

**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 37-801

Date Received: \_\_\_\_\_

Receipt No: C080800

Received By: \_\_\_\_\_

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

**Please type or print clearly**

1. Name of Claimant (s) GERALD B. & AUDREY BASHAW

Mailing Address PO BOX 767

PICABO

ID

ZIP 83348

Street or Box

City

State

2. Date of Priority (Only one (1) per claim) APRIL 1, 1950

Month Day Year (YYYY)

3. Source of water supply (Check one) Ground Water (✓) or Other ( ) (a) \_\_\_\_\_

which is tributary to (b) \_\_\_\_\_

4. a. Location of Point of Diversion is: Township 1N, Range 19E, Section 35,  
SW, 1/4 of SW, 1/4 Govt. Lot \_\_\_\_\_, BM., County of BLAINE

Parcel (PIN) no. \_\_\_\_\_

Additional points of diversion if any: NWNW, S2, T1S, R19E, BLAINE COUNTY

If available, GPS Coordinates \_\_\_\_\_

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

Township \_\_\_\_\_, Range \_\_\_\_\_, Section \_\_\_\_\_, \_\_\_\_\_, 1/4 of \_\_\_\_\_, 1/4

Govt. Lot \_\_\_\_\_, BM., County of \_\_\_\_\_

ending point is: Township \_\_\_\_\_, Range \_\_\_\_\_, Section \_\_\_\_\_, \_\_\_\_\_, 1/4 of \_\_\_\_\_, 1/4

Govt. Lot \_\_\_\_\_, BM., 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. PUMP AT EACH WELL. WATER IS PUMPED INTO PIPES AND DISTRIBUTED TO PIVOTS. BOTH WELLS ARE 75 FEET DEEP.

**SCANNED**

**JUN 22 2009**

6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For IRRIGATION purposes from 4/15 to 10/31 amount 2CFS or \_\_\_\_\_

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

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

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

7. Total quantity claimed (a) 2CFS (cfs) and/or (b) \_\_\_\_\_ (acre feet)

8. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.) \_\_\_\_\_

9. 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 instructions for standard symbols.

| Twn | Rng | Sec | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | Totals |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
| 1N  | 19E | 34  |    |    |    |    |    |    |    |    |    |    |    |    | 16 |    |    | 20 | 36     |
|     |     | 35  |    |    |    |    |    |    |    |    |    | 19 | 35 |    |    |    |    |    | 54     |
| 1S  |     | 2   |    |    | 15 |    |    |    | 5  |    | 40 | 33 | 35 | 25 | 25 | 18 | 10 | 40 | 246    |
|     |     | 3   |    |    | 8  |    |    |    |    |    |    |    |    |    | 30 | 3  |    | 4  | 45     |
|     |     | 11  | 35 |    |    |    | 3  | 15 |    |    |    |    |    |    |    |    |    |    | 53     |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |

Parcel (PIN) no(s) \_\_\_\_\_

Total number of acres irrigated 434

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

11. Do you own the property listed above as place of use? Yes (✓) No ( )

If your 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.

37-4142 & 37-11556

or None ( )

13. Remarks: THIS WATER RIGHT WAS ORIGINALLY DECREED IN THE CLOVER LAND & LIVESTOCK COMPANY V. ALLRED DECREE (MAY 10, 1951)

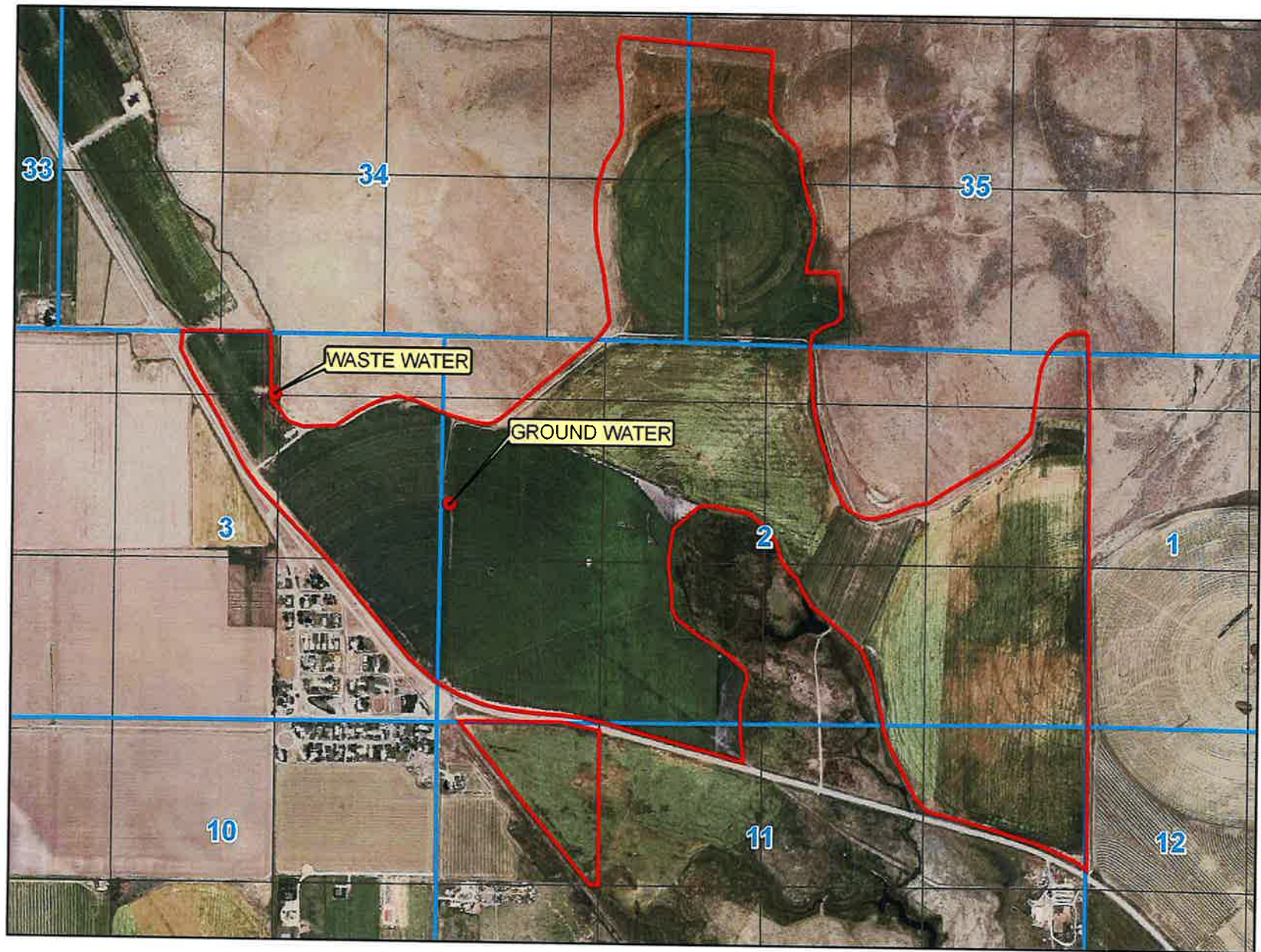
SCANNED

JUN 22 2009

Last Name BASHAW

Identification No. \_\_\_\_\_

SCANNED  
JUN 2 2 2009



**BASHAW  
WATER RIGHT 37-4141 P.O.D.  
NAIP 2006 AERIAL**

BROCKWAY ENGINEERING, PLLC.  
ALR - MARCH 30, 2009

**Legend**

- POD 37-4141, 37-4142
- t01s19e
- Sections\_1s19e
- t01n19e
- Place\_of\_Use



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

Court BLAINE CTY. Decree Date MAY 10, 1951 Plaintiff v. Defendant CLOVER LAND & LIVESTOCK

If applicable provide IDWR Water Right Number 37-801

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 notices in the Coeur d'Alene-Spokane 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 under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s)

Gerald B. Bashaw  
Audrey C. Bashaw

Date: 3/28/09  
Date: 3/28/09

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 \_\_\_\_\_ Date \_\_\_\_\_

Title and Organization \_\_\_\_\_

16. Notice of Appearance:

Notice is hereby given that I, ALBERT P. BARKER & PAUL L. ARRINGTON, 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 \_\_\_\_\_ Date \_\_\_\_\_

Address PO BOX 2139

BOISE, ID 83701-2139

Last Name BASHAW Identification No. \_\_\_\_\_

DISTRICT COURT - SABA  
TWIN FALLS CO., IDAHO  
FILED  
2009 MAR 31 PM 3 24

SCANNED

JUN 22 2009

03-27-'09 10:05 FROM-

T-156 P021/021 F-360

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

Court BLAINE CTY. Decree Date MAY 10, 1951 Plaintiff v. Defendant CLOVER LAND & LIVESTOCKIf applicable provide IDWR Water Right Number 37-801

## 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 notices in the Coeur d'Alene-Spokane 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 under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) Gerald B. BashawDate: 3/28/09Andrew C. BashawDate: 3/28/09

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

\_\_\_\_\_  
Title of \_\_\_\_\_ Organization

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

\_\_\_\_\_  
Title of \_\_\_\_\_ Organization

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

Signature of Authorized Agent \_\_\_\_\_ Date \_\_\_\_\_

Title and Organization \_\_\_\_\_

## 16. Notice of Appearance:

Notice is hereby given that I, ALBERT P. BARKER & PAUL L. ARRINGTON, 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 [Signature] Date 3/30/09Address PO BOX 2139BOISE, ID 83701-2139

SCANNED

JUN 22 2009

Last Name BASHAW

Identification No. \_\_\_\_\_

RECEIVED  
JUN 19 2009  
DEPARTMENT OF  
WATER RESOURCES

|                                                                                         |
|-----------------------------------------------------------------------------------------|
| DISTRICT COURT-SRBA<br>Fifth Judicial District<br>County of Twin Falls - State of Idaho |
| JUN 18 2009                                                                             |
| By _____ Clerk<br>Deputy Clerk                                                          |

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

) Subcases: 37-00800 & 37-00801

Case No. 39576

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

On March 30, 2009, Gerald B. and Audrey Bashaw, by and through counsel, Paul L. Arrington, filed a *Motion to File Late Notice of Claim* for each of the above-captioned water rights. Hearing was held on the *Motions* on June 16, 2009. 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 June 18, 2009.

  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

SCANNED  
JUN 22 2009

**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 June 18, 2009, with sufficient first-class postage to the following:

AUDREY BASHAW  
GERALD B BASHAW  
Represented by:  
PAUL L ARRINGTON  
113 MAIN AVE W, STE 303  
PO BOX 485  
TWIN FALLS, ID 83303-0485  
Phone: 208-733-0700

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

**SCANNED**

**JUN 22 2009**

ORDER

Page 1 6/18/09

FILE COPY FOR 01794

Deputy Clerk

*Julie Murphy*

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

In Re SRBA

Case 39576

*Receiving: 6-16-09*  
*ghysa made*  
*Don on 2nd P.O.D.*  
*d.o. & fees!*

Subcase 37-800 & 37-801  
(Insert water right number)

STANDARD FORM 4

MOTION TO FILE:

☒ LATE NOTICE OF CLAIM

☐ AMENDED NOTICE OF CLAIM

**MAR 31 2009**  
DEPARTMENT OF  
WATER RESOURCES

*Fees Ok.*  
*Claim is Complete*  
*C. S. Smith*  
*7-27-09*

**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.

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

My name is Gerald B. Bashaw & Audrey Bashaw

My address is P.O. Box 767, Picabo, Idaho 83348

My phone number is: Work \_\_\_\_\_ Home (208)788-6571

I am an attorney representing Gerald B. Bashaw & Audrey Bashaw

My name is Albert P. Barker and Paul L. Arrington

My address is P.O. Box 2139, Boise, ID 83701-2139

My phone number is (208)336-0700

### 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 attached Memorandum in Support of Motion to File Late Notice of Claim.

☐ 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 attached Memorandum in Support of Motion to File Late 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 \$200.

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 16, 2009 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:

---

---

---

- ☐ 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 Twin Falls

Paul Arrington, 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.

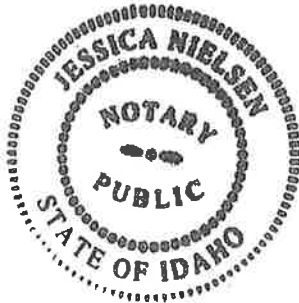
Signature of person filing motion



Attorney signing in representative capacity

Subscribed and sworn to before me on Paul Arrington

(Insert Date)



Jessica Nielsen  
Notary Public for Idaho  
Residing at: Twin Falls  
My Commission expires: 4/3/12

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 March 30, 2009, 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 37-801  
Date Received: \_\_\_\_\_  
Receipt No: \_\_\_\_\_  
Received By: \_\_\_\_\_

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

Please type or print clearly

1. Name of Claimant (s) GERALD B. & AUDREY BASHAW Phone (208) 788-6571

Mailing Address PO BOX 767 PICABO ID 83348  
Street or Box City State ZIP

2. Date of Priority (Only one (1) per claim) APRIL 1, 1950  
Month Day Year (YYYY)

3. Source of water supply (Check one) Ground Water (✓) or Other ( ) (a) \_\_\_\_\_  
which is tributary to (b) \_\_\_\_\_

4. a. Location of Point of Diversion is: Township 1N, Range 19E, Section 35,  
SW, 1/4 of SW, 1/4 Govt. Lot \_\_\_\_\_, BM., County of BLAINE

Parcel (PIN) no. \_\_\_\_\_

Additional points of diversion if any: NWNW, S2, T1S, R19E, BLAINE COUNTY

If available, GPS Coordinates \_\_\_\_\_

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

Township \_\_\_\_\_, Range \_\_\_\_\_, Section \_\_\_\_\_, \_\_\_\_\_, 1/4 of \_\_\_\_\_, 1/4

Govt. Lot \_\_\_\_\_, BM., County of \_\_\_\_\_

ending point is: Township \_\_\_\_\_, Range \_\_\_\_\_, Section \_\_\_\_\_, \_\_\_\_\_, 1/4 of \_\_\_\_\_, 1/4

Govt. Lot \_\_\_\_\_, BM., 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. PUMP AT EACH WELL. WATER IS PUMPED INTO PIPES AND  
DISTRIBUTED TO PIVOTS. BOTH WELLS ARE 75 FEET DEEP.

**SCANNED**

**MAR 31 2009**

6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For IRRIGATION purposes from 4/15 to 10/31 amount 2CFS or \_\_\_\_\_

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

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

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

7. Total quantity claimed (a) 2CFS (cfs) and/or (b) \_\_\_\_\_ (acre feet)

8. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.) \_\_\_\_\_

9. 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 instructions for standard symbols.

| Twn | Rng | Sec | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | Totals |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
| 1N  | 19E | 34  |    |    |    |    |    |    |    |    |    |    |    |    | 16 |    |    | 20 | 36     |
|     |     | 35  |    |    |    |    |    |    |    |    |    | 19 | 35 |    |    |    |    |    | 54     |
| 1S  |     | 2   |    |    | 15 |    |    |    | 5  |    | 40 | 33 | 35 | 25 | 25 | 18 | 10 | 40 | 246    |
|     |     | 3   |    |    | 8  |    |    |    |    |    |    |    |    |    | 30 | 3  |    | 4  | 45     |
|     |     | 11  | 35 |    |    |    | 3  | 15 |    |    |    |    |    |    |    |    |    |    | 53     |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |

Parcel (PIN) no(s). \_\_\_\_\_

Total number of acres irrigated 434

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

11. Do you own the property listed above as place of use? Yes (✓) No ( )

If your 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.

37-4142 & 37-11556 or None ( )

13. Remarks: THIS WATER RIGHT WAS ORIGINALLY DECREED IN THE CLOVER LAND & LIVESTOCK COMPANY V. ALLRED DECREE (MAY 10, 1951)

Last Name BASHAW Identification No. 37-801

SCANNED

MAR 31 2009



**BASHAW  
WATER RIGHT 37-4141 P.O.D.  
NAIP 2006 AERIAL**

BROCKWAY ENGINEERING, PLLC.  
ALR - MARCH 30, 2009

**Legend**

- |                        |                |
|------------------------|----------------|
| ● POD 37-4141, 37-4142 | □ t01s19e      |
| □ Sections_1s19e       | □ Place_of_Use |
| □ t01n19e              |                |



37-801

**SCANNED**  
**MAR 31 2009**

03-27-'09 10:05 FROM-

T-156 P021/021 F-360

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

Court BLAINE CTY. Decree Date MAY 10, 1951 Plaintiff v. Defendant CLOVER LAND & LIVESTOCKIf applicable provide IDWR Water Right Number 37-801

## 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 notices in the Coeur d'Alene-Spokane 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 under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s)

Ronald B. BashawDate: 3/28/09Quedrus C. BashawDate: 3/28/09

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

\_\_\_\_\_, Title \_\_\_\_\_ of \_\_\_\_\_ Organization \_\_\_\_\_

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

\_\_\_\_\_, Title \_\_\_\_\_ of \_\_\_\_\_ Organization \_\_\_\_\_

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

Signature of Authorized Agent \_\_\_\_\_ Date \_\_\_\_\_

Title and Organization \_\_\_\_\_

## 16. Notice of Appearance:

Notice is hereby given that I, ALBERT P. BARKER & PAUL L. ARRINGTON, 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 [Signature] Date 3/30/09Address PO BOX 2139BOISE, ID 83701-2139Last Name BASHAW Identification No. 37-801

SCANNED

MAR 31 2009

Albert P. Barker, ISB #2867  
Paul L. Arrington, ISB #7198  
**BARKER ROSHOLT & SIMPSON LLP**  
1010 W. Jefferson, Suite 102  
P.O. Box 2139  
Boise, Idaho 83701-2139  
Telephone: (208) 336-0700  
Facsimile: (208) 344-6034

RECEIVED  
MAR 31 2009  
DEPARTMENT OF  
WATER RESOURCES

*Attorneys for Gerald B. Bashaw & Audrey Bashaw*

**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

)  
) Subcase No. 37-800 & 37-801  
)

)  
) **MEMORANDUM IN SUPPORT OF**  
) **MOTION TO FILE LATE NOTICE OF**  
) **CLAIM**  
)  
)

COMES NOW, Gerald B. Bashaw and Audrey Bashaw ("Bashaw"), by and through counsel of record, and hereby file this *Memorandum in Support of Motion to File Late Claim*. This *Motion* is supported by the *Affidavit of Paul L. Arrington* (hereinafter "*Arrington Aff.*") filed together herewith.

**INTRODUCTION**

This motion concerns two previously appropriated *and decreed* water rights which have been continuously diverted and put to beneficial use. The rights were decreed in *Clover Land & Livestock Co. v. Allred* (Blaine Cty. District Court, May 10, 1951) (Ex. A to the *Arrington Aff.*) Since the rights were decreed and have been beneficially used, good cause exists to allow these late notices of claim.

## FACTUAL BACKGROUND

Water rights 37-800 and 37-801 are ground water rights that were originally decreed in *Clover Land & Livestock Co. v. Allred*, on May 10, 1951. *See Arrington Aff. Ex. A.* The Court decreed these rights, each for 2 cfs (total of 4 cfs), with priority dates of April 1, 1930 (37-800) and April 1, 1950 (37-801). *Id.*

These water rights have been beneficially used since that time. For example, in the *Comments and Evidence*, submitted with Bashaw's Objection to water right 37-4141, three individuals testified of their personal knowledge that one of the three points of diversion was constructed in 1947 and had been used for irrigation since that time. *See Arrington Aff. Ex. B.*

When the claim for water right 37-4141 was filed, Bashaw was unaware of the *Clover Land & Livestock* decree for water right 37-800 and 37-801. Similar to the combined diversion rates for water rights 37-800 and 37-801, the claim for water right 37-4141 is for a diversion rate of 4 cfs for irrigation.<sup>1</sup> The Director's Report recommended that water right 37-4141 be disallowed. Bashaw has filed an objection to that recommendation.<sup>2</sup> Following Bashaw's objection, Doug Jones, IDWR water agent, informed Bashaw's council that he has discovered the *Clover Land & Livestock* decree. The Department has identified the two decreed rights, appurtenant to Bashaw's property, as water right 37-800 and 37-801. To date, no claims have been filed for either water right 37-800 or 37-801.

## STANDARD OF REVIEW

Under this Court's *AOI*, a motion to file a late notice of claim is determined pursuant to I.R.C.P. 55(c). *See AOI* § 4d(2)(d) (late claims reviewed under I.R.C.P. 55(c) criteria). The Court, therefore, applies a "good cause" standard to motions to file late notices of claim. The

---

<sup>1</sup> The claim also includes 0.12 cfs for stockwatering purposes.

<sup>2</sup> Should the Court grant this *Motion to File Late Notice of Claim*, and the Department recommend new water rights 37-800 and 37-801, as claimed, then Bashaw will withdraw the objection to water right 37-4141.

“good cause” standard is a more lenient threshold than the Rule 60(b) standard. *McFarland v. Curtis*, 123 Idaho 931, 935 (Ct. App. 1993). The Rule 55(c) “good cause” standard takes into account the following factors:

- 1) whether the default was willful;
- 2) whether setting aside the judgment would prejudice the opponent.
- 3) as with a Rule 60(b) motion, whether a meritorious position has been presented.

*McFarland*, 123 Idaho at 936; *see also Order Granting Motions to File Late Notices of Claim* at 1 (Subcase No. 71-10886 et al., July 27, 2005).

Other jurisdictions apply similar criteria, such as: (1) proof that the default was not willful or culpable; (2) prompt action by the defaulting party to correct the default; (3) the existence of a meritorious defense; (4) an absence of prejudice to the opponent; (5) whether the default resulted from a good faith mistake in following a rule of procedure; (6) the nature of the defendant’s explanation for defaulting; (7) the amount in controversy; (8) the availability of effective alternative sanctions; and (9) whether entry of a default would produce a harsh or unfair result. *See Memorandum Decision and Order on Challenge; Order of Recommitment* at 6 (Subcase No. 47-14633 et al., March 22, 2005).

Finally, in determining whether to grant a motion under Rule 55(c), the Idaho Court of Appeals has instructed courts to “examine each case in light of the unique facts and circumstances presented.” *Baldwin v. Baldwin*, 114 Idaho 525, 527 (Ct. App. 1988

## **ARGUMENT**

### **I. Bashaw Meets the “Good Cause” Standard for Filing a Late Notice of Claim**

The central question presented here is whether water rights that (i) were previously claimed, reviewed and decreed, (ii) have been diverted and beneficially used; and (iii) were not

originally claimed in the SRBA, should be claimed and ultimately decreed in the SRBA. Since Bashaw's actions were not willful, the granting of this motion will not prejudice any other water user, and a meritorious position has been shown, *see Order Granting Motions to File Late Notices of Claim* at 1 (Subcase No. 71-10886 et al., July 27, 2005), this motion should be granted.

**A. Bashaw's Actions were not Willful**

The Court must first consider whether Bashaw's actions were willful. The facts demonstrate that they were not willful. First, Bashaw filed a claim for the 4 cfs decreed in the *Clover Land & Livestock* decree. The combined diversion rate for the decreed water rights is 4 cfs. Mr. Bashaw was simply unaware of the *Clover Land & Livestock* decree at the time that he submitted his claim or that the priority dates should be adjusted.

Bashaw continued to pursue the right to divert and use the 4 cfs decreed in the *Clover Land & Livestock* decree – and claimed under water right 37-4141. Bashaw filed an objection to the Director's recommendation of disallowal for water right 37-4141, and is now filing this motion, seeking to claim the decreed rights in the SRBA.

**B. Granting This Motion Will not Prejudice Other Water Users.**

No other water users will be prejudiced by the granting of this motion. Importantly, Bashaw has pursued the right to divert and use 4 cfs as decreed in the *Clover Land & Livestock* decree. In particular, Bashaw filed a claim for water right 37-4141, claiming 4 cfs, and has filed an objection to the Director's recommendation – asserting the right to divert and use 4 cfs. No additional objections or responses were submitted challenging Bashaw's claim. granting this right will simply provide an opportunity for the SRBA Court to confirm the rights that were

already decreed. No prejudice will result because any party to the SRBA will have an opportunity to participate in these proceedings by filing objections and/or responses.

**C. A Meritorious Position has been Presented.**

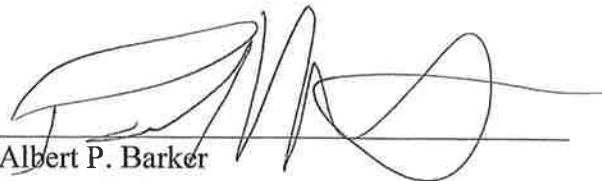
Finally, a meritorious position has been presented. As stated above, the failure to file claims for water rights 37-800 and 37-801 was not willful. This water has been put to a beneficial use since it was decreed. This water was claimed in the SRBA. This water continues to be used to this day. Bashaw was not aware of the *Clover Land & Livestock* decree until recently, at which time Bashaw submitted this motion. Failure to recognize these water rights will leave Bashaw without vital water rights necessary for their farming operations.

**CONCLUSION**

Bashaw seeks to file late claims for his decreed water rights – 37-800 and 37-801. The facts demonstrate that the failure to file claims for these water rights. Since no water user will be prejudiced by the granting of this motion and a meritorious position has been presented, the motion should be granted.

DATED this 30<sup>th</sup> day of March, 2009.

BARKER ROSHOLT & SIMPSON LLP



Albert P. Barker  
Paul L. Arrington

*Attorneys for Gerald B. Bashaw & Audrey Bashaw*

## CERTIFICATE OF SERVICE

I hereby certify that on the 30<sup>th</sup> day of March, 2009, I served a true and correct copy of the foregoing document(s) on the person(s) listed below, in the manner indicated:

Original to:

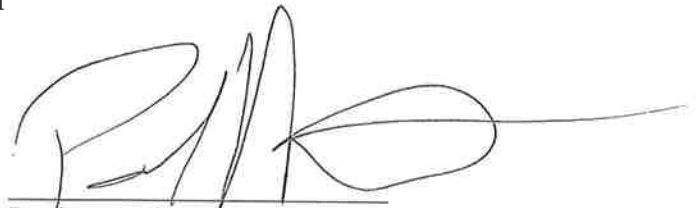
Clerk of the District Court  
Snake River Basin Adjudication  
253 3<sup>rd</sup> Ave North  
P.O. Box 2707  
Twin Falls, Idaho 83303-2707

Copies to:

IDWR Document Depository  
P.O. Box 83720  
Boise, Idaho 83720-0098

Chief, Natural Resources Division  
Office of the Attorney General  
State of Idaho  
P.O. Box 44449  
Boise, Idaho 83711-44449

United States Department of Justice  
Environment and Natural Resource Division  
550 West Fort St., MSC 033  
Boise, Idaho 83724



Paul L. Arrington

Albert P. Barker, ISB #2867  
Paul L. Arrington, ISB #7198  
**BARKER ROSHOLT & SIMPSON LLP**  
1010 W. Jefferson, Suite 102  
P.O. Box 2139  
Boise, Idaho 83701-2139  
Telephone: (208) 336-0700  
Facsimile: (208) 344-6034

RECEIVED  
MAR 31 2009  
DEPARTMENT OF  
WATER RESOURCES

*Attorneys for Gerald B. Bashaw & Audrey Bashaw*

**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

Subcase No. 37-800 & 37-801

**AFFIDAVIT OF PAUL L. ARRINGTON**

I, PAUL L. ARRINGTON, being first duly sworn upon oath, deposes and hereby states as follows:

1. I reside in Twin Falls County and I am over the age of 18. I am an attorney representing Gerald B. and Audrey Bashaw, in this matter.
2. Attached hereto, as Exhibit A, is a true and correct copy of the water right decree issued in *Clover Land & Livestock Co. v. Allred* (Blaine Cty. District Court, May 10, 1951).
3. Attached hereto, as Exhibit B, are true and correct copies of the *Comments and Evidence*, submitted with the objection filed by Gerald and Audrey Bashaw in subcase 37-4141.

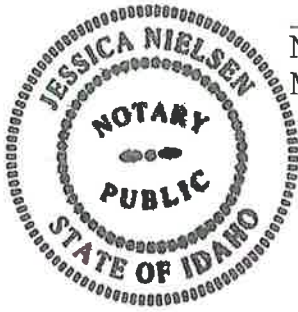
FURTHER YOUR AFFIANT SAYETH NAUGHT

Paul L. Arrington

AFFIDAVIT OF PAUL L. ARRINGTON

SCANNED  
MAR 31 2009

SUBSCRIBED & SWORN to before me this 30<sup>th</sup> day of March, 2009.



Jessica Nielsen  
Notary Public in and for the State of Idaho  
My Commission Expires: 4/3/12

## CERTIFICATE OF SERVICE

I hereby certify that on the 30<sup>th</sup> day of March, 2009, I served a true and correct copy of the foregoing document(s) on the person(s) listed below, in the manner indicated:

Original to:

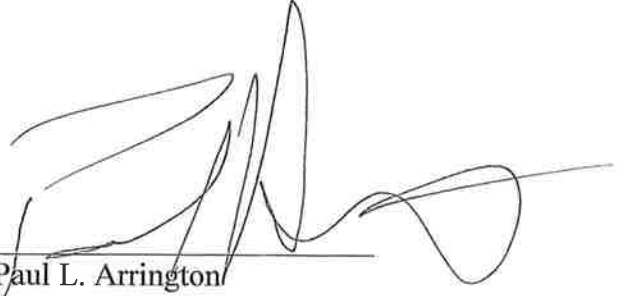
Clerk of the District Court  
Snake River Basin Adjudication  
253 3<sup>rd</sup> Ave North  
P.O. Box 2707  
Twin Falls, Idaho 83303-2707

Copies to:

IDWR Document Depository  
P.O. Box 83720  
Boise, Idaho 83720-0098

Chief, Natural Resources Division  
Office of the Attorney General  
State of Idaho  
P.O. Box 44449  
Boise, Idaho 83711-44449

United States Department of Justice  
Environment and Natural Resource Division  
550 West Fort St., MSC 033  
Boise, Idaho 83724



Paul L. Arrington

# Exhibit A

SCANNED

MAR 31 2009

644  
128-5  
37-A5-2W  
✓

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE,

GLOVER LAND AND LIVESTOCK COMPANY,  
a corporation,

Plaintiff,

-VS-

O. E. ALLRED and JENNIE ALLRED,  
husband and wife; MRS. WALTER BROWN,  
a widow; ALVA RHODES and IDA RHODES,  
husband and wife,

Defendants.

DECREE

The above entitled case came on for hearing before D. H. Sutphen, Judge of the District Court of the Fourth Judicial District, in chambers at Gooding, Idaho, the 23rd day of February, 1951, upon the complaint of plaintiff and the cross-complaint of the defendants, plaintiff appearing by O. W. Gardner, its manager, and John H. Daly of the firm of Parry, Keenan, Robertson & Daly, its attorneys, and the defendants appearing in person and by Chas. C. Shaw of the firm of James, Shaw & James, their attorneys, and evidence having been offered and received on behalf of plaintiff and support of its complaint, and on behalf of defendants and in support of their cross-complaint and a stipulation of facts executed by all parties having been introduced in evidence, and the cause having been taken under advisement by the Court, and then by the Court set for further hearing April 30, 1951, and at which latter time before said Judge in chambers at Gooding, Idaho, the same parties appearing, excepting that the defendants Allred and Brown appeared by counsel only, and additional testimony having been taken and documentary evidence introduced and admitted, and all the evidence being by the Court understood and duly considered, and the Court having made and filed its findings of fact and conclusions of law constituting its decision herein, it is by the Court;

PARRY, KEENAN, ROBERTSON & DALY  
ATTORNEYS  
TWIN FALLS, IDAHO

SCANNED

MAR 31 2009

ORDERED, ADJUDGED AND DECREED:

37 0800

(1). That there is hereby adjudged and decreed to defendants and cross-complainants Alva Rhodes and Ida Rhodes, husband and wife, for the irrigation of and domestic purposes on those lands in Blaine County, Idaho, described as follows:

Pr. SE $\frac{1}{4}$ SE $\frac{1}{4}$  being Tax No. 1670, Section 3; Pr. SE $\frac{1}{4}$ NW $\frac{1}{4}$  being Tax No. 3, NW $\frac{1}{4}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$  of NE $\frac{1}{4}$ SE $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$ , Pr. NW $\frac{1}{4}$ SW $\frac{1}{4}$  being Tax No. 167, NW $\frac{1}{4}$ SW $\frac{1}{4}$ , Section 2; and Pr. NE $\frac{1}{4}$ NE $\frac{1}{4}$  being Tax No. 1717, E $\frac{1}{2}$  of SW $\frac{1}{4}$ N $\frac{1}{4}$ , E $\frac{1}{2}$  of NE $\frac{1}{4}$ SE $\frac{1}{4}$ , and Pr. NW $\frac{1}{4}$ NE $\frac{1}{4}$  being Tax No. 1718, Section 11, all in Township 1 South, Range 19 E.B.M.

the use of 2 cubic feet per second of time of underground waters diverted on NE $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 3, Township 1 South, Range 19, E.B.M., with priority of April 1, 1930; that the use of said quantity of water is necessary for the production of agricultural crops on said lands and for domestic purposes thereon.

37 0801

(2). And there is hereby also adjudged and decreed to defendants and cross-complainants Alva Rhodes and Ida Rhodes, husband and wife, for the irrigation of and domestic purposes on the same lands before described the use of 2 cubic feet per second of time of underground waters diverted on NE $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 3, Township 1 South, Range 19 E.B.M., with priority of April 1, 1950; that the use of said quantity of water is necessary for the production of agricultural crops on said lands and for domestic purposes thereon.

37 0802

(3). That there is hereby adjudged and decreed to plaintiff Clover Land and Livestock Company for the irrigation of and domestic purposes on those lands in Blaine County, Idaho, described as follows:

A parcel of land in square form in the Northwest corner of the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 3, Township 1 South, Range 19 East, Boise Meridian, containing one-fourth (1/4) acre.

NW $\frac{1}{4}$  of the NW $\frac{1}{4}$ , SW $\frac{1}{4}$  of the NW $\frac{1}{4}$ , SE $\frac{1}{4}$  of the NW $\frac{1}{4}$ , NE $\frac{1}{4}$  of the SW $\frac{1}{4}$ , NW $\frac{1}{4}$  of the SW $\frac{1}{4}$ , NW $\frac{1}{4}$  of the SE $\frac{1}{4}$ , SW $\frac{1}{4}$  of the SE $\frac{1}{4}$ , SE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 12, Township 1 South, Range 19 East, Boise Meridian.

SE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 13, Township 1 South, Range 19 East, Boise Meridian.

COANNED

MAR 31 2009

Lot 2 of Section 7, Township 1 South, Range 20 East, Boise Meridian.

NE $\frac{1}{4}$  of the NW $\frac{1}{4}$ , NW $\frac{1}{4}$  of the NW $\frac{1}{4}$ , SW $\frac{1}{4}$  of the NW $\frac{1}{4}$ ,  
SE $\frac{1}{4}$  of the NW $\frac{1}{4}$ , NE $\frac{1}{4}$  of the SW $\frac{1}{4}$ , of Section 18,  
Township 1 South, Range 20 East, Boise Meridian.

(2) Cont the use of 5 cubic feet per second of time of underground waters diverted on:

A parcel of land in square form in the Northwest corner of the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 3, Township 1 South, Range 19 East, Boise Meridian, containing one-fourth (1/4) acre,

with priority of April 1, 1935; that the use of said quantity of water is necessary for the production of agricultural crops on said lands and for domestic purposes thereon.

37 0803 (4). That there is hereby adjudged and decreed to defendants and cross-complainants G. E. Allred and Jennie Allred, husband and wife, for the irrigation of and domestic purposes on those lands in Blaine County, Idaho, described as follows:

Lots 1, 2, 3 and 4, Section 4, and Lot 4, Section 3, all in Township 1 South, Range 19 E.B.M.

the use of 2.54 cubic feet per second of time of underground waters diverted on Lot 4, Section 4, Township 1 South, Range 19 E.B.M. with priority of June 15, 1946; that the use of said quantity of water is necessary for the production of agricultural crops on said lands and for domestic purposes thereon.

37 0804 (5). That there is hereby adjudged and decreed to defendant and cross-complainant Mrs. Walter Brown for the irrigation of and domestic purposes on those lands in Blaine County, Idaho, described as follows:

4 Fr. Lot 2 being Tax No. 198; Fr. NW $\frac{1}{4}$  SE $\frac{1}{4}$  being Tax No. 2261; Lot 3; and NE $\frac{1}{4}$  SW $\frac{1}{4}$ , all in Section 3, Township 1 South, Range 19, E.B.M.

the use of 2.61 cubic feet per second of time of underground waters diverted on Lot 3, Section 3, Township 1 South, Range 19 E.B.M. with priority of April 1, 1947; that the use of said quantity of water is necessary for the production of agricultural crops on said lands and for domestic purposes thereon.

SCANNED

MAR 31 2009

That the rights of the respective parties hereto to the use of underground waters for domestic purposes on and for the irrigation of the lands, in the quantity, of the date of priority, and with the place of diversion all as hereinabove to them respectively decreed are hereby established, quieted and confirmed, and no party or parties hereto nor their attorneys, agents or employees shall hereafter assert any rights to the use of said underground waters other than as in this decree awarded.

DATED May 10th, 1951.

D. H. Sutphen  
Judge of the District Court.

FILED and Entered  
MAY 14 1951  
George F. McCoy  
CLERK, DISTRICT COURT  
BLAINE COUNTY, IDAHO

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO  
IN AND FOR THE COUNTY OF BLAINE

... CLOVER LAND AND LIVESTOCK COMPANY, .....

... a corporation, .....

Plaintiff

vs.

... C. E. ALLRED, and JENNIE ALLRED, husband

and wife; MRS. WALTER BROWN, a widow;  
ALVA RHODES and IDA RHODES, husband and  
wife, Defendant

STATE OF IDAHO,

County of Blaine,

ss.

CLERK'S CERTIFICATE OF  
TRUE COPY

I, GEORGE F. MCCOY, Clerk of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Blaine, do hereby certify that the foregoing is a full, true and correct copy of the original DECREE

in the above entitled action now on file in my office.

Given under my hand and the seal of said Court in my office, at Hailey, this 13

day of September, A. D., 1951

By Ethel Bush Deputy.

Attest: George F. McCoy Clerk.

SCANNED

MAR 31 2009

# Exhibit B

SCANNED

MAR 31 2009

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF THE USAGE OF WATER FOR  
IRRIGATION PURPOSES UNDER WATER CLAIMS  
37-4141 AND 37-4142 FOR THE PROPERTY KNOWN  
AS LOVING SPRINGS RANCH

) COMMENTS AND  
) EVIDENCE OF  
) \_\_\_\_\_  
)

COMES NOW, R. L. Shabino, and provides the following comments and evidence in this matter:

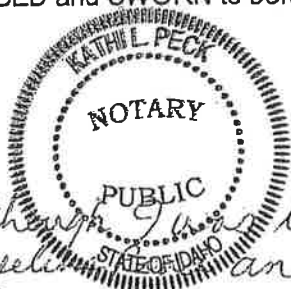
1. I have lived and operated farms and ranches in the Picabo and Gannett area for most of my life and have firsthand knowledge of irrigation and water usage operations on the Loving Springs Ranch property, now owned by Gerald B. Bashaw, located primarily in Sections 2 and 3, T. 1 S, R. 19 E.
2. I was born in the year 1935.
3. To the best of my knowledge, the irrigation well located in the NW1/4 SW1/4 Section 2, T. 1 S., R. 19 E., at the location shown on Exhibit A attached hereto, was drilled in approximately 1947.
4. The well began to be used in 1947 to irrigate land primarily north of Gannett Road. I have observed the irrigation since that time and the extent of irrigation was substantially as shown on Exhibit A attached hereto.
5. The Loving Springs Ranch is located at the lower end of a lateral of the District Canal Company. Excess water that was not taken by upstream diverters on this lateral enters the property at the northwest corner of the ranch and has done so since 1931 or earlier.
6. Beginning on or about the start of the irrigation season in 1931, said wastewater has been diverted into the ditch shown on Exhibit A and used for irrigation on the ranch. I have observed the irrigation since that time and the extent of irrigation was substantially as shown on Exhibit A attached hereto. ~~W~~

DATED this 16 day of October, 2002.

R. L. Shabino  
(Signature)

R. L. SHABINO  
(Printed name)

SUBSCRIBED and SWORN to before me this 6th day of November, 2007.



Kathi L. Peck

NOTARY PUBLIC

Residing at: Carey ID

My Commission Expires: 8/31/12

Although I was born after 1931, as a young boy I lived on Baseline and rode horseback and observed continued farming on the property listed on #3 above. R. L. Shabino

SCANNED

MAR 31 2009

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF THE USAGE OF WATER FOR  
IRRIGATION PURPOSES UNDER WATER CLAIMS  
37-4141 AND 37-4142 FOR THE PROPERTY KNOWN  
AS LOVING SPRINGS RANCH

) COMMENTS AND  
) EVIDENCE OF  
) \_\_\_\_\_  
)

COMES NOW, A.W. Molyneux, and provides the following comments  
and evidence in this matter:

1. I have lived and operated farms and ranches in the Picabo and Gannett area for most of my life and have firsthand knowledge of irrigation and water usage operations on the Loving Springs Ranch property, now owned by Gerald B. Bashaw, located primarily in Sections 2 and 3, T. 1 S, R. 19 E.
2. I was born in the year 1929.
3. To the best of my knowledge, the irrigation well located in the NW1/4 SW1/4, Section 2, T. 1 S., R. 19 E., at the location shown on Exhibit A attached hereto, was drilled in approximately 1947.
4. The well began to be used in 1947 to irrigate land primarily north of Gannett Road. I have observed the irrigation since that time and the extent of irrigation was substantially as shown on Exhibit A attached hereto.
5. The Loving Springs Ranch is located at the lower end of a lateral of the District Canal Company. Excess water that was not taken by upstream diverters on this lateral enters the property at the northwest corner of the ranch and has done so since 1931 or earlier.
6. Beginning on or about the start of the irrigation season in 1931, said wastewater has been diverted into the ditch shown on Exhibit A and used for irrigation on the ranch. I have observed the irrigation since that time and the extent of irrigation was substantially as shown on Exhibit A attached hereto.

DATED this 21 day of Feb., 2007.

A.W. Molyneux  
(Signature)

A.W. Molyneux  
(Printed name)

SUBSCRIBED and SWORN to before me this 22 day of February, 2007.

KATHI L. PECK  
Notary Public  
State of Idaho

Kathi L. Peck  
NOTARY PUBLIC  
Residing at: Carey, Id.  
My Commission Expires: 8/31/07

SCANNED

MAR 3 1 2009

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF THE USAGE OF WATER FOR  
IRRIGATION PURPOSES UNDER WATER CLAIMS  
37-4141 AND 37-4142 FOR THE PROPERTY KNOWN  
AS LOVING SPRINGS RANCH

) COMMENTS AND  
) EVIDENCE OF  
) \_\_\_\_\_  
)

COMES NOW, Leonard M. Purdy, and provides the following comments and evidence in this matter:

1. I have lived and operated farms and ranches in the Picabo and Gannett area for most of my life and have firsthand knowledge of irrigation and water usage operations on the Loving Springs Ranch property, now owned by Gerald B. Bashaw, located primarily in Sections 2 and 3, T. 1 S, R. 19 E.
2. I was born in the year 1918.
3. To the best of my knowledge, the irrigation well located in the NW1/4 SW1/4 Section 2, T. 1 S., R. 19 E., at the location shown on Exhibit A attached hereto, was drilled in approximately 1947.
4. The well began to be used in 1947 to irrigate land primarily north of Gannett Road. I have observed the irrigation since that time and the extent of irrigation was substantially as shown on Exhibit A attached hereto.
5. The Loving Springs Ranch is located at the lower end of a lateral of the District Canal Company. Excess water that was not taken by upstream diverters on this lateral enters the property at the northwest corner of the ranch and has done so since 1931 or earlier.
6. Beginning on or about the start of the irrigation season in 1931, said wastewater has been diverted into the ditch shown on Exhibit A and used for irrigation on the ranch. I have observed the irrigation since that time and the extent of irrigation was substantially as shown on Exhibit A attached hereto.

DATED this 5 day of February, 2007  
Leonard M. Purdy \_\_\_\_\_  
(Signature) (Printed name)

SUBSCRIBED and SWORN to before me this 10th day of February, 2007.

KATHI L. PECK  
Notary Public  
State of Idaho

Kathi L. Peck  
NOTARY PUBLIC  
Residing at: Carey, ID  
My Commission Expires: 8/31/07

SCANNED

MAR 31 2009

## Water Service Area Boundary for Audrey Bashaw



11/04/2010

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

RIGHT NUMBER: 37-801

NAME AND ADDRESS: AUDREY BASHAW  
PO BOX 767  
PICABO ID 83348

GERALD B BASHAW  
PO BOX 767  
PICABO ID 83348

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 2.000 CFS  
794.00 AFY

The rights listed below are limited to a total combined diversion rate of 7.48 cfs and to a total combined annual diversion volume of 1309 AF. Combined Right Nos.: 37-125, 37-11556, 37-4142, 37-800 & 37-801.

PRIORITY DATE: 04/01/1950

POINT OF  
DIVERSION:

T01S R19E S2 SWNSW Within BLAINE County  
T01S R19E S2 SENSW Within BLAINE County

PURPOSE AND  
PERIOD OF USE:

| <u>PURPOSE OF USE</u> | <u>PERIOD OF USE</u> | <u>QUANTITY</u>         |
|-----------------------|----------------------|-------------------------|
| IRRIGATION            | 04/15 10/31          | 2.000 CFS<br>794.00 AFY |

PLACE OF USE: IRRIGATION in BLAINE County

|               |      |       |               |      |       |
|---------------|------|-------|---------------|------|-------|
| T01N R19E S34 | NESE | 16.00 | T01N R19E S34 | SESE | 20.00 |
| T01N R19E S35 | NWSW | 19.00 | T01N R19E S35 | SWSW | 35.00 |
| T01S R19E S02 | SWNE | 15.00 | T01S R19E S02 | SENE | 5.00  |
| T01S R19E S02 | NESW | 40.00 | T01S R19E S02 | NWSW | 33.00 |
| T01S R19E S02 | SWSW | 35.00 | T01S R19E S02 | SESW | 25.00 |
| T01S R19E S02 | NESE | 25.00 | T01S R19E S02 | NWSE | 18.00 |
| T01S R19E S02 | SWSE | 10.00 | T01S R19E S02 | SESE | 40.00 |
| T01S R19E S03 | SWNE | 8.00  | T01S R19E S03 | NESE | 30.00 |
| T01S R19E S03 | NWSE | 3.00  | T01S R19E S03 | SESE | 4.00  |
| T01S R19E S11 | NENE | 35.00 | T01S R19E S11 | NENW | 3.00  |
| T01S R19E S11 | NWNW | 15.00 |               |      |       |

434 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 374 acres in a single irrigation season. Combined Right Nos.: 37-125, 37-11556, 37-4142, 37-800, 37-801.

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

Claim No(s). 37-801

Claim No(s). 37-801

[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](http://www.idwr.idaho.gov)

C. L. "BUTCH" OTTER  
Governor

DAVID R. TUTHILL, JR.  
Director

June 25, 2009

ALBERT P BARKER  
PAUL L ARRINGTON  
BARKER ROSHOLT & SIMPSON LLP  
PO BOX 2139  
BOISE ID 83701-2139

RE: Snake River Basin Adjudication (SRBA)  
Notices of Claim to a Water Right #37-800 and 37-801  
**Your Clients: Gerald B. and Audrey C. Bashaw**

Gentlemen:

The Notices of Claim to a Water Right you filed for your clients referenced above were received from the SRBA Court recently. I have enclosed receipt #C088860 for the filing fees your firm paid.

Your clients' 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.

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

Sincerely,

Craig L. Saxton  
Water Rights Supervisor  
Adjudication Bureau

CLS:ss:region  
Enclosure: Receipt Referenced Above

SCANNED

JUN 23 2009