

RECEIVED

FEB 10 2011

DEPARTMENT OF
WATER RESOURCES

February 2, 2011

Hon. Terrance A. Dolan
February 3, 2011
Special Master, SRBA
Box 2707
Twin Falls, Idaho 83303-2707

Re: Johnny & Lana (Greenway) Cabigas
Box 145
Carmen, Idaho 83462

Late Claim for 1915 Priority Right
(Carmen Cr. High Water)

Dear Special Master Dolan:

Attached please find SF-4, Motion to File Late Claim. We did not previously file a claim for high water due to ownership change as well as uncertainty and confusion involving the several overlapping rights which were previously contested and involved in litigation, but are now non-contested, on the subdivision properties on Carmen Creek.

Our review of the partial decrees and IDWR recommended overlapping rights for our property indicate that the aggregate total for the partials and uncontested recommendations is less than two inches per irrigated acre. The IDWR standard for Carmen Creek is two inches per acre, and most other properties are at that amount.

We respectfully request that the court accept a late claim and subsequently grant a 1915 partial decree to bring our aggregate for uncontested overlapping rights to two inches per irrigated acre. Counsel for the IDWR is aware of this request. Thank you for your consideration.

Sincerely,



Johnny & Lana Cabigas

Copies: Garrick Baxter
IDWR

Director
IDWR

CMIS/CAJ
COURT COPY
(ORIG)

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 75-14698
(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 Johnny J. Cabigas Lana J. Cabigas

My address is P.O. Box 145, Carmen, ID 83462

My phone number is: Work (305) 914-8498 Home (208) 756-1740

I am an attorney representing _____

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:

We did not previously file a claim for high water due to ownership change as well as uncertainty and confusion involving the several overlapping rights which were previously contested and involved in litigation, but are now non-contested.

☐ 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 \$ 50.00.

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. *please advise of date/time. Contact # 805 914-8498 Johnny Cebigas.*
2. Fill in the following information:

This motion will be heard on MAY 17, 2011
(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 Lemhi

Johnny & Lana Cabigas, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

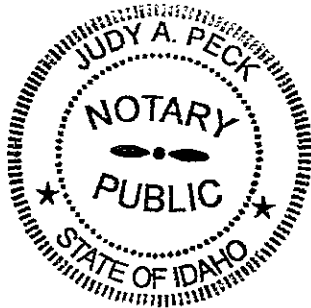
That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that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


Lana Cabigas

Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on Feb. 4, 2011.
(Insert Date)



Judy A. Peck
Notary Public for East Idaho Credit Union
Residing at: 348 Hwy 93 N Carmen Id 83462
My Commission expires: 7-31-2012

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 Feb 8, 2011, 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:

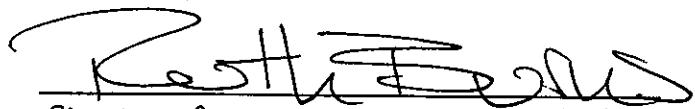
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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

CARDIGAS
COUNTY
(PRIG)

**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 75-19698

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) Lana J Cabigas and Johnny J. Cabigas Phone (208) 756-1740

Mailing Address PO Box 145 Carmen ID ZIP 83402
Street or Box City State

2. Date of Priority (Only one (1) per claim) 4/1/15
Month Day Year (YYYY)

3. Source of water supply (Check one) Ground Water () or Other () (a) Carmen Creek

which is tributary to (b) Salmon River

4. a. Location of Point of Diversion is: Township T23N, Range R22E, Section S35

NE, 1/4 of NE, 1/4 Govt. Lot _____, BM., County of Lemhi

Parcel (PIN) no. _____

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

Govt. Lot _____, BM., County of _____

ending point is: Township _____, Range _____, Section _____, 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. _____

Head Gate + Ditch from Carmen Creek

6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For Irrigation purposes from 04-01 to 10-31 amount .036 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) .036 (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	
22N	22E	03			2.2									2.8					3.0

Parcel (PIN) no(s). _____

Total number of acres irrigated 3.0

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

11. Do you own the property listed above as place of use? Yes (☒) 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.

10061 AC - 10062 AA - 14593 - 10678 - 2025H or None ()

13. Remarks: Water District 75 D

Last Name _____ Identification No. _____

Cobigos ↗

RP001440000140

RP001440000150

RP001440000150

RP001440000130

RP001440000230

RP22N22E030001

RP001440000120

RP001440000110

RP001440000100

RP001440000100

RP001440000090

RP001440000070

RP001440000080

RP001440000090

RP001440000080

RP001440000070

RP22N22E030001

14. Basis of Claim (Check One) Beneficial Use (X) 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 notices 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: 1 Map

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) *[Signature]* *Homa Catigas* Date: 2-4-11
[Signature] *Homa Catigas* Date: 2-4-11

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 _____

Title and Organization _____

16. Notice of Appearance:

Notice is hereby given that I, _____, will be acting as attorney at law of 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 _____ Date _____

Address _____

Last Name _____ Identification No. _____

CABIGAS
COUNT COPY
(PRIG)

SRBA Form No. 12-1409-1 (Interim 2/09)

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLSIN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 75-14698

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) Lana J Cabigas and Johnny S. Cabigas Phone (208) 756-1740Mailing Address PO Box 145 Carmen ID ZIP 83402
Street or Box City State2. Date of Priority (Only one (1) per claim) 4/1/15
Month Day Year (YYYY)3. Source of water supply (Check one) Ground Water () or Other () (a) Carmen Creek
which is tributary to (b) Salmon River4. a. Location of Point of Diversion is: Township T23N, Range R22E, Section 335,
NE 1/4 of NE 1/4 Govt. Lot _____, BM., County of Lemhi

Parcel (PIN) no. _____

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

Govt. Lot _____, BM., County of _____

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

Govt. Lot _____, BM., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
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and as enlarged and the depth of each well.Head Gate or Ditch from Carmen Creek

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(both dates are inclusive MM-DD)

(cfs)

(acre feet)

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For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

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Twp	Rd	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
<u>23N</u>	<u>25E</u>	<u>03</u>			<u>2.2</u>									<u>0.8</u>					<u>3.0</u>

Parcel (PIN) no(s) _____

Total number of acres irrigated 3.0

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

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.

100661 17 CL - 100662 AA - 14593 - 10678 - 2025H or None ()

13. Remarks: Water District 75 D

Last Name _____

Identification 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 _____

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Number of attachments: 1 Map

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) *Thoma Cabigas* Date: 2-4-11
Thoma Cabigas Date: 2-4-11

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 _____

Title and Organization _____

16. Notice of Appearance:

Notice is hereby given that I, _____, will be acting as attorney at law of 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 _____ Date _____

Address _____

Last Name _____ Identification No. _____