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APR 27 2007

DEPARTMENT OF
WATER RESOURCES

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 39576

) Subcase 75-2118
)
) (Insert water right number)

) 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 Elizabeth RIEFFENBERGER

My address is P.O. Box 232, CARMEN, IDAHO 83462

My phone number is: Work 208 756-5108 Home 208-756-4340

I am ~~an attorney~~ representing Antelope Hills Homeowners Association

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:

The current property owners in Antelope Hills Subdivision did not own these properties when claims were submitted to the SRBA. The previous owners did not properly file the water right claims. See cover letter for more detail.

☐ 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 \$ 200.

Follow these instructions regarding the hearing on this motion.

(total ck. amt. \$600)

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 July 17, 2007 @ 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 Lehi

Elizabeth RIEFFENBERGER, 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.

Elizabeth Rieffenberg
Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on April 18, 2007
(Insert Date)



Don C. Muelken
Notary Public for State of Idaho
Residing at: Salmon
My Commission expires: 06-23-2010

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 April 24, ²⁰⁰⁷~~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:

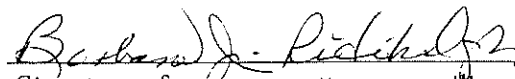
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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

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 75-2118

Date Received _____

Receipt Number _____

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Antelope Hills Homeowners Assoc. Phone (208) 756-4340

Mailing Address P.O. Box 232, CARMEN, ID. Zip 83462

2. Date of Priority (Only one (1) per claim) 2/18/1952

3. Source of water supply (a) CARMEN CREEK
which is tributary to (b) SALMON RIVER

4. a. Location of existing point of diversion is: Township 22N Range 22E Section 8,
_____ 1/4 of SW 1/4 of SE 1/4, Govt. Lot, _____ B.M., County of Lemhi

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 _____

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 (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.

HEADGATE AND ditch

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Irrigation purposes from 4/01 to 10/31 amount 0.40 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) .4 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 23.8 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. 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 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
22N	22E	8									14			9					23

Total number of acres irrigated 23

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

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.

75-14077 thru 75-14079, 75-14083 thru 75-14085, 75-14315 or None ()
75-14317, 75-14319, 75-14321, 75-14340 thru 75-14341, 75-14451 thru 75-14454
14. Remarks:
#8 - Total Consumptive Use is an estimate based on one month of use for high water right.
#12 WATER RIGHTS ARE BEING CLAIMED AND WILL BE HELD BY THE ANTELOPE HILLS
HOMEOWNERS ASSOC. FOR THE SUBDIVISION. SEE ATTACHMENT TO COVER LETTER GIVING
AUTHORIZATION TO THE HOMEOWNERS ASSOC. TO HOLD OWNERSHIP OF WATER RIGHTS,
#13 WATER RIGHTS LISTED COVER APPLY TO THESE 23 ACRES PLUS
ADDITIONAL ACREAGE IN THE SUBDIVISION. SEE ATTACHED SPREADSHEET
FOR SUBDIVISION WATER RIGHTS.

Last Name Antelope Hills Ident No. 75-2118

Homeowners Association

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License ☒ Permit _____
Decree _____
If applicable provide IDWR Water Right Number 75-2118
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 ☒
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 Secretary
of Antelope Hills Homeowners Assoc. Organization, that I have signed the foregoing
document in the space below as SECRETARY Title of Antelope Hills Homeowners Assoc. Organization,
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization Secretary, Antelope Hills Homeowners Assoc. Date 4-18-2007

State of Idaho or _____)
County of Lewi) SS.

Subscribed and sworn (or affirmed) before me this 18 day of April 2007

SEAL

Notary Public Andrew C. Mulkey

Residing at Salmon

My Commission Expires 06.23.2010

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ will be acting as attorney at law on behalf
of the claimant signing 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.

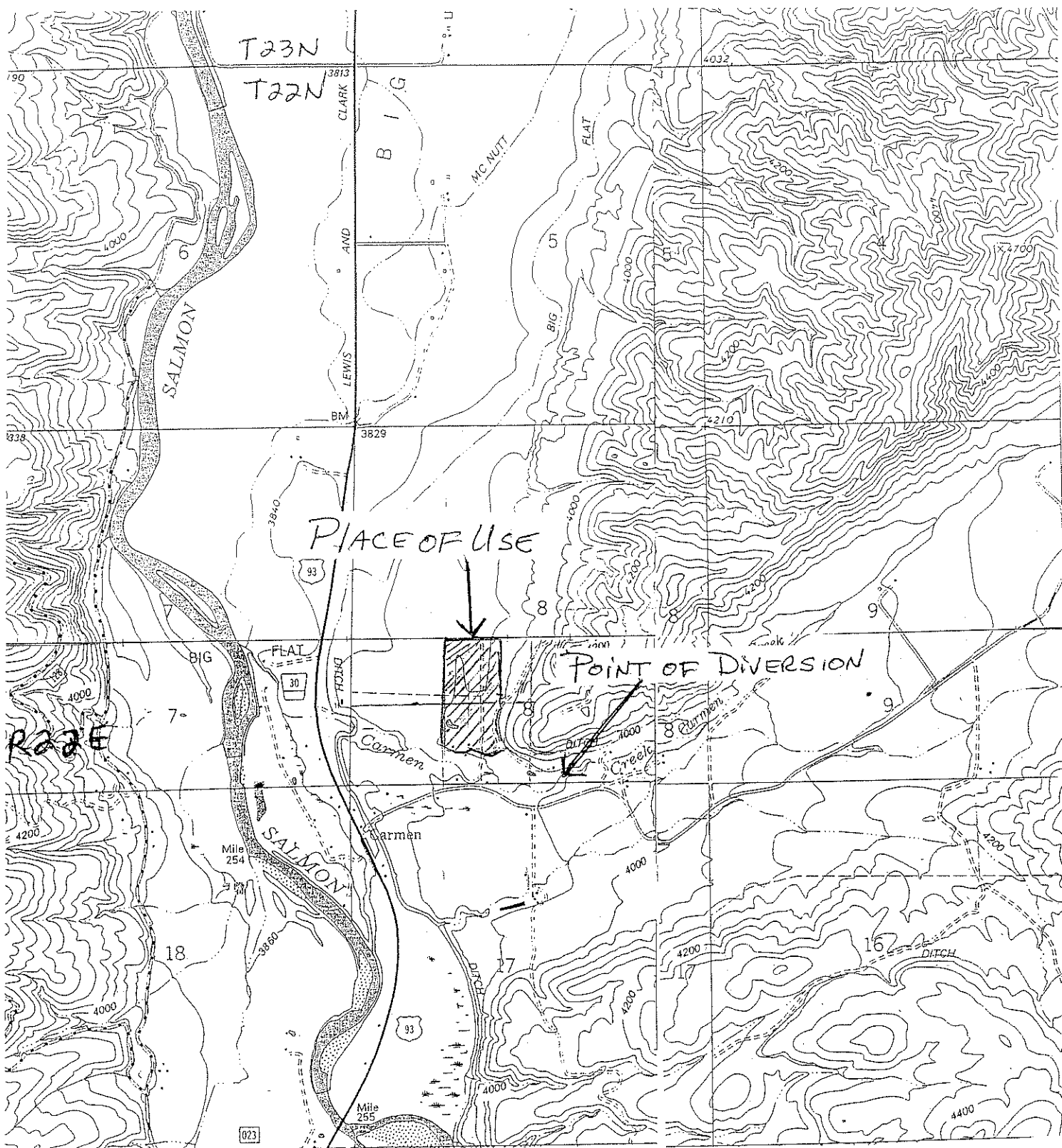
Signature _____

Address _____

Date _____

Last Name Antelope Hills Ident. Number 75-2118
Homeowners Assoc.

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



Last Name Antelope Hills Ident No. 75-2118
Homeowners Assoc.

Antelope Hills Homeowner Assoc.

Water Rights in T22N. R22E, Sec.8

Owner	NESW	NWSW	SESW	NWSE	Total by Owner	Lot #
Bingham	5.2				5.2	14
Carr		9.5			9.5	1N
Dean			11		11	1F
Hurst	0.3		2		2.3	6
Meacham	8.6				8.6	1J
Myers	6.4	18			24.4	1I
Ridihalgh		9.1			9.1	1M
Rieffenberger	4.5				4.5	12
Totals	25	36.6	13		74.6	
Asher	0.4		3.9		4.3	5
Clift	3.7				3.7	11
Kimball	1.8			1.1	2.9	15
Spain	3.2			0.5	3.7	13
	9.1		3.9	1.6	14.6	
Total					89.2	

Recommended Water Rights

Basin 75

Priority	Date
1875	1882
14077	14078
14080	14086
13996	14340
13997	14341
14452	14454
14451	14453
140811	14087
14079	14085
1884	1915
14083	14084
14315	14317
14316	14318
63D	10061AL
63C	10061AK
	10062AK
	10062AJ
	10629
	10827
	14321
	14322

Antelope Hills Homeowners Association
PO Box 232
Carmen, Idaho 83462

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DEPARTMENT OF
WATER RESOURCES

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, Idaho 83303-2707

April 13, 2007

Dear Clerk of Court,

I am submitting this letter and Motion(s) to File a Late Notice of Claim on behalf of the Antelope Hills Homeowners Association of Carmen, Idaho. Attached to this letter you will find a list of homeowners in the subdivision who have properties involved in the Late Claims. The attachment contains their signatures agreeing to have these water rights held by the Homeowners Association and agreeing that I, Elizabeth Rieffenberger, Secretary of the Homeowners Association, can represent them on matters pertaining to these water rights.

Antelope Hills Subdivision is part of an old homestead that has numerous water rights, both decreed and claims, from Carmen Creek dating back to 1875. When the Snake River Basin Adjudication (SRBA) began in the late 1980's the subdivision lots were held by a few owners and all the water rights for the subdivision were filed on separately by lot or groups of lots. Some of the water right filings/claims made at that time were done correctly and accurately reflect the legal water rights for the properties. Unfortunately some of the lot owners who filed the claims in the SRBA did not do their homework and filed incorrectly.

Subsequent to the original filings in the SRBA the lots in our subdivision have sold and resold. As these properties changed ownership, paperwork was filed with the Idaho Department of Water Resources (IDWR) to change ownership on the water rights. The response from IDWR contained a copy of the water right claims showing Decreed rights for our properties with an adequate diversion rate for irrigation of our properties. Nothing in the transmittal letter from IDWR gave any of the Homeowners an impression that these rights were anything but valid. There was no mention that these water rights were only "claims" to a "decreed water right".

We had no indication that there was any problems with our water rights until we received our initial recommendation for Basin 75 from IDWR in December 2006. The initial recommendations contained diversion rates that were only about one-quarter of the quantity that was shown on the copies of our "water rights" that we received from IDWR when we obtained ownership of the water rights. At this time we had only a short time frame to try and work out our water right problems with IDWR. We were told to send in an Notice of Error Report and then wait for the Director's Report to come out in 2007 and then sort it out in court.

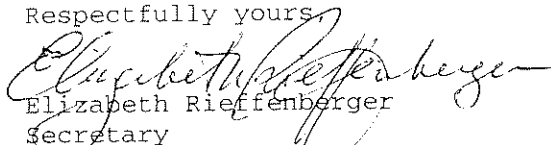
Since that time we have been researching the water rights on Carmen Creek and looking at the recommendations for the properties in our subdivision whose water rights had been correctly filed. We now know that when the claims were submitted in the SRBA, the property owners that filed on the

water rights for our lots filed only on the 1875 and 1882 Decreed Rights. These water rights were part of the Exchange Rights (75-0051 through 75-0057) from the original Carmen Creek Decree (McNutt vs. Palmer). These claims were submitted in the SRBA with a quantity of water that was NOT supported in the original decree, but these claims were accepted by IDWR.

The original claimants did not file water right claims in the SRBA court for additional water rights that we now believe are appurtenant to our properties. These other water rights include a portion of the decreed water right, 75-63 (Priority Date of 1884), and a 1915 Beneficial Use Claim. In addition we have identified a 1952 License (75-2118) originally issued to John Austin that also applies to a portion of our properties.

Based on my research on Carmen Creek water rights and a review of water right recommendations for Basin 75, made by IDWR for other lots in our subdivision, I am submitting, in the name of the Antelope Hills Homeowners Association, these Late Claims for your review and consideration. We believe that we have presented a good faith argument why it is necessary to submit these late claims for water rights in Basin 75. We believe that the water rights associated with these claims are appurtenant to our properties and through no fault of ours were not properly filed in the SRBA.

Respectfully yours,



Elizabeth Rieffenberger
Secretary
Antelope Hills Homeowners Association

cc:
IDWR Document Depository
PO Box 83720
Boise, Idaho 83720-0098

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

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, Idaho 83724

Attachment 1.

We, the following property owners in Antelope Hills Subdivision, agree to have our water rights associated with these Late Claims held in the name of the Antelope Hills Homeowners Association. We also agree to have Elizabeth Rieffenberger, Secretary of Antelope Hills Homeowners Association, represent us in matters relating to these Late Claims for Water Rights in the Snake River Basin Adjudication.

Name	Signature
Date <i>April 18, 2007</i>	
1) James and Celeste Bingham	<i>Celeste Bingham James Bingham</i>
2) Mike Carr	<i>Mike Carr</i>
3) Christopher and Cynthia Dean	<i>Christopher Dean / Cynthia Dean</i>
4) Kristine and David Meachem	<i>D & K Meachem / Kristine Meachem</i>
5) Jerry and Terry Myers	<i>Jerry Myers / Terry Myers</i>
6) Barbara and Bob Ridihalgh	<i>Barbara Ridihalgh / Bob Ridihalgh</i>
7) John and Elizabeth Rieffenberger	<i>John Rieffenberger / Elizabeth Rieffenberger</i>
8) Teresa and David Asher	<i>David Asher / Teresa Asher</i>
9) Charles and Jeanne Hurst	<i>Charles Hurst / Jeanne Hurst</i>