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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

51-12986

(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 Eugene F. Robertson

My address is 29102 OAVIS Rd Bruneau, Id 83604

My phone number is: Work _____ Home 208 845 2106

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:

I was informed by IDWR to file a Late
Claim. See attached

☐ 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.)

Notice of claim
page 11 of Supplemental Director Report Regarding
Subcase # 51-2214, 514000A (split into 51-12976 & 51-12977 and
51-10207 Twin Falls County Civil Case No. 39576
dated April 24, 2003

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 \$ 25.00.
- ☐ 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 October 21, 2003
(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 Bulwer

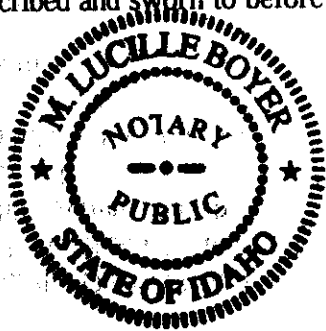
Eugene F. Robertson, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

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.

Eugene F. Robertson
Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on 16th July 2003
(Insert Date)



M. Lucille Boyer
Notary Public for Idaho
Residing at: Mountain Home
My Commission expires: 6-10-2005

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 21, 2003, 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)

Eugene F. Robertson
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

Identification No. _____

Date Received _____

Receipt Number _____

**NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW
For Domestic and/or Stockwater Purposes
Where Daily Use is less than 13,000 gallons per day.**

Filing Fee \$25

Please type or print clearly

1. Name of Claimant (s) Engineer For Susan G. Robert Phone (208) 845-2106

Mailing Address 79102 DAVIS Rd. Brunau, Id Zip 83604

2. Date of Priority (Only one per claim) JUNE 15 1981 Month/Day/Year

3. Source of water supply (Check one) ☒ Groundwater or Other () (a) _____

Name or kind of source

which is tributary to (b) _____

4. Location of point of diversion is: Township 6S Range 4E

Section 36 SW 1/4 of SW 1/4 of SW 1/4, Govt. Lot _____, BM.,

County of OWYhee

Additional points of diversion if any: _____

5. Description of existing diversion works (Ditches, Wells, Pumps, Pipelines, Headgate 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. Original installation consisted of a 3/4 hp jet pump and associated plumbing including 2 mile pipeline put in in April 1981. Modified in 1995 to a pump house, 3/4 hp jet pump, 2 220 gal pressure tanks and new plumbing well is approximately 2000 ft. deep.

6. Water is claimed for the following: (limited to Domestic and/or Stockwater only. See Instructions.)

For Domestic purposes from 1-1 to 12-31 amount .04 (cfs)

(Both dates are inclusive)

For _____ purposes from _____ to _____ amount _____

7. Total quantity claimed .04 (cfs)

8. Total consumptive use claimed is de minimus

9. Non-irrigation uses. Describe fully. (Domestic: give number of households served if single ownership; Stockwater: Type and Number of livestock) 2 households

10. Place of use is: Township: 6S Range 4E
Section 36, SW 1/4 of SW 1/4, Govt. Lot _____ B.M.,
County of Owyhee for (Circle One) Domestic Stock Domestic and Stock
Additional places of use, if any T6S, R04E, S1S, NE 1/4 SE 1/4

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

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.
51-4000B .02 cfs domestic

14. Remarks: _____

15. Basis of Claim (Circle One) Beneficial Use Posted Notice License Permit Decree

Court _____ Decree Date _____ Plaintiff vs Defendant _____

If applicable provide IDWR Water Right Number 51-12986

16. Signature (s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understood 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 1

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

Signature of Claimant (s) Burgess J. Robinson Date 7/16/03
Susan A Robinson Date 7/16/03

For Organizations: I do solemnly swear or affirm that I am _____

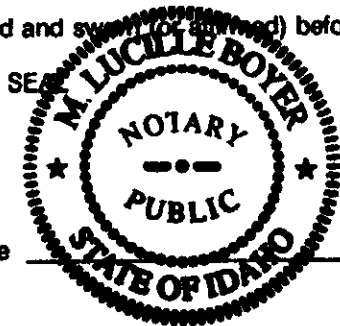
of _____ Title _____ that I have signed the foregoing
document in the space below as _____ Organization _____ of _____ Title _____ Organization _____
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____ Date _____

Title and Organization _____

State of Idaho/or _____ }
County of Elmore } SS.

Subscribed and sworn to (affirmed) before me this 11th day of July 18 2003



Notary Public M. Lucille Boyer

Residing at Mountain View, Idaho

My Commission Expires 6-10-2005

Last Name _____ Ident No. _____

12979. This information, as well as other additional evidence, requires IDWR to change its recommendation of 51-12979. This is discussed in detail below under the section titled "Water Right No. 51-12978 and 51-12979".

In conclusion, IDWR believes that both parties are entitled to a beneficial use domestic right out of the Section 36 well with a priority date of 1981 or 1982, but not under the existing water rights. IDWR suggests that both parties file motions to file late notice of claims with the SRBA court and file new claims for the domestic uses from the Section 36 well.

iii. Priority Date:

The Kohrings raised the issue of the priority date for 51-12977 for the first time at the fact finding hearings. As discussed above under 51-12976, the evidence submitted to support an earlier priority date was based upon a canceled permit. Thus, IDWR does not believe that the priority date for this water right should be changed.

D. Water Right No. 51-12978 and 51-12979:

IDWR split water right number 51-10207 into 51-12978 and 51-12979 and recommended all the domestic uses under these two splits. 51-12978 was recommended to the Robertsons and 51-12979 was recommended to the Kohrings. The Kohrings objected, arguing that this water right number has always been associated with the well on their property (not the well in Section 36) and should not have been split. Based upon the additional evidence presented at the fact finding hearings, IDWR finds that 51-10207 should not have been split. The testimony at the fact finding hearings is that the well in the SWNWSE of Section 25 ("Kohring Domestic Well") was developed in 1963 when the Kohrings moved onto the property and has been used solely on the Kohring's property. As