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DEC 20 2019
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 CSRBA	)	Subcase	95-2044
	)		(Insert water right number)
	)		
	)		STANDARD FORM 4
Case No. 49576	)		
	)		
	)		MOTION TO FILE A LATE NOTICE OF
	)		CLAIM

INSTRUCTIONS

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

The water right number for your late Notice of Claim must be indicated above in the blank space following "Subcase." To obtain your water right number, contact the Idaho Department of Water Resources. You must use a separate form for each late Notice of Claim.

By filing a Motion to File a Late Notice 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 *CSRBA Administrative Order 1*, Rules of Procedure.

My name is Kinzo H. Mihara, of the firm, Mihara Law PLLC

My address is 923 N. Third Street, Coeur d'Alene, Idaho 83814

My phone number is: work (208) 292-4883 Home _____

☒ I am an attorney representing Jake and Jilleen Scott Family Trust

My name is Same as above.

My address is Same as above.

My phone number is Same as above.

☒ I did not file a Notice of Claim to the use of water in the CSRBA because:

Client has been using water on the property since 2013, and only recently learned the source of water

was through a historic water diversion.

☐ 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.)

Please see attached documents. Basis of claim is water right license 7812.

A Motion to File Late Notice of Claim will require a hearing before the Presiding Judge.

Follow these instructions regarding the hearing on the motion.

1. Contact the Clerk of the CSRBA Court at (208) 736-3011 to request a hearing date and time.
2. Fill in the following information:

This motion will be heard on Tues., March 17, 2020 at 1:30pm (Pacific)
(insert date and time)
at the CSRBA Courthouse, 253 Third Avenue North, Twin Falls, Idaho.

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 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 \$^{25.00}_____.

(Signature of person filing motion)



(Attorney signing in representative capacity)

Kinzo H. Mihara, ISB # 7940

INSTRUCTIONS FOR MAILING

You must mail the Motion, to the Clerk of the court. **FAX filings will not be accepted.**
You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on December 17th, 20 19, I mailed the original and copies of this Motion, including all attachments, to the following persons:

1. Original to:

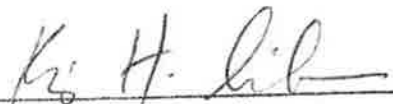
Clerk of the District Court
Coeur d'Alene-Spokane River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

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

United States Department of Justice
Environment & Nat'l Resources Div
550 W Fort Street, MSC 033
Boise, ID 83724

Chief, Natural Resources Division
Office of Attorney General
State of Idaho
PO Box 83720
Boise, ID 83720-0010



Signature of Movant or attorney
mailing on Movant's behalf



Mihara Law PLLC

An Idaho Professional Limited Liability Company

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Attorney and Counselor at Law
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Coeur d'Alene, Idaho 83814

Phone: (208) 292-4883
Fax: (208) 620-2200
khmihara@miharalawpllc.com

December 17, 2019

Idaho Department of Water Resources
Attn: Sandy Thiel and/or Craig Saxton
322 E. Front Street, Ste. 648
Boise, Idaho 83702 -7371

Re: **Notice of Late Claim – Water Right 95-2044 (License No. 7812)**

Dear Ms. Thiel and Mr. Saxton:

Please let this letter memorialize that the undersigned represents the Jake and Jilleen Scott Family Trust and transmit documents in support of the Trust's late claim to a water right.

To that end there is enclosed a *Notice of Claim to a Water Right* (acquired under state law). In support of the notice are nine (9) exhibits for your office's backfile:

- (1) A Section map of Sections 33 and 34, Township 49 North, Range 4 West Boise Meridian - showing Mancil Gordon's proposed works for Water Right Permit No. 7812 dated from 1911;
- (2) Application to appropriate waters of the State of Idaho by Mancil Gordon;
- (3) Approval of the state engineer for work to begin for Water Right Permit No. 7812;
- (4) Engineers Report verifying completion of water works for Permit No. 7812;
- (5) Certificate of completion of works for Permit No. 7812;
- (6) Water License No. 7812;
- (7) Aerial and Topographic Maps of Point of Diversion and Place of Use;
- (8) Current photographs of Places of Use; and,
- (9) Affidavit of Jake Scott.

Taken together, these nine exhibits show there was a very simple mapping error which occurred in the early 1900's. While the permit and supporting documents note the approximate location of the point of diversion and places of use – such are all off by a quarter section to the west. The places of use are clearly identified by the aerial and topographic maps, as well as the current photographs of the places of use; all explained by the Affidavit of Jake Scott.

The claim was late as Mr. and Mrs. Scott, and therefore their trust – which owns the real property upon which the places of use are located, just found out about this historic water license appurtenant to their property. The mapping error certainly had a lot to do with the matter.

Please do not hesitate should you have any questions or concerns about my client's claims.

Very truly yours,

MIHARA LAW PLLC

Kinzo H. Mihara

Cc. File.

Encl. As noted.