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MAR 03 2009

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 63-32027
	)	
	)	
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).

COPY

I am an attorney representing the City of Caldwell.

My address is: RINGERT LAW, 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 City of Caldwell must amend its Notice of Claim to the use of this water in the SRBA because:

The City, through the objection resolution process with the Idaho Department of Water Resources, has found that it underclaimed the quantity historically beneficially used for this water right.

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 Charles L. Honsinger, Attorney for The Terteling Company, Inc.
2. An Affidavit of Carter Fritschle.

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)

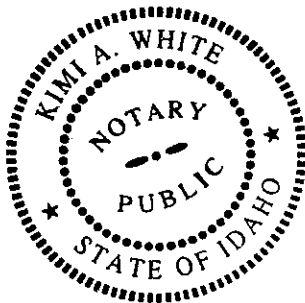
State of Idaho)
)
County of Ada)

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 March 2, 2009
(Insert Date)



Kimi A. White
Notary Public for Idaho
Residing at: Boise, Idaho
My Commission expires: 8/2/10

CERTIFICATE OF MAILING

I certify that on March 2, 2009, 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:

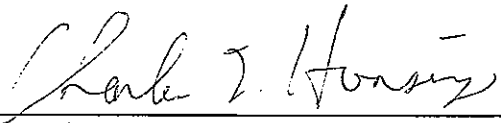
1. Original to:

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



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

Ident. Number 63-32027
Date Received:
Receipt No:
Received By:

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

1. Name of Claimant(s)

CITY OF CALDWELL Phone: (208)455-3006
621 CLEVELAND BLVD
CALDWELL ID USA 83605

2. Date of Priority: 01/04/1897

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
04N	03W	15	NE NE	CANYON	
04N	03W	22	NE NE	CANYON	
04N	03W	34	NW SW	CANYON	
04N	03W	27	NE NE	CANYON	
04N	03W	35	NW NE	CANYON	
04N	03W	21	SE SW	CANYON	
04N	03W	26	SW NE	CANYON	
04N	03W	28	SE NE	CANYON	
04N	03W	36	NE NW	CANYON	
03N	02W	6	NW SW	CANYON	
04N	03W	27	SW NW	CANYON	
04N	03W	28	NE NE	CANYON	
04N	03W	28	SW SE	CANYON	
04N	03W	34	NE NW	CANYON	

5. Description of diverting works:

Wells

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
MUNICIPAL	01/01	12/31	0.67	

7. Total Quantity Appropriated is:
0.67 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
See Remarks						

11. Place of use in counties:

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

13. Other Water Rights Used:

14. Remarks:

6 POINTS OF DIVERSION LOCATED IN T4N, R3W, S28, NENE.
6 POINTS OF DIVERSION LOCATED IN T4N, R3W, S22, NENE

Place of use is within the city of Caldwell and surrounding service area.

Additional points of diversion claimed pursuant to I.C. 42-1425.

First three wells at Luby Park

15. Basis of Claim: Beneficial Use

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:

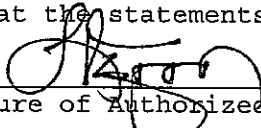
I do solemnly swear or affirm under penalty of perjury that I am

Public Works Director of the City of Caldwell,
Title Organization

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

Public Works Director of the City of Caldwell,
Title Organization

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



Signature of Authorized Agent

Public Works Director, City of Caldwell
Title and Organization

2/17/09
Date