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DEPARTMENT OF
WATER RESOURCES
COPY

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

A. Subcase: 25-7652

STANDARD FORM 4

Case No. 39576

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 file 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 _____

My address is _____

My phone number is: Work _____ Home _____

I am an attorney representing Comore Development, Inc.

My name is Kent W. Foster

My address is PO Box 50130
Idaho Falls, ID 83405

My phone number is 208-523-0620

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:

The right is in permit stage and Comore was advised it was not desirable to file an SRBA claim for a permit.

- ☐ 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 a 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 you 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 \$ 363.00 for 25-7652 and 25-7578.
- ☐ 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 \$ _____.

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, Oct. 18, 2005, at 1:30 p.m.
(Insert Date and Time)

at the SRBA Court 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

State of Idaho

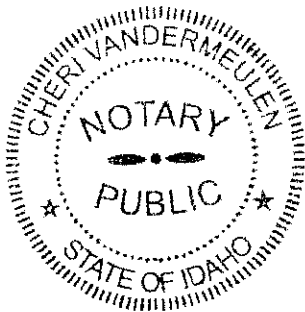
County of Bonneville

Kent W. Foster, being first duly sworn, upon oath, deposes and says:

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.

Kent W. Foster
Kent W. Foster

Subscribed and sworn to before me on *July 18, 2009*.



Cheri Vandermeulen
Notary Public for *Idaho*
Residing at: *Idaho Falls*
My Commission expires: *7 July 2009*

CERTIFICATE OF MAILING

I certify that on July 18, 2005, 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 Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724



Kent W. Foster

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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 25-7652

Date Received _____

Receipt Number _____

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

1. Name of Claimant(s) Comore Development, Inc. Phone (208) 529-3672
Mailing Address 3920 E. Sunnyside Rd., Idaho Falls, ID Zip 83406

2. Date of Priority (Only (1) per claim) Dec. 11, 1996

3. Source of water supply (a) Groundwater
which is tributary to (b) _____

4.a. Location of existing point of diversion is:
Township 01N Range 38E Section 1, 1/4 of NE 1/4 of NE 1/4, Govt. Lot 1,
County of Bonneville

Additional points of diversion if any: T.01N., R.38E., SEC.01, SENE, NESE; T.01N., R.38E., Sec. 12, NWNE

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 (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. _____

6. Water is claimed for the following purposes: _____ (Both dates are inclusive) (cfs) (acre feet)

For Domestic purposes from 01/01 to 12/31 amount 1.33 cfs or _____

7. Total quantity claimed (a) 1.33 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

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

10. 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 instruction for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TLS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
1N	38E	12	D			D					D			D	D	D	D		
	39E	6	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	
		7	D				D	D	D	D									

Total number of acres irrigated _____

11. In which county(ies) are lands listed above as place of use located? 25-7040, 25-7042, 25-7161, 25-7578 AND 25-7652

12. 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.

13. Describe any other water rights used at the same place and for the same purposes as described above.
_____ or None ()

14. Remarks:

Two points of diversion are located with NESE, S01, T01N, R38E and are locally known as Well #1 and Well #4. The point of diversion located within Lot 1 (NENE), S01, T01N.1, R38E is locally known as Well #2. The point of diversion located within NWNE, S12, T01N., R38E is locally known as Well #5. Places of use are located within Lots 10-14 & 22-27, Blk.4; Lots 15-19, Blk. 8; Lots 7-21, Blk. 10; Lots 1-9 & 34-45, Blk. 11; Lots 1-23, 27-34 and 36, Blk. 12; Comore Loma Subdivision. Domestic use is for 88 homes. The irrigation use occurring under this domestic right shall not exceed 1/2 acre within each platted subdivision lot upon which a home has been constructed. The right holder shall use the full allotment of appurtenant surface water rights in conjunction with groundwater diverted under this right and shall only divert groundwater for irrigation use under this right when water from the appurtenant surface water rights cannot be delivered to the right holder. This domestic right shall not be used for irrigation if the surface water rights appurtenant to the place of use is sold, transferred, leased or used on any other place of use.

15. Basis of Claim (Check one) Beneficial Use ____ Posted Notice ____ Permit ____ Decree ____ License ____

If applicable provide IDWR Water Right Number _____

Court _____ Case Number _____ Decree Date _____

Plaintiff vs Defendant _____

16. Signature(s)

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 VICE President of _____
(Title)

Comore Loma Development, Inc., that I have signed the foregoing document in the space below as
(Organization)

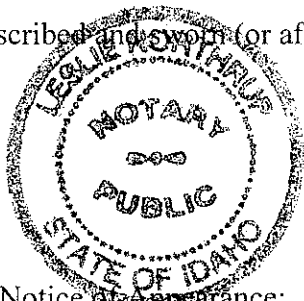
VICE President of Comore Loma Development, Inc. and that the statements contained in the
(Title) (Organization)
foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization Comore Loma Development, Inc. Date 6/15/05

State of Idaho)
) SS.
County of Bonneville)

Subscribed and sworn (or affirmed) before me this 15th day of June, 2005.



Notary Public Leslie Northrup
Residing at Moore, ID
My Commission Expires 09/29/2009

17. Notice of Appearance:

Notice is hereby given that I KENT W. FORSTER 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 Kent W. Forster

Address 170 Box 50150 Idaho Falls, ID 83405

Date 6/17/05