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JUL - 8 2003

Department of Water Resources

Name of Party Filing Document:
Larry Cooper and Barbara Jean Cooper

Attorney Name & Address:
ROGER D. LING
LING, ROBINSON & WALKER
615 H Street, P. O. Box 396
Rupert, Idaho 83350
ISB No. 1018

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

Case No. 39576

Subcase No. 43-13321 (LP)

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 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 Larry Cooper and
Barbara Jean Cooper

My address is 227 West, 20 South Knox Drive
Burley, Idaho 83318

My phone number is: Work: Home: (208) 678-8015

I am an attorney representing Larry Cooper and Barbara Jean Cooper,
Husband and Wife

My name is Roger D. Ling
LING, ROBINSON & WALKER

My address is P. O. Box 396
Rupert, Idaho 83350

My phone number is (208) 436-4717

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:

Claims were filed and Objections to Claims 43-13110 and 43-13112 were filed. It was determined that these were duplicate licenses. Accordingly, a beneficial use claim is being filed for the water actually used that is inconsistent with the license. A recommendation for allowance of this beneficial use claim will resolve the objections to the above water rights.

☐ 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.)

- Affidavit of Clair Robinson;
- Records of the Idaho Department of Water Resources in regard to the licensing of Water Rights 43-13110 and 43-13112;
- Affidavit of Larry Cooper

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 \$100.00.

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 Tuesday, September 16, 2003 at 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 Minidoka

Roger D. Ling, duly sworn, upon oath, deposes and says:
(Name of person filing motion)

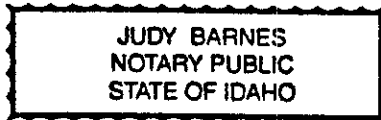
That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. § 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that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

Signature of person filing motion

Roger D. Ling
Attorney signing in representative capacity

Subscribed and sworn to before me on: June 30, 2003

(Insert Date)



Judy Barnes
Notary Public for State of Idaho
Residing at: Rupert, Idaho
My Commission expires: 02/12/2005

INSTRUCTION FOR MAILING

You must mail the motion, including all attachments, to the Clerk of the Court. **FAX filings will not be accepted by the 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 hereby certify that on June 30, 200 3, I mailed the original and copies of this motion, 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
P.O. Box 2707
Twin Falls, Idaho 83303-2707

2. Copies to:

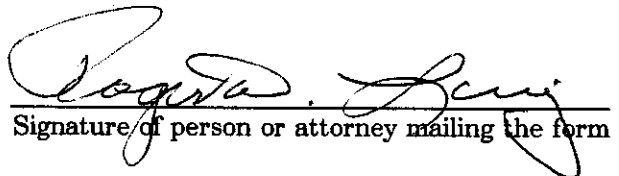
IDWR Document Depository
P. O. Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 033
Boise, Idaho 83734

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/addresses of parties)


Signature of person or attorney mailing the form

Statement
From
Clair Robinson

Subject
Wells on Sections, Three, Ten, & Eleven

I Clair Robinson was the manager of the property owned by O.A Power & Joe Wells in Idahome, Idaho. When I first went to work for Mr. Power, we were developing Sections Three, Ten, Eleven, Range 26 E.B.M. the ground was still in Brush, we were clearing, and Leveling Ground, putting in ditches and drilling Wells.

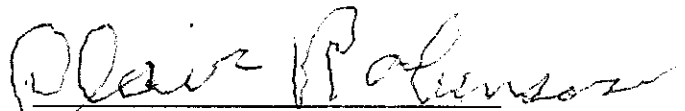
We drilled three Wells; I do not know there permit numbers so I will refer to them as Well's number One, Two, and Three. The first Well drilled was in the Southwest corner of Section 11, this well was disappointing.

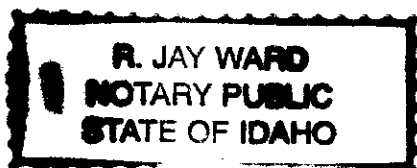
We tested the well it only pumped about 90 to 100" it was later decided to drill deeper, we ended up with about 150" but the amount didn't hold during the season. Well #2 was drilled east of Well#1. It is located about one half the ways between Hwy 81 and Well #1 on the N. Side of the road. It was a consistent well pumped around 160-165". This well was tested a couple different times.

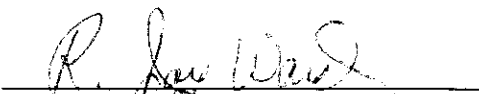
Well #3 is located next to Hwy 81 and is about ½ mile north of well #2. The driller was hitting good signs from about 40ft to the bottom of the hole and mentioned he was in washed gravel a lot of the way.

The well was tested at over 300" with no draw down. It was by far the best well of the three and was very consistent through out the year. When the well wasn't running you could hear the water gushing from the perforations.

I'm told you can still do that today. I understand the number three well is in question as to the amount it pumped. I will say it was by far the best well on the property, we could always set about twice as many tubes off that ~~the~~^{the} Well number Two, and in fact you could set more tubes off the number three well than both the number one and the number two together.


Clair Robinson




Notary
- May 28, 2003

1
2
3 Roger D. Ling, Esq.
4 LING & ROBINSON
5 Attorneys at Law
6 615 H Street
7 P. O. Box 396
8 Rupert, Idaho 83350
9 Telephone (208) 436-4717
10 Facsimile (208) 436-6804
11 ISB No. 1018

12 Attorneys for Claimants,
13 Larry and Barbara Jean Cooper

14
15 IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
16 STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

17 In Re SRBA) Subcase No. _____
18 Case No. 39576)
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A F F I D A V I T

15 STATE OF IDAHO)
16) ss.
17 County of Minidoka)

18 Larry Cooper, being first duly sworn on oath, deposes and
19 states:

20 1. That your affiant is an adult resident of Burley,
21 Idaho, and makes this Affidavit on his own personal knowledge, is
22 competent to testify to the matters stated herein, and this
23 Affidavit sets forth facts as would be admissible in evidence.

24 2. That your affiant is the claimant of a water right
25 in the Snake River Basin Adjudication as shown by the Notice of
26 Claim attached to the Motion to File a Late Claim. I am presently
27 the owner of the land described as the place of use in the claim

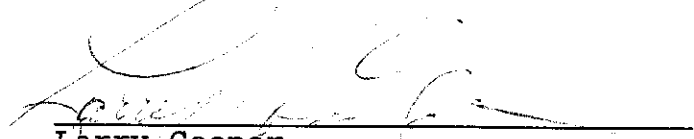
28 AFFIDAVIT

sought to be filed, and am familiar with the property described therein. I was the owner of this property for several years prior to 1977 and was familiar with the wells located on the property and the lands irrigated. The lands described in the Notice of Claim were irrigated prior to 1977 with the three wells located on the property. Prior to 1977 when I owned this property, the well described in the Notice of Claim pumped 300 inches at all times, and was used to irrigate the lands described in the Notice of Claim. It was believed by this affiant that when the claims were made in the SRBA for this and other water rights for this farm by purchasers subsequent to this affiant, they had relied upon licenses that had been issued to justify the diversion from this well. The property was reacquired by me in 1991^{4.96}, and in reviewing the claims, I also felt that the licensed water rights covered the diversion of water from this well. During the investigation of the claims, it was determined that two licenses were duplicate licenses, and did not provide water from this well. It is clear that since the wells were drilled, the water from the well covered by this claim has always been used, although it was not licensed, and that the well was drilled and the water used by 1960, probably several years prior to that time. Full water rights for this farm, a portion of which has been conveyed by this affiant, cannot be obtained without establishing this beneficial use claim, and the recommendation of this claim will satisfy our Objections filed to other claims on this property.

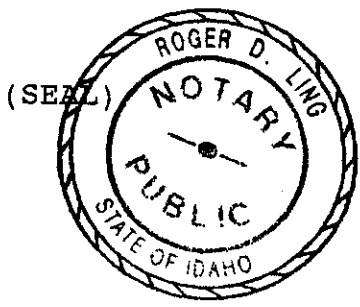
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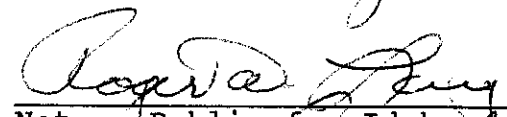
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FURTHER THIS AFFIANT SAITH NAUGHT.


Larry Cooper

SUBSCRIBED AND SWORN to before me this 30th day of June, 2003.




Notary Public for Idaho
Residing at: Rupert, Idaho
My Commission expires: 10/30/06

AFFIDAVIT

RECEIVED

JUL - 8 2003

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: _____

Date Received: _____

Receipt No.: _____

Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: Larry Cooper and Phone: (208) 678-8015
Barbara Jean Cooper
Address: 227 West, 20 South Knox Drive
Burley, Idaho 83318

2. Date of Priority: March 30, 1960

3. Source: Ground Water Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
12 S	26EBM	11	SE	SE	NW		Cassia

Additional points of diversion if any: NONE

5. Description of diversion works:
Deep well pump, motor and mainlines

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.
Irrigation	3/15	11/15	3.00		

7. Total quantity claimed is:
3.00 (C.F.S.) (and/or) (Acre Feet)

8. Total consumptive use claimed is: n/a

9. Non-irrigation uses: n/a

10. Description of place of use:

TWP	RNG	SEC	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				Total
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
12S	26 EMB	10			38	40	32	40	38	39									227

Total number of acres irrigated: 227

11. In which county(ies) are lands listed above as place of use located:
Cassia
12. Do you own the property listed above as place of use? Yes ☒ No ☐
13. Other water rights used at the same place and for the same purposes as described above.
Water Right Nos. 43-2353 and 43-2545, 43-13108, 43-13110, 43-13112, 43-13114, and 43-13116

14. Remarks:

15. Basis of Claim: Beneficial Use
Water Right No.:

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:

One (1): Notice of Claim with supporting documents

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

Signature of Claimant(s) [Signature] Date: June 30, 2003

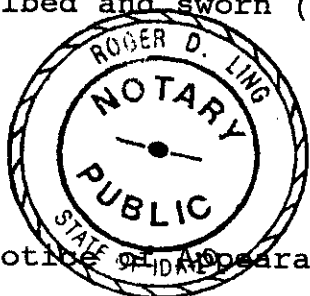
_____ Date: June 30, 2003

For Organizations: I do solemnly swear or affirm that I am _____ of _____, that I have signed the foregoing document in the space below as _____ of _____ and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____
Title and Organization _____ Date _____

State of Idaho)
County of Minidoka) ss.

Subscribed and sworn (or affirmed) before me this 30th day of June, 2003.

[SEAL]  [Signature]
Notary Public, State of Idaho
Residing at: Rupert, Idaho
My Commission expires: 10/30/06

17. Notice of Appearance:

Notice is hereby given that I, Roger D. Ling, will be acting as attorney at law on behalf of the claimant signing the 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] Date: June 30, 2003
Roger D. Ling
LING, ROBINSON & WALKER
Address P. O. Box 396
Rupert, Idaho 83350-0396