

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 <u>21-121</u>
	)	(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 Fremont-Madison Irrigation District / Jeff Raybould

My address is 350 N. 6th West, St. Anthony, ID 83445

My phone number is: Work (208) 624-3381 Home N/A

I am an attorney representing Fremont-Madison Irrigation District

My name is Jerry R. Rigby

My address is P.O. Box 250, Rexburg, ID 83440

My phone number is (208) 356-3633

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:

We previously understodd this issue to be resolved. However, the matter is presently before the Supreme Court of the State of Idaho. The District Court has ruled that the United States holds nominal legal title to the water rights and the irrigation district holds equitable title in trust for its landowners.

☐ 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.)

An affidavit of Jeff Raybould, Chairman of Fremont-Madison Irrigation District.

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 TUES. SEPT 19, 2006 1:30 PM
(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:

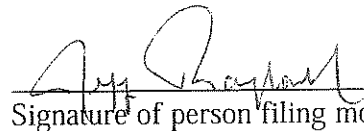
VERIFICATION (Must be completed)

State of Idaho

County of Madison

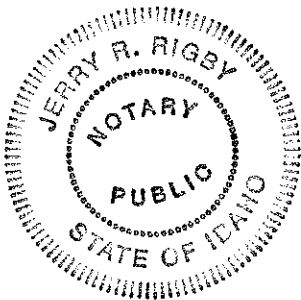
Jeff Raybould, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

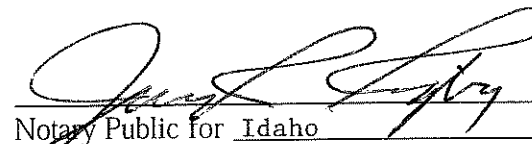
That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that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


Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on June 27, 2006.
(Insert Date)




Notary Public for Idaho
Residing at: Rexburg, Idaho
My Commission expires: 11/09/11

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 JUNE 27, ~~199~~²⁰⁰⁶, 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:

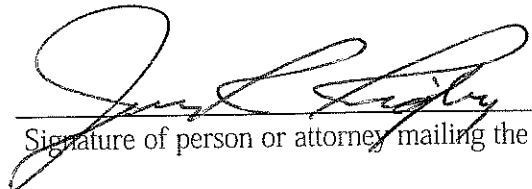
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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

Claimant: Fremont Madison Irrigation District
Attorney: Jerry R. Rigby
of RIGBY, THATCHER, ANDRUS
RIGBY & MOELLER, Chartered
Attorneys at Law
25 North Second East
Rexburg, ID 83440
Telephone: (208) 356-3633
Facsimile: (208) 356-0768

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF TWIN FALLS
SNAKE RIVER BASIN ADJUDICATION DIVISION

In RE: SRBA

) Subcase: 21-121
)
)
)
)
)

Case No. 39576

AFFIDAVIT OF JEFF RAYBOULD

STATE OF IDAHO)

ss.

County of Madison)

Jeff Raybould, having been duly sworn, states under oath as follows:

1. I am a resident of Fremont County, Idaho and reside at 301 N 1500 E St.

Anthony, ID 83445.

2. I am the Chairman of Fremont Madison Irrigation District.

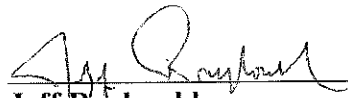
3. Fremont Madison Irrigation District wishes to file a late competing claim on
water right number 21-121, which has also been claimed by the United States Bureau of
Reclamation.

4. Fremont Madison Irrigation Districts' basis of claim for water right no. 21-121 is a decree from 12/16/1910. While the water claimed is held in a Bureau of Reclamation facility, (Island Park Reservoir), the members of Fremont Madison Irrigation District have put this water to beneficial use through irrigation since 1893. This right includes an accomplished transfer from natural flow to storage water.

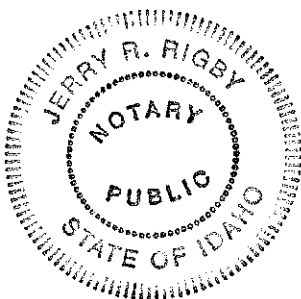
5. We are late in filing this claim because we previously understood this issue to be resolved. However, the matter is presently before the Supreme Court of the State of Idaho. The District Court has ruled that the United States holds nominal legal title to the water rights and the irrigation district holds equitable title in trust for its landowners.

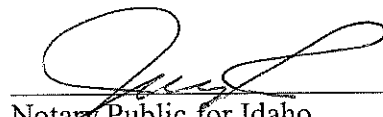
6. All uses described in the Claim were instituted prior to 1987.

Dated this 27th day of June, 2006.


Jeff Raybould

SUBSCRIBED AND SWORN to before me this 27th day of June, 2006.




Notary Public for Idaho
Residing at Rexburg, Idaho
My Commission Expires: 11-09-11

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 Number _____

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (a) Fremont-Madison Irrigation District Phone (208) 624-3381

Mailing Address P.O. Box 15, St. Anthony, Idaho 83445 Zip 83445

2. Date of Priority (Only one (1) per claim) June 1, 1893

3. Source of water supply (a) Sheridan Creek, Henry's Fork

which is tributary to (b) Snake River, Columbia River

4. a. Location of existing point of diversion is : Township _____ Range _____ Section _____,

_____ 1/4 of _____ 1/4 of _____ 1/4, Govt. Lot, _____ B.M., County of _____

Additional Points of diversion if any: Canals within Fremont-Madison Irrigation District

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 _____

ending point is : Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of

_____ 1/4, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dam, 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. Canal headgates and diversion structures at various locations

within Fremont-Madison Irrigation District

6. Water is claimed for the following purposes:

(both dates are inclusive) (cfs) (acre feet)

For Irrigation purposes from 04/01 to 11/01 amount 1.00 or _____

For Irrigation Storage purposes from 01/01 to 12/31 amount _____ or 3618

For Irrigation From Storage purposes from 04/01 to 11/01 amount _____ or 3618

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 1.00 (cfs) and/or (b) 3618 (acre feet)

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

9. Non-irrigation uses; uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock etc.) _____

10. Description of place of use: See Attachment

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	NE1/4				NW1/4				SW1/4				SE1/4				Totals
			NE%	NW%	SW%	SE%	NE%	NW%	SW%	SE%	NE%	NW%	SW%	SE%	NE%	NW%	SW%	SE%	

Total number of acres irrigated See remarks below

11. In which county (ies) are lands listed above as place of use located? Fremont, Madison, Teton

12. Do you own the property listed above as place of use? Yes _____ No X

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.

21-24, 21-26, 21-27, 21-120, 21-121, 21-122, 21-123, 21-124, 21-125, and 21-126, in combination do not exceed 3618 acre feet. Various water users have natural flow or groundwater rights on these same lands. Or None()

14. Remarks:

This water right was transferred and the Snake River Watermaster consistently delivered these natural flow rights as storage from 1942 through 1977 as described in this note from the 1943 Watermaster's Report: "The Sheridan Creek decree is a natural flow right that was originally appurtenant to lands now flooded by Island Park Reservoir. It was transferred to the lands within the Fremont-Madison Irrigation District but it is more convenient to include it as a storage right rather than to make some arbitrary distribution of it as a natural flow right among the District canals." This water should be recognized as an accomplished transfer of natural flow to the canal companies within Fremont-Madison or as an accomplished transfer of storage to Fremont-Madison.

Place of use is the lands of Fremont-Madison Irrigation District

Last Name _____ Ident No. _____

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License _____ Permit _____

Decree X

If applicable provides IDWR Water right Number 21-121

Court _____ Case Number _____ 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 X Which 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 Chairman

Title

of Fremont-Madison Irrigation District, that I have signed the foregoing

Organization

document in the space below as Chairman of Fremont-Madison Irrigation District

Title

Organization

and that the statements contained in the foregoing document are true and correct.

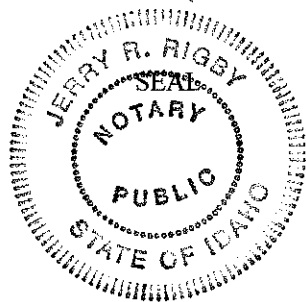
Signature of Authorized Agent [Signature]

Title and Organization Chairman, Fremont-Madison Irrigation District Date JUNE 27, 2006

State of Idaho/or _____)
_____) SS.

County of Fremont)

Subscribed and sworn (or affirmed) before me this 27th day of JUNE 2006



Notary Public [Signature]

Residing at Rigby, Idaho

My Commission Expires 6-1-2011 11-09-11

17. Notice of Appearance:

Notice is hereby given that I, Jerry R. Rigby will be acting as attorney at law on behalf of the claimant signing above, and that notices required by law to be mailed by the director to the claimant signing above should be mailed to be at the address listed below.

Signature [Signature]

Address : P.O. Box 250, Rexburg, Idaho 83440

Date: JUNE 27, 2006

Last Name: _____ Ident Number _____