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FEB 09 2009

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: 75-14593
)
)

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 Johnny J. Cabigas and Lana J. Greenway

My address is: 1267 Mobil Ave., Camarillo, CA 93010

My phone number is: (661)978-6010

I am an attorney representing Johnny J. Cabigas and Lana J. Greenway

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.

X I did not file a Notice of Claim to the use of the water in the SRBA because:

I did not own the property at that time the original filings were made and I recently discovered that my predecessors did not file for their 1888 water right. I do not know why the previous owner did not file for the 1888 water. This claim will put me on equal footing with the other Claimants involved in the litigation regarding Carmen Creek water.

- ☐ 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.)

I have attached:

- X** 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 \$_____.
- X** 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 \$103.00.

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, May 19, 2009 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:
Fees have been paid when the claims were originally filed.

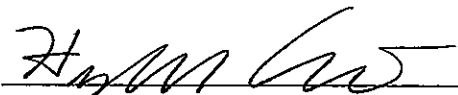
VERIFICATION

STATE OF IDAHO,)
 ss
County of Madison.)

Hyrum D. Erickson, being first duly sworn, upon oath, deposes and says:

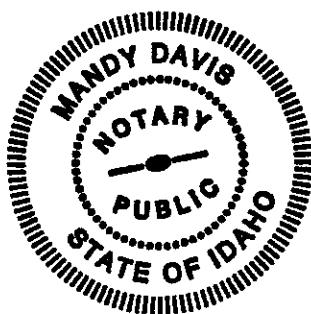
That I am the Secretary of party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 4204101A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and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

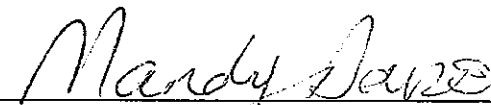
Signature of person filing motion



Attorney signing in representative capacity.

Subscribed and sworn to before me on this 6th day of February, 2009.





Notary Public for Idaho
Residing at St. Anthony
My Commission Expires: 06/24/2011

CERTIFICATE OF MAILING

I certify that on February 6, 2009, 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

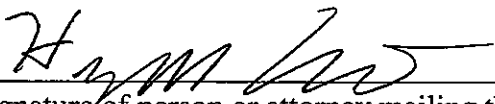
2. Copies to:

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
75-14593

Date Received:

Receipt Nos:

Received By:

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

1. Name of Claimant(s)

Johnny J. Cabigas
Lana J. Greenway
1267 Mobil Ave.
Camarillo, CA 93010
(661)978-6010

2. Date of Priority: 05/01/1888

3. Source: Carmen Creek Trib. to: Salmon River

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
23N	22E	35	NE NE	LEMHI	

5. Description of diverting works:

Headgate, open ditch, flood irrigation

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
Irrigation	04/01	10/31	.77	

7. Total Quantity Appropriated is:
.77 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:
Number of homes:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
22N	22E	03	SW	NE	Irrigation	2.2
			SE	NW	Irrigation	.8

11. Place of use in counties: LEMHI

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

YES

13. Other Water Rights Used:

75-2025H, 75-10061AC, 75-10062AA, 75-10678

14. Remarks:

Mr. Cabigas's predecessor in interest failed to file on this claim. This is the same 1888 right previously filed on by all of the other members of the "Burns Group" with whom Mr. Cabigas is equally situated.

15. Basis of Claim: Beneficial Use

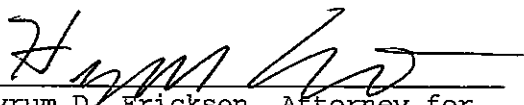
16. Signature(s)

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

Number of attachments:

For Organizations:

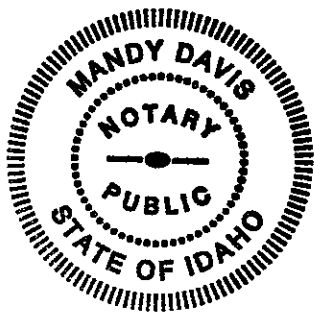
DATED this 6th day of February, 2009.


Hyrum D. Erickson, Attorney for
Johnny J. Cabigas and Lana J. Greenway

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

On this 6th day of February, 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared Hyrum D. Erickson, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Mandy Davis

Notary Public for Idaho
Residing at: St. Anthony
My Commission Expires: 6/24/2011