

10/28/2009

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

RIGHT NUMBER: 34-369

NAME AND ADDRESS: DENNIS K MOSS
3286 N 3350 W
MOORE ID 83255

SOURCE: BIG LOST RIVER

TRIBUTARY: SINKS

QUANTITY: 0.200 CFS

PRIORITY DATE: 05/01/1901

POINT OF
DIVERSION:

T05N R26E S4 SESE Within BUTTE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	05/01 10/15	0.200 CFS
The period of use for irrigation described above may be extended in seasons of unusual characteristics to a beginning date of 04-20 and an ending date of 10-31 at the discretion of the director of the Idaho Department of Water Resources.		

PLACE OF USE: IRRIGATION in BUTTE County

T05N R26E S34	NENE	29.00	T05N R26E S34	SENE	25.00
T05N R26E S35	NWNW	33.00	T05N R26E S35	SWNW	25.00

112 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 112 acres in a single irrigation season. Combined Right Nos.: 34-368, 34-369 and 34-370.

This right is limited to the irrigation of 10 acres within the place of use described above 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 - Decreed

Water delivered throught the Moore Diversion, Eastside Canal.

October 2, 2009

Dennis Moss
3286 N 3350 W
Moore ID 83255

RE: Late Claims 34-369 and 34-370

Dear Mr. Moss:

In November 2008, the Department received from the Snake River Basin Adjudication ("SRBA") Court the above mentioned late claims that you had filed for water rights 34-369 and 34-370, from the Big Lost River. The claims have subsequently been forward to the Eastern Regional Office in Idaho Falls and I have been given the responsibility of preparing recommendations for the two late claims.

My research has revealed that these two water rights were used in conjunction with 34-368, which was filed in a timely manner in the SRBA and has subsequently been recommended to the court. Department records also show on December 20, 1995, Daniel Hurlbutt, the presiding judge in the SRBA, signed a permanent order for interim administration in Basin 34. Associated with this order was a list of water rights that had been recommended to the court, both ground water and surface water for the Big Lost River Drainage. Not included in this list were water rights 34-369 and 34-370. In a recent conversation with Bob Shaffer, the watermaster for Water District 34, I was advised these two water rights do not appear in his records as having been delivered water for the 15 years since the order for interim administration was signed. These two late claims are presently scheduled to be reported in the fall 2009 late claim directors report. To be in this report, I must finalize recommendations by Friday, November 13, 2009. If you have any information that would indicate that these water rights were delivered, between 1995 and 2009, please submit that information to me as soon as possible. Lacking documentation or evidence that these water rights were used, my recommendation will be to disallow both claims.

Please feel free to call me if you have any questions concerning either water right. I look forward to receiving any information you may have.

Respectfully submitted,



Ernie Carlsen
Water Resource Program Manager



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

November 26, 2008

DENNIS K MOSS
3286 N 3350 W
MOORE ID 83255

RE: Snake River Basin Adjudication (SRBA)
Late Notices of Claim to a Water Right #34-369 and 34-370

Dear Mr. Moss:

The Notices of Claim to a Water Right referenced above were received from the SRBA Court recently. I have enclosed your receipt #C087755 for the fees you paid. Please retain the receipt for your records.

These Notices 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:state

Enclosure:

Receipt Referenced Above

SCANNED

NOV 26 2008

hearing: 11-18-08

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

Fees Correct.

Subcase

34-369

(Insert water right number)

Case 39576

Claim is Complete.

C. Smith

8-26-08

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 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.

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

My name is Dennis K. Moss

My address is 3286 N. 3350 W. Moore Id. 83255

My phone number is: Work 208 406-1600 Home 208 554-4140

I am an attorney representing _____

My name is _____

My address is _____

My phone number is _____

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 did not own the property at the time.

☐ 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 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 your Notice of Claim.)

a memo from Eric Verner (I.D.W.R. agent) on 5-18-1992
stating that two water rights, Based on Decree, needed
to be claimed.

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 \$ 100.00.

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 November 18, 2008 1:30 PM
(Insert Date and Time)
at the SRBA 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 (Must be completed)

State of Idaho

County of Butte

Dennis Moss, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(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.

Dennis Moss
Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on July 30, 2008
(Insert Date)



Jonie M. Barg
Notary Public for Idaho
Residing at: Idaho Falls
My Commission expires: July 24, 2013

INSTRUCTIONS FOR MAILING

You must mail this form, including all attachments, to the Clerk of the SRBA Court. **FAX filings will not be accepted by the SRBA Clerk of the Court.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on Aug 5th, 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
PO Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO 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

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

(Insert Names/address of parties)

Dennis Mads

Signature of person or attorney mailing the form

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 34-369
Date Received: 7/9/2008
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

DENNIS K MOSS Phone: (208)554-4140

3286 N 3350 W
MOORE ID USA 83255

2. Date of Priority: 05/01/1901

3. Source: BIG LOST RIVER Trib. to: SINKS

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
05N	26E	4	SE SE	BUTTE	

5. Description of diverting works:

moore diversion

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/01	10/31	0.2	

7. Total Quantity Appropriated is:

0.2 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
05N	26E	34	NE	NE	IRRIGATION	32
			SE	NE	IRRIGATION	26
					Section Acres	58
05N	26E	35	NW	NW	IRRIGATION	34
			SW	NW	IRRIGATION	25
					Section Acres	59
					Total Acres	117

11. Place of use in counties: BUTTE

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

13. Other Water Rights Used:

14. Remarks:

15. Basis of Claim: Decreed

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

Signature of Claimant(s): Dennis Moss Date: 7-30-2008

Date:

State of Idaho

County of Bonneville)
SS.

Subscribed and sworn (or affirmed) before me this

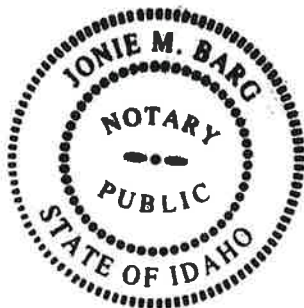
of July 2008

30TH day

Jonie M. BARG
Notary Public

Residing at Idaho Falls

My commission Expires July 24, 2013



SD-0420-2
MODIFY RECORD

Idaho Department of Water Resources
Modify Comment

Date: 05/18/92
Time: 14:44:34

Water Right Number: R34-00368

Comment Date: 5/18/1992 User ID: VERNER

Subject: NOTICE OF ERROR

NOTICE OF ERROR WAS SUBMITTED REGARDING TWO ITEMS:

1) PLACE OF USE.

CLAIMANT NOTICED THAT THE TOWNSHIP HAD BEEN RECOMMENDED
AS 5S WHEN IT IS ACTUALLY 5N. THIS WAS CHANGED. HE ALSO
DISAGREED WITH THE TOTAL ACRES. I MET WITH HIM AT ARCO ON 3/26
AND REVIEWED THE PLACE OF USE WITH THE ASCS PHOTO. ASCS CREDITS
THE CLAIMANT WITH 112 ACRES OF IRRIGATED GROUND. HOWEVER ONLY
80 ACRES WERE CLAIMED. I PREPARED AN AMENDED NOTICE FOR THIS
CLAIM SHOWING THE PLACE OF USE AS 112 ACRES AND REQUESTED THAT AN
ADDITIONAL (112-80) \$32.00 BE SENT TO COVER THESE ACRES.

2) CLAIMANT ALSO DISCOVERED THROUGH BLRID RECORDS TWO DECREED
RIGHTS THAT HE FAILED TO FILE FOR. I PREPARED NOTICES FOR THESE

(ENTER=Continue/Exit) (Gold2=Update) (Gold3=Delete) (Gold4=Prev) (Gold5=Next)

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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

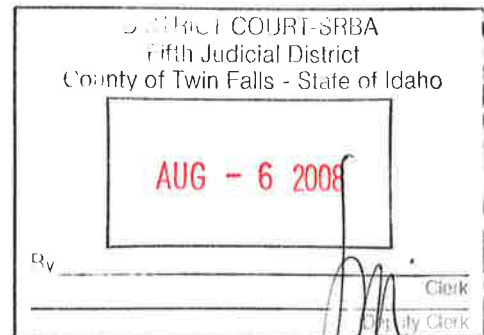
Ident. Number 34-369
Date Received: 7/9/2008
Receipt No: C-87755
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

DENNIS K MOSS Phone: (208) 554-4140

3286 N 3350 W
MOORE ID USA 83255



2. Date of Priority: 05/01/1901

3. Source: BIG LOST RIVER Trib. to: SINKS

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
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moore diversion

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IRRIGATION	04/01	10/31	0.2	

7. Total Quantity Appropriated is:
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			Section Acres				58
			Total Acres				117
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14. Remarks:

15. Basis of Claim: Decreed

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

Signature of Claimant(s): Dennis Moss Date: 7-30-2008

Date:

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this

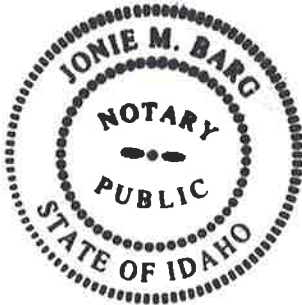
of July 20 08

30TH day

Jonie M. Bargo
Notary Public

Residing at Idaho Falls

My commission Expires July 24, 2013



SD-0420-2
MODIFY RECORD

Idaho Department of Water Resources
Modify Comment

Date: 05/18/92
Time: 14:44:34

Water Right Number: R34-00368

Comment Date: 5/18/1992 User ID: VERNER

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DEPARTMENT OF
WATER RESOURCES

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

NOV 20 2008

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

) Subcases: 34-00369 & 34-00370
) (Moss)
)
)
)

ORDER GRANTING MOTIONS TO FILE
LATE NOTICES OF CLAIM

On August 6, 2008, Dennis K. Moss filed a *Motion to File Late Notice of Claim* for each of the above-captioned water rights. Hearing was held on the *Motions* on November 18, 2008. These *Motions* complied with all procedural requirements under **SRBA Administrative Order 1**, and no objections were made to these late Notices of Claim.

THEREFORE, IT IS ORDERED, that the *Motions to File a Late Notice of Claim* for each of the above-captioned water rights 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. Following investigation by the Idaho Department of Water Resources, recommendation for the claims 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 November 20, 2008.


JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING
MOTIONS TO FILE LATE NOTICE OF CLAIM was mailed on November
20, 2008, with sufficient first-class postage to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

DENNIS K MOSS
3286 N 3350 W
MOORE, ID 83255
Phone: 208-554-4140

ORDER

Page 1 11/20/08

FILE COPY FOR 02266

Deputy Clerk

Julie Murphy

NOV 24 2008

CLAIMANT'S NAME Moss Dennis CLAIM IDENT. NO. 34-369

DATE RECEIVED 11-21-08 # C089725 AMOUNT \$ 00

- | | YES | NO | Required Info? |
|--|-------------------------------------|-------------------------------------|----------------|
| 1. Is the name and address complete with zip code? | ☒ | ☐ | * |
| 2. Is a priority date entered? | ☒ | ☐ | * |
| Is the priority date acceptable in view of mandatory filing dates? ☒ | | | |
| See Adjudication Memos #1 and #4 to determine if a Permit is required. ☒ | | | |
| 3. (a) Is a source entered? | ☒ | ☐ | * |
| (b) Is a tributary to entered? (if required) | ☒ | ☐ | |
| 4. Is the legal description of the p.d. sufficient? | ☒ | ☐ | * |
| 5. Is there a description of the diverting works? | ☒ | ☐ | |
| 6. Are the water uses appropriate for the form? The short form is limited to domestic and stockwater uses with direct diversion. All claims that include storage or instream stockwater must use long form. | ☒ | ☐ | * |
| Is the period of use included? | ☒ | ☐ | |
| Is a quantity claimed for each use? | ☒ | ☐ | * |
| 7. Is a total quantity claimed entered? | ☒ | ☐ | |
| 8. If required is a consumptive use entered? | ☒ | ☐ | |
| Is the consumptive use correct? | ☒ | ☐ | |
| 9. Are the non-irrigation uses listed properly? If this claim is on the short form, and more than one domestic use is listed, single ownership must be stated. If not under single ownership, see Adjudication Memo # 4. | ☒ | ☐ | * |
| 10. Is (are) the place(s) of use and purpose(s) indicated? | ☒ | ☐ | * |
| 11. Is (are) the county(ies) entered? | ☒ | ☐ | |
| 12. Is the ownership of p.u. checked? | ☒ | ☐ | |
| 13. Are other water rights listed or "none" indicated? | ☐ | ☒ | |
| 14. If required, are remarks correct? (If the claimant does not own the place of use, authority for filing the claim must be explained in the remarks.) | ☒ | ☐ | |
| 15. Is the basis of the claim indicated? | ☐ | ☐ | |
| 16. If the claimant requested a monthly docket sheet, is payment enclosed? (If yes, describe payment status in "Comments" below.) | ☒ | ☐ | |
| 17. Is the claim signed by the claimant, and is the signature appropriate? Organizations must complete the organization block. | ☒ | ☐ | * |
| 18. Has the claim been signed, sealed, and dated by a notary? | ☐ | ☒ | * |
| 19. Was this claim filed on time, or was an extension granted? | ☒ | ☐ | * |
| 20. Is the fee enclosed correct? | ☒ | ☒ | * |
| 21. If this claim is based on an existing water right, has the identification number been entered? | ☒ | ☐ | |
| 22. Should this claim be data entered? | ☒ | ☐ | |

Claim checked by: po Date: 8-8-08

Claim must be returned to claimant: ☐ (Yes) ☒ (No)

Claimant must be notified of modifications: ☐ (Yes) ☒ (No)

Receipt Prepared by: _____ Date: _____
Claim data entered by: _____ Date: _____
Sent to claimant by: _____ Date: _____
Checked by: CS Date: 8/26/08

Comments: Needs add'l \$46.00 ac fee not pd for on 34-368.

see notes