

**SECOND AMENDED PLAN FOR SECOND ROUND SERVICE
IN THE SNAKE RIVER BASIN ADJUDICATION**

I. INTRODUCTION

This document sets forth the Idaho Department of Water Resources' (IDWR's) plan for second round service of the commencement notice in the Snake River Basin Adjudication (SRBA), which is required pursuant to Idaho Code § 42-1408(4). This plan shall be implemented effective January 12, 1999.

II. DEFINITIONS

- A. Adjudication database: IDWR's computerized records of adjudication claims.
- B. Adjudication claim: A notice of claim to a water right filed with IDWR in the SRBA.
- C. GIS (Geographic Information System): Software which relates database records to spatially-referenced graphics.
- D. Round 1 Service (or first round service): Service of the commencement notice as described at Idaho Code § 42-1408A(2)(now amended and redesignated in Idaho Code § 42-1408).
- E. Round 2 Service (or second round service): Service of the commencement notice as described in part I above.
- F. Small domestic and stockwater rights or claims: water rights or notices of claims to water rights that are subject to the special procedure for adjudication of small domestic and stockwater rights adopted by order of the Snake River Basin Adjudication Court on January 17, 1989, also referred to as the "deferral procedure".
- G. Split claim: A notice of claim for a portion of a water right record contained in IDWR's water right database.
- H. Statutory claim: A claim to a water right filed with IDWR pursuant to Idaho Code §§ 42-243 to 42-247.
- I. Water delivery organization: An irrigation district, a water utility, a municipality, or any similar owner of a water right which diverts water pursuant to the water right and delivers the water to others who make beneficial use of the water diverted.
- J. Water right database: IDWR's computerized records of water right records. These include computerized records of water right decrees, which are filed with IDWR pursuant to Idaho Code

§ 42-1403; applications filed with IDWR for permits to appropriate water, and permits to appropriate water, water right transfers, and water right licenses issued by IDWR; and statutory claims.

III. IDENTIFYING UNCLAIMED WATER RIGHTS AND DETERMINING POTENTIAL CLAIMANTS.

A. Water Right Data Base

1. Unclaimed water rights

Data in the adjudication database will be compared with data in the water right database to identify water right records for which a notice of claim was not filed. Unclaimed water right records will be identified by a computer-generated report that identifies water right numbers that have not been claimed.

When IDWR finds an unclaimed water right record, IDWR will attempt to identify from the record:

(a) Whether the record is for a water right established after November 19, 1987. If so, second round service will not be performed.

(b) Whether the owner of the water right evidenced by the record received has filed claims in the SRBA. If so, second round service will not be performed.

(c) Whether the water right evidenced by the record is a small domestic or stock water right. If so, second round service will not be performed.

If IDWR cannot remove an unclaimed water right record from the report for second round service by making the determinations in (a) - (c) above, the place of use of the unclaimed water right will be determined from the water right record and added to the list described in part IV.A.

A problem arises because places of use are identified in IDWR's water right records only by quarter-quarter section. IDWR may attempt to determine which portion of the quarter-quarter section is the place of use for the unclaimed water right where this can readily be done. If the unclaimed portion of the quarter-quarter cannot be identified, then the entire quarter-quarter will be added to the list described in part IV.A.

2. Unclaimed portions of water rights

Unclaimed portions of water rights will be identified by comparing split claims with the water right record to determine if all of the water right record was claimed. If IDWR determines that the owner of the unclaimed portion of the water right record has filed claims in the SRBA,

the claimant will not receive second round service. To make this determination IDWR will identify the place of use for the unclaimed portion of the water right record and add it to the list described in part IV.A.

As with wholly unclaimed water right records, discussed in the preceding subsection, a problem arises from the fact that places of use in IDWR's water right records are identified only by quarter-quarter section. IDWR's response to this problem for unclaimed portions of water right records will be the same as for wholly unclaimed water right records.

B. GIS Evaluation and Second Round Service.

The first step of IDWR's investigation of water rights in a reporting area ordinarily will be to digitize the water right claims . This claim layer will be overlaid in the GIS with digital National Aerial Photography Program (NAPP) photography generally taken in 1987. A visual comparison of the digitized claim layer and the NAPP photography will reveal those irrigated acres where a claim has not been filed and second round service should be conducted. For counties where IDWR has a digital parcel layer, ownership information may be collected directly from the GIS.

When IDWR discovers an unclaimed water use (other than small domestic and stockwater uses), IDWR will compare the place of use with IDWR's water right records as provided in part III.A. If second round service is necessary, IDWR will place the legal descriptions of unclaimed potential irrigated acreage on the list described in part IV.A.

C. Potentially Unclaimed Water Rights Discover During the Investigation of Claims.

If potentially unclaimed water rights are discovered during the course of the investigation of the claims and the water system, a reasonably diligent effort will be made to determine the place of use of the potentially unclaimed water right. The place of use will be put on the list for identification of the last known owner and last known address as described in Parts IV.A and IV.B, and a commencement notice will be served as described in Part V.

IV. DETERMINATION OF OWNER AND ADDRESS OF OWNER OF LAND TO WHICH POTENTIALLY UNCLAIMED WATER RIGHT IS APPURTENANT

A. Place of Use List

IDWR will compile the places of use identified in part III. The records of the county recorder's office will then be checked to determine the name and address of each person with a current record interest in the land shown in the compiled list. A list of owners will be developed which will show all persons with a record interest in the places of use shown on the compiled list.

The list will then be checked to eliminate those owners or other record interest holders who have already filed claims in the SRBA. The list will also be checked to eliminate those to whom first or second round service was already made.

If the records of the county recorder's office disclose that all or a portion of the place of use consists of a residential subdivision with lots of 1/2 acre or less, then that portion of the quarter-quarter section will be deleted from the place of use list. Small domestic uses are not required to be claimed in the SRBA pursuant to the deferral procedure. If the domestic uses are served by a water delivery organization that organization should have been served previously.

B. Name and Address List

If the name yielded from the county record search indicates that the owner is a corporation or limited partnership, the records of the Secretary of State will be checked to determine the name and address of the agent for service of process, which will be used for service of the commencement notice on the corporation or limited partnership. If the records of the Secretary of State's office indicate that the corporation has been dissolved or that the corporate status has been forfeited, then the name and address obtained from the county records will be used.

If the name yielded from the county record search is not an individual, and the name does not indicate that the owner is a corporation or limited partnership, then the county fictitious name registration will be checked to determine the name and address of all true names and addresses listed as doing business under the fictitious name, which will be added to the name and address list. The county fictitious name registry checked will be the registry for the county in which the property is located, and the county where the mailing address is located if the mailing address is in Idaho. If a claim has been filed by the person listed as a true name doing business under the fictitious name, then that true name and address will be deleted from the service list. If there is no document purporting to register a fictitious name and listing the names and addresses of the person doing business under the fictitious name, then the name and address obtained from the county ownership records will be used for second round service.

V. SERVICE OF THE COMMENCEMENT NOTICE ON PERSONS AND ADDRESSES IDENTIFIED IN PARTS II THROUGH IV

A. Manner of Service

A commencement notice will be mailed by certified mail to each name and address on the list described in part IV.

B. Staging of Service

Service will be made periodically, and will continue as the examination of the claims and the water system discloses unclaimed uses or potential claims. Potential claimants identified as a result of the analysis described in part III.A will be notified together at the beginning of second round service in an area, and will be given 90 days following service to file a

notice of claim. Potential claimants identified as result of the investigation of claims described in parts III.B and C will be mailed periodically during the detailed investigation of the claims, and will allow 90 days following service to file a notice of claim.