

31-24A  
RECEIVED  
AUG 24 2011 8-23  
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: See Exhibit A  
)  
)

Case 39576

) STANDARD FORM 4  
)  
)

) MOTION TO FILE  
)

) ☐ LATE NOTICE OF CLAIM  
)

) X AMENDED NOTICE OF CLAIM  
)  
\_\_\_\_\_

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

My name is: Fremont Madison Irrigation District

My address is: PO Box 15  
St Anthony, ID 83445

My phone number is: (208) 624-3381

I am an attorney representing Fremont Madison Irrigation District

My name is Jerry R. Rigby

My address is: 25 North 2<sup>nd</sup> East, P.O. Box 250, Rexburg, Idaho 83440

My phone number is: (208) 356-3633

**MOTION TO FILE AMENDED NOTICE OF CLAIM**

## **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.

**X** Fremont Madison Irrigation District must amend its Notice of Claim to the use of water in the SRBA because: This water right was transferred to the lands of the canals under Fremont Madison Irrigation District and due to the difficulty in measuring such a small percentage of the right to each of the approximate 48 individual canals, the Snake River Watermaster consistently delivered these natural flow rights as additional storage from 1942 through 1977 as described in this note from the 1943 Watermaster's Report: "The Sheridan Creek decree is a natural flow right that was originally appurtenant to lands now flooded by Island Park Reservoir. It was transferred to the lands within the Fremont-Madison Irrigation District but it is more convenient to include it as a storage right rather than to make some arbitrary distribution of it as a natural flow right among the District canals." This water should be recognized as an accomplished transfer of natural flow to the canal companies or specific canal canals companies within Fremont-Madison or as an accomplished transfer of storage to Fremont-Madison.

**X** I am providing legal and factual documentation to support my amended Notice of Claim. You must describe these documents and attach a readable copy.

The transfer was recorded in the records of Water District 01 by the water master. Said records are in possession of the Court.

I have attached:

**X** An Amended Notice of Claim (available from IDWR).

☐ Payment of the following additional fees required by IDWR:

**X** Fees have been paid when the claims were originally filed.

**This motion will be heard on: August 31, 2011 3:00 p.m. at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho. Parties may participate by phone by dialing 1-215-446-0193 and when prompted enter participant code 926509.**

**MOTION TO FILE AMENDED NOTICE OF CLAIM**

## VERIFICATION

STATE OF IDAHO,                     )  
County of Madison.                 SS  
                                                )

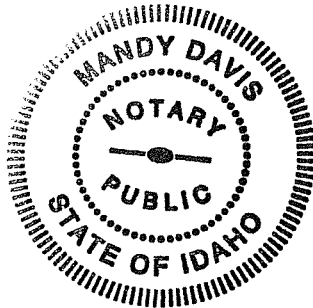
Jerry R. Rigby, being first duly sworn, upon oath, deposes and says:

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

Phil H. Wood  
Attorney signing in representative capacity.  
For: Jerry R. Risby

Subscribed and sworn to before me on this 22<sup>nd</sup> day of August, 2011.



*Mandy Santos*  
Notary Public for Idaho  
Residing at St. Anthony  
My Commission Expires: 06/24/2017

**MOTION TO FILE AMENDED NOTICE OF CLAIM**

## CERTIFICATE OF MAILING

I certify that on August 22<sup>nd</sup>, 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  
P. O. Box 2707  
Twin Falls, ID 83303-2707

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

A&B Irrigation District  
Burley Irrigation District  
Milner Irrigation District  
Represented by:  
Barker, Rosholt, & Simpson LLP  
113 Main Ave. W, STE 303  
PO Box 485  
Twin Falls, ID 83303-0485

American Falls Reservoir  
Represented by Craig D. Hobdey  
125 5<sup>th</sup> Ave.  
PO Box 176  
Gooding, ID 83330

North Side Canal Co, LTD  
Twin Falls Canal Company  
Represented by  
Travis L. Thompson  
113 Main Ave W. STE 303  
PO Box 485  
Twin Falls, ID 83303-0485

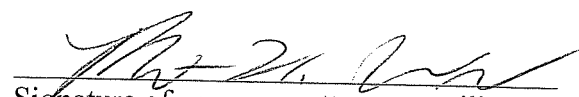
United States of America  
USDI Bureau of Reclamation  
Represented by  
US Department of Justice  
Environment and Natural Resources  
550 West Fort Street, MSC 033  
Boise, ID 83724

Minidoka Irrigation District  
Represented by W. Kent Fletcher  
1200 Overland Ave.  
PO Box 248  
Burley, ID 83318

Island Park Land and Cattle CO  
Ashton, ID 83420

Director of IDWR  
PO Box 83720  
Boise, ID 83720-0098

United States of America  
Regional Director PN Region  
Bureau of Reclamation  
1150 N Curtis RD STE 100  
Boise, ID 83706-1234

  
Signature of person or attorney mailing the form

**MOTION TO FILE AMENDED NOTICE OF CLAIM**

**Exhibit "A"**

**21-24A**  
**21-26A**  
**21-27A**  
**21-120A**  
**21-121A**  
**21-122A**  
**21-123A**  
**21-124A**  
**21-125A**  
**21-126A**

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 21-24A

Date Received \_\_\_\_\_

Receipt Number \_\_\_\_\_

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

Please type or print clearly

1. Name of Claimant (a) Fremont-Madison Irrigation District Phone (208) 624-3381  
Mailing Address P.O. Box 15, St. Anthony, Idaho 83445 Zip 83445
2. Date of Priority ( Only one (1) per claim) May 10, 1889
3. Source of water supply (a) Sheridan Creek, Henry's Fork  
which is tributary to (b) Snake River, Columbia River
4. a. Location of existing point of diversion is : Township \_\_\_\_\_ Range \_\_\_\_\_ Section \_\_\_\_\_,  
\_\_\_\_\_ 1/4 of \_\_\_\_\_ 1/4 of \_\_\_\_\_ 1/4, Govt. Lot, \_\_\_\_\_ B.M., County of \_\_\_\_\_  
Additional Points of diversion if any: Canals within Fremont-Madison Irrigation District  
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 ( Dam, 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. Canal headgates and diversion structures at various locations  
within Fremont-Madison Irrigation District  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Water is claimed for the following purposes:

(both dates are inclusive) (cfs) (acre feet)

For Irrigation purposes from 04/01 to 11/01 amount 6.00 or \_\_\_\_\_

For Irrigation Storage purposes from 01/01 to 12/31 amount \_\_\_\_\_ or 3618

For Irrigation From Storage purposes from 04/01 to 11/01 amount \_\_\_\_\_ or 3618

For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_

For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_

7. Total quantity claimed (a) 6.00 (cfs) and/or (b) \_\_\_\_\_ (acre feet)

8. Total consumptive use claimed is \_\_\_\_\_ acre feet per annum.

9. Non-irrigation uses; uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock etc.) \_\_\_\_\_

10. Description of place of use: See Attachment

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 | NE1/4 |     |     |     | NW1/4 |     |     |     | SW1/4 |     |     |     | SE1/4 |     |     |     | Totals |
|-----|-----|-----|-------|-----|-----|-----|-------|-----|-----|-----|-------|-----|-----|-----|-------|-----|-----|-----|--------|
|     |     |     | NE¼   | NW¼ | SW¼ | SE¼ | NE¼   | NW¼ | SW¼ | SE¼ | NE¼   | NW¼ | SW¼ | SE¼ | NE¼   | NW¼ | SW¼ | SE¼ |        |
|     |     |     |       |     |     |     |       |     |     |     |       |     |     |     |       |     |     |     |        |
|     |     |     |       |     |     |     |       |     |     |     |       |     |     |     |       |     |     |     |        |
|     |     |     |       |     |     |     |       |     |     |     |       |     |     |     |       |     |     |     |        |
|     |     |     |       |     |     |     |       |     |     |     |       |     |     |     |       |     |     |     |        |
|     |     |     |       |     |     |     |       |     |     |     |       |     |     |     |       |     |     |     |        |
|     |     |     |       |     |     |     |       |     |     |     |       |     |     |     |       |     |     |     |        |
|     |     |     |       |     |     |     |       |     |     |     |       |     |     |     |       |     |     |     |        |

Total number of acres irrigated \_\_\_\_\_

11. In which county (ies) are lands listed above as place of use located? Fremont, Madison, Teton

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.

21-24, 21-26, 21-27, 21-120, 21-121, 21-122, 21-123, 21-124, 21-125, and 21-126

Various water users have natural flow or groundwater rights on these same lands or None ( )

14. Remarks:

This water right was transferred and the Snake River Watermaster consistently delivered these natural flow rights as storage from 1942 through 1977 as described in this note from the 1943 Watermaster's Report: "The Sheridan Creek decree is a natural flow right that was originally appurtenant to lands now flooded by Island Park Reservoir. It was transferred to the lands within the Fremont-Madison Irrigation District but it is more convenient to include it as a storage right rather than to make some arbitrary distribution of it as a natural flow right among the District canals." This water should be recognized as an accomplished transfer of natural flow to the canal companies or specific canal companies within Fremont-Madison or as an accomplished transfer of storage to Fremont-Madison.

Place of use is the lands of Fremont-Madison Irrigation District

Last Name \_\_\_\_\_ Ident No. \_\_\_\_\_

15. Basis of Claim (check one) Beneficial Use \_\_\_\_\_ Posted Notice \_\_\_\_\_ License \_\_\_\_\_ Permit \_\_\_\_\_  
Decree X

If applicable provides IDWR Water right Number 21-24 (A)

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 X  
Which 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 Chairman

\_\_\_\_\_ Title \_\_\_\_\_  
of Fremont-Madison Irrigation District, that I have signed the foregoing  
Organization

document in the space below as Chairman of Fremont-Madison Irrigation District  
Title \_\_\_\_\_ Organization

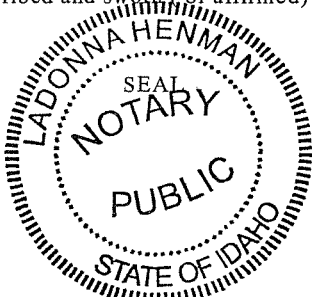
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent [Signature]  
Title and Organization Chairman, Fremont-Madison Irrigation District Date 8-18-11

State of Idaho/or \_\_\_\_\_ )  
\_\_\_\_\_ ) SS.

County of Fremont )

Subscribed and sworn (or affirmed) before me this 18 day of Aug 20 11



Notary Public [Signature]

Residing at Rigby, Idaho

My Commission Expires 6-1-2011 6-20-2017

17. 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 notices required by law to be mailed by the director to the claimant signing above should be mailed to be at the address listed below.

Signature \_\_\_\_\_

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

Date: \_\_\_\_\_

Last Name: \_\_\_\_\_ Ident Number \_\_\_\_\_