

Name of Party Filing Document:
Roost Potato Company

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

**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

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)
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Subcase No. 36-07763

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 October 16, 1997), 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 October 16, 1997).

My name is

My address is

My phone number is: Work:

Home:

I am an attorney representing Roost Potato Company, Inc.

My name is Roger D. Ling

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:

See attached Affidavit of Calvin Jones.

☐ 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 \$_____.
- ☒ 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 \$ 167.00.

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, April 19, 2005 at 1:30 p.m.
(Insert date and time)

at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho. The parties may participate by phone by dialing the presiding judge at (918) 583-3445, Code 406128

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 form)

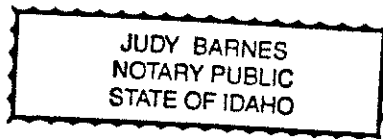
That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. § 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that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

Signature of person filing motion

Roger D. Ling
Attorney signing in representative capacity

Subscribed and sworn to before me on:

January 7, 2005
(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 January 7, 2005, 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:

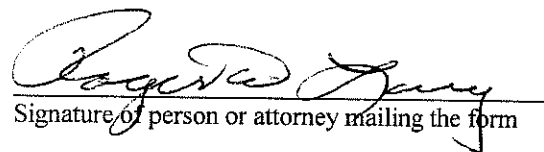
IDWR Document Depository
P. O. Box 83720
Boise, ID 83720-0098

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

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: 36-07763

Date Received: _____

Receipt No.: _____

**NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name of Claimant(s): Roost Potato Co. Phone: (208) 825-5322

Mailing Address: 1440 East, 750 South, Eden, Idaho Zip: 83325

2. Date of Priority (Only one (1) per claim): November 14, 1977

3. Source of water supply (a): Goose Lake and wastewater flowing therein
which is tributary to (b): sinks

4. a. Location of existing point of diversion is: Township 9S Range 19 EMB Section 20
SE1/4 of SE1/4 of SE1/4, Govt. Lot, _____ B.M., County of Jerome

Additional points of diversion if any:

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____ 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, 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. Water is pumped through a surface pump and motor into mainlines where it is delivered to the place of use and applied by handlines.

Last Name Roost Potato Co. Ident.No. 36-07763

6. Water is claimed for the following purposes:
(both dates are inclusive) (cfs) (acre feet)

For irrigation purposes from 3/15 to 11/15 amount 0.8 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed: (a) 0.8 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses – Describe fully (e.g., Domestic: Give number of households served; Stockwater: Type and number of livestock, etc.) _____

10. Description of place of use:
a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

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 $\frac{1}{4}$	
09S	19E	20											5					30	35
09S	19E	21										12							12
09S	19E	29		20															20

Total number of acres irrigated: 67

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

12. Do you own the property listed above as place of use? Yes ☒ 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.

_____ or None (☒)

14. Remarks: _____

Last Name Roost Potato Co. Ident.No. 36-07763

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile

T 9 S

The map is a 20x20 grid representing Township 9 South. The grid is divided into four 10x10 quadrants by a central vertical and horizontal line. Handwritten annotations include:

- '30' in the upper-left quadrant, near the center.
- '31' in the upper-right quadrant, near the center.
- A shaded area in the center, spanning the intersection of the central lines.
- '29' in the lower-left quadrant, near the center.
- 'T 10 S' in the lower-right quadrant, near the center.

Last Name _____ Ident No. _____

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one): Beneficial Use ___ Posted Notice ___ License ☒ Permit ___
Decree _____
If applicable, provide IDWR Water Right Number.: 36-07763
Court _____ Case No. _____ Decree Date _____
Plaintiff vs. Defendant: _____

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: 0

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 PRESIDENT of Roost Potato Co., that I have signed the foregoing document in the space below as PRESIDENT of Roost Potato Co. and that the statements contained in the foregoing document are true and correct.

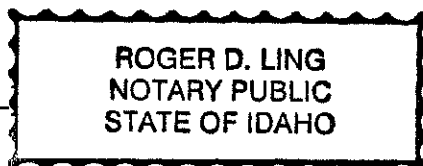
Signature of Authorized Agent Calvin Jones

Title and Organization President, Roost Potato Co. Date: January 7, 2005

State of Idaho or _____)
County of Minidoka) ss.

Subscribed and sworn (or affirmed) before me this 7th day of January, 2005.

[SEAL]



Roger D. Ling
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 Roger D. Ling
Address Roger D. Ling
Ling, Robinson & Walker
P. O. Box 396, Rupert, Idaho 83350-0396
Date January 6, 2005

Last Name Roost Potato Co. Ident.No. 36-07763