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FEB 04 2008

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: 21-13073
)
)

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).

My name is Cindy Abegglen and Zane Abegglen.

My address is: 844 Hidden Estates Lane, St. Anthony, ID 83445

My phone number is: Work_(208) 624-4105_____ Home _____

I am an attorney representing Cindy Abegglen and Zane Abegglen

My name is Jerry R. Rigby

My address is: 25 North 2nd East, P.O. Box 250, Rexburg, Idaho 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 the water in the SRBA because:

My predecessor in interest and I were under the mistaken believe that my original claim on the Curr Ditch fully covered the correct Rexburg Decreed water right as well as the correct amount of water my lands have been historically diverting. It has now been discovered by IDWR that neither is correct and that I now need to make a claim under Rexburg Decree right number 21-53 with a priority date of June 1, 1889 in order to fulfill my historical use. This requires me to file this motion to file a late notice of claim.

☐ 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 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.)

Please refer to my filings under water claim number 21-39F which would be the same evidence in this present claim except for the incorrect Rexburg Decree water right number.

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 \$200.00. The lands upon which the claim is made are the same lands included in other claims and all adjudication fees have been paid.

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, May 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:

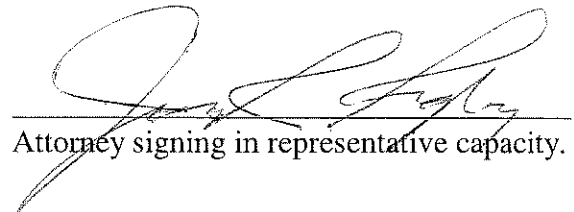
VERIFICATION

STATE OF IDAHO,)
 ss
County of Madison.)

Jerry R. Rigby, being first duly sworn, upon oath, deposes and says:

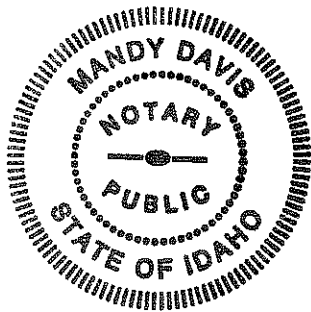
That I am the attorney of party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 4204101A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

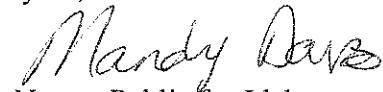
Signature of person filing motion



Attorney signing in representative capacity.

Subscribed and sworn to before me on January 31, 2008.




Notary Public for Idaho
Residing at St. Anthony
My Commission Expires: 06/24/11

CERTIFICATE OF MAILING

I certify that on January 31, 2008, 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

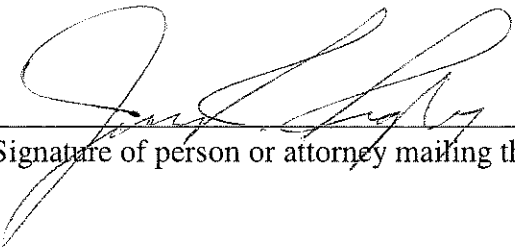
2. Copies to:

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

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 21-13073

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) Cindy & Zane Abegglen Phone (208) 624-4105

Mailing Address 844 Hidden Estates Lane St. Anthony ID ZIP 83445
Street or Box City State

2. Date of Priority (Only one (1) per claim) 06-01-1889
Month Day Year (YYYY)

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

4. a. Location of Point of Diversion is: Township 08N, Range 42E, Section 20,
SW, 1/4 of NW, 1/4 of SW, 1/4 Govt. Lot _____, BM., County of Fremont

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. Curr Ditch Diversionary works.

I divert off of Curr Ditch.

Last Name Abegglen Ident No. 21-13073

6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For Irrigation purposes from 4-01 to 10-31 amount .41 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) .41 (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.) _____

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	
08N	41E	13												13.7					13.7

Total number of acres irrigated 13.7

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

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.

21-39F or None ()

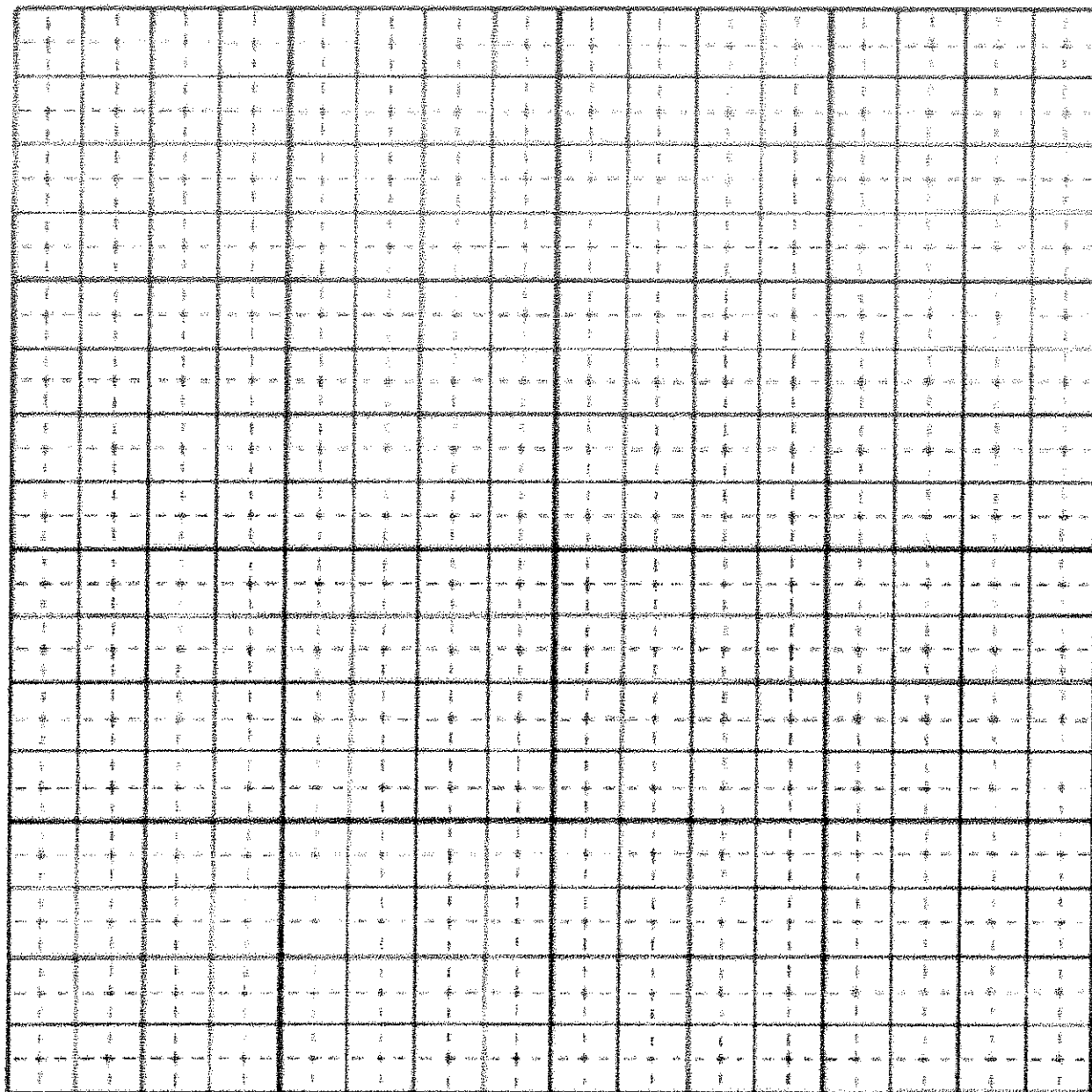
13. Remarks: See Motion to file late claim accompanying this claim

Last Name Abegglen Ident No. 21-13073

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

Scale: 2 Inches equals 1 mile

See map for Water Claim No. 21-39F



Last Name Abegglen Ident No. 21-13073

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

Court _____ Decree Date _____ Plaintiff v. Defendant Rexburg Decree

If applicable provide IDWR Water Right Number 21-53

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

Number of attachments: None

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: _____

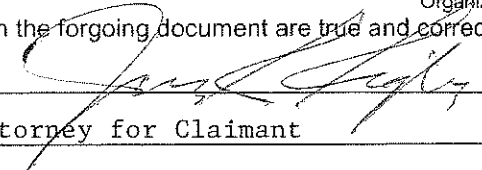
For Organizations: I do solemnly swear or affirm under penalty of perjury that I am

_____ of _____
Title Organization

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

_____ of _____
Title Organization

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

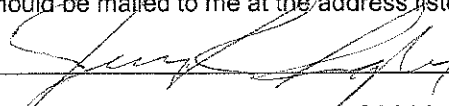
Signature of Authorized Agent  Date 1-31-08

Title and Organization Attorney for Claimant

Please Print Name

16. 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 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 P.O. Box 250, Rexburg, ID 83440

Date 1-31-08

Last Name Abegglen Ident No. 21-13073