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SEP 30 2013

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

Case 39576

) **Subcase: 21-13174**

) **STANDARD FORM 4**

) **MOTION TO FILE**

) **X 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: Squirrel Creek Irrigation and Canal Co.

My address is: P.O Box 621, Ashton, ID 83420

My phone number is: (208) 652-3646

I am an attorney representing Squirrel Creek Irrigation and Canal Co.

My name is Jerry R. Rigby and Rob Wood

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:

Claimant is the holder of several natural flow water rights from Squirrel Creek and Conant Creek. Claimant filed claims in the Snake River Basin Adjudication in a timely manner on each of those rights. The claim(s) currently before the Court stem from storage rights in Indian and Bergman Reservoirs in the State of Wyoming. Claimant has two storage water right permits in the state of Wyoming, numbered 21146 and 21147, which allow for the water stored in Indian and Bergman Reservoirs to be used on land serviced by Claimant in Fremont County, Idaho.

Due to the fact that Claimant has valid storage water rights in Wyoming, Claimant did not believe a need existed to file a claim in the SRBA. During the period in which Claimant was filing claims on its surface water rights, Claimant understood from an employee of the Idaho Department of Water Resources that it was unnecessary to file a claim on the right in question due to the fact that a Wyoming right already existed. In fact, Claimant only recently became aware of the need to file a claim on this permit when Water District 01 employees raised the issue that perhaps it was necessary to obtain Idaho water rights. Because this water originates and is stored in Wyoming, and has only been used on Claimant's land, allowing this late claim will cause no hardship or injury to any other water user.

Claimant recognizes that basin 21 has been closed. Nevertheless, due to the fact that Claimant did not purposefully delay filing a late claim, and due to the fact that no other parties will be injured by this late claim, the Motion to File a Late Claim should be granted.

The water right claimed pursuant to this Motion is extremely valuable to Claimant. Due to the excusable and clearly unintentional delay by Claimant, Claimant should not be penalized and should be granted the right to finalize the filing of his late claim and pursue it as he would have prior to the closing of Basin 21.

No party will be injured by this Motion as these rights are based upon valid water right permits.

- ☐ 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.)

A copy of a State of Wyoming Certificate of Appropriation of Water for Permit No. 21147.

An Affidavit by Walter Scafe, President of Squirrel Creek Canal and Irrigation Co.

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 \$100.00.

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, December 17th, 2013 at 1:30 P.M.,
at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

VERIFICATION

STATE OF IDAHO,)

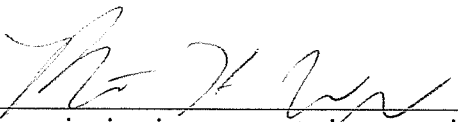
ss

County of Madison.)

Robert H. Wood, being first duly sworn, upon oath, deposes and says:

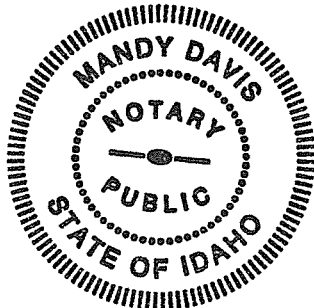
That I am the _____ of party/claimant filing this motion for late or amended claim
(as listed on Page 2) as defined by I.C. §§ 4204101A(1) and (7) or that I am the attorney for the
party/claimant filing this motion for late or amended claim and that I have read this motion,
know its contents, and believe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

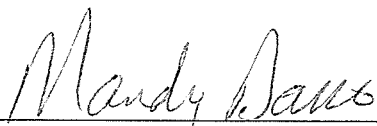
Signature of person filing motion



Attorney signing in representative capacity.

Subscribed and sworn to before me on this 26th day of September, 2013.





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

CERTIFICATE OF MAILING

I certify that on September 26th, 2013, 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

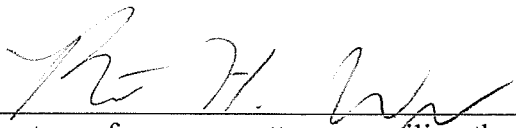
2. Copies to:

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

RECEIVED

SEP 30 2013

DEPARTMENT OF
WATER RESOURCES

SRBA Form No.42-1409-1 (Internet 2/09)

**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 21-13174

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) Squirrel Creek Irrigation and Canal Co. Phone (208) _____

Mailing Address P.O. Box 621 Ashton ID 83420
Street or Box City State

2. Date of Priority (Only one (1) per claim) January 20, 1913
Month Day Year (YYYY)

3. Source of water supply (Check one) Ground Water () or Other () (a) Bergman Lake Reservoir
which is tributary to (b) Squirrel Creek

4. a. Location of Point of Diversion is: Township 08N, Range 43E, Section 15,
SW, 1/4 of SE, 1/4 Govt. Lot _____, BM., County of Fremont

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. A dam and reservoir in Wyoming, which is diverted into Squirrel

Creek and then into Conant Creek. The water is diverted from Conant Creek by a pump and pumped into a pipeline which feeds a sprinkler system.

6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For Irrigation Storage purposes from 01/01 to 12/31 amount or 904

For Irrigation from Storage purposes from 01/01 to 12/31 amount or 904

For purposes from to amount or

For purposes from to amount or

7. Total quantity claimed (a) (cfs) and/or (b) 904 (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	
8N	43E	10	40		40	40				40	40	40	40	40	40	40	40	40	480
8N	43E	15	40	40	40	40	40	40	40	40									320

Parcel (PIN) no(s).

Total number of acres irrigated 800

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 () 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.

21-109C, 21-2156K, 21-2157

or None ()

13. Remarks: This water right is claimed pursuant to a valid Wyoming water right permit, permit number 21147, which allows Claimant to store water for irrigation in Bergman Lake Reservoir in Wyoming and to divert that water from Squirrel Creek and Conant Creek in Fremont County, Idaho.

Last Name Identification No.

EXHIBIT A

Page 1 of 2

Indian and Bergman Reservoirs
and Dams and Bergman Service Road

AGRICULTURE IRRIGATION AND
STOCKWATERING EASEMENT

for

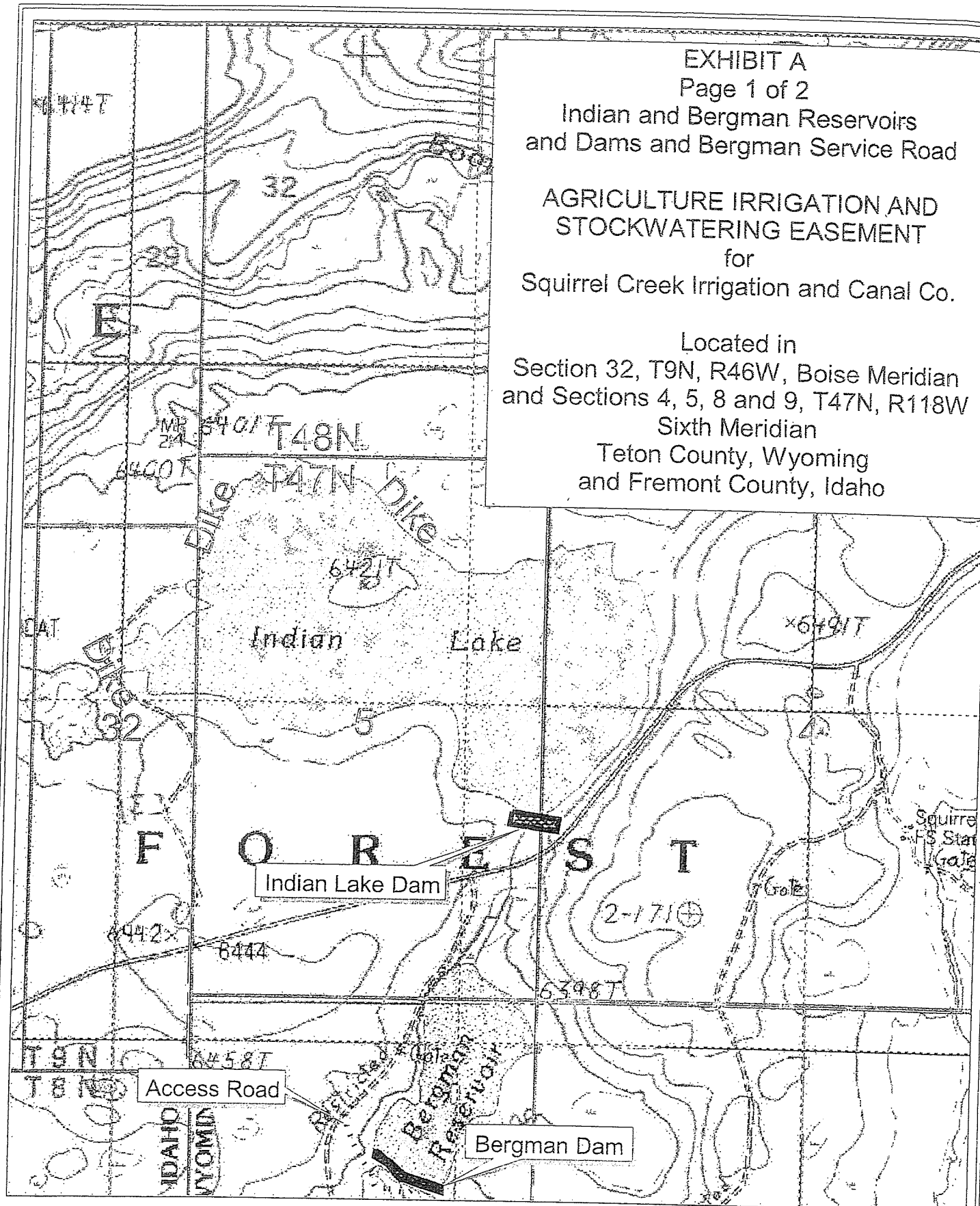
Squirrel Creek Irrigation and Canal Co.

Located in

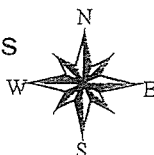
Section 32, T9N, R46W, Boise Meridian
and Sections 4, 5, 8 and 9, T47N, R118W

Sixth Meridian

Teton County, Wyoming
and Fremont County, Idaho



0.2 0 0.2 0.4 Miles



SOURCE: USGS 7.5 Minute Quadrangle

PROJECTION: UTM Zone 12

DARUM: NAD 27

B. Klarich
12-3-2002

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 Wyoming Permit 21147 / IDWR No. 21-13174

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 () 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

President _____ of Squirrel Creek Irrigation and Canal Company,
Title _____ Organization _____

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

President _____ of Squirrel Creek Irrigation and Canal Company,
Title _____ Organization _____

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

Signature of Authorized Agent Walter Seage Date Aug 30 / 2013

Title and Organization President, Squirrel Creek Irrigation and Canal Company

16. Notice of Appearance:

Notice is hereby given that I, Robert H. Wood, 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 Robert H. Wood Date 9-26-13

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

Last Name _____ Identification No. _____

Proof No. 25516

Certificate Record No. 64, Page 31

for irrigation of the lands herein described, lying and being in _____ Fremont _____ County, Wyoming, Idaho, as Chapter 96, Session Laws of Wyoming 1953.

_____, A. D. 19 56, in Order Record No. 13, Page 279, determined and established the priority and amount of such

Director _____ Squirrel Creek Irrigation Company _____; Postoffice Address c/o Walter Bergman, Box 65, Ashton, Idaho _____, Wyoming: _____

January 20, 1953 : Total Acreage Eight hundred (800) Acres

Section 201.45 Ac. Ft. ~~unappropriated~~; Description of land to be irrigated and for which this appropriation is determined and established:

[illegible]

and

_____, President of the State Board of Control, have hereunto set my

_____, of _____, A. D. 1956, and caused the seal of said Board to be hereunto affixed.

Ex-officio Secretary. _____ President