

11/12/2010

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

RIGHT NUMBER: 29-13958

NAME AND ADDRESS: ROWLANDS INC
1141 ROWLAND RD
POCATELLO ID 83204-7416

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.020 CFS

The quantity of water under this right shall not exceed 13,000 gallons per day.

PRIORITY DATE: 03/01/1968

POINT OF DIVERSION:

T06S R34E S7 NWNE Lot 2 Within POWER County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

DOMESTIC

01/01 12/31

0.020 CFS

Domestic use is for 1 home.

PLACE OF USE: DOMESTIC in POWER County

T06S R34E S07 Lot 2 NWNE

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

The following rights are diverted through point of diversion described above: 29-4443, 29-11278, 29-13956, 29-13957, and 29-13958.

Thursday, September 23, 2010

Field exam for Rowland's claims 29-4443, 29-11278, 29-13956, 29-13957, and 29-13958

Weather conditions: sunny, windy, temp near 60 degrees F

Accompanied by: Bob Rowland and T. J. Budge

Took photo and gps location of current well (drilled in 1964), which previously supplied water to the milk plant, a triplex, a duplex, and two other homes. GPS tag A0007764 was found strapped to the well casing.

The milk plant is currently being used for milk storage and as a Meadow Gold delivery depot. The triplex is still being used, but Mr. Rowland said the other domestic dwellings were torn down a couple years ago. Mr. Rowland said that the well was previously equipped with a 15 HP submersible pump, but was replaced with a 5 HP pump about 3 years ago. Water is currently pumped from the well to a tank and Mr. Rowland indicated that the pressure is maintained between 80 and 100 psi. He said that the static water level is about 40 feet.

Mr. Rowland said that the duplex was built in 1905, was moved northward within the same QQ in the 1920's, and a triplex was built in the same location in about 1924 or 1925. This is the house in which Mr. Rowland grew up. Mr. Rowland was born in 1939.

Prior to the drilling of the 1964 well, the homes and the milk plant were served by a shallow well in the milk plant. Mr. Rowland showed me the location of the former well, although it is now covered over with concrete. In the former system, a diaphragm pump was used to pump water into a 5000 gallon storage tank located near the triplex. Mr. Rowland said that the diaphragm pump produced a smaller flow than the current electric pump, but he did not know how much the diaphragm pump could produce.

Mr. Rowland said that the 2 acres claimed under 29-13956 were irrigated by the shallow well before the 1964 well was drilled.

Since these claims are based on beneficial use I explained that I would need additional documentation in support of the claims, especially as it relates to historic production at the milk plant. I explained that additional data is needed in order to quantify rate and volume for claim 29-11278.

Mr. Rowland said that wastewater from the milk plant was pumped across the Portneuf River to a series of 3 settling ponds. After some evaporation the excess was sent to the city treatment facility which processed 25,000 gallons per day in 1968. Mr. Rowland said that prior to the construction of the settling ponds the wastewater went directly into the Portneuf River.

Mr. Rowland said they reached peak production in about 1988, processing about 40,000 gallons of milk per day. He said that 1.5 gallons of water was required to process a gallon of milk. Water was used primarily for cleanup. The 125 dairy cows got their drinking water directly from Batiste Spring rather than from the well. During peak production, the Rowlands processed milk they bought from 68 dairy farmers in addition to the milk from their own cows.

MWH



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

October 25, 2010

THOMAS J BUDGE
RACINE OLSON NYE BUDGE & BAILEY
PO BOX 1391
POCATELLO ID 83204

Re: Snake River Basin Adjudication (SRBA)
Late Notice of Claim to a Water Right Nos. 29-13955, 29-13956, 29-13957,
29-13958

Dear Thomas:

The Notices of Claim you filed on behalf of Rowlands, Inc., have been received from the SRBA Court. I have enclosed Receipt No. C091865 for the filing fees you paid. Please retain the receipt for your records.

The claims 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,

Lori Harris
Technical Records Specialist 2
Adjudication Section

LH:l
Enclosure

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 29-13958
Date Received: 8/18/2010
Receipt No: C091865
Received By:

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

1. Name of Claimant(s)

ROWLANDS INC Phone: (208)238-1259
1141 ROWLAND RD
POCATELLO ID USA 83204-7416

2. Date of Priority: 03/01/1968

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
06S	34E	7	SE NW NE	POWER	

5. Description of diverting works:

160 ft well, 10 inch casing, 25 hp submersible pump.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)
A.F.A DOMESTIC	01/01	12/31	0.02	

7. Total Quantity Appropriated is:
0.02 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:
Number of homes: 1

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
06S	34E	7	NW NE	DOMESTIC	

11. Place of use in counties: POWER

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

**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 29-13958

Date Received: _____

Receipt No: _____

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**

1. Name of Claimant(s) Rowlands, Inc. Phone (208) 238-1259

Mailing Address 1141 Rowland Rd Pocatello ID Zip 83,204
Street or Box City State

2. Date of Priority: (Only one per claim) 03/01/1968
Month/Day/Year (YYYY)

3. Source of water supply (Check one) Ground Water ☒ or Other ☐ (a) _____
which is tributary to (b) _____

4. Location of Point of Diversion is: Township 6S, Range 34E, Section 7,
SE NW 1/4 of NE 1/4, or Govt. Lot _____ BM., County of _____

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.

160' well, 10" casing, 25 hp submersible pump

6. Water is claimed for the following: (limited to Domestic and/or Stockwater uses. See page 1 of the instructions.)

For Domestic purposes from 1/1 to 12/31 amount 0.02
Month/Day Month/Day cfs ☒ or AFY ☐

For _____ purposes from _____ to _____ amount _____

7. Total Quantity claimed 0.02 cfs ☒ or AFY ☐

8. Non-irrigation uses. Describe fully. (eg. Domestic: give number of households served if single ownership;

Stockwater and Number of livestock) Domestic use for 1 residence.

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9. Location of Place of Use is: Township 6S, Range 34E, Section 7,
NW 1/4 of NE 1/4, Govt. Lot _____ BM. Parcel (PIN) no. _____
If different than shown in Item 4

for (Check One) **Domestic** ☒ **Stock** ☐ **Domestic and Stock** ☐

Additional places of use, if any _____

10. In which county (ies) are lands listed above as place of use located? _____

11. Do you own the property listed above as place of use? Yes ☒ No ☐

If the 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.

None ☒ _____

13. Remarks:

14. Basis of Claim (Check One) Beneficial Use ☒ Posted Notice ☐ License ☐ Permit ☐ Decree ☐

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number _____

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 ☐ wish to receive do not ☒ and pay a small annual fee for monthly copies of the docket sheet

Number of attachments: 0

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) _____ Date: _____

_____ Date: _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am

_____ of _____
Title Organization

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.

Signature of Authorized Agent Thomas J. Budge Date 8-16-10

Title and Organization Thomas J. Budge, Attorney

16. Notice of Appearance:

Notice is hereby given that I, Thomas J. Budge, Attorney, will be acting as attorney at law of 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 Thomas J. Budge Date 8-16-10

Address 210 E. Center Street, PO Box 1391, Pocatello, ID 83204-1391

Last Name Rowlands Identification No. 29-13958

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RECEIVED

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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 *Fees Paid Correct*

Subcase 29-13958

(Insert water right number)

Case 39576

*C-5.
8-26-10*

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.

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☐ 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 Rowlands, Inc.

My name is Thomas J. Budge

My address is P.O. Box 1391
POCATELLO, ID 83204

My phone number is 208-232-6101

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:

See attachment

☐ 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.)

See attachment

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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 \$ 25.
- ☐ 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 \$ _____.

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 10/19/10 at 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:

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- ☐ 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:

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VERIFICATION (Must be completed)

State of IDAHO

County of BANNOCK

Thomas J. Budge, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

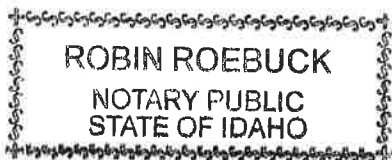
That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

Signature of person filing motion

Thomas J. Budge

Attorney signing in representative capacity
Thomas J. Budge

Subscribed and sworn to before me on August 17, 2010.
(Insert Date)



Robin Roebuck

Notary Public for IDAHO
Residing at: Pocatello
My Commission expires: 8/18/2012

INSTRUCTIONS FOR MAILING

You must mail this form, including all attachments, to the Clerk of the SRBA Court. **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.

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AUG 19 2010
FAX

CERTIFICATE OF MAILING

I certify that on Aug. 17, 2010, 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)

Thomas T. Boley
Signature of person or attorney mailing the form

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ATTACHMENT TO MOTION TO FILE LATE CLAIMS

NOS. 29-13955, 29-13956, 29-13957 & 29-13958

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

These late claims relate to my claim nos. 29-4443, 29-4444 and 29-4445 which are currently pending before the Court. At the time I filed claim nos. 29-4443, 29-4444 and 29-4445, I was acting on my own without legal counsel. I subsequently hired the law firm of Racine Olson Nye Budge & Bailey to assist with the claims. Upon substantial further investigation into the history of water use under these claims (which involve industrial, domestic, and irrigation use), and with the help of Michael Holliday of the IDWR, it was discovered that claim nos. 29-4443, 29-4444 and 29-4445 do not accurately reflect the staged development of water use on my property over the last half century. Late claim nos. 29-13955, 29-13956, 29-13957 and 29-13958 are needed to accurately reflect this staged water development that occurred over time. These late claims do not claim any additional water over that which was claimed under 29-4443, 29-4444 and 29-4445. They are necessary simply to accurately define the staged development of domestic, industrial, and irrigation water use on my property.

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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 29-13958

Date Received: _____

Receipt No: _____

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

1. Name of Claimant(s) Rowlands, Inc. Phone (208) 238-1259
- Mailing Address 1141 Rowland Rd Pocatello ID 83,204
Street or Box City State Zip
2. Date of Priority: (Only one per claim) 03/01/1968
Month/Day/Year (YYYY)
3. Source of water supply (Check one) Ground Water ☒ or Other ☐ (a) _____
which is tributary to (b) _____
4. Location of Point of Diversion is: Township 6S, Range 34E, Section 7,
SE NW 1/4 of NE 1/4, or Govt. Lot _____ BM., County of _____;
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.
160' well, 10" casing, 25 hp submersible pump
6. Water is claimed for the following: (limited to Domestic and/or Stockwater uses. See page 1 of the instructions.)
For Domestic purposes from 1/1 to 12/31 amount 0.02
For _____ purposes from _____ to _____ amount _____
7. Total Quantity claimed 0.02 cfs ☒ or AFY ☐
8. Non-irrigation uses. Describe fully. (eg. Domestic: give number of households served if single ownership;
Stockwater and Number of livestock) Domestic use for 1 residence.

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9. Location of Place of Use is: Township 6S, Range 34E, Section 7,
NW 1/4 of NE 1/4, Govt. Lot _____ BM. Parcel (PIN) no. _____
If different than shown in Item 4

for (Check One) **Domestic** ☒ **Stock** ☐ **Domestic and Stock** ☐

Additional places of use, if any _____

10. In which county (ies) are lands listed above as place of use located? _____

11. Do you own the property listed above as place of use? Yes ☒ No ☐

If the 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.

None ☒ _____

13. Remarks:

14. Basis of Claim (Check One) Beneficial Use ☒ Posted Notice ☐ License ☐ Permit ☐ Decree ☐

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number _____

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 ☐ wish to receive do not ☒ and pay a small annual fee for monthly copies of the docket sheet

Number of attachments: 0

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) _____ Date: _____

_____ Date: _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am

_____ of _____
Title Organization

that I have signed the foregoing document in the space below as

_____ of _____
Title Organization

And that the statements contained in the forgoing document are true and correct.

Signature of Authorized Agent Thomas J. Budge Date 8-16-10

Title and Organization Thomas J. Budge, Attorney

16. Notice of Appearance:

Notice is hereby given that I, Thomas J. Budge, Attorney, will be acting as attorney at law of 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 Thomas J. Budge Date 8-16-10

Address 210 E. Center Street, PO Box 1391, Pocatello, ID 83204-1391

Last Name Rowlands Identification No. 29-13958

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