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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 63-33148
	)	
	)	
Case 38576	)	STANDARD FORM 4
	)	
	)	MOTION TO FILE LATE 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).

COPY

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 A LATE NOTICE OF CLAIM

A Motion to File a Late Notice of Claim will require a hearing before the Presiding Judge.

The Terteling Company, Inc. did not file a Notice of Claim for the use of this water in the SRBA because:

The Terteling Company, Inc., has filed many different claims to water rights in Basins 63 and 65, and only recently discovered that this domestic water right was not claimed in the SRBA after consultation with their expert and attorney, and a subsequent investigation by their expert.

I am providing legal and factual documentation for this 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 water right. 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 \$25.00.

The Affidavit of Charles L. Honsinger in Support of Motion to

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:

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:

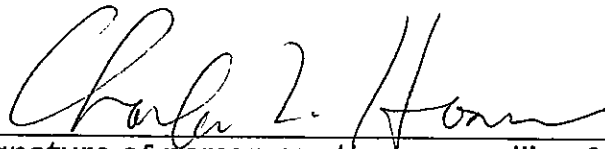
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

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

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



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 63-33148
Date Received _____
Receipt Number _____

**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) Springs
which is tributary to (b) Stewart Gulch
4. a. Location of existing point of diversion is: Township 04N Range 02E Section 14,
1/4 of SW 1/4 SW 1/4, Govt. Lot, _____ B.M., County of Ada
Additional points of diversion if any: T04N R02E Section 14 SESW
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 springs into very small ponds and spring boxes
6. Water is claimed for the following purposes:

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

For Stockwater purposes from 1/01 to 12/31 amount 0.04 cfs or _____
For Aesthetic purposes from 1/01 to 12/31 amount .04 cfs or _____
For Wildlife purposes from 1/01 to 12/31 amount .04 cfs or _____

Last Name The Terteling Company, Inc. Indent. Number 63-33148

7. Total quantity claimed (a) .04 (cfs) and/or (b) ____ (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											S, W, A	S W A					

Total number of acres irrigated _____

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: _____

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

If applicable provide IDWR Water Right Number 63- 33148
 Court _____ Case Number _____ Decree Date _____
 Plaintiff vs Defendant _____

Last Name The Terteling Company, Inc. Ident. Number 63- 33148

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.

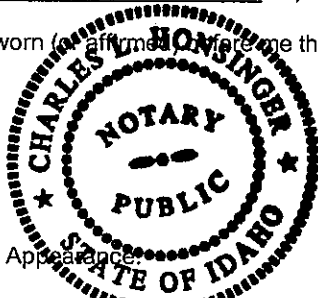
Signed of Authorized Agent *Joe A. Terteling*

Title and Organization PRESIDENT TTCL Date 22 DEC 08

State of Idaho/or _____)
County of Ada) SS.

Subscribed and sworn (or 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

17. 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 63-33148