

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 65-22670

)

(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 Caberton Land Co. Ltd

My address is P.O. Box 428
Crescent, Md 23611

My phone number is: Work 208.382.3449 Home Same

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 thought it was already claimed

☐ 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.)

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 \$ 35.
- ☐ 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 _____
(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.

1. affidavit of June Liming
2. affidavit of Hubert L. Higgins
3. affidavit of G. David MacGregor

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 Ada

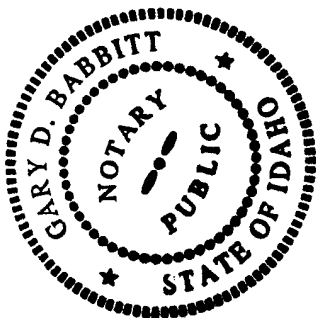
Carbartonhand Company Ltd by Dave MacGregor, General Partner, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

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.

G. D. MacGregor
Signature of person filing motion
General Partner

Attorney signing in representative capacity

Subscribed and sworn to before me on April 4, 2002
(Insert Date)



G. D. Babbitt
Notary Public for Idaho
Residing at: Boise, Idaho
My Commission expires: 4/27/05

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 _____, 199__, 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)

Signature of person or attorney mailing the form

NOTICE

This Packet Contains Two (2) Separate Forms
Remove This Stub And Fill Out Each Form Separately

RECEIVED

Form No. 42-1409 (2) b 6/89

APR - 9 2002

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF ~~THE~~ Department of Water Resources
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. 165-22620

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) CABARTON LAND CO. LTD. Phone (208) 382-3449

Mailing Address PO BOX 428, CASCADE ID Zip 83611

2. Date of Priority (Only one per claim) 1-1-1918 Month/Day/Year

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

Name or kind of source

which is tributary to (b) N.F.K. PAYETTE RIVER & UNN. STREAM, TRIB. N.F.K.

PAYETTE RIVER.

4. Location of point of diversion is: Township 13N Range 4E

Section 31, NE 1/4 of 5W 1/4 of _____ 1/4, Govt. Lot 9, BM.,

County of VALLEY

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. INSTREAM STOCKWATERING FROM SPRING & UNNAMED
STREAM FROM SPRING.

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

For STOCKWATER purposes from 1-1 Month/Day to 12-31 Month/Day amount .20 (cfs)
(Both dates are inclusive)

For _____ purposes from _____ to _____ amount _____

7. Total quantity claimed .20 (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) STOCKWATER, 100 COW-CALF PAIR

10. Place of use is: Township: 13N Range 4E
Section 31, NE 1/4 of 56 1/4, Govt. Lot 9, B.M.,
for (Circle One) Domestic Stock Domestic and Stock
Additional places of use, if any _____

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

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.
X None or _____

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 _____

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 _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of Attachments _____

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

Signature of Claimant (s) _____ Date _____
_____ Date _____

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

Signature of Authorized Agent G. D. MacGregor Date 4.4.02
Title and Organization General Partner, Cabarton Land Co. Ltd.

State of Idaho/or _____)
County of ADA) SS.

NOTARIZATION REQUIRED FOR EACH CLAIM

Subscribed and sworn (or affirmed) before me this 4th day of April 19 2002

Notary Public [Signature]
Residing at Meridian, ID
My Commission Expires 9-14-2006

Last Name _____ Ident No. _____
Copies: White-State, Yellow-Claimant



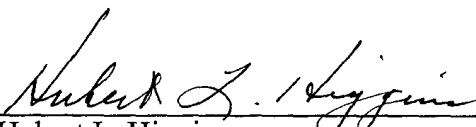
IN THE MATTER OF APPLICATION FOR)
A WATER LICENSE BY CABARTON)
LAND COMPANY, LTD.,)
_____)

AFFIDAVIT OF HUBERT L.
HIGGINS

Hubert L. Higgins on oath deposes and states:

1. My name is Hubert L. Higgins.
2. I was born in 11-1-1922 in Boise, Idaho.
3. In 1929 I lived in what was known as Cabarton, Idaho, a small town in Valley County now located on Cabarton Ranch, owned Cabarton Land Company LTD.
4. I lived at Cabarton, Idaho for 14 years.
5. North of the Cabarton Bridge which is on the north fork of the Payette River, there was and still is a hot springs.
6. The hot springs was adjacent to the stock driveway then used for thousands of cattle and sheep that watered there.
7. In the fall the only water available was downstream from the hot springs for livestock, because the river bank was too abrupt and the natural drainage above the hot springs was dry.

Further your affiant sayeth naught.


Hubert L. Higgins

STATE OF IDAHO)
) ss.
County of Ada)

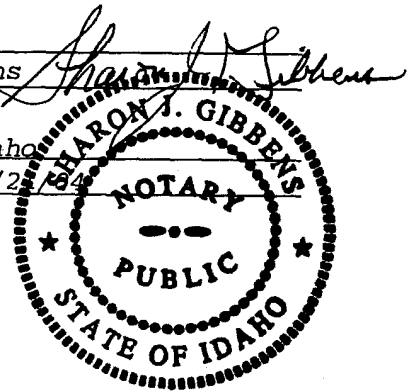
SUBSCRIBED AND SWORN before me this 3rd day of April, 2002.

Name: Sharon J. Gibbens

Notary Public for Idaho

Residing at Meridian, Idaho

My commission expires 10/21/04



IN THE MATTER OF APPLICATION FOR)
A WATER LICENSE BY CABARTON)
LAND COMPANY, LTD.,)
_____)

AFFIDAVIT OF JUNE LIMING

June Liming on oath deposes and states:

1. My name is June Liming.
2. I was born in 1920 in Boise, Idaho.
3. In 1929 I lived in what was known as Cabarton, Idaho, a small town in Valley County now located on Cabarton Ranch, owned Cabarton Land Company LTD.
4. I lived at Cabarton, Idaho for 15 years.
5. North of the Cabarton Bridge which is on the north fork of the Payette River, there was and still is a hot springs.
6. The hot springs was adjacent to the stock driveway then used for thousands of cattle and sheep that watered there.
7. In the fall the only water available was downstream from the hot springs for livestock, because the river bank was too abrupt and the natural drainage above the hot springs was dry.

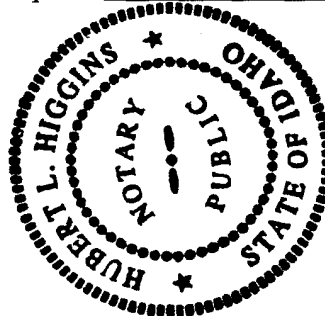
urther your affiant sayeth naught.

June E Liming
June Liming

STATE OF IDAHO)
) ss.
County of Ada)

SUBSCRIBED AND SWORN before me this 3rd day of April, 2002.

Name: Hubert L. Higgins
Notary Public for Idaho
Residing at Boise, Idaho
My commission expires 3-11-05



IN THE MATTER OF APPLICATION FOR)
A WATER LICENSE BY CABARTON)
LAND COMPANY, LTD.,)
_____)

AFFIDAVIT OF G. DAVID
MACGREGOR

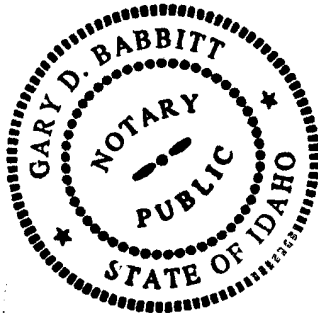
G. David MacGregor on oath deposes and states:

1. My name is G. David MacGregor.
 2. I am personally knowledgeable about the hot springs North of the Cabarton Bridge located on the North Fork of the Payette River.
 3. In 1955, I saw the springs enclosed by a fence built by my family who owned the land.
 4. I have seen livestock water from that hot springs water continuously through my life.
 5. The hot springs is located in the bottom of a drainage which but for the hot springs is dry every fall.
 6. Cattle and horses have wintered there because it was the only water available.
- Further your affiant sayeth naught.


G. David MacGregor

STATE OF IDAHO)
) ss.
County of Ada)

SUBSCRIBED AND SWORN before me this 3 day of April, 2002.



 G. D. Babbitt
Name: GARY D. Babbitt
Notary Public for Idaho
Residing at Boise, Idaho
My commission expires 1/27/05