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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 63-31058
	)	
	)	
Case 38576	)	STANDARD FORM 4
	)	
	)	MOTION TO FILE AMENDED NOTICE OF CLAIM
	)	

INSTRUCTIONS

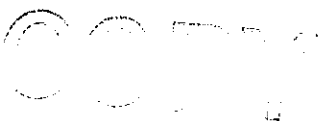
This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or 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).



I am an attorney representing The Terteling Company, Inc.

My address is: RINGERT CLARK, CHARTERED, P.O. Box 2773, Boise, Idaho 83701

My phone number is: 208/342-4591

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.

The Terteling Company, Inc. must amend its Notice of Claim to the use of this water in the SRBA because:

The Terteling Company, Inc., has filed many different claims to water rights in Basin 63 in the vicinity of this claim, and with the assistance of its counsel and expert, recently discovered that this water right was incorrectly claimed in that it did not claim historical beneficial uses.

I am providing legal and factual documentation for this claimed use of water. You must describe these documents and attach a readable copy.

1. An affidavit of expert hydrogeologist Ed Squires detailing his investigation of the water right, including a detailed analysis of the aerial photographs.
2. An affidavit of Andy J. Terteling, Vice- President of The Terteling Company, Inc.
3. An affidavit of Doug Hunt, Ranch Manager for The Terteling Company, Inc.
4. An Affidavit of Charles L. Honsinger, Attorney for The Terteling Company, Inc.

I have attached:

An amended Notice of Claim (available from IDWR).

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 _____ at _____.m. at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

VERIFICATION (Must be completed)

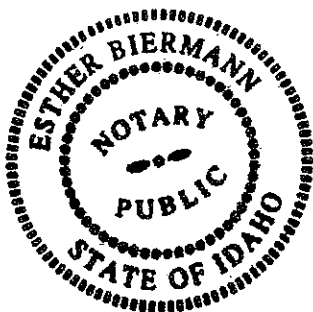
State of Idaho)
)
County of Ada)

Charles L. Honsinger, being first duly sworn, upon oath, deposes and says:

That I am an attorney for 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.

Charles L. Honsinger
Attorney signing in representative capacity

Subscribed and sworn to before me on 12/23/08
(Insert Date)



Esther Biemann
Notary Public for Idaho
Residing at: Boise, Idaho
My Commission expires: 11/29/13

CERTIFICATE OF MAILING

I certify that on December 29, 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:

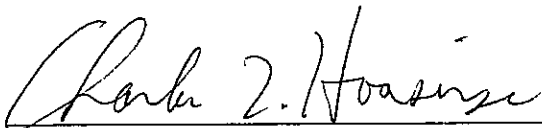
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

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

Dana Hofstetter
Hofstetter Law Office, LLC
608 W. Franklin Street
Boise, ID 83702
Fax: (208)424-8744



Signature of person or attorney mailing form

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
Indent. Number 63-31058
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(s) The Terteling Company, Inc. Phone: (208) 338-5200
Mailing Address 3858 Garden Center Way, Boise, ID Zip 83703
2. Date of Priority only (1) per claim) May 1, 1891
3. Source of water supply (a) Stewart Gulch and Springs
which is tributary to (b) Boise River and Stewart Gulch
4. a. Location of existing point of diversion is: Township 04N Range 02E Section 14,
1/4 of SW 1/4 SE 1/4, Govt. Lot, _____ B.M., County of Ada
Additional points of diversion if any: T04N R02E Sec. 14, SESW (3)
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 _____
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. Diversions from stream into system of pipes and ditches. Diversions
from springs into ponds.

Last Name The Terteling Company, Inc. Ident. Number 63-31058

6. Water is claimed for the following purposes:

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

For Irrigation purposes from 3/15 to 11/15 amount .32 cfs or _____

For Stockwater purposes from 1/01 to 12/31 amount 0.04 cfs or _____

For Aesthetic purposes from 1/01 to 12/31 amount 1.00 cfs or _____

For Wildlife purposes from 1/01 to 12/31 amount 1.00 cfs or _____

For Aesthetic Storage purposes from 1/01 to 12/31 amount _____ or 2.0

For Wildlife Storage purposes from 1/01 to 12/31 amount _____ or 2.0

For Stockwater Storage purposes from 1/01 to 12/31 amount _____ or 2.0

7. Total quantity claimed (a) 1.0 (cfs) and/or (b) 2.0 (acre feet)

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

9. Non-irrigation uses:

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 instructions for standard symbols.

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Total
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	2E	14											9.8	5					17
		15																1	1

Total number of acres irrigated 15.8

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

12. Do you own the property listed above as place of use? Yes X No _____

13. Other water rights used:

14. Remarks: _____

Last Name The Terteling Company, Inc. Ident. Number 63-31058

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

If applicable provide IDWR Water Right Number 63-31058

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 wish 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 documents are true and correct.

Signature or Claimant (s) Date

 Date

For Organizations: I do solemnly swear or affirm that I am

Title

of The Terteling Company, Inc., that I have signed the foregoing

Organization

document in the space below as of The Terteling Company, Inc.

Title

organization

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

Signed of Authorized Agent *Joe A. Terteling*

Title and Organization PRESIDENT TTEL

Date 22 DEC 08

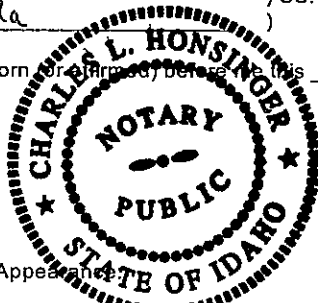
State of Idaho/or)

County of Ada) SS.

Subscribed and sworn to and affirmed before me this 22nd

day of December 2008

SEAL



Notary Public *Charles L. Honsinger*

Residing at Boise, Idaho

My Commission Expires 7/30/2010

16. Notice of Appearance

Notice is hereby given that I, Charles L. Honsinger, will be acting as attorney at law on behalf of the claimant signing above, and 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 *Charles L. Honsinger*

Address Ringert Law, Chartered, P.O. Box 2773, Boise, ID 83701

Date December 22, 2008

Last Name The Terteling Company, Inc.

Ident. Number 63-31058