place of Use is the same as for Water Right No. 22-11329

Total Acres

11. Place of use in counties: Madison

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

YES

13. Other Water Rights Used: 22-11329 & 22-660

14. Remarks:

During the irrigation season, the rights claimed shall not exceed the irrigation rights.

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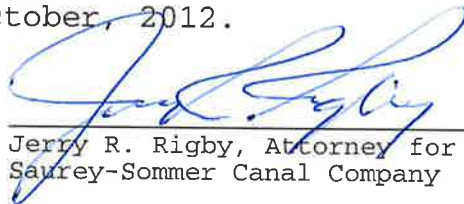
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Number of attachments:

5 Affidavits

For Organizations:

DATED this 29th day of October, 2012.

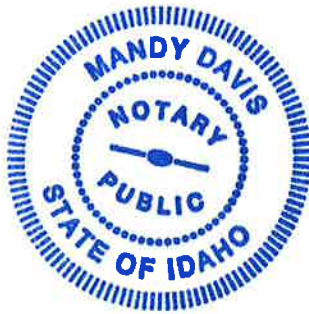

Jerry R. Rigby, Attorney for
Saurey-Sommer Canal Company

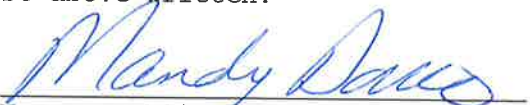
SCANNED
JAN 17 2013

STATE OF IDAHO,)
 ss.
County of Madison.)

On this 29th day of October, 2012, before me, the undersigned, a Notary Public in and for said State, personally appeared Jerry R. Rigby, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.




Notary Public for Idaho
Residing at: St. Anthony
My Commission Expires: 6/24/2017

SCANNED
JAN 17 2013

RECEIVED
JAN 17 2013
DEPARTMENT OF
WATER RESOURCES



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

) Water Right Claim: 22-14052

Case No. 39576

) ORDER GRANTING MOTION TO FILE
) LATE NOTICE OF CLAIM
)
)
)
)

On October 31, 2012, Saurey-Sommer Canal Company, 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 January 15, 2013. 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: January 16, 2013.



ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

SCANNED
JAN 17 2013

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 January 16, 2013, with sufficient first-class postage to the following:

SAUREY-SOMMER CANAL COMPANY

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

JAN 17 2013

ORDER

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FILE COPY FOR 00800

Deputy Clerk

Julie Murphy