

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 37-22357
Date Received: 7/8/2008
Receipt No: **CO87753**
Received By:

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

1. Name of Claimant(s)

NORTHRIDGE II SUBDIVISION OWNERS INC Phone:
PO BOX 4633
HAILEY ID USA 83333

2. Date of Priority: 06/30/1884

3. Source: BIG WOOD RIVER Trib. to: MALAD RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
03N	18E	20	SW NW	BLAINE	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
AESTHETIC	04/01	10/31	0.04	
AESTHETIC STORAGE	04/01	10/31		2
DIVERSION TO STORAGE	04/01	10/31		5.6

7. Total Quantity Appropriated is:
0.04 C.F.S. and/or 5.6 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

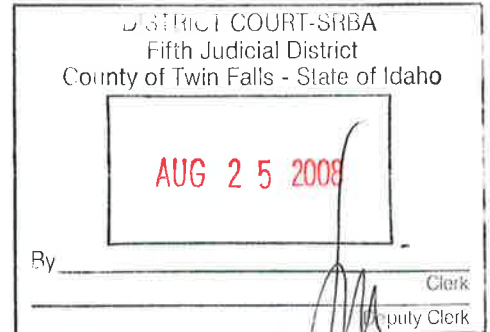
10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
02N	18E	4	NE	NW	3	AESTHETIC
			NE	NW	3	AESTHETIC STORAGE
			NE	NW	3	DIVERSION TO STORAGE

11. Place of use in counties: BLAINE

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

13. Other Water Rights Used:



14. Remarks:

This claim is asserting that a portion of the diversion rate for 37-21815 was historically appurtenant to the area covered by the pond and as such should be recognized for this claim as an unrecorded transfer from irrigation to aesthetic and aesthetic storage.

15. Basis of Claim: Decreed

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

Number of attachments: _____

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

President of Northridge II
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 [Signature] Date 8-11-08

Title and Organization

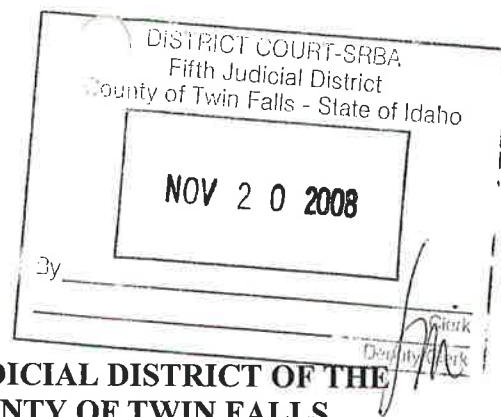
SCANNED
NOV 21 2008

✓ \$104-
11-21-08
SR7

REMOVED 1/2008

NOV 21 2008

DEPARTMENT OF
WATER RESOURCES



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

In Re SRBA

Subcase: 37-22357

Case No. 39576

ORDER GRANTING MOTION TO FILE
LATE NOTICE OF CLAIM

On August 25, 2008, Northridge II Subdivision Owners, Inc., by and through counsel, Fritz X. Haemmerle, filed a *Motion to File Late Notice of Claim* for the above-captioned water right. Hearing was held on the *Motion* on November 18, 2008. This *Motion* complied with all procedural requirements under **SRBA Administrative Order 1**, and no objections were made to this late Notice of Claim.

THEREFORE, IT IS ORDERED, that the *Motion to File a Late Notice of Claim* for the above-captioned water right is **granted**.

The original Notice 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 claim 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 November 20, 2008.


JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

SCANNED
NOV 21 2008

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 November 20, 2008, with sufficient first-class postage to the following:

NORTHRIDGE II SUBDIVISION

Represented by:

HAEMMERLE, FRITZ X.

PO BOX 1800

HAILEY, ID 83333

Phone: 208-578-0520

DIRECTOR OF IDWR

PO BOX 83720

BOISE, ID 83720-0098

ORDER

Page 1 11/20/08

FILE COPY FOR 01752

Deputy Clerk

Julie Murphy

AUG 25 2008

DEPARTMENT OF
WATER RESOURCES

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

In Re SRBA *Claim Fees Correct*) Subcase No. 37-22357
 Case No. 39576 *Claim is complete*) STANDARD FORM 4
C. Hughes)
9-2-08) MOTION TO FILE:
) ☒ LATE NOTICE OF CLAIM
) ☐ AMENDED NOTICE OF CLAIM

Hearing: 11-18-08

INSTRUCTIONS

*fee paid.
chgs made.*

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:

I am an attorney representing: Northridge II Subdivision Owners, Inc.

My name is: Fritz X. Haemmerle, Haemmerle & Haemmerle, P.L.L.C.

My address is: P.O. Box 1800, Hailey, ID 83333

My phone number is: (208) 578-0520

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:
This right was stacked with other rights (37-22196, 37-22202 and 37-22203) that were claimed. Upon further investigation by IDWR, this unclaimed right was discovered and made known to me.

☐ 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.)

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 \$104.00.

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: **November 18, 2008, at 1:30 p.m.**

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

State of Idaho)
) ss.
County of Blaine)

Fritz X. Haemmerle, being first duly sworn, upon oath, deposes and says:

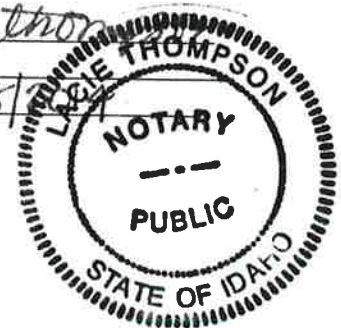
That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that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

Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on August 21, 2008
(Insert Date)

Notary Public for Lacie Thompson
Residing at: Blaine
My Commission expires: 1/28/2011



CERTIFICATE OF MAILING

I certify that on August 21st, 2008, 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 37-22357
Date Received: 7/8/2008
Receipt No:
Received By:

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

1. Name of Claimant(s)

NORTHRIDGE II SUBDIVISION OWNERS INC Phone:
PO BOX 4633
HAILEY ID USA 83333

2. Date of Priority: 06/30/1884

3. Source: BIG WOOD RIVER Trib. to: MALAD RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
03N	18E	20	SW NW	BLAINE	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
AESTHETIC	04/01	10/31	0.04	
AESTHETIC STORAGE	04/01	10/31		2
DIVERSION TO STORAGE	04/01	10/31		5.6

7. Total Quantity Appropriated is:
0.04 C.F.S. and/or 5.6 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
02N	18E	4	NE	NW	3	AESTHETIC
			NE	NW	3	AESTHETIC STORAGE
			NE	NW	3	DIVERSION TO STORAGE

11. Place of use in counties: BLAINE

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

13. Other Water Rights Used:

14. Remarks:

This claim is asserting that a portion of the diversion rate for 37-21815 was historically appurtenant to the area covered by the pond and as such should be recognized for this claim as an unrecorded transfer from irrigation to aesthetic and aesthetic storage.

15. Basis of Claim: Decreed

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

Number of attachments: _____

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

President of Northridge II
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 [Signature] Date 8-11-08

Title and Organization

SCANNED

AUG 25 2008

05/12/2009

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

RIGHT NUMBER: 37-22357

NAME AND ADDRESS: NORTHEDGE II SUBDIVISION OWNERS INC
PO BOX 4633
HAILEY ID 83333

VERIFIED BY KKC
5-12-09

SOURCE: BIG WOOD RIVER

TRIBUTARY: MALAD RIVER

QUANTITY: 0.040 CFS
5.600 AFY

The rights listed below are limited to a total combined annual diversion volume of 5.57 af for a 2 af pond. Combined Right Nos.: 37-22196, 37-22202, 37-22203, and 37-22357.

PRIORITY DATE: 06/30/1884

POINT OF DIVERSION:

T03N R18E S20 SWNW Within BLAINE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
AESTHETIC	04/01 10/31	0.040 CFS
AESTHETIC STORAGE	04/01 10/31	2.00 AFY
DIVERSION TO STORAGE	04/01 10/31	5.60 AFY

PLACE OF USE: AESTHETIC in BLAINE County

T02N R18E S04 Lot 3 NENW

AESTHETIC STORAGE in BLAINE County

T02N R18E S04 Lot 3 NENW

DIVERSION TO STORAGE in BLAINE County

T02N R18E S04 Lot 3 NENW

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

**NORTHRIDGE II SUBDIVISION OWNERS
POND CLAIMS
37-22196, 37-22202, & 37-22203**

All three rights are for the same pond but have different priority dates and represent portions of the recommended irrigation rights associated with the POU in general.

Claim	priority date	Rate	Volume	Base right
37-22196	3-24-1883	0.03 cfs	2.00 af	37-21817
37-22202	9-18-1885	0.02 cfs	2.00 af	37-21813
37-22203	5-01-1888	0.02 cfs	2.00 af	37-21811

Claim against 37-21815 (priority date 6-30-1884) has not been filed and this right is also being recommended on the property in question.



Northridge has filed objections to the base rights including 37-21815.

The resolution to this set of late claims rides on the shirt tail of the objections to the base rights listed above.

Other related file: D:\Data\b37\objection resolution part 3\37-22196 Northridge pond calculations.doc

NORTHRIDGE II SUBDIVISION OWNERS INC POND ANALYSIS

RIGHTS ASSOCIATED WITH THE HISTORIC PLACE OF USE (AS RECOMMENDED IN 2007)

Owner = EMB-HAILEY LP A CALIFORNIA LTD PTNR

37-21817	Mar 24, 1883	0.93 cfs	} all recommended on a 74.5 acre Permissible Place of Use (PPU)
37-21813	Sept 18, 1885	0.77 cfs	
37-21811	May 1, 1888	0.77 cfs	
37-21815	June 30, 1884	1.526 cfs	

A missed claim associated with the same PPU has been added to this list. Claim 37-21815.
Changes made associated with this right are highlighted in Red.
Entries made 6-4-2008 -- kkc

Pond shape =  Perimeter area 32" to 36" deep with the center being approximately 7' deep. Volume = 664,000 gal $\approx$ 2 af. (information from Fritz Haemmerle)

PROPORTIONAL RATE CALCULATION BASED UPON THE 1987 AERIAL PHOTO

EMB Recom acres =	74.5 ac	0.93 cfs/ 75.9 ac = 0.012 cfs/ac
1987 Pond area =	1.4 ac	0.77 cfs/ 75.9 ac = 0.01 cfs/ac
ground irrigated historically	<u>75.9 ac total</u>	

PROPORTIONAL RATE ASSOCIATED WITH THE 1987 POND

Allen & Brockway 1983 report Halley Ranger Station Ave IR for Pasture = 771 mm/day
 $((771\text{mm/day})/(25.4\text{ mm/in}))/12\text{ in/ft} = 2.53\text{ af}$

2. af / 2.53 af/ac = 0.80 ac (to be dried up for the pond volume)
1.40 ac (pond surface area)
2.20 ac total

37-21817 diversion to storage calculation; $(2.2\text{ ac} / 75.9\text{ ac}) * 0.93\text{ cfs} = 0.027\text{ cfs}$
37-21813 diversion to storage calculation; $(2.2\text{ ac} / 75.9\text{ ac}) * 0.77\text{ cfs} = 0.022\text{ cfs}$
37-21811 diversion to storage calculation; $(2.2\text{ ac} / 75.9\text{ ac}) * 0.77\text{ cfs} = 0.022\text{ cfs}$
37-21815 diversion to storage calculation; $(2.2\text{ ac} / 75.9\text{ ac}) * 1.526\text{ cfs} = 0.044\text{ cfs}$

37-21817 Storage calculation; $2.2\text{ ac} * 2.53\text{ af/ac} = 5.57\text{ af}$ (pond vol plus overall losses)
37-21813 Storage calculation; $2.2\text{ ac} * 2.53\text{ af/ac} = 5.57\text{ af}$ (pond vol plus overall losses)
37-21811 Storage calculation; $2.2\text{ ac} * 2.53\text{ af/ac} = 5.57\text{ af}$ (pond vol plus overall losses)
37-21815 Storage calculation; $2.2\text{ ac} * 2.53\text{ af/ac} = 5.57\text{ af}$ (pond vol plus overall losses)

VALUES FOR THE CLAIMED USES:

Associated claims	37-21817	37-21813 & 37-21811	37-21815
Diversion for Aesthetic use	0.03 cfs	0.02 cfs	0.04 cfs
Aesthetic Storage	5.57 af	5.57 af	5.57 af
Aesthetic	0.03 cfs	0.02 cfs	0.04 cfs

Christensen, Kelly

From: Fritz Haemmerle [fxh@haemlaw.com]
Sent: Wednesday, June 13, 2007 9:10 AM
To: Christensen, Kelly
Subject: RE: North Ridge pond

Kelly:

The depth of the pond is 32 inches. Also, the land around the pond is owned by the Northridge II Subdivision as common area, is irrigated, and has already been deeded to the Association. So, I think the use would be aesthetic, aesthetic storage, and irrigation for the land around the pond.

I suspect that the Association will not ask that the rights be untracked.

Please advise.

Fritz

-----Original Message-----

From: Christensen, Kelly [mailto:Kelly.Christensen@idwr.idaho.gov]
Sent: Thursday, June 07, 2007 2:19 PM
To: Fritz Haemmerle (E-mail)
Subject: North Ridge pond

I have started data entry on the claim and wanted to confirm a couple of things.

1. Use = aesthetic and aesthetic storage??
2. Pond area to consider is the pond as it existed in 1987 (1.4 acre surface) rather than the 2004 pond area (0.59 ac)
3. The season of use should be the same as the irrigation season as water is not being diverted during the winter.

North Ridge has the following rights appurtenant to the subdivision as a permissible place of use (PPU);

37-21817	Mar 24, 1883	.93 cfs
37-21813	Sept 18, 1885	.77 cfs
37-21811	May 1, 1888	.77 cfs

As they are tied within a ppu it would be reasonable to also claim a portion of the other two rights. Alternatively you would have to address the "unstacking" of the rights and the reasoning thereby.

When I get the pond size/depth I will forward my worksheet to you.

Kelly K Christensen
Sr Water Resource Agt
Twin Falls
(208)-736-3033

6/4/2008

Christensen, Kelly

From: Fritz Haemmerle [fxh@haemlaw.com]
Sent: Friday, June 15, 2007 9:58 AM
To: Christensen, Kelly
Subject: Pond

Kelly:

Regarding the Northridge II pond, it is approximately 134' x 165' (kidney shaped, shallow in the perimeter (32" deep) with a 7' deep center, with a vol. of 664,000 gallons.

Please advise.

Fritz

Claim No(s). 37-22357

Claim No(s). 37-22357

[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

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

November 26, 2008

NORTHRIDGE II SUBDIVISION OWNERS INC
C/O FRITZ X HAEMMERLE
HAEMMERLE & HAEMMERLE PLLC
PO BOX 1800
HAILEY ID 83333

RE: Snake River Basin Adjudication (SRBA)
Notice of Claim to a Water Right #37-22357
Your Client: Northridge II Subdivision Owners, Inc.

Dear Mr. Haemmerle:

The Notice of Claim to a Water Right you filed for your client referenced above was received from the SRBA Court recently. I have enclosed receipt #C087753 for the fees your firm paid. Please retain the receipt for your records.

Your client's Notice 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.

Sincerely,

Craig L. Saxton
Water Rights Supervisor
Adjudication Bureau

CLS:ss:region

Enclosure:

Receipt Referenced Above

SCANNED

NOV 28 2008