

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

AMENDED CLAIM

Ident. Number 37-22326
Date Received: 4/29/2008
Receipt No: *CO 87742*
Received By:

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

1. Name of Claimant(s)

4 BROS DAIRY Phone: (208) 886-7716

425 N 250 W
SHOSHONE ID USA 83352

2. Date of Priority: **1930**

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
05S	17E	9	SE SE SW	LINCOLN	

5. Description of diverting works:

Well with pump which supplies existing homestead and supply line to troughs in corrals.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
STOCKWATER	01/01	12/31	0.02	
DOMESTIC	01/01	12/31	0.02	

7. Total Quantity Appropriated is:

0.02 C.F.S. and/or 14.5 A.F.A.

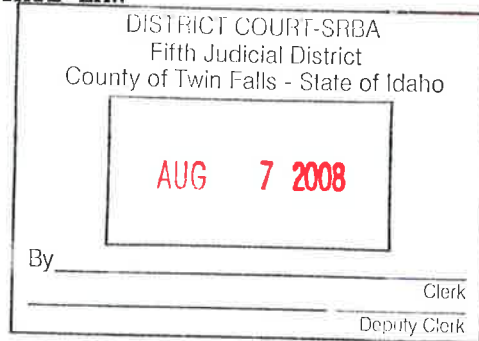
8. Total consumptive use:

9. Non-irrigation uses:

Number of other uses: 1000 dairy heifers
Number of homes: 1

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use
----------	-------	---------	----------------	-----



05S

17E 9

SE
SE

SW
SW

DOMESTIC
STOCKWATER

11. Place of use in counties: LINCOLN

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

13. Other Water Rights Used:

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 X 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 that I am Secretary/Treasurer of _____
Title

4 Bros. Dairy, Inc., that I have signed the foregoing
Organization

document in the space below as Secretary/Treasurer of _____
Title

4 Bros. Dairy, Inc. and that the statements contained in the
Organization

foregoing document are true and correct.

Signature of Authorized Agent

Secretary/Treasurer, 4 Bros. Dairy, Inc.

Title and Organization

7-31-08

Date

SCANNED
NOV 21 2008

RECEIVED

NOV 20 2008

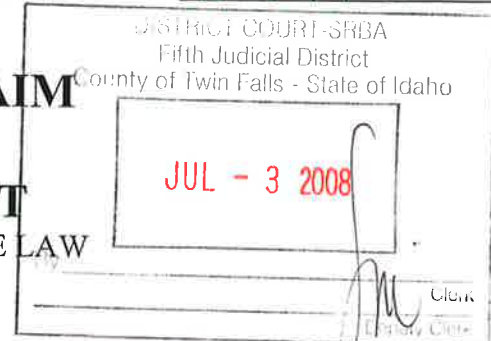
DEPARTMENT OF
WATER RESOURCESIN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLSIN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FORM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 37-22326

Date Received

Receipt Number C087742

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) 4-Bros. Dairy Inc. Phone (208) 886-7716
Mailing Address 425 N. 250 W. Shoshone, ID. 83352 Zip _____
2. Date of Priority (Only one (1) per claim) _____
3. Source of water supply (a) Ground Water
which is tributary to (b) _____
4. a. Location of existing point of diversion is: Township 05 S. Range 17 E. Section 9,
SE 1/4 of SE 1/4 of SW 1/4, Govt. Lot, _____ B.M., County of Lincoln
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. Well with pump which supplies existing homestead and supply
line to a trough in a corral S.

SCANNED
NOV 21 2008

6. Water is claimed for the following purposes:

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

For Domestic purposes from 1/1 to 12/31 amount 0.02 or _____

For Stockwater purposes from 1/1 to 12/31 amount 0.02 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.02 (cfs) and / or (b) 14.5 (acre feet)

8. Total consumptive use claimed is 14.5 acre feet per annum.

9. Non-irrigation uses; described fully (e.g. Domestic: list number of households served; Stockwater: type and number of livestock, etc.) One household, 1,000 Dairy Heifers

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 instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
5S	17E	9												S,D					S,D

Total number of acres irrigated _____

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

12. Do you own the property listed above as place of use? Yes X No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.

None Or None ☒

14. Remarks:

Last Name _____

Ident. No. _____

SCANNED
NOV 21 2008

15. Basis of Claim (check one) Official Use x Posted Notice _____ License _____ Permit _____
Decree _____

If applicable provide IDWR Water Right Number _____

Court _____ Case Number _____ Decree Date _____

Plaintiff vs Defendant _____

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 _____

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date _____

_____ Date _____

For Organizations: I do solemnly swear or affirm that I am Secretary/Treasurer

Of 4 Bros. Dairy, Inc. _____ Title _____

Organization _____ that I have signed the foregoing

Document in the space below as Secretary/Treasurer of 4 Bros. Dairy, Inc.

Title _____ Organization _____

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

Signature of Authorized Agent [Signature]

Title and Organization Secretary/Treasurer 4 Bros. Inc. Date 6-26-08

State of Idaho / or _____)

County of Lincoln) ss.

_____)

Subscribed and sworn (or affirmed) before me this 26 day of June, 20 08.

Notary Public Denise Fitzgerald

Residing at Shoshone

My Commission Expires 12-15-2012

SEAL

Please Print Name

17. **Notice of Appearance:**

Notice is hereby given that I, Robert E. Williams 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 [Signature]

Address P.O. Box 168, 153 East Main St., Jerome, ID 83338

Date June 19th, 2008

Last Name Williams Ident. Number 1693

SCANNED
NOV 21 2008

RECEIVED

NOV 20 2008

DEPARTMENT OF
WATER RESOURCES

DIS. COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

NOV 19 2008

By _____

Clerk

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

Subcase: 37-22326

Case No. 39576

ORDER GRANTING MOTION TO FILE
LATE/AMENDED NOTICE OF CLAIM

On July 3, 2008, 4 Bros. Dairy Inc., by and through counsel, Robert E. Williams, filed a *Motion to File Late Notice of Claim* for the above-captioned water right. On August 7, 2008, claimant filed an *Amended Late Notice of Claim*, to include a priority date. Hearing was held on the *Motions* on November 18, 2008. These *Motions* complied with all procedural requirements under **SRBA Administrative Order 1**, and no objections were made to these late/amended Notices of Claim.

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

The original and amended 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 19, 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/AMENDED NOTICE OF CLAIM was mailed on November 19, 2008, with sufficient first-class postage to the following:

4 BROS DAIRY INC

Represented by:

ROBERT E WILLIAMS

FREDERICKSEN WILLIAMS ET AL

PO BOX 168

JEROME, ID 83338

Phone: 208-324-2303

DIRECTOR OF IDWR

PO BOX 83720

BOISE, ID 83720-0098

ORDER

Page 1 11/19/08

FILE COPY FOR 01741

Deputy Clerk

SCANNED

NOV 21 2008

Julie Murphy

COPY

RECEIVED

JUL 07 2008

DEPARTMENT OF
WATER RESOURCES

Hearing: 11-18-08

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 *Fees should be \$25.00*) Subcase 37-22326
(Insert water right number)

Case 39576

*No Priority date
claimed.*

*see attached
ex mail*

STANDARD FORM 4

MOTION TO FILE:

☒ LATE NOTICE OF CLAIM

☐ AMENDED NOTICE OF CLAIM

*C. G. G. G.
8-27-08*

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.

SCANNED

JUL - 7 2008

☒ 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 4 Bros. Dairy, Inc.

My name is Robert E. Williams, of Fredericksen, Williams, Meservy & Lothspeich, LLP

My address is 153 East Main Street, P.O. Box 168
Jerome, ID 83338

My phone number is (208) 324-2303

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:

The well was originally overlooked in the SRBA process by
a previous owner, whom owned the property to which the
claimed water right was appurtenant during the initial
claim period.

☐ 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 Affidavit of Andrew Fitzgerald attached hereto as
Exhibit A.

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 \$ 100.
- ☐ 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 \$ _____.

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 18th, 2008, 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)

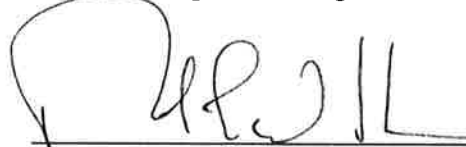
State of Idaho

County of Jerome

Robert E. Williams, 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 June 19th, 2008
(Insert Date)



Monica Brown
Notary Public for Idaho
Residing at: Jerome
My Commission expires: 5-29-2013

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 2nd, 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

ROBERT E. WILLIAMS

IDAHO STATE BAR NO. 1693

FREDERICKSEN, WILLIAMS, MESERVY & LOTH SPEICH, LLP

Attorneys at Law

117 South Adams Street

P. O. Box 168

Jerome, Idaho 83338

Telephone: (208) 324-2303

Facsimile: (208) 324-3135

Attorney for Claimant 4 Bros. Dairy, Inc.

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 No: 37-22326
Case No. 39576	AFFIDAVIT IN SUPPORT OF MOTION TO FILE LATE CLAIM

ANDREW FITZGERALD, first being duly sworn, deposes and says as follows:

1. I am the Secretary/Treasurer of 4 Bros. Dairy, Inc., an Idaho corporation, and make this affidavit on the basis of my own personal knowledge.

2. 4 Bros. Dairy, Inc., acquired ownership of the real property to which Water Right No. 37-22326 would be appurtenant in 1988 or 1989, pursuant to a foreclosure sale.

3. The previous owner of the real property, Kenneth Jerome, had conducted continuous dairying operations on the real property for approximately forty (40) years prior to the foreclosure sale date.

4. Upon my own personal knowledge and conversations with Kenneth Jerome, the well that served as the point of diversion for Water Right No. 37-22326 was

utilized in Mr. Jerome's dairy operations for the entire time he owned it.

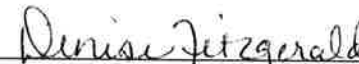
5. After the date 4 Bros. Dairy, Inc., acquired ownership of the real property formerly owned by Kenneth Jerome, 4 Bros. Dairy, Inc., has continued to utilize the water for domestic and stock water purposes that is subject to a proposed Notice Of Claim for Water Right No. 37-22326.

6. Only recently, in the process of preparing an application for an expansion to 4 Bros. Dairy, Inc.'s current dairy operations was it discovered that no claim had been filed for Water Right No. 37-22326 by Mr. Jerome or by 4 Bros. Dairy, Inc.

7. The motion to file late claim has been filed to correct this oversight.


ANDREW FITZGERALD

SUBSCRIBED AND SWORN To before me this 26 day of June, 2008.


Notary Public for Idaho
Residing at: Shoshone
Comm. Expires: 12-15-2012

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 FORM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576
Ident. Number 37-22326
Date Received _____
Receipt Number _____

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

COPY

Please type or print clearly

1. Name of Claimant (s) 4-Bros. Dairy Inc. Phone (208) 886-7716
Mailing Address 425 N. 250 W. Shoshone, ID. 83352 Zip _____
2. Date of Priority (Only one (1) per claim) _____
3. Source of water supply (a) Ground Water
which is tributary to (b) _____
4. a. Location of existing point of diversion is: Township 05 S. Range 17 E. Section 9,
SE 1/4 of SE 1/4 of SW 1/4, Govt. Lot, _____ B.M., County of Lincoln
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. Well with pump which supplies existing homestead and supply
line to a trough in a corral S.

SCANNED

JUL - 7 2008

6. Water is claimed for the following purposes:

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

For Domestic purposes from 1/1 to 12/31 amount 0.02 or _____

For Stockwater purposes from 1/1 to 12/31 amount 0.02 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.02 (cfs) and / or (b) 14.5 (acre feet)

8. Total consumptive use claimed is 14.5 acre feet per annum.

9. Non-irrigation uses; described fully (e.g. Domestic: list number of households served; Stockwater: type and number of livestock, etc.) One household, 1,000 Dairy Heifers

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 instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
5S	17E	9												S,D					S,D

Total number of acres irrigated _____

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

12. Do you own the property listed above as place of use? Yes X No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.

None Or None ☒

14. Remarks:

Last Name _____

Ident. No. _____

SCANNED

1111 - 7 2008

15. Basis of Claim (check one) ☒ Official Use ☐ Posted Notice ☐ License ☐ Permit ☐
Decree _____

If applicable provide IDWR Water Right Number _____

Court _____ Case Number _____ Decree Date _____

Plaintiff vs Defendant _____

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 _____

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date _____

_____ Date _____

For Organizations: I do solemnly swear or affirm that I am Secretary/Treasurer

Of 4 Bros. Dairy, Inc. _____ Title
Organization

Document in the space below as Secretary/Treasurer of 4 Bros. Dairy, Inc.
Title Organization

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

Signature of Authorized Agent [Signature]

Title and Organization Secretary/Treasurer 4 Bros. Inc. Date 6-26-08

State of Idaho / or _____)
County of Lincoln _____) ss.

Subscribed and sworn (or affirmed) before me this 26 day of June, 2008.

Notary Public Denise Fitzgerald

Residing at Shoshone

SEAL

My Commission Expires 12-15-2012

Please Print Name

17. **Notice of Appearance:**

Notice is hereby given that I, Robert E. Williams 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 [Signature]

Address P.O. Box 168, 153 East Main St., Jerome, ID 83338

Date June 19th, 2008

Last Name Williams Ident. Number 1693

SCANNED

JUL - 7 2008

CLAIMANT'S NAME

4 Bws. Dairy, Inc.

CLAIM IDENT. NO.

37-22326

DATE RECEIVED

#

AMOUNT \$

YES

NO

Required
Info?

1. Is the name and address complete with zip code? ☒ YES ☐ NO *
2. Is a priority date entered? ☐ YES ☒ NO *
- Is the priority date acceptable in view of mandatory filing dates? ☐ YES ☒ NO *
- See Adjudication Memos #1 and #4 to determine if a Permit is required. ☐ YES ☒ NO *
3. (a) Is a source entered? ☒ YES ☐ NO *
- (b) Is a tributary to entered? (if required) N/A ☒ YES ☐ NO *
4. Is the legal description of the p.d. sufficient? ☒ YES ☐ NO *
5. Is there a description of the diverting works? ☒ YES ☐ NO *
6. Are the water uses appropriate for the form? The short form is limited to domestic and stockwater uses with direct diversion. All claims that include storage or instream stockwater must use long form. ☒ YES ☐ NO *
- Is the period of use included? ☒ YES ☐ NO *
- Is a quantity claimed for each use? ☒ YES ☐ NO *
7. Is a total quantity claimed entered? ☒ YES ☐ NO *
8. If required is a consumptive use entered? N/A ☒ YES ☐ NO *
- Is the consumptive use correct? N/A ☒ YES ☐ NO *
9. Are the non-irrigation uses listed properly? If this claim is on the short form, and more than one domestic use is listed, single ownership must be stated. If not under single ownership, see Adjudication Memo # 4. N/A ☒ YES ☐ NO *
10. Is (are) the place(s) of use and purpose(s) indicated? ☒ YES ☐ NO *
11. Is (are) the county(ies) entered? ☒ YES ☐ NO *
12. Is the ownership of p.u. checked? ☒ YES ☐ NO *
13. Are other water rights listed or "none" indicated? ☒ YES ☐ NO *
14. If required, are remarks correct? (If the claimant does not own the place of use, authority for filing the claim must be explained in the remarks.) N/A ☒ YES ☐ NO *
15. Is the basis of the claim indicated? ☒ YES ☐ NO *
16. If the claimant requested a monthly docket sheet, is payment enclosed? (If yes, describe payment status in "Comments" below.) N/A ☒ YES ☐ NO *
17. Is the claim signed by the claimant, and is the signature appropriate? Organizations must complete the organization block. ☒ YES ☐ NO *
18. Has the claim been signed, sealed, and dated by a notary? ☒ YES ☐ NO *
19. Was this claim filed on time, or was an extension granted? ☒ YES ☐ NO *
20. Is the fee enclosed correct? Exempt ☐ YES ☐ NO *
21. If this claim is based on an existing water right, has the identification number been entered? N/A ☒ YES ☐ NO *
22. Should this claim be data entered? ☒ YES ☐ NO *

Claim checked by:

ssherma

Date:

7-9-08

Claim must be returned to claimant:

☒ (Yes) ☐ (No)

Claimant must be notified of modifications:

☐ (Yes) ☐ (No)

Receipt Prepared by:

Date:

Claim data entered by:

Date:

Sent to claimant by:

Date:

Checked by:

Date:

Comments:

shapes made. Return for Priority Date.

more than 13 kg/day

Saxton, Craig

From: Saxton, Craig
Sent: Wednesday, August 27, 2008 12:38 PM
To: Spencer, Nick; Bromley, Chris; Kelly, Vicki
Subject: Late Claim 37-22326: Filing Fee Overpayment

Howdy,

There is a bit of a history to this one:

We received late claim 67-22326 on July 7, 2008. We sent it back because the claimant didn't claim a priority date and told the claimant that they needed to file a motion to amend the claim with the court.

The claimant did file the motion to amend the claim, but I do not see that the court assigned a hearing date to hear the motion to amend the claim. I assume they will address the motion to file the late claim and the motion to amend the late claim on the same hearing date of 11/18/08, but I do not have any documentation of that.

With that background, the claimant paid \$100.00 for a de-minimus claim which is the old fee schedule. The actual filing fee is \$25.00.

Should the motion to file be approved, and the claimant does actually pay the \$100.00, we will need to refund the claimant \$75.00.

Thanks,

Craig

SCANNED

NOV 26 2008

8/27/2008

Saxton, Craig

From: Saxton, Craig
Sent: Friday, July 11, 2008 9:23 AM
To: 'rewilliams@cableone.net'
Cc: Van Bussum, Monica
Subject: Late Notice of Claim 37-22326 - 4 Bros. Dairy Inc
Attachments: 7-9-2008 Letter.PDF

Tracking: **Recipient** **Recall**
 'rewilliams@cableone.net'
 Van Bussum, Monica Failed: 7/11/2008 10:02 AM

Dear Mr. Williams,

On July 9, 2007, Sr. Water Resource Agent Monica Van Bussum sent you a letter informing you that late claim 37-22326 included in the Motion to File a Late notice of Claim was incomplete. I do not know if you have received that letter, but I have attached a scanned copy for your convenience.

I am in agreement with Ms. Van Bussum's analysis of the claim and that additional information is needed to process the claim. However, after reviewing it a little further, I found another issue I wanted to bring to your attention.

On the initial claim, I see your client claims 1000 head of Dairy Cattle with a diversion rate of 0.02 cfs and diversion volume of 14.6 af. The motion indicates that the filing fee that was paid was \$100.

The claimed diversion rate and diversion volume would indicate that the intent was to claim a de minimus claim (deferrable) in which the water use does not exceed 13,000 thousand gallons per day. If this is the case, as of July 1, 2008, the filing fee for a de minimus claim is \$25.00.

However, 1000 head of Dairy Cattle generally use more than 13,000 gallons per day. Any more than about 300-400 dairy cattle will use more than 13,000 gallons per day and will require a non-de minimus (non deferrable) water right along with evidence of priority supporting the priority date claimed. If your clients intent is to use more than 13,000 gpd, the filing fee for this claim as of July 1, 2008 would be \$102.00 (\$50 claim fee, \$50 late fee, \$2 variable fee [= \$100 per cfs] [0.02 cfs])

My hope is by bringing this to your attention, when you resubmit the motion to file a late claim, you could perhaps clarify if the claim is intended to be for an exempt use or not, either by filing fee or by maybe adding something in the remarks explaining if the intent is to use more or less than 13k gallons per day.

Please feel free to contact me if you have questions.

Respectfully submitted,

Craig L. Saxton
 Water Right Supervisor
 Adjudication Bureau
 208-287-4916
craig.saxton@idwr.idaho.gov

*Monica already asked him about
 this. It was meant to be
 a de minimus claim
 C-Saxton
 7-15-08*

7/15/2008

SCANNED
 NOV 26 2008



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

July 9, 2008

ROBERT E WILLIAMS
FREDERICKSEN, WILLIAMS, MESERVY & LOTHSPREICH LLP
153 E MAIN ST
PO BOX 168
JEROME ID 83338

RE: Motion to submit late SRBA claim 37-22326

Dear Mr. Williams:

We recently received your client's motion to submit a late claim in the SRBA. Unfortunately, the claim submitted is without a priority date. A priority date is required for each claim submitted in the SRBA. Please have your client complete the enclosed amended claim by filling in a priority date and signing. After that is complete, please complete another Standard Form 4 (SF4; Motion to File Late/Amended Notice of Claim), found on IDWR's website, and submit both the amended claim and the SF4 to the SRBA District Court.

Of course, if you have any questions, please feel free to call me at (208) 287-4907.

Respectfully submitted,

Monica P. Van Bussum
Sr. Water Resource Agent
Adjudication Bureau

05/12/2009

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

RIGHT NUMBER: 37-22326

NAME AND ADDRESS: 4 BROS DAIRY
425 N 250 W
SHOSHONE ID 83352

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.020 CFS

The quantity of water under this right shall not exceed 13,000 gallons per day.

PRIORITY DATE: 12/31/1930

POINT OF DIVERSION:

T05S R17E S9 SESESW Within LINCOLN County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
DOMESTIC	01/01 12/31	0.020 CFS
STOCKWATER	01/01 12/31	0.020 CFS

PLACE OF USE: STOCKWATER in LINCOLN County

T05S R17E S09 SESW

DOMESTIC in LINCOLN County

T05S R17E S09 SESW

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The quantity of water decreed for this water right is not a determination of historical beneficial use.

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 - Beneficial Use

Claim No(s). 37-22326

Claim No(s). 37-22326

[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

November 26, 2008

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

4 BROS DAIRY INC
C/O ROBERT E WILLIAMS
FREDERICKSEN WILLIAMS ET AL
PO BOX 168
JEROME ID 83338

RE: Snake River Basin Adjudication (SRBA)
Late Notice of Claim #37-22326
Your Client: 4 Bros. Dairy, Inc.

Dear Mr. Williams:

The Notice of Claim to a Water Right you filed for your client referenced above was received from the SRBA Court recently. We have enclosed receipt #C087742 for the filing fees your firm paid. Please retain the receipt for your records.

The filing fees for adjudication claims are set by Section 42-1414, Idaho Code. During the last legislative session, this statute was amended to lower the filing fees paid for adjudication claims, and the effective date of the change was July 1, 2008. Because your client's claim was received by IDWR after that date, your firm is due a refund of \$75.00.

The refund process has been initiated with the State Auditor's Office. Your firm should receive a check in the near future.

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:ref
Enclosure:

Receipt Referenced Above

SCANNED
NOV 28 2008

REFUND REQUEST

TO: S. Sherman to Log In
 FOR: C. Fritschle/D. Allen
 FROM: S. Sherman Date: 11-26-08
 SUBJ: Receipt No. CO87742 (Please attach ARQ2 Receipt copy immediately behind blue form)

RE: PayOR Fredericksen, Williams, Meservy
 Address PO Box 168
Aerome ID 83338

Claimant(s) if NOT Payor 4 Bros. Dairy, Inc.
 Refund Amount \$ 75 Claim Location (Region/Claimant) (state)
 Extension Filed? Y/N NA Copy Attached? Y/N NA
 Late Fees Paid? Y/N NA Late Fee Receipt # —
 S.O. Verified Ext. by — on — D.B. Query by —
 Refund Generated By () Agent () Claimant (✓) Snt
 Refund Category:
 insufficient fees / claim incomplete / withdrawn (o-pmt)

Date of Last Correspondence (copy attached) —

Claim No.	Use*	Fees Paid	Correct Fee	Rec't #
<u>37-22326</u>	<u>04</u>	<u>\$100.</u>	<u>25.</u>	<u>CO87742</u>
_____	_____	\$ _____	_____	_____
_____	_____	\$ _____	_____	_____
_____	_____	\$ _____	_____	_____
_____	_____	\$ _____	_____	_____
Total		<u>\$100.</u>	<u>\$25.</u>	

*Incomplete claims or insufficient fees for irrigation use will generally NOT be refunded. D.E. claim in AJSP1 at minimum.

Detailed Reason(s) for Refund Attached (Y/N)

see email attached

Region AJ Spvsr. Approval _____ S.O. AJ Spvsr. Approval 11-28-08
 C. Fritschle Approval C. Fritschle Hold — To Fiscal 11-25-08
 Data Base Modified? Y/N NA A &/or R Records By — on —