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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

) Subcase: 82-13790
)

Case 39576

) STANDARD FORM 4
)

) MOTION TO FILE
)

) ☒ LATE NOTICE OF CLAIM
)

) ☐ AMENDED NOTICE OF CLAIM
)
_____)

X I have read *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996).

Name of Claimant: City of Rexburg, Idaho

Its address is: P.O. Box 280, Rexburg, Idaho 83440

Its phone number is: 208-356-3020

the undersigned person is an attorney representing said City of Rexburg

My name is Ray W. Rigby

My address is 25 North 2nd East, P.O. Box 250, Rexburg, Idaho 83440

My phone number is 208-356-3633

SCANNED

DEC - 3 2007

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 the water in the SRBA because:
Among the many claims of the City of Rexburg, and because the well which diverts this water right is very near to another city well, this claim was simply inadvertently overlooked. See attached Affidavit.
- ☐ 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 described these documents and attache 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 \$1,180.00.

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, February 20, 2008 at 1:30 p.m.

at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

A Motion to File and 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 the 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

STATE OF IDAHO,)
 ss
County of Madison.)

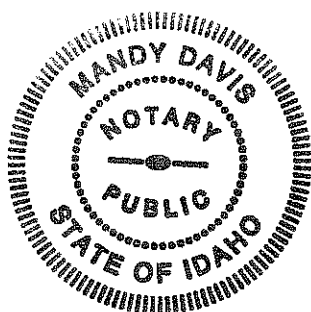
John Millar, being first duly sworn, upon oath, deposes and says:

That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 4204101A(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.

John W. Millar
Signature of person filing motion

Ray W. Rigby
Attorney signing in representative capacity.

Subscribed and sworn to before me on November 5, 2007.



Mandy Davis
Notary Public for Idaho
Residing at ~~Rexburg~~ *St. Anthony*
My Commission Expires: ~~3/12/2011~~ *6-24-2011*

CERTIFICATE OF MAILING

I certify that on November __, 2007, 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
P. O. Box 2707
Twin Falls, ID 83303-2707

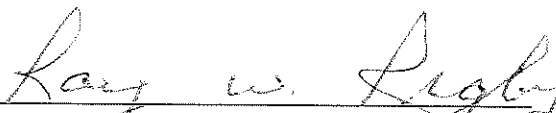
2. Copies to:

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, ID 83711-4449

United States Department of Justice
Environment and Natural Resources 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 Special Master, you must serve a copy on all parties in that subcase.



Signature of person or attorney mailing the form

AFFIDAVIT

STATE OF IDAHO,)
) SS.
County of Madison.)

John Millar, being first duly sworn, deposes and says:

1. That he is a PE/LS, and the Public Works Director/City Engineer for the City of Rexburg, Idaho, and has been since 1999.

2. That he is very familiar with water rights and their points of diversion of the City of Rexburg, and has assisted in the planning for and the acquisition of the necessary water rights for said City.

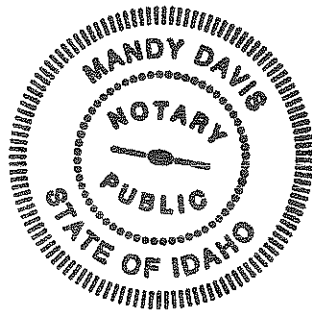
3. Said City has several water rights and they have been claimed in civil case number 3956 in the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Twin Falls, in the case of the General Adjudication of Rights to the use of water from the Snake River Basin water system.

4. However, your affiant, in a general review of the status of the claims of said City of Rexburg, discovered that one of the main rights of said city had not been claimed. Therefore, in behalf of said City of Rexburg, your affiant, by a motion before the court filed herewith by Ray W. Rigby, attorney for the said City on its water claims, requests the Court to authorize the filing of a “Late Claim” in said adjudication proceedings on the ground that said water right is a major source of said city’s water supply system for its municipal purposes, and because, among said city’s many claims, it was simply, inadvertently overlooked in processing said city’s claims in said adjudication proceedings. The City has two Points of Diversions (wells) at one location that contributed to the oversight in the filing.

DATED This 5th day of November, 2007.

John W. Millar
John Millar

SUBSCRIBED AND SWORN TO before me this 5th day of November, 2007.



Mandy Davis
NOTARY PUBLIC FOR IDAHO
Residing at ^{St. Anthony} Rexburg, Idaho
My Commission Expires: ~~3/12/2011~~ 6-24-2011

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 22-13790

Date Received: _____

Receipt No: _____

Received By: _____

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) CITY OF REXBURG Phone (208) 359-3020

Mailing Address P.O. BOX 280 REXBURG ID ZIP 83440
Street or Box City State

2. Date of Priority (Only one (1) per claim) SEPT. 1, 1960
Month Day Year (YYYY)

3. Source of water supply (Check one) Ground Water () or Other () (a) _____
which is tributary to (b) _____

4. a. Location of Point of Diversion is: Township 6N, Range 40 E, Section 29,
NW, 1/4 of NW, 1/4 of SW, 1/4 Govt. Lot _____, BM., County of MADISON

Additional points of diversion if any: _____

If available, GPS Coordinates _____

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

Township _____, Range _____, Section _____, _____, 1/4 of _____, 1/4 of _____, 1/4
Govt. Lot _____, BM., County of _____

ending point is: Township _____, Range _____, Section _____, _____, 1/4 of _____, 1/4 of
_____, 1/4 Govt. Lot _____, BM., 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.

Deep Well, Pump and Connecting pipelines into the total city supply system

Last Name City of Rexburg Ident No. _____

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6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For Municipal purposes from 1-1 to 12-31 amount 4.9 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 4.90 (cfs) and/or (b) _____ (acre feet)

8. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.) Municipal Purposes

9. 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.

Twn	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6N	40E	29											M						

Total number of acres irrigated _____

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

11. 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.

12. Describe any other water rights used at the same place and for the same purposes as described above.

See Attached List or None ()

13. Remarks: On August 3, 1960 at a regular Council meeting the Mayor and Council of the City of Rexburg accepted the bid of Cope Drilling and Pump Company to drill a well the City uses to divert the above water right. Attached hereto is a "Source Water Assessment Program" form of the Idaho Department of Environmental Quality, dated October 25, 2000 which gives the details on the said well. Attached to that report is the log of the well driller dated October, 1960. That log recited that the well produced "Lots of Water." Said well is a major producer of water for all municipal purposes of the said City of Rexburg.

Last Name City of Rexburg Ident No. _____

14. Basis of Claim (Check One) Beneficial Use ☒ Posted Notice ☐ License ☐ Permit ☐ Decree ☐

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number _____

15. 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/We do solemnly swear or affirm under penalty of perjury 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 under penalty of perjury that I am

Public Works Director of the City of Rexburg
Title Organization

that I have signed the foregoing document in the space below as

Public Works Director of the City of Rexburg
Title Organization

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

Signature of Authorized Agent [Signature] Date 11-7-07

Title and Organization Public Works Dir Rexburg, ID.

Please Print Name

16. Notice of Appearance:

Notice is hereby given that I, Ray W. Rigby, 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 Ray W. Rigby

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

Date November 7, 2007

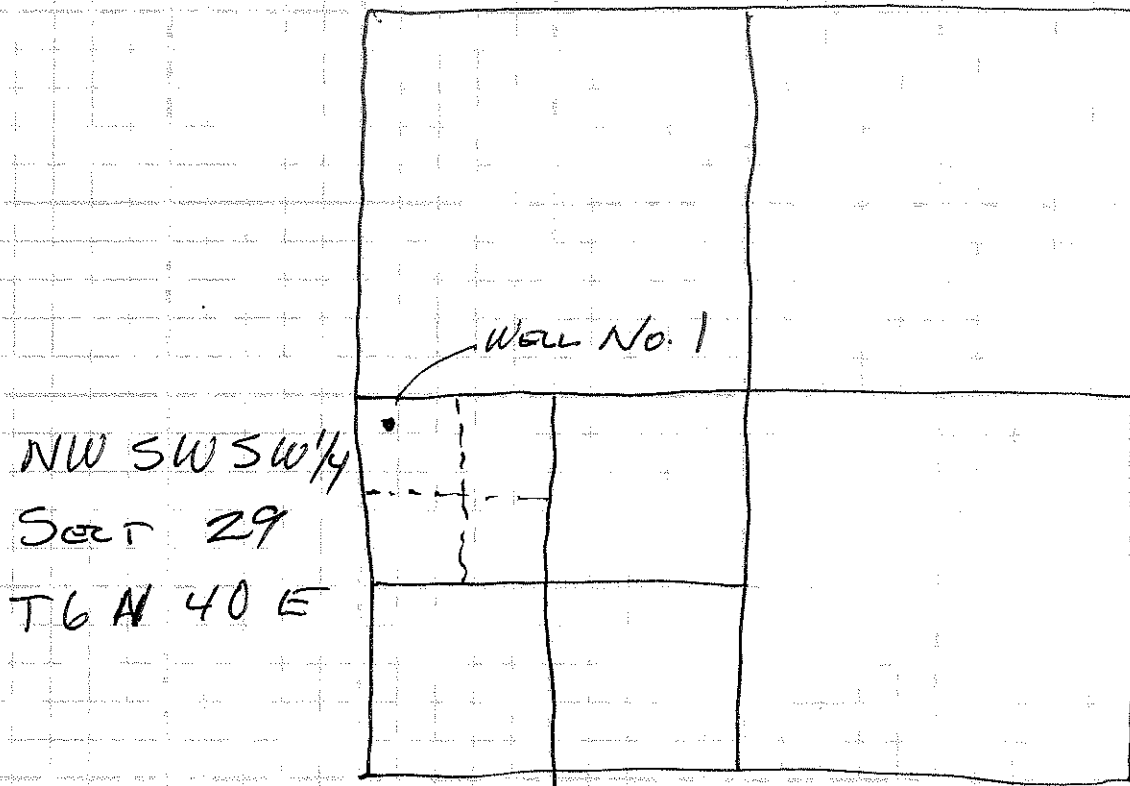
Last Name City of Rexburg Ident No. _____

IDAHO FALLS, IDAHO
OFFICE: (208) 522-1244
FAX: (208) 522-9232

REXBURG, IDAHO
OFFICE: (208) 356-6092

JOB _____
JOB NUMBER _____ SCALE _____
CALCULATED BY _____ DATE _____
CHECKED BY _____ DATE _____
SHEET _____ OF _____

REXBURG Well No. 1



FLOW 2200 GPM
OR 4.90 CFS



Z

DISCLAIMER: This map is intended for display purposes only and is not intended for any legal representations.

IDWR Water Right and Adjudication Search

Note: This search tool identifies active water rights and active transfers. If you want to search both active and inactive water rights, please check the box below.

☐ Search for both active and inactive water right records.

Search Results

Type of Query

USAGE INSTRUCTION

☒ All SRBA & Water Rights	
SRBA ☐ Claims ☐ Recommendations ☐ Both	Water Rights ☐ Applications ☐ Permits ☐ Decrees, Licenses and Statutory Claims ☐ Transfers ☐ All of the above

Basin

Who

What

When

Where

Clear

Search

Help

Query parameters:

OrganizationName = City of Rexburg

Search for: active Records

Information for type: Claim

	Record	Basin	Sequence	Suffix	Version	Basis	Status	Priority Date	Diver: Rat
Details									
Related Documents	1	22	203			Decreed	Active	1898-04-01	33
General Provision									
Details									
Related Documents	2	22	204	C		Decreed	Active	1883-06-10	27
General Provision									
Details									
Related Documents	3	22	7074			License	Active	1973-06-19	1.57
General Provision									
Details									
Related Documents	4	22	7175			License	Active	1976-02-04	5.61
General Provision									

Details									
Related Documents	5	22	7176			License	Active	1976-02-04	4.68
General Provision									
Details									
Related Documents	6	22	7386			License	Active	1981-12-17	0.02
General Provision									
Details									
Related Documents	7	22	7617			License	Active	1978-06-01	2.2
General Provision									
Details									
Related Documents	8	22	13020			Beneficial Use	Active	1981-12-17	0.02
General Provision									
Details									
Related Documents	9	22	13021			Beneficial Use	Active	1963-08-01	0.02
General Provision									
Details									
Related Documents	10	22	13022			Beneficial Use	Active	1989-04-01	0.02
General Provision									
Details									
Related Documents	11	22	13023			Beneficial Use	Active	1960-05-01	0.02
General Provision									
Details									
Related Documents	12	22	13130			Beneficial Use	Active	1961-06-01	0.5
General Provision									
Details									
Related Documents	13	22	13131			Beneficial Use	Active	1959-06-01	1.8
General Provision									

Information for type: Recommendation

	Record	Basin	Sequence	Suffix	Version	Basis	Status	Priority Date	Diver: Rat
Details	14	22	203		1	Decreed	Active	1898-04-01	33
Related Documents									