

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 61-353  
Date Received: 7/9/2001  
Receipt No: C054445  
Received By:

COPY FOR YOUR FILE

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

ROCKY MOUNTAIN LAND & CATTLE LLC Phone: (208) 523-0620

C/O HOLDEN KIDWELL HAHN CRAPO  
PO BOX 50130  
IDAHO FALLS ID USA 83405

2. Date of Priority: 04/01/1891

3. Source: KING HILL CREEK Trib. to: SNAKE RIVER

4. Point of Diversion:

| Township | Range | Section | 1/4 of 1/4 of 1/4 Lot |    |    | County | Type |
|----------|-------|---------|-----------------------|----|----|--------|------|
| 04S      | 10E   | 26      | NW                    | NW | SW | ELMORE |      |

5. Description of diverting works:

ROCK DEN IN CREEK AND HEADGATE FOR DITCH TO PLACE OF USE.

6. Water is used for the following purposes:

| Purpose    | From  | To    | C.F.S. | (or) A.F.A |
|------------|-------|-------|--------|------------|
| IRRIGATION | 03/15 | 11/15 | 1.12   |            |

7. Total Quantity Appropriated is:  
1.12 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 |
|----------|-------|---------|-----|--------|-----|---------------|-------|
| 05S      | 10E   | 1       | SE  | NE     |     | IRRIGATION    | 40.2  |
|          |       |         | NE  | SE     |     | IRRIGATION    | 31    |
|          |       |         | NW  | SE     |     | IRRIGATION    | 1.4   |
|          |       |         | SE  | SE     |     | IRRIGATION    | 8.4   |
|          |       |         | NE  | NE     |     | IRRIGATION    | 25.1  |
|          |       |         | NW  | NE     |     | IRRIGATION    | 29    |
|          |       |         | SW  | NE     |     | IRRIGATION    | 30    |
|          |       |         |     |        |     |               |       |
| 05S      | 10E   | 12      | NE  | NE     |     | IRRIGATION    | 6     |
|          |       |         |     |        |     | Section Acres | 6     |
| 05S      | 11E   | 5       | NE  | SW     |     | IRRIGATION    | 28    |
|          |       |         | NW  | SW     |     | IRRIGATION    | 31    |
|          |       |         | SW  | SW     |     | IRRIGATION    | 40    |
|          |       |         | SE  | SW     |     | IRRIGATION    | 14    |
|          |       |         | NW  | SE     |     | IRRIGATION    | 3.7   |
|          |       |         |     |        |     | Section Acres | 116.7 |
| 05S      | 11E   | 6       | NE  | SW     |     | IRRIGATION    | 40    |
|          |       |         | NW  | SW     |     | IRRIGATION    | 31    |
|          |       |         | SW  | SW     |     | IRRIGATION    | 20    |
|          |       |         | SE  | SW     |     | IRRIGATION    | 9.1   |
|          |       |         | NE  | SE     |     | IRRIGATION    | 33    |
|          |       |         | NW  | SE     |     | IRRIGATION    | 32    |
|          |       |         | SW  | SE     |     | IRRIGATION    | 20    |
|          |       |         | SE  | SE     |     | IRRIGATION    | 30.5  |
|          |       |         | SW  | NE     |     | IRRIGATION    | 12.5  |
|          |       |         | NW  | NE     |     | IRRIGATION    | 14    |
|          |       |         | SE  | NE     |     | IRRIGATION    | 13    |
|          |       |         | NE  | NW     |     | IRRIGATION    | 11    |
|          |       |         | NW  | NW     |     | IRRIGATION    | 9.3   |
|          |       |         | SW  | NW     |     | IRRIGATION    | 30.1  |
|          |       |         | SE  | NW     |     | IRRIGATION    | 40    |
|          |       |         |     |        |     | Section Acres | 345.5 |
| 05S      | 11E   | 7       | NE  | NE     |     | IRRIGATION    | 1.7   |
|          |       |         | NW  | NE     |     | IRRIGATION    | 12    |
|          |       |         |     |        |     | Section Acres | 13.7  |

|     |     |   |    |    |               |       |
|-----|-----|---|----|----|---------------|-------|
| 05S | 11E | 8 | NE | NW | IRRIGATION    | 3.2   |
|     |     |   | NW | NW | IRRIGATION    | 19    |
|     |     |   |    |    | Section Acres | 22.2  |
|     |     |   |    |    | Total Acres   | 669.2 |

11. Place of use in counties: ELMORE

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

13. Other Water Rights Used:

14. Remarks:

OTHER WATER RIGHTS USED AT THE SAME PLACE AND FOR THE SAME PURPOSE AS DESCRIBED ABOVE ARE 61-349, 94-356, 61-357, 61-2242, 61-2243 AND 61-7231. ALSO WATER SUPPLIED BY KING HILL IRRIGATION DISTRICT.

15. Basis of Claim: Decreed

RECEIVED

JUN 21 2001

Department of Water Resources

RECEIVED

JUN 21 2001

Department of Water Resources

2001 JUN 19 PM 4: 07

DISTRICT COURT-SRBA  
TWIN FALLS CO., IDAHO  
FILED \_\_\_\_\_

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     | ) | Water Right: 61-00353         |
|                | ) |                               |
| Case No. 39576 | ) | ORDER GRANTING MOTION TO FILE |
|                | ) | LATE NOTICE OF CLAIM          |

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On March 22, 2001, a *Motion to File Late Notice of Claim* was filed by Rocky Mountain Land & Cattle, LLC, by and through its attorney, Kent Foster. All procedural requirements under *SRBA Administrative Order 1* were complied with in filing this *Motion to File Late Notice of Claim*. A hearing on the *Motion* was held June 19, 2001. No valid objections were made to this *Motion*. Therefore, IT IS ORDERED that the *Motion to File Late Notice of Claim* filed by Rocky Mountain Land & Cattle, LLC, is **granted**.

DATED June 19, 2001.



ROGER S. BURDICK  
Presiding Judge  
Snake River Basin Adjudication

## CERTIFICATE OF MAILING

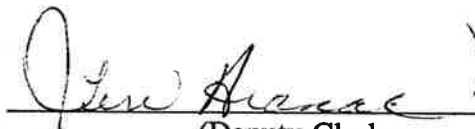
I certify that a true and correct copy of the *Order Granting Motion to File Late Notice of Claim* was mailed on June 20, 2001, with sufficient first-class postage prepaid to the following:

Director of IDWR  
PO Box 83720  
Boise, ID 83720-0098  
W/ Copies of Motion and Claim  
And Fee

U.S. Department of Justice  
Environment & Natural Resources Div.  
550 W Fort St., MSC 033  
Boise, ID 83724

Chief, Natural Resources Div.  
Office of the Attorney General  
State of Idaho  
PO Box 44449  
Boise, ID 83711-4449

Kent Foster  
Holden Kidwell Hahn & Crapo  
PO Box 50130  
Idaho Falls, ID 83405-0130

  
(Deputy Clerk)

RECEIVED

APR -2 2001

As per District Records

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 61-353

(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.

COPY

- ☒ 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 Rocky Mountain Land & Cattle, LLC

My name is Kent W. Foster of the law firm of Holden, Kidwell, Hahn & Crapo, P.L.L.C.

My address is P.O. Box 50130, Idaho Falls, Idaho 83405  
\_\_\_\_\_

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:

Rocky Mountain Land & Cattle, LLC, acquired this farm land in 1999 after the SRBA filings had been completed by its predecessors. We just recently discovered that no one had filed a claim for two of the older priority rights and believe that they are still valid rights and should be claimed.

- ☐ 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.)

A copy of the Decree in the case of E.M. Kimbrough v. Hiram Canfield, et al, and the applicable transfer documents from 1974 are attached.

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 June 9, 2001 at 1:30  
(Insert Date and Time)  
at the Cassia County Courthouse, 1459 Overland Ave., Burley, 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.

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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

State of Idaho

County of Bonneville

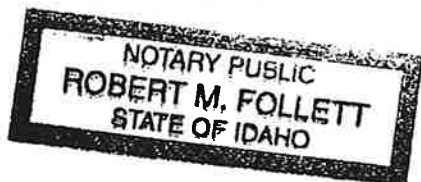
Kent W. Foster, being first duly sworn, upon oath, deposes and says:

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

*Kent W. Foster*  
\_\_\_\_\_  
Attorney signing in representative capacity

Subscribed and sworn to before me on 3-21-2001



*Robert M. Follett*  
Notary Public for Idaho  
Residing at: Idaho Falls, Id.  
My Commission expires: 11-17-2006

## CERTIFICATE OF MAILING

I certify that on March 21, 2001 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

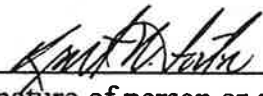
2. Copies to:

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

3. If you are filing an amend 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.

  
\_\_\_\_\_  
Signature of person or attorney mailing the form

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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 61-353

Date Received 6-21-01

Receipt Number 0054445

RECEIVED

JUN 21 2001

Department of Water Resources

NOTICE OF CLAIM  
TO A  
WATER RIGHT  
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s) Rocky Mountain Land & Cattle, LLC Phone (208) 523-0620

Mailing Address c/o Holden, Kidwell, Hahn & Crapo, P.L.L.C., P.O. Box 50130, Idaho Falls, ID Zip 83405

2. Date of Priority (Only (1) per claim) April 1, 1891

3. Source of water supply (a) King Hill Creek

which is tributary to (b) Snake River

4.a. Location of existing

point of diversion is: Township 4 South Range 10 East Section 26, NW 1/4 of NW 1/4 of  
SW 1/4, Govt. Lot \_\_\_\_\_, B.M., County of Elmore

Additional points of diversion if any: \_\_\_\_\_

b. If instream flow, beginning point of claimed instream flow is:

Township \_\_\_\_\_ Range \_\_\_\_\_ Section \_\_\_\_\_, 1/4 of 1/4 of 1/4, Govt. Lot \_\_\_\_\_ B.M., County of \_\_\_\_\_

ending point is: Township \_\_\_\_\_ Range \_\_\_\_\_ Section \_\_\_\_\_, 1/4 of 1/4 of 1/4 Govt. Lot \_\_\_\_\_ B.M., County of \_\_\_\_\_

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, 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. Rock den in creek and headgate for ditch to place of use

6. Water is claimed for the following purposes:

(Both dates are inclusive) (cfs) (acre feet)

For Irrigation purposes from March 15 to November 15 amount 1.12 cfs or \_\_\_\_\_

For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_

7. Total quantity claimed (a) 1.12 (cfs) and/or (b) \_\_\_\_\_ (acre feet)

8. Total consumptive use claimed is \_\_\_\_\_ acre feet per annum.

10. Description of place of use:
  - a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
  - b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instruction for standard symbols.

Total number of acres irrigated 669.2

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

None ( )

Plaintiff vs Defendant E.M. Kimbrough v. Hiram Canfield, et al

Date \_\_\_\_\_

Last Name Rocky Mountain Land & Cattle, LLC Ident. Number 61-353

For Organizations: I do sole y swear or affirm that I am managing member of Rocky Mountain Land & Cattle, LLC,  
Title Organization  
that I have signed the foregoing document in the space below as managing member  
Title  
of Rocky Mountain Land & Cattle, LLC and that the statements contained in the foregoing document are true and correct.  
Organization

Signature of Authorized Agent

Title and Organization

Date

State of Idaho/or

County of

Subscribed and sworn (or affirmed) before me this 20 day of March, 2000.

Notary Public

Residing at

My Commission Expires

#### 17. Notice of Appearance:

Notice is hereby given that I, Kent W. Foster 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

Address P.O. Box 50130, Idaho Falls, Idaho 83405

Date

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**State of Idaho**

**DEPARTMENT OF WATER RESOURCES**

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098  
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: [www.idwr.state.id.us](http://www.idwr.state.id.us)

**DIRK KEMPTHORNE**  
Governor

**KARL J. DREHER**  
Director

July 10, 2001

Kent W. Foster  
Holden, Kidwell, Hahn & Crapo  
P.O. Box 50130  
Idaho Falls, ID 83405

RE: Snake River Basin Adjudication (SRBA)  
Notices of Claim to a Water Right #61-349 and 61-353  
Your Client: Rocky Mountain Land & Cattle, LLC

Dear Mr. Foster:

—The Notices of Claim to a Water Right you filed for your client, Rocky Mountain Land & Cattle, LLC, were received from the SRBA Court recently. We have enclosed data-entered copies of their claims for your records. I have also enclosed your receipt #C05445 for the filing fees.

Your client's Notices of Claim will be investigated and reported to the Court in a future supplemental Director's Report. Please contact me at 208/327-7932 if you have any questions.

Please notify us in writing if their address changes or if there is a change in ownership of their property and water rights.

Sincerely,

Donald V. Shaff, Manager  
Adjudication Technical Section

DVS:ss:region  
Enclosure:

Data-entered Copies of Claims Referenced Above  
Receipt #C054445