

05/24/2010

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

RIGHT NUMBER: 27-12198

NAME AND ADDRESS: CEDAR CREEK GRAZING ASSN
C/O KATHY AND RULON JONES
PO BOX 472
FIRTH ID 83236

SOURCE: UNNAMED SPRING

TRIBUTARY: COLE CREEK

QUANTITY: 0.060 CFS

PRIORITY DATE: 04/15/1967

POINT OF DIVERSION:

T02S R38E S25 NWSESE Within BINGHAM County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/15 10/31	0.060 CFS

PLACE OF USE: IRRIGATION in BINGHAM County

T02S R38E S25	SWNE	0.90	T02S R38E S25	SENE	0.10
T02S R38E S25	NWSE	2.10			

3.1 ACRES TOTAL

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

Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.



Idaho Department of Water Resources

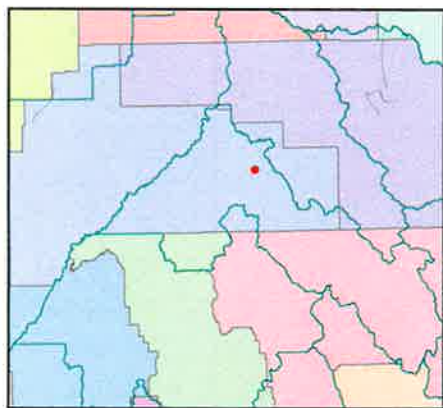
Adjudication Recommendation

27-12198

(IRRIGATION)

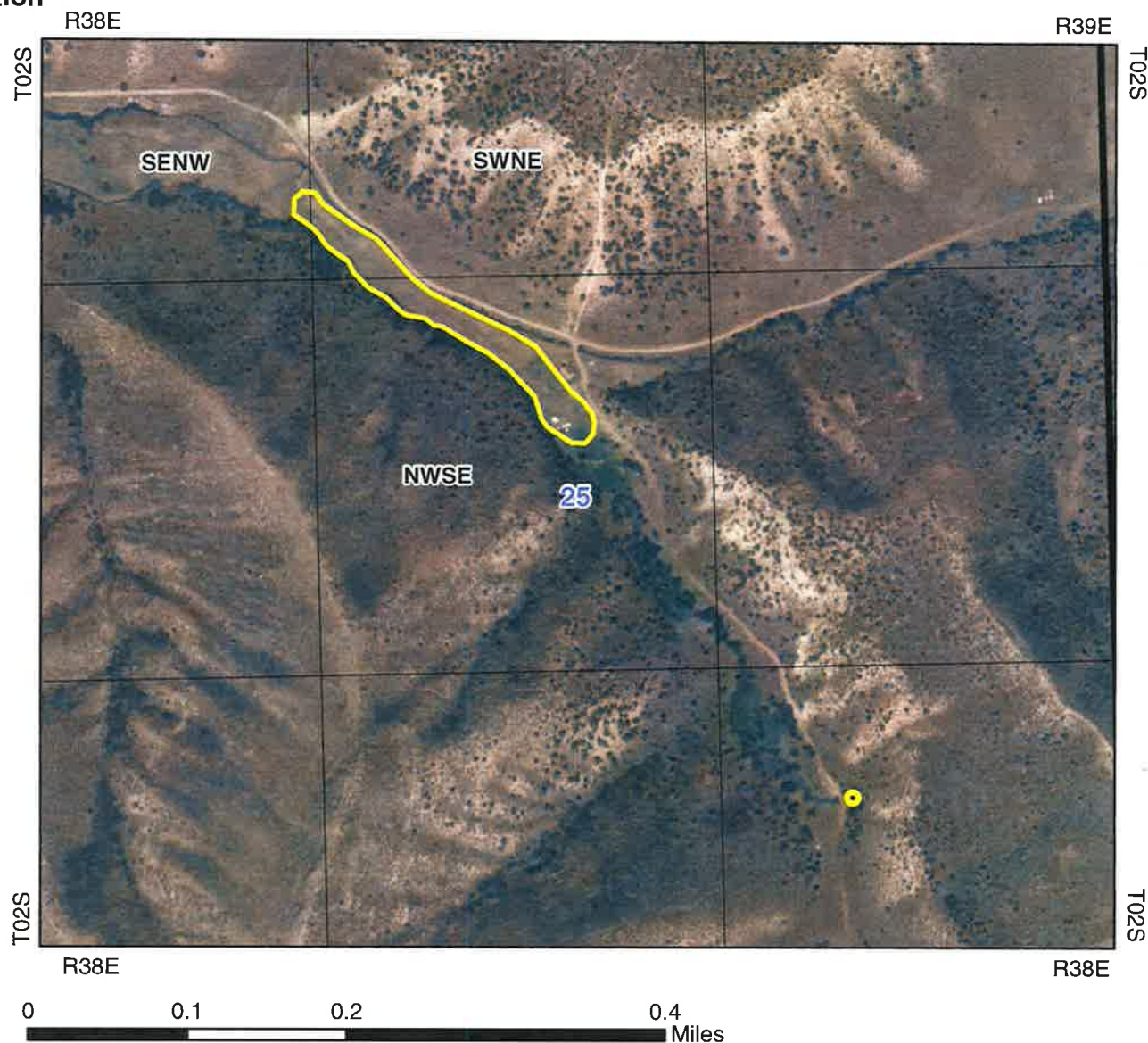
Legend

- Point of Diversion
- Place of Use
- State Outline
- Townships
- PLS Sections
- Quarter Quarters



**Bingham County
IDWR Basin 27**

Prepared by Michael Holliday
On May 24, 2010
2004 Aerial Photography

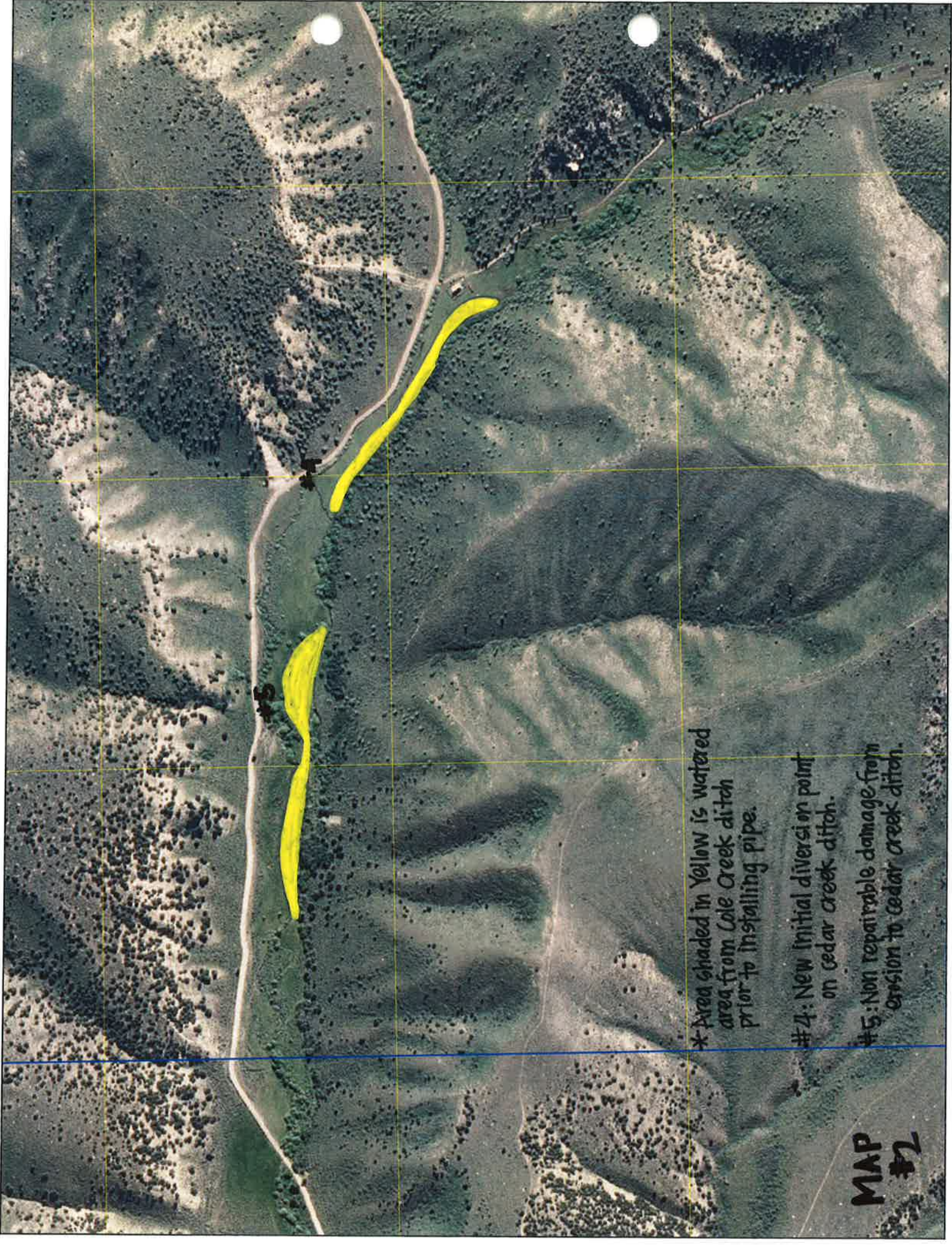




*Area shaded Orange indicates
irrigated area from Springbox
& sprinkler line after 1972

#7: Springbox in Cole Creek Spring.

MAP
#4



* Area shaded in Yellow is watered area from Cole Creek ditch prior to installing pipe.

#4: New initial diversion point on cedar creek ditch.

#5: Non repairable damage from erosion to cedar creek ditch.

MAP
#2

Summary of Known Water Use from Cedar Creek and Cole Creek streams on Cedar Creek Ranch

- I. Information gathered from previous owners from Cedar Creek Grazing, Maurice and Marcel Gentillon.

Prior to the purchase of Cedar Creek Ranch by Cedar Creek Grazing association in 1967, the ranch was owned by Walt Vanderford. Vanderford maintained a head gate at the upper end of the field (see #1 on map) as the initial diversion from Cedar Creek. Flooding in the field began at this point. Diversions using canvas dams were used to divert water from the same ditch into the field for the next approximate 3/4 mile on the east side of the field (see #2 on map) Ditch is in black on map #1. Area watered is shaded in red on map #1. On the Cole creek stream Vanderford maintained a pond (see #3 on the map), to store water and release into a ditch down the west side of the field. Water was diverted by canvas dams from ditch. At some time prior to Cedar Creeks grazing purchase, this dam was washed out and the limited water supply from Cole Creek was diverted from the ditch into field when sufficient water was present. See watered area on #2 map shaded in yellow.

- II. Information of use after the purchase of the Cedar Creek ranch by Gentillons in 1967

The use of the Cedar Creek water for irrigation was continued as previously described until the spring of 1983. In May of 1983 the two foot snow pack melted within 3 days and torrential run off washed out the head gate and ditch at the top end of field. This damage made the ditch too deep to divert water. During the flooding cedar trees were cut and thrown in the ditch to try to hold dirt from washing but didn't help. The area where head gate was washed out went from a depth of two feet to seventeen feet deep. A lareetet was lowered into trench to see how deep cut was. After flood the initial area of diversion was moved down field. (See #4 on map) The same flood broke through the bank of the ditch half way down the field and created a wash that was fifteen feet deep and ten feet wide. The bottom half of the field was no longer capable of watering from eroded area down field (see #5) because of this deep erosion damage of the ditch. Efforts were made to try to restore washed out cut by dropping large round bails into area and covering with dirt but due to the size of cut and type of soil in the area restoration was not successful and water could not be channeled back into the original ditch flow from this point below. Flood irrigation from new diversion point to the damaged area was continued as before with diversion from the ditch with canvas dams. Watered area after 1983 damage on Cedar creek is shaded in green on map # 3.

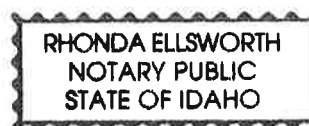
On the Cole creek stream Gentillons never repaired diversion pond that had previously washed out but created a new diversion point further up stream (see #6) where water was channeled into a pipe that provided the source to flood irrigate the field. In the summer of 1972 the actual spring that supplies Cole Creek was developed with a spring box and piped to the field for irrigation and other use. The use of a 15 pipe hand line was used to distribute water on to field. Irrigated area from Cole creek spring is shaded in orange on map #4.

III. Summary

The use of water for irrigation though difficult at times, has been maintained since the purchase of the ranch in 1967. Changes noted over the history of ownership were diversion point on cedar creek due to damage to ditch and loss of irrigatable acres by almost half. Cole creek diversion was moved from pond up stream and piped to the field in 1967. In 1972 to provide full potential of water a spring box was installed at spring for storage and a new water line supplied water to field for irrigation and other use. Taking into consideration all of the information and points of diversion filling on spring in Cole creek would seem to be most applicable .

Marcel Gentillon

Rhonda Ellsworth
Basalt, ID
exp 4.6.2013



27-12198 and 27-12199

Field exam 5/10/2010 notes:

Met Rulon Jones on the property and took photos of the place of use and points of diversion. Also gathered gps points. Rulon indicated that he had not irrigated the property during the time that he had owned it (about 6 years) because he wasn't sure he had water rights and he didn't want to violate the rules. He said that when he purchased the property the previous owner said that he only had stockwater rights. However since Rulon believed the property had been irrigated, he decided to file irrigation claims.

I requested detailed evidence of priority in order to document the historic water use. I also asked for marked up aerial photos showing the location of the pou and pod for the 2 claims. Because Rulon was not knowledgeable in regards to the historic operation of the irrigation system, he said that he was going to get that information from a previous owner.

The Cedar Creek diversions to both the north and south ditches have led to serious erosion problems. There is also erosion in the ditch which injects Cedar Creek water into Cole Creek. The diversions make it difficult to positively identify the natural channel of Cedar Creek.

The source for the Cole Creek claim may actually be a spring tributary to Cole Creek. The spring, which is located in the SESE of section 25, is fenced off, so there may be a spring box located there which feeds a buried line. The exposed pipe shown in the photo captured a small amount of water on the surface, but it was not clear where the pipe discharged. A single riser is located in the NWSE of section 25 near the A frame building. There was only a very small flow of water coming out of the open riser. Could be either a leak in the line or a blockage or perhaps there is just not much water available from the spring. The claimant indicated that the spring supplied water to the building and to three or four spigots located near the building. Rulon said that the spigots were used to supply water to RVs. There were also about 10 strands of sprinkler pipe lying near the building.

MWH









STAFF TIME LOG

LATE CLAIMS

Claim No(s). 27-12198

[illegible]



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

August 4, 2009

CEDAR CREEK GRAZING ASSN
C/O KATHY AND RULON JONES
PO BOX 472
FIRTH ID 83236

RE: Snake River Basin Adjudication (SRBA)
Late Notices of Claim to a Water Right #27-12198 and 27-12199

Dear Claimants:

The Notices of Claim to a Water Right referenced above were received from the SRBA Court recently. I have enclosed your receipts #C089045 (#27-12198) and C089046 (#27-12199) for the fees you paid. Please retain the receipts 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

Enclosures:

Receipts Referenced Above

SCANNED

AUG - 4 2009

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

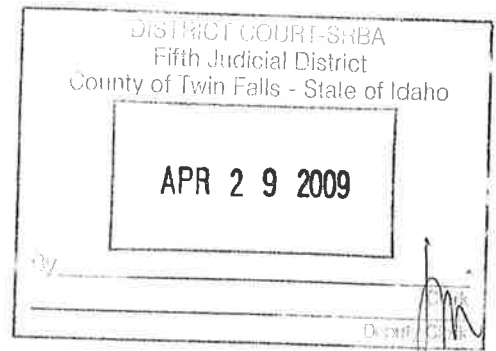
CIVIL CASE NUMBER: 39576

Ident. Number 27-12198
Date Received: 4/28/2009
Receipt No: *089045*
Received By: MWH

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

CEDAR CREEK GRAZING ASSN Phone: (208) 346-6648
C/O KATHY AND RULON JONES
PO BOX 472
FIRTH ID USA 83236



2. Date of Priority: 04/15/1967

3. Source: COLE CREEK Trib. to: CEDAR CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
02S	38E	25	NW SE	BINGHAM	

5. Description of diverting works:

EARTHEN DAM IN CREEK TO FORM POND. THEN BURIED PLASTIC PIPE IN POND TO RISERS
TO HANDLINES PRESSURIZED VIA GRAVITY FLOW.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/15	10/31	0.06	

7. Total Quantity Appropriated is:
0.06 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
02S	38E	25	NW SE	IRRIGATION	3.1
Section Acres					3.1
Total Acres					3.1

11. Place of use in counties: BINGHAM
12. Do you own the property listed above as place of use? Yes
13. Other Water Rights Used:
14. Remarks:
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 _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Organizations:

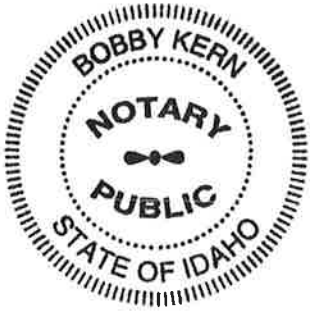
I do solemnly swear or affirm that I am President/Owner of Cedar Creek grazing asso. Title _____ that I have signed the foregoing document in the space below as _____ of _____ Title _____ Organization _____ and that the statements contained in the foregoing document are true and correct.

Cedar Creek grazing asso. Signature of Authorized Agent [Signature] Title and Organization Pres./owner Cedar Creek grazing asso. Date 4/28/09

State of Idaho
County of Bonneville } SS.

Subscribed and sworn (or affirmed) before me this 28th day of April 2009.

[Signature: Bobby Kern]



Notary Public
Residing at Idaho Falls, ID
My commission Expires 9-12-2014

RECEIVED

JUL 24 2009

DEPARTMENT OF
WATER RESOURCES

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

JUL 23 2009

By

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

Derk
Deputy Clerk

In Re SRBA

Case No. 39576

) Subcase Nos: 27-12198 & 27-12199

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

On April 29, 2009, Rulon and Kathy Jones, on behalf of Cedar Creek Grazing Assn., filed a *Motion to File Late Notice of Claim* for the above-captioned water rights. A hearing on the *Motion to File Late Notice of Claim* was held on July 21, 2009. No party appeared in opposition to the *Motion* and the *Motion* complied with all procedural requirements under ***SRBA Administrative Order 1***.

At hearing on the *Motion*, the Court initially denied the claimants' *Motion to File Late Notice of Claim*, for failure to comply with a deadline set by Special Master Bilyeu in a December 18, 2008 ***Order of Final Deadline for Late Claims in Basin 27***. However, upon reconsideration, the Court finds that the hearing on any *Motions* filed after the April 10, 2009 deadline but before May 1, 2009 would occur on the same day as the hearing on *Motions* filed before the deadline.

THEREFORE, IT IS ORDERED that the *Motion to File a Late Notice of Claim* for the above-captioned water rights 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. The Idaho Department of Water Resources can administratively split the claim among the three claimants and report the claims in the forthcoming *Late and*

Miscellaneous 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 July 22, 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 July 23, 2009, with sufficient first-class postage to the following:

CEDAR CREEK GRAZING ASSN
C/O RULON & KATHY JONES
PO BOX 472
FIRTH, ID 83236

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

ORDER

Page 1 7/21/09

FILE COPY FOR 00716

Deputy Clerk

SCANNED

JUL 26 2009

Hearing: 7-21-09

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

In Re SRBA

*all done
by MWH.*

Subcase

27-12198

(Insert water right number)

Case 39576

*claim complete
Fees Good*

STANDARD FORM 4

MOTION TO FILE:

☒ LATE NOTICE OF CLAIM

☐ AMENDED NOTICE OF CLAIM

*C. Smith
5-15-09*

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 Rulon Kent Jones

My address is 122 S main st Firth ID 83236

My phone number is: Work 208-346-6648 Home 208 346-6671

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 purchased cedar creek ranch 4 years
ago and previ owners felt like the use of
this water did not require a water share

☐ 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.)

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 \$ 103.

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 Tues July 21st 1130
(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 Bingham

Rulon K. Jones, 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.

[Signature]
Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on April 28, 2009
(Insert Date)



Bobby Kern
Notary Public for Idaho
Residing at: Idaho Falls, ID
My Commission expires: 9-12-2014

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 _____, 199____, 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)

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 27-12198
Date Received: 4/28/2009
Receipt No:
Received By: MWH

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED
MAY 01 2009
DEPARTMENT OF
WATER RESOURCES

1. Name of Claimant(s)

CEDAR CREEK GRAZING ASSN Phone: (208)346-6648
C/O KATHY AND RULON JONES
PO BOX 472
FIRTH ID USA 83236

2. Date of Priority: 04/15/1967

3. Source: COLE CREEK Trib. to: CEDAR CREEK

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7. Total Quantity Appropriated is:
0.06 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
02S	38E	25	NW SE	IRRIGATION	3.1
Section Acres					3.1
Total Acres					3.1

11. Place of use in counties: BINGHAM

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

13. Other Water Rights Used:

14. Remarks:

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 _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am President/Owner of Cedar Creek grazing asso. that I have signed the foregoing document in the space below as pres./owner of Cedar Creek grazing asso. and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent

pres./owner Cedar Creek grazing asso.
Title and Organization

4/28/09
Date

State of Idaho

County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 28th day of April 2009.

Bobby Kern

Notary Public

Residing at Idaho Falls, ID

My commission Expires 9-12-2014

