

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

) Subcase Ale 1-11822
) (Insert water right number)
)

Case 39576

) 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.

☐ 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 _____

My name is _____

My address is _____

My phone number is _____

MOTION TO FILE A LATE NOTICE OF CLAIM

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

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

WE WERE NOT AWARE WE HAD TO FILE A CLAIM ON A WELL
THAT STOPPED FLOWING (PLEASE REFER TO ATTACHED AFFIDAVITS)

☐ 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 AFFIDAVITS ATTACHED; SEE AERIAL MAP OF AREA OF USE,
ALSO 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 \$ 128.

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 September 21st, 1999, 1:30 P.M.
(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

Country of ELMORE

PAUL V. BATRUEL

(Insert name of person filing form)

, 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.

Paul V. Batruel

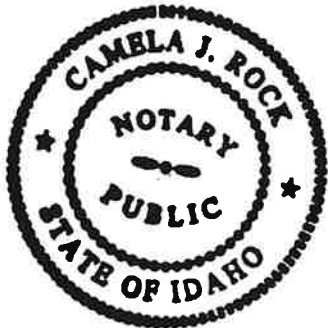
Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on

July 7th, 1999

(Insert Date)



Camela J. Rock

Notary Public for Pennier & Fink Inc.

Residing at: Glenns Ferry, Idaho

My Commission expires: 04/26/2005

INSTRUCTIONS FOR MAILING

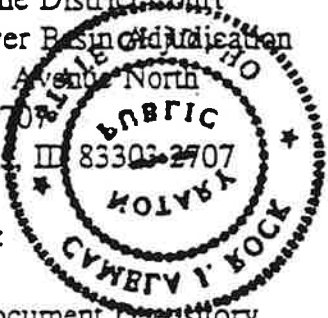
You must mail this form, including all attachments, to the Clerk of the SRBA Court. FAX filings will not be accepted by the SRBA Clerk of the Court. You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on July 7th, 1999, 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 MATTER OF)
NOTICE OF CLAIM TO)
A WATER RIGHT NO. (S))

Abl-11877)
)
)
)

State of Idaho)
County of ELMORE)

AFFIDAVIT

PAUL V. BATRUEL

being first duly sworn,

deposes and says: I have been living on Batruel's Dairy since 1972 and to date I have been the principal water manager for our water wells and for the reservoir.

The hot water well located on Township 05S, Range 09E, Section 13, 1/4 NE of 1/4 SE used to be artesian and served approximately 28.4 acres. This hot water was not only used for irrigation and livestock, but was my intended homesite. The flow of geothermal water emerging from this well began to slow down in 1992. After coming back for a brief period in the end of December of that same year, the flow ceased completely by the end of January 1993 and has never resumed. Our hot water well, however, was only one of eight local wells to suffer this fate, caused by Magic West, Inc.'s heavy industrial use of this valuable commodity. Magic West, Inc. has settled with almost all of the proprietors of these once-artesian wells. We are still in the process of negotiating with this company, since it will take nothing short of redrilling the well, installing a pump and 3-phase power to restore our hot water flow.

Paul V Batruel

(Signature)

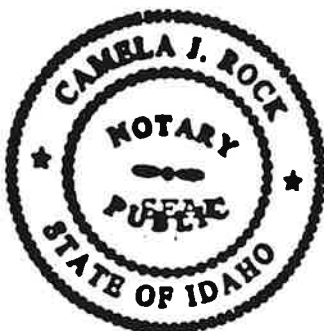
Subscribed and sworn to before me this
day 7th of July, 1999.

Camela S. Rock

(Notary Public)

Residing at Glenns Ferry, Idaho.

My Commission Expires 04/26/2005.



IN THE MATTER OF)
NOTICE OF CLAIM TO)
A WATER RIGHT NO. (S))
A61-11877)
)
)
)

AFFIDAVIT

State of Idaho)
County of ELMORE)

MARY BATRUEL being first duly sworn,
deposes and says: In 1972 my husband and I purchased this
property primarily for two reasons: because it had an irrigation
reservoir and because it had an artesian hot water well. In
1993 our hot water well ceased to flow, a tremendous loss for us
since my son was going to build a geothermal home on this well
site. Furthermore, it caused a loss of livestock use, the death of
trees, shrubs, and pastures, and the devaluation of the property
on which my family has worked so hard.
The only way to restore our hot water flow is to redrill the well
and to install a pump and 3-phase power. I am hopeful that
this will take place soon due to on-going negotiations with the
party we retain responsible for our loss.

Mary R. Batruel
(Signature)

Subscribed and sworn to before me this
day 7th of July, 1999.

Camela J. Rock
(Notary Public)

Residing at Glenns Ferry, Idaho.
My Commission Expires 04/26/2005.



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: A61-11877
Date Received: 5/14/1999
Receipt No: _____
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: MARY BATRUEL 208-366-2375
Address: RT 1 BOX 426
GLENNS FERRY ID 83623-9756
OR
Name: PAUL BATRUEL 208-366-2375
Address: RT 1 BOX 426
GLENNS FERRY ID 83623-9756
OR
Name: BATRUEL'S DAIRY 208-366-2375
Address: RT 1 BOX 426
GLENNS FERRY ID 83623-9756

2. Date of Priority: JUL 1, 1954

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
05S	09E	13	NE	SE			ELMORE

5. Description of diverting works:

4" ARTESIAN WELL, 1000' DEEP WITH PIPELINE TO PLACE OF USE.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
DOMESTIC	01/01	12/31	0.040		
IRRIGATION	04/01	10/31	0.565		
STOCKWATER	01/01	12/31	0.030		

7. Total Quantity Appropriated is:
0.635 C.F.S. (and/or)

A.F.A.

8. Total consumptive use is

Acre Feet Per Annum.

9. Non-irrigation uses:

DOMESTIC, 1 HOME; STOCKWATER, 100 HEAD.

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
05S	09E	13	NE	SE		IRR	5.0
			SE	SE		IRR	1.7
						Section Acres	6.7
	10E	18	NW	SW		DOMEST	
			NW	SW		IRR	5.0
			NW	SW		STOCK	
			SW	SW		IRR	16.5
						Section Acres	21.5
						Total Acres	28.2

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:
NONE

14. Remarks:

15. Basis of Claim: BENEFICIAL USE

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 1

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Paul V. B. [Signature] Date: 05-14-99

Date: _____

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 14th day

of May 19 99

Seal

Jan Shute
Notary Public

Residing at Moscow ID

My Commission Expires 9-14-2000

