

RECEIVED

JUN 14 2013

Form 243
10/07

Department of Water Resources
Eastern Region

Claim No. 13-7892

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

AMENDED

CLAIM TO A WATER RIGHT

Under the provisions of Section 42-243, *Idaho Code*, any person claiming a water right established by diversion and application of water to beneficial use must file a claim with the Department of Water Resources. **The filing of this claim does not confirm the water right claimed.** Water rights represented by a valid permit, license, decree, or previous claim are exempt from this requirement, as are uses of water for domestic purposes as defined in Section 42-111, *Idaho Code*. A filing fee must be submitted with this claim. See the instruction sheet to determine the appropriate fee.

Notice is hereby given that W.B. Nielsen, LLC

Mailing Address: 1308 S 3600 W Weston, Idaho 83286 (Name of Claimant)

Telephone No: 435-752-1100 Email: maryann@jkbattorneys.com

claims a right to the diversion and beneficial use of surface or ground water. The extent and nature of said claim is as follows:

1. Date of Priority: (When the water was first applied to beneficial use) March 1, 1968
A claim is not acceptable for the use of surface water with a priority later than May 20, 1971. A claim is not acceptable for the use of ground water with a priority date later than March 25, 1963, unless the water is used for domestic purposes as defined in Section 42-111, Idaho Code.

2. Describe the source of water: (Name of stream, lake, spring, etc., or ground water)
Spring tributary to Bear River

3. Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

(cfs or af)	(Irrigation, Domestic, Stock, Etc.)	(Both dates inclusive) (MM/DD)	(MM/DD)
Quantity <u>.16 CFS</u>	Use <u>stock water</u>	Period of Use From <u>01/01</u>	to <u>12/31</u>
Quantity <u>.12 CFS</u>	Use <u>Domestic Households (3)</u>	Period of Use From <u>01/01</u>	to <u>12/31</u>
Quantity <u>.06 CFS</u>	Use <u>Irrigation</u>	Period of Use From <u>3/15</u>	to <u>11/15</u>
Quantity _____	Use _____	Period of Use From _____	to _____

4. .24 CFS TOTAL QUANTITY USED.
(cfs or af)

5. A) Location of point of diversion is NW SW ^{MS} ¼ of SE ¼ of NW ¼, Govt. Lot _____
Sec. 36 Township 15S Range 38E B.M., Franklin County; additional points of diversion, if any: NW ¼ NE ¼ SW ¼ Sec 36, T15S R38E B.M.

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch etc.). Give sizes and capacities. Be specific. Describe any changes in the system and give the date of the change.
See attached answer

6. A) Describe the place of use within each 40-acre tract in the appropriate box using the symbols listed below. If the use is for irrigation, describe the location by listing the number of irrigated acres within each 40-acre tract.

D - domestic, S - stockwater, M - municipal, C - Commercial, I - Industrial, X - other

Twp	Rge	Sec	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15E	38E	36									15			15					3
15E	38E	36									0.5			0.5					

TOTAL ACRES 3

- B) If water is used for purposes other than irrigation, fully describe the use. Be specific.

See answer SB attached

NOTE: Include here the type and number of stock watered: 250 head of dairy cattle

7. Remarks:

8. Map - Attach an 8½"x11" map clearly identifying the point of diversion and the place of use by 40-acre subdivisions, section, township and range of the public land survey system. (A photocopy of a USGS 7½ minute topographic quadrangle map is preferred.) Attach an aerial photograph of the place of use if available.

State of Utah)
County of Cache) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the forgoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

M. N. O., ATTORNEY

Claimant's Signature (and title if claim is for an organization)

Sworn to before me this 3rd day of June



Notary Public

Residing at:

My commission expires:

Received by M. HOLLIDAY Date 6/14/2013
Prelim. check by M. HOLLIDAY Date 6/14/2013
Fee \$ 500 Receipt # E038612
Receipt prepared by K JONES Date 4/19/2013

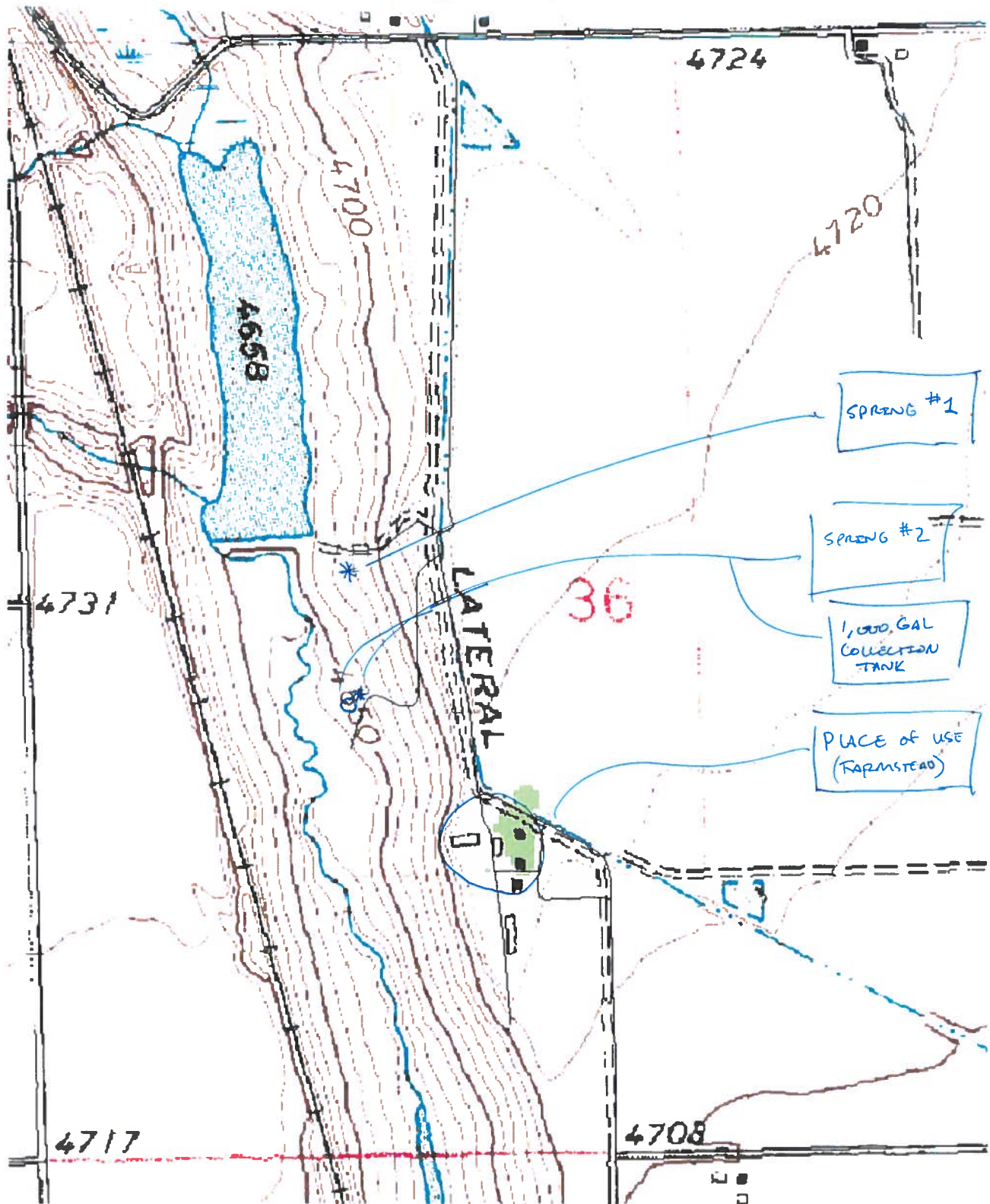
FOR DEPARTMENT USE ONLY

Published in _____
Publication dates _____
Publication checked by _____ Date _____
Exceptions filed by _____

- 5 B. The water diversion and collection system for this claim consists of the following: Water from two springs feed into approx 1,100' of solid wall and perforated pipe going to a 1,000 gallon collection tank. A $\frac{1}{2}$ horsepower pump pumps water from the 1,000 gallon tank approximately a quarter of a mile up a small rise to a 7,000 gallon collection tank located at the farmstead.

From the farmstead, a $1\frac{1}{2}$ horsepower pump distributes water from the 7,000 gallon tank to the various uses on the farmstead. These uses include a milking barn and stock water year-round for 250 head of dairy cattle, 3 domestic households and 3 acres of irrigation for various lawns and gardens. The water from the two springs have been used in this manner since March 1, 1968.

Section 36, Township 15 South, Range 38 East, Boise Meridian



COPY

Power of Attorney

(Limited-Application for Water Permit)

I, WYNN R. NIELSEN, of Weston, Franklin County, Idaho, hereby appoint M. ROBERT SMITH, of the law firm, Daines, Thomas & Smith, LLP, as my true and lawful attorney-in-fact for me and in my name, place and stead, and for my use and benefit to do and accomplish the following limited acts:

1. To apply for a permit for the right to divert and use water in Franklin County, Idaho on the below described property.

Parcel One

SEC 36 T 15S RANGE 38 E OF THE BOISE MERIDIAN

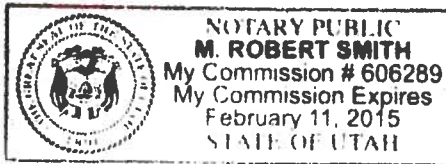
2. To take all necessary action in my name to obtain the above mentioned permit.
3. Furthermore, to take all necessary action to obtain such permit in my name and on my behalf in my role as a member and manager of WB Nielsen, LLC, an Idaho Limited Liability Company.
4. Giving and granting unto my attorney-in-fact full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises as fully for all intents and purposes as I might or could do if physically present and hereby expressly ratifying and confirming all that my attorney-in-fact shall lawfully do or cause to be done by virtue of these presents limited only by the foregoing paragraphs of this document.
5. This Power of Attorney shall be in full force and effect beginning on the date it is executed and continuing thereon through December 31st 2014, after which it shall become null and void.

DATED this 25th day of February, 2013.

Wynn R. Nielsen
Wynn R. Nielsen, Individually

STATE OF UTAH)
 : ss.
County of Cache)

On the 25th day of February, 2013, personally appeared before me, Wynn R. Nielsen, the signer of the within Power of Attorney, who duly acknowledged to me that he executed the same.



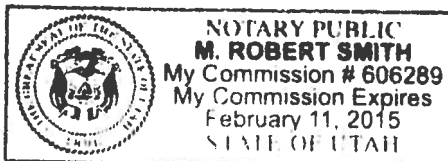
M. R. Smith
NOTARY PUBLIC

WB NIELSEN, LLC

Wynn R. Nielsen
WYNN R. NIELSEN, Member/Manager

STATE OF UTAH)
 : ss.
County of Cache)

On the 25th day of February, 2013, personally appeared before me, Wynn R. Nielsen, in his capacity as a Member/Manager of WB Nielsen, LLC, as the signer of the within Power of Attorney, who duly acknowledged to me that he executed the same and that he has authority to do so.



M. R. Smith
NOTARY PUBLIC

COPY

Power of Attorney

(Limited-Application for Water Permit)

I, BONNIE S. NIELSEN, of Weston, Franklin County, Idaho, hereby appoint M. ROBERT SMITH, of the law firm, Daines, Thomas & Smith, LLP, as my true and lawful attorney-in-fact for me and in my name, place and stead, and for my use and benefit to do and accomplish the following limited acts:

1. To apply for a permit for the right to divert and use water in Franklin County, Idaho on the below described property.

Parcel One

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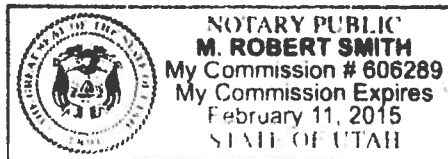
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3. Furthermore, to take all necessary action to obtain such permit in my name and on my behalf in my role as a member and manager of WB Nielsen, LLC, an Idaho Limited Liability Company.
4. Giving and granting unto my attorney-in-fact full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises as fully for all intents and purposes as I might or could do if physically present and hereby expressly ratifying and confirming all that my attorney-in-fact shall lawfully do or cause to be done by virtue of these presents limited only by the foregoing paragraphs of this document.
5. This Power of Attorney shall be in full force and effect beginning on the date it is executed and continuing thereon through December 31st 2014, after which it shall become null and void.

DATED this 25TH day of February, 2013.

Bonnie Nielsen
Bonnie S. Nielsen, Individually

STATE OF UTAH)
 : ss.
County of Cache)

On the 25TH day of February, 2013, personally appeared before me, Bonnie S. Nielsen, the signer of the within Power of Attorney, who duly acknowledged to me that he executed the same.



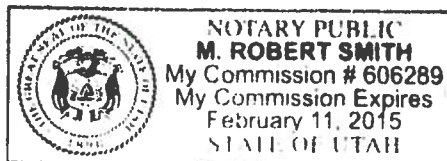
M. R. C.
NOTARY PUBLIC

WB NIELSEN, LLC

Bonnie S. Nielsen
Bonnie S. Nielsen, Member/Manager

STATE OF UTAH)
 : ss.
County of Cache)

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M. R. C.
NOTARY PUBLIC

COPY

STATEMENT OF UNANIMOUS CONSENT OF OWNERS

(In Lieu Of Meeting Of Members)

OF

WB Nielsen, LLC

Pursuant to Idaho Code § 30-6-407
Idaho Uniform Limited Liability Company Act

WE, the undersigned, being all of the Owners of WB Nielsen, a limited liability company duly organized and existing under the laws of the State of Idaho (hereinafter "Company") and acting pursuant to the Idaho Uniform Limited Liability Company Act, do hereby consent that when all of us shall have signed this Statement of Unanimous Consent, or an identical counterpart thereof, the following resolution shall be deemed to be adopted to the same extent, and to have the same force and effect as if adopted at a formal meeting of the Owners of the Company duly called by the Manager of the Company for the purpose of transacting the business hereinafter set out:

RESOLUTION NO: 1-2013

Be it hereby resolved that the members of the Company who also comprise the owners of the Company shall execute a limited power of attorney naming M. Robert Smith of the law firm, Daines, Thomas & Smith, LLP, as their agent in fact for the purpose of obtaining a permit to divert and use waters of the State of Idaho on real property owned by the Company. Such grant of power shall be limited to the fore mentioned purposes and be for a limited time period.

Executed this 25TH day of February, 2013.

Wynn R. Nielsen
Wynn R. Nielsen, Member/Manager

Bonnie S. Nielsen
Bonnie S. Nielsen, Member/Manager

List of Members/Managers of WB Nielsen, LLC

WYNN R. NIELSEN

14 West 1st North
Weston, Idaho 83286

BONNIE S. NIELSEN

14 West 1st North
Weston, Idaho 83286

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JUN 05 2013

Department of Water Resources
Eastern Region

Claim No. 13-7892

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DEPARTMENT OF WATER RESOURCES

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(Name of Claimant)

Mailing Address: 1308 S 3600 W, Weston, Idaho 83786

Telephone No: 435-752-1100 Email: manyam@jtsattorneys.com

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3. Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

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				(MM/DD)	(MM/DD)
Quantity <u>.16 CFS</u>		Use <u>stock water</u>		Period of Use From <u>01/01</u>	to <u>12/31</u>
Quantity <u>.12 CFS</u>		Use <u>Domestic Households (3)</u>		Period of Use From <u>01/01</u>	to <u>12/31</u>
Quantity <u>0.6 CFS</u>		Use <u>Irrigation</u>		Period of Use From <u>3/15</u>	to <u>11/15</u>
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of diversion, if any: NW ¼ NE ¼ SW ¼ Sec 36, T15S R38E B.M.

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See attached answer

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			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15S	38E	36									1.5			1.5					3
15S	38E	36									0.5			0.5					

TOTAL ACRES 3

- B) If water is used for purposes other than irrigation, fully describe the use. Be specific.

See answer 513 attached

NOTE: Include here the type and number of stock watered: 250 head of dairy cattle

7. Remarks:

8. **Map** -- Attach an 8½"x11" map clearly identifying the point of diversion and the place of use by 40-acre subdivisions, section, township and range of the public land survey system. (A photocopy of a USGS 7½ minute topographic quadrangle map is preferred.) Attach an **aerial photograph** of the place of use if available.

State of Utah)
County of Cache) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the forgoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

M.A. Attorney

Claimant's Signature (and title if claim is for an organization)

Sworn to before me this 3rd day of June



Notary Public

Residing at:

My commission expires:

FOR DEPARTMENT USE ONLY

Received by M. HOLLIDAY Date 6/5/2013
Prelim. check by M. HOLLIDAY Date 6/5/2013
Fee \$ 500 Receipt # E07612
Receipt prepared by K. JONES Date 4/19/13

Published in _____
Publication dates _____
Publication checked by _____ Date _____
Exceptions filed by _____

DAINES, THOMAS & SMITH, LLP

ATTORNEYS & COUNSELORS AT LAW

WWW.DTSATTORNEYS.COM

CHRIS DAINES*†
JONATHAN P. THOMAS*
M. ROBERT SMITH*†
KENNETH ALLSOP*†
TYLER K. OLSON†
BRANDON J. SMITH*

* (LICENSED IN UTAH)

† (LICENSED IN IDAHO)

UTAH OFFICE

135 NORTH MAIN • SUITE 200
LOGAN, UTAH 84321
PHONE (435) 752-1100
FACSIMILE (435) 752-6500

IDAHO OFFICE

PO Box 192
PRESTON, IDAHO 83263
PHONE (208) 852-1535
FACSIMILE (208) 437-8082

April 17, 2013

Idaho Department of Water Resources
Eastern Regional Office
Attention: Michael Holliday
900 North Skyline Drive, Suite A
Idaho Falls, Idaho 84302-1718

RECEIVED

APR 19 2013

Department of Water Resources
Eastern Region

Re: *Water Rights*

To Mr. Holliday:

Enclosed are the following documents:

1. Application for Water Right with attachments
2. Claim to a Water Right

The appropriate filing fees are enclosed along with multiple attachments. Please contact me with questions or concerns during the pendency of this process.

Sincerely,

DAINES, THOMAS & SMITH, LLP



M. Robert Smith

MRS/mab

Enclosures

cc: Client

RECEIVED

JUN 05 2013

Department of Water Resources
Eastern Region

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DAINES, THOMAS & SMITH, LLP

ATTORNEYS & COUNSELORS AT LAW

WWW.DTSATTORNEYS.COM

CHRIS DAINES*†

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M. ROBERT SMITH*†

KENNETH ALLSOP*†

TYLER K. OLSON†

BRANDON J. SMITH*

*(LICENSED IN UTAH)

†(LICENSED IN IDAHO)

June 3, 2013

Idaho Department of Water Resources
Eastern Regional Office
Attention: Michael Holliday
900 North Skyline Drive, Suite A
Idaho Falls, Idaho 84302-1718

Re: *Water Rights*

To Mr. Holliday:

Enclosed is the Claim to a Water Right for WB Nielsen, LLC with the changes that we talked about. Please contact me with questions or concerns you may have.

Sincerely,

DAINES, THOMAS & SMITH, LLP



M. Robert Smith

MRS/mab

Enclosures

cc: Client