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OCT 29 2003

Department of Water Resources

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

OCT 28 2003

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 51-12986  
)  
)

Case No. 39576  
\_\_\_\_\_

) ORDER GRANTING MOTION TO FILE  
) LATE NOTICE OF CLAIM  
)

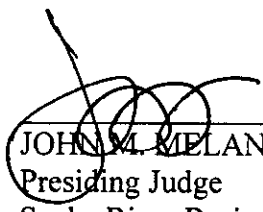
On July 23, 2003 Claimant Eugene F. Robertson filed a *Motion to File Late Notice of Claim*. Hearing was held on the *Motion* October 18, 2003. This *Motion* complied with all procedural requirements under *SRBA Administrative Order 1*, and no objections were made to this late Notice of Claim.

THEREFORE, IT IS ORDERED, that the *Motion to File a Late Notice of Claim* water right 51-12986 is **granted**.

The original 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.

IT IS SO ORDERED.

Dated October 24<sup>th</sup>, 2003.

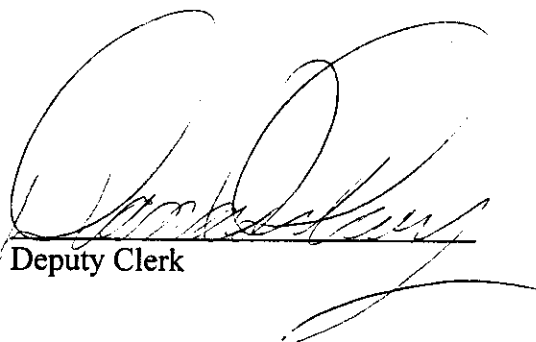
  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

## CERTIFICATE OF MAILING

I certify that a true and correct copy of the **ORDER GRANTING MOTION TO FILE LATE NOTICE OF CLAIM** was mailed on October 28, 2003, with sufficient first-class postage to the following:

Eugene Robertson  
29102 Davis Rd  
Bruneau, ID 83604

IDWR Document Depository  
PO Box 83720  
Boise, ID 83720-0098



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 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

OCT 29 2003

0071715

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) Eugene F or Susan G. Robertson Phone (208) 845-2106

Mailing Address 74102 DAVIS Rd. Bruneau, 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) \_\_\_\_\_

which is tributary to (b) \_\_\_\_\_ Name or kind of source

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

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, S15, 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.  
51-40003 0.2 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.

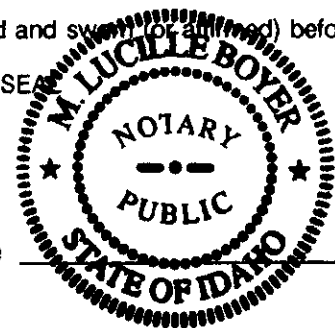
Signature of Claimant (s) Burgess J. Robertson Date 7/16/03  
Susan A. Robertson Date 7/16/03

For Organizations: I do solemnly swear or affirm that I am \_\_\_\_\_ Title \_\_\_\_\_  
of \_\_\_\_\_, 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 (or affirmed) before me this 11<sup>th</sup> day of July, 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