

05/04/2009

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

RIGHT NUMBER: 23-11392

NAME AND ADDRESS: CHARLES W HIGHAM
370 N STATE
SHELLEY ID 83274

SOURCE: RAINEY CREEK

TRIBUTARY: SOUTH FORK SNAKE RIVER

QUANTITY: 0.500 CFS

Right Nos. 23-64 and 23-11392 are limited to a total combined diversion rate of 2.4 cfs.

PRIORITY DATE: 06/15/1898

POINT OF DIVERSION:

T02N R44E S33 SESESW Within BONNEVILLE County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

STOCKWATER

01/01 12/31

0.500 CFS

PLACE OF USE:

STOCKWATER in BONNEVILLE County

T01N R44E S04

SWNW

T01N R44E S04

NWSW

T01N R44E S04

SWSW

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

The quantity of water decreed for this water right is not a determination of historical beneficial use.

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

Stockwater use is for 50 cattle and horses.

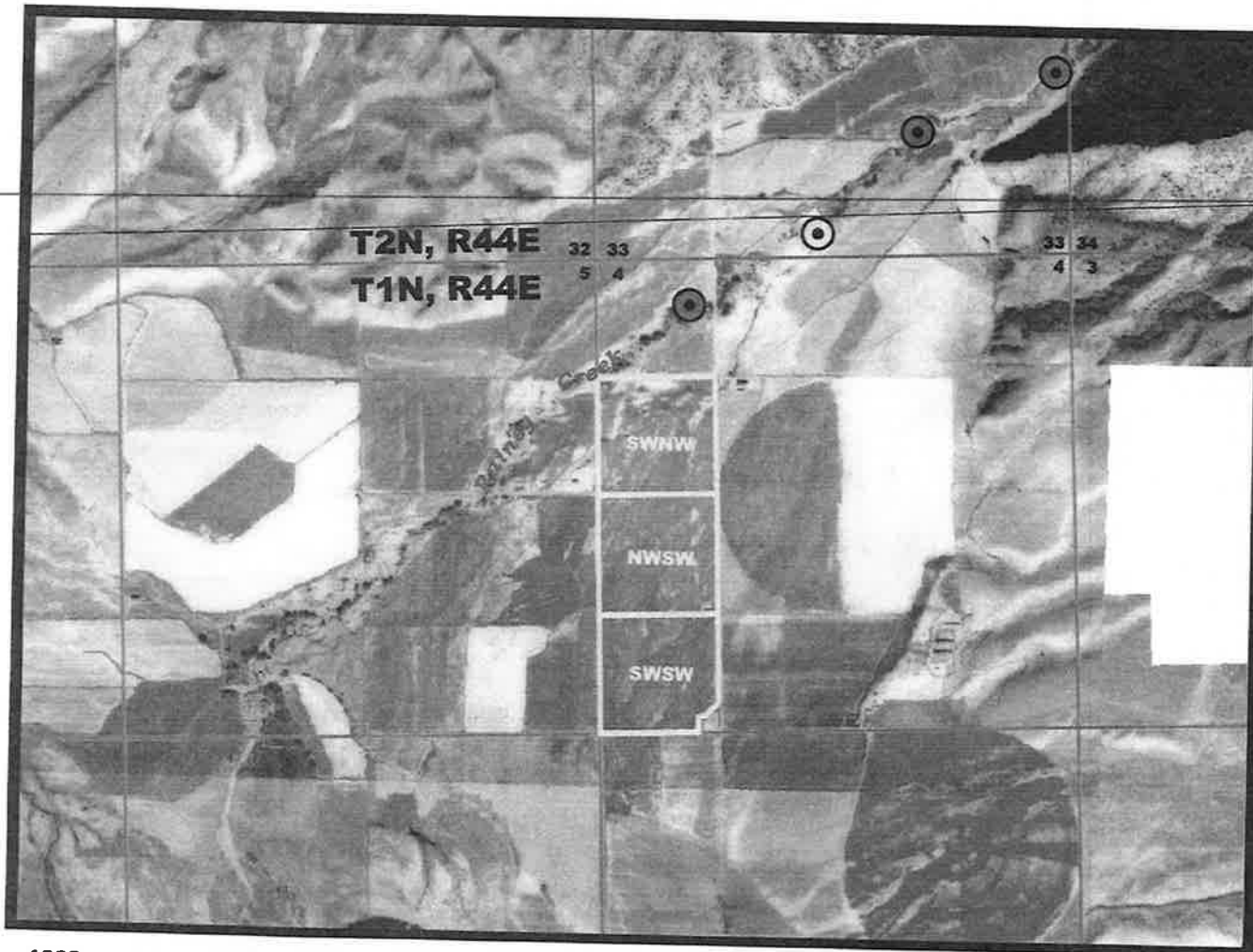


State of Idaho

Department of Water Resources

Eastern Region

23 - 11392



Water Right(s):
23-00064

Place of Use: T1N, R44E
Sec.4 SWNW, W2SW

Point(s) of Diversion: T2N, R44E
Sec. 33 SESES



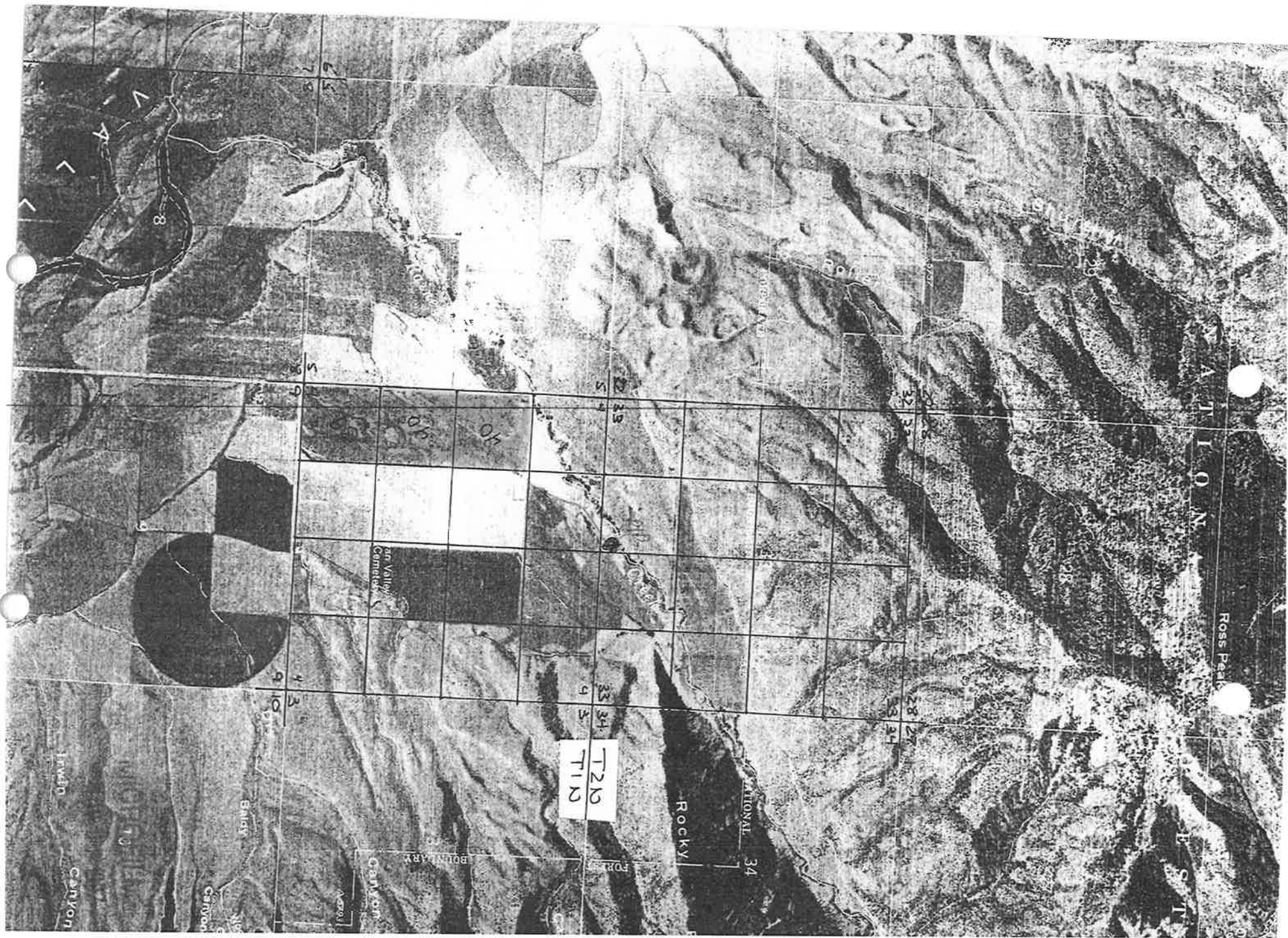
LEGEND

Point of Diversion

SESE Place of Use

Section

Quarter-Quarter



Ross Peak

ATLANTIC

NATIONAL 34

Rocky

T220
T120

20 Valley
Corridor

Irwin Canyon

Sandy Canyon

Point of Diversion and Source Data Entry Form

Claim Number: _____

Water Right Point of Diversion: T____, R____, Sec.____, _____, _____, _____ County: _____

Source: _____ Tributary: _____

Claimed Point of Diversion: T____, R____, Sec.____, _____, _____, _____ County: _____

Source: _____ Tributary: _____

Recommended Point of Diversion: T____, R____, Sec.____, _____, _____, _____ County: _____

Source: _____ Tributary: _____

☐ Use Claimed POD and Source as Recommended POD and Source

Twp	Rge	Sec	Gov Lot	QQQ of QQ of Q	County	Source
2N	44E	33		5856SW	BONN	RAINY CK

GPS Coordinates: _____

GPS Coordinates: _____

GPS Coordinates: _____

GPS Coordinates: _____

GPS Coordinates: _____

GPS Coordinates: _____

GPS Coordinates: _____

Other rights from this POD? _____

Document how the POD and Source were verified and/or Pump and Motor data:

Transfers Changing POD _____

Reviewer: _____

Date: _____



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

DAVID R. TUTHILL, JR.
Director

January 27, 2009

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

RE: Snake River Basin Adjudication (SRBA)
Notice of Claim to a Water Right #23-11392
Your Client: Charles W. Higham

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 #C087932 for the fees your firm paid. Please retain the receipt for your records.

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

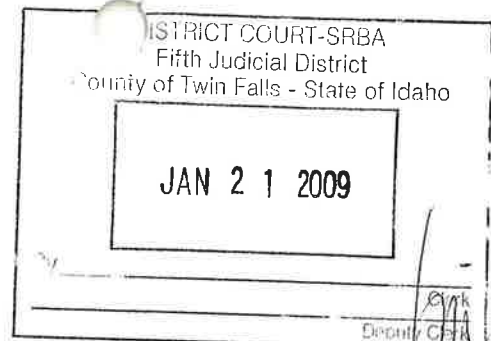
Enclosure:

Receipt Referenced Above

SCANNED

JAN 27 2009

RECEIVED
JAN 22 2009
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

) Subcase: 23-11392

Case No. 39576

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

On October 6, 2008, Charles W. Higham, 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 January 20, 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 January 21, 2009.


JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

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 21, 2009, with sufficient first-class postage to the following:

CHARLES W HIGHAM

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

JAN 26 2009

ORDER

Page 1 1/21/09

FILE COPY FOR 00092

Deputy Clerk

Julie Murphy

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 23-11392

Date Received _____

Receipt Number CO 87932

Received by: _____

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

OCT - 6 2008

Clerk

Deputy Clerk

**NOTICE OF CLAIM
TO A WATER RIGHT**

ACQUIRED UNDER STATE LAW

For Domestic and/or Stockwater Purposes

~~Where Daily Use is less than 13,000 gallons per day.~~ per

Filing Fee \$25.00

1. Name of Claimant(s) Charles W. Higham Phone (208) 357-3401
Mailing Address 370 N. State, Shelley, ID Zip 83274
2. Date of Priority (Only (1) per claim) June 15, 1898
3. Source of water supply () Groundwater or (☒) Other (a) Rainey Creek
Which is tributary to (b) South Fork of the Snake River
- 4.a. Location of point of diversion is: Township 2N Range 44E Section 33, SE 1/4 of SE 1/4 of SW 1/4,
Govt. Lot _____, County of Bonneville; Parcel (PIN) No. _____
Additional points of diversion if any: _____
If available, GPS Coordinates: _____
5. Description of diverting works (wells, Pumps, Spring Boxes, Pipelines, 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. Headgate and ditch.
6. Water is claimed for the following: (limited to Domestic and/or Stockwater uses. See page 1 of the instructions.)
For Stockwater purposes from _____ to _____ amount _____
7. Total quantity claimed (a) 0.5 cfs (cfs) of (AFA).
8. Non-irrigation uses. Describe fully (e.g. Domestic: give number of households served if single ownership; Stockwater: Type and number of livestock Etc.) Stockwater for 50 cattle and horses.
9. Location of place of use: Township 1N Range 44E Section 4, _____ 1/4 of SW 1/4 of NW 1/4,
Township 1N Range 44E Section 4, _____ 1/4 of NW 1/4 of SW 1/4,
Township 1N Range 44E Section 4, _____ 1/4 of SW 1/4 of SW 1/4,
Govt. Lot _____, County of Bonneville For () Domestic (☒) Stock () Domestic and Stock
Additional points of diversion if any: _____
10. In which county(ies) are lands listed above as place of use located? Bonneville
11. Do you own the property listed above as place of use? Yes ☒ No _____

SCANNED

JAN 26 2009

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.

_____ or None (☒)

13. Remarks:

Claimant diverts stockwater from Rainey Creek year round for a majority of the year. Stockwater is diverted with irrigation water to the property under Water Right No. 23-64, which is an irrigation water right.

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

Signature of Claimant(s) Charles W. Higham Date 9/25/08

_____ Date _____

State of Idaho)
County of Bingham) ss.

Subscribed and sworn (or affirmed) before me this 25 day of September, 2008.

Mona Lynn Greenhalgh
Notary Public
Residing at Bonneville
My Commission Expires 8/10/2010



16. 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 PO Box 50130 Idaho Falls, ID 83405
Date Oct. 2, 2008

Hear. 1-20-2009

RECEIVED

OCT 06 2008

DEPARTMENT OF
WATER RESOURCES

claim complete

Fees O/K = Non-de minimus
C. Smith 10-20-08

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 23-11392
(Insert water right number
From the Objection Form)

STANDARD FORM 4

MOTION TO FILE:

☒ LATE NOTICE OF CLAIM

☐ AMENDED NOTICE OF CLAIM

INSTRUCTIONS

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy 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 Charles W. Higham

My name is Robert L. Harris

My address is Holden, Kidwell, Hahn & Crapo, PLLC
PO Box 50130, Idaho Falls, ID 83405-0130

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:

- ☐ 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 \$ 150.00.

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, January 20, 2009, 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:

- ☐ 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

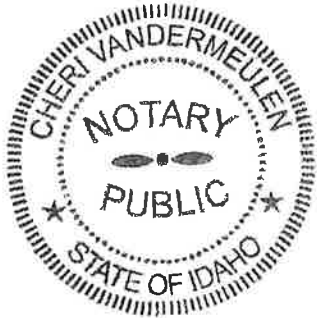
State of Idaho)
)ss.
County of Bonneville)

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 5th day of October, 2008.




Notary Public for Idaho
Residing at: Idaho Falls, ID
My Commission expires: July 7, 2009

CERTIFICATE OF MAILING

I certify that on this 3rd day of October, 2008, 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:

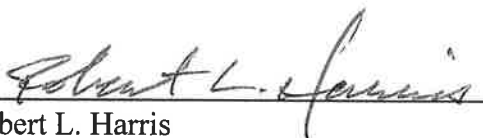
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

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

G:\WPDATA\RLH\15343 Higham, Charles\Motion, Late Claim.wpd

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 23-11392

Date Received _____

Receipt Number _____

Received by: _____

**NOTICE OF CLAIM
TO A WATER RIGHT**

ACQUIRED UNDER STATE LAW

For Domestic and/or Stockwater Purposes

~~Where Daily Use is less than 13,000 gallons per day.~~ *per*~~Filing Fee \$25.00~~

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Mailing Address 370 N. State, Shelley, ID Zip 83274
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Govt. Lot _____, County of Bonneville; Parcel (PIN) No. _____
Additional points of diversion if any: _____
If available, GPS Coordinates: _____
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7. Total quantity claimed (a) 0.5 cfs (cfs) of (AFA).
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10. In which county(ies) are lands listed above as place of use located? Bonneville
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OCT - 6 2008

If your answer is No, describe in Remarks below the authority you have to claim this water right.

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_____ or None (☒)

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Claimant diverts stockwater from Rainey Creek year round for a majority of the year. Stockwater is diverted with irrigation water to the property under Water Right No. 23-64, which is an irrigation water right.

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

Signature of Claimant(s) Charles W. Higham Date 9/25/08

_____ Date _____

State of Idaho)
County of Bingham) ss.

Subscribed and sworn (or affirmed) before me this 25 day of September, 2008.

Mona Lynn Greenhalgh
Notary Public
Residing at Bonneville
My Commission Expires 8/10/2010



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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 PO Box 50130 Idaho Falls, ID 83405
Date Oct. 2, 2008