

RECEIVED

JUN 16 2008

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

21-0362

(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 Gene R. Kantack

My address is 5405 Leav Cole Dr.
Idaho Falls, Id. 83404

My phone number is: Work (208) 521-9603 Home (208) 523-5959

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:

☐ 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 \$ _____.

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 _____
(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:

*Water right does not include
irrigation and it should.*

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

See affidavit

I have attached:

- ☒ An amended Notice of Claim (available from IDWR).

- ☒ Payment of the following additional fees required by IDWR:

\$3

VERIFICATION (Must be completed)

State of Idaho

County of Bonneville

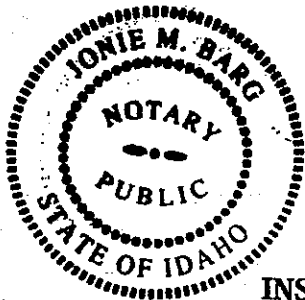
Gene Kantack being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

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.

[Signature]
Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on June 9th, 2008
(Insert Date)



[Signature]
Notary Public for State of Idaho
Residing at: Idaho Falls
My Commission expires: July 24, 2013

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 June 10, 2008, 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:

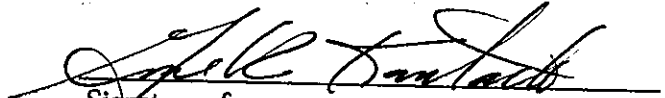
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

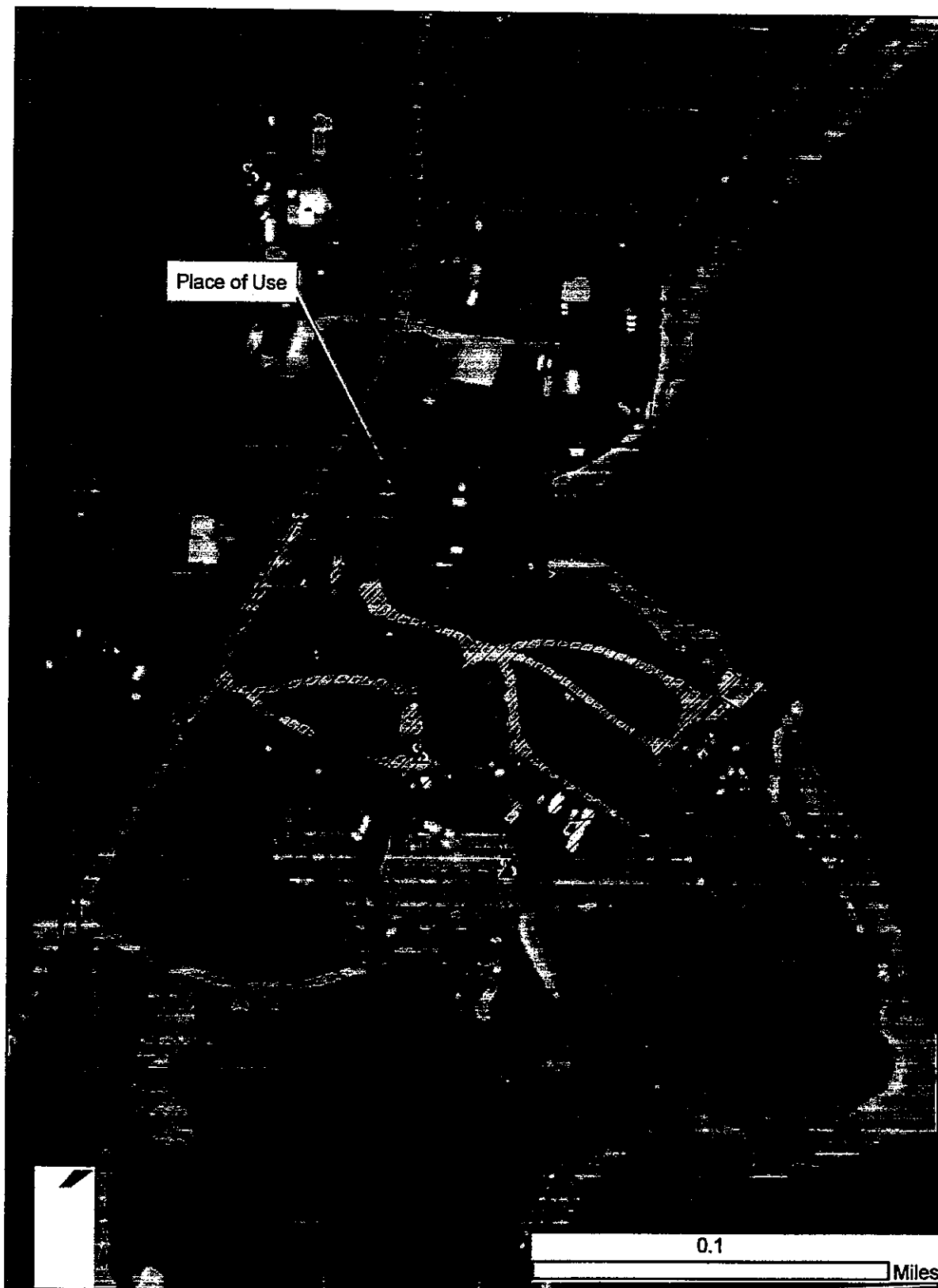
United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

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

Claim Map



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 21-7362
Date Received: 4/7/1989
Receipt No: E006754
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

DGM PROPERTIES LLC Phone: (208)523-5959

C/O GENE KANTACK
5405 LONG COVE DR

IDAHO FALLS ID USA 83404

2. Date of Priority: 07/15/1985

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
15N	43E	6	NW NW	FREMONT	

5. Description of diverting works:

WELL

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	05/01	10/31	0.04	10.5
COMMERCIAL	05/01	10/31	0.04	2.8

7. Total Quantity Appropriated is:
0.04 C.F.S. and/or 10.5 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
15N	43E	6	NW	NW	COMMERCIAL	
			NW	NW	IRRIGATION	3
					Section Acres	3
					Total Acres	3

11. Place of use in counties: FREMONT

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

13. Other Water Rights Used:

14. Remarks:

15. Basis of Claim: License

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

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am John R. Santolo of
Title _____
DGM Prop LLC, that I have signed the foregoing
Organization _____

document in the space below as Partner of
Title _____

DGM Prop. LLC and that the statements contained in the
Organization _____

foregoing document are true and correct.

Signature of Authorized Agent John R. Santolo

for DGM Prop. LLC
Title and Organization _____

6-09-08

Date _____

State of Idaho

County of Bonneville)
SS.

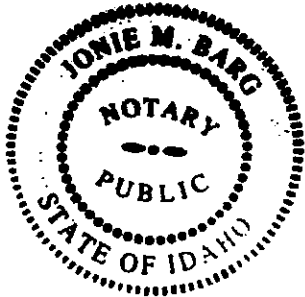
Subscribed and sworn (or affirmed) before me this 9th day

of June 2008

Jonie M. Barg
Notary Public

Residing at Idaho Falls

My commission Expires June 24, 2013



Michael A. Horton

Attorney at Law

225 East Mendenhall, Suite C, Bozeman MT, 59715

Phone: 406-586-9268 - Fax: 406-587-9752 Email: hortonlaw@hotmail.com

5/15/2008

Mr. William Moss
Via Email: bmoss@grwei.com

Re: Staley Springs Lodge - Historical Water Use.

Dear Bill:

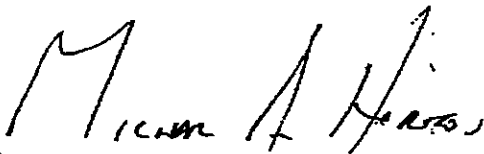
As per your request I have written a short note concerning my experience and knowledge of use of the water system for irrigation at Staley Springs Lodge during my tenure there. I helped out as a part time boat boy for Leonard McMinin while vacationing there, then worked as boat boy a season for Don Hart, and finally managed the resort for Stan Horton, so my experience covers three separate ownerships of Staleys.

Lawns are a big deal at a vacation resort and over my time with Staleys we used each of the wells located thereon a great deal to irrigate the grass and water landscaping. Further, during the season I worked for Don Hart, he required use of an irrigation pump for these purposes taking water directly from the springs themselves. This water would have come from both the spring and from the input of the Timber Creek water right that emptied directly into the springs at that time.

Simply put, both of the wells at Staleys have been used for agricultural purposes over the years in order to maintain the property. Further, I have been told by history buffs and some of the older clients that these water sources have been used to maintain livestock and at one time the Timber Creek water right wove through the property and was used to irrigate as well as being a fishable waterway.

That is about all I have on the subject, but if you have any further use or need of my recollections regarding Staleys, I stand ready to assist.

Best Regards:



Michael A. Horton