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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

Case No. 39576

A. Subcase 21-13112
(Insert water right number
From the Objection Form)

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 _____

My address is _____

My phone number is: Work _____ Home _____

I am an attorney representing DGM Properties, LLC; G&S Development, LLC; Funk-Drussel, LLC; Wengreen Development, LLC

My name is Robert L. Harris; Holden, Kidwell, Hahn & Crapo, P.L.L.C.

My address is PO Box 50130, Idaho Falls, ID 83405-0130

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 claimants are recent purchasers of the property, and in investigating the water rights, discovered that the original owners did not claim the historic use of irrigation water on the property. There is excellent evidence that the property was irrigated, beginning in 1945, and has continued until today.

☐ 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.)

The factual documentation for the claimed irrigation use is attached to the enclosed 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 \$ 100.00.

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 January 19, 2010, 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:

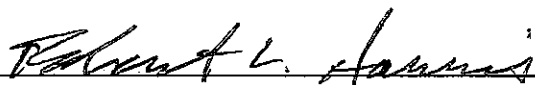
- ☐ An amended Notice of Claim (available from IDWR).
- ☐ Payment of the following additional fees required by IDWR:

VERIFICATION

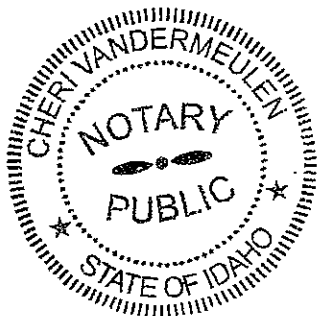
State of Idaho)
)ss.
County of Bonneville)

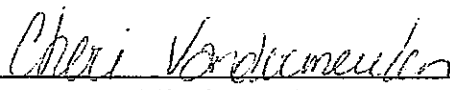
Robert L. Harris, being first duly sworn, upon oath, deposes and says:

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.


Robert L. Harris, Attorney

Subscribed and sworn to before me this 27th day of October, 2009.




Notary Public for Idaho
Residing at: Idaho Falls, ID
My Commission expires: July 7, 2015

CERTIFICATE OF MAILING

I certify that on this 30th day of October, 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:

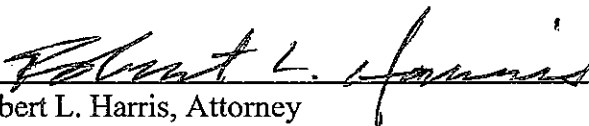
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

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


Robert L. Harris, Attorney

G:\WPDATA\ARLH\15601 DGM Properties, LLC\Form 4.wpd

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 21-13112

Date Received _____

Receipt Number _____

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s) DGM Properties, LLC; G&S Development, LLC; Funk-Drussel, LLC; Wengreen Development, LLC Phone(208) 523-5959

Mailing Address 5990 Gleneagles Dr., Idaho Falls, ID Zip 83401

2. Date of Priority (Only (1) per claim) June 1, 1945

3. Source of water supply (a) Ground water

which is tributary to (b) _____

- 4.a. Location of existing point of diversion is:

Township 15N Range 43E Section 6, 1/4 of NW 1/4 of NW 1/4, Govt. Lot 2,

County of Fremont

Parcel (PIN) No. _____

Additional points of diversion if any: _____

If Available, GPS Coordinates: _____

- 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. Existing well.

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

For Irrigation purposes from 05/01 to 10/31 amount 0.09 cfs or _____

7. Total quantity claimed (a) 0.09 (cfs) and/or (b) _____ (acre feet)

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

9. Description of place of use:
- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
 - 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	
15N	43D	6						4.3											4.3

Parcel (PIN) No(s). _____

Total number of acres irrigated 4.3

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

11. Do you own the property listed above as place of use? Yes ☒ No ☐

If your answer is No, describe in Remarks below the authority you have to claim this water right.

12. Describe any other water rights used at the same place and for the same purposes as described above.
21-7362 or None ()

13. Remarks:

This resort has been landscaped and irrigated since at least 1945. When the water rights were filed for in the SRBA, the applicant inadvertently left off the irrigation portion of his water rights.

14. 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 _____

15. 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 Individuals: I/we do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s) _____ Date _____

_____ Date _____

Last Name _____ Ident. Number _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am The Manager of GTS Development LLC, that I have signed the foregoing document in the space below as Manager of GTS LLC Development and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent [Signature]

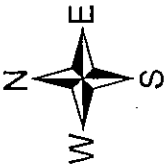
Title and Organization Mgr. GTS LLC Development Date 10-29-09

17. Notice of Appearance:

Notice is hereby given that I, Robert L. Harris 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 Robert L. Harris
Address PO Box 50130, Idaho Falls, ID 83405-0130
Date Oct. 29, 2009

Olde Staley Resort Place of Use



Legend

-  Tax Lot RPI009000000BA
-  Tax Lot RPI009000000AD
-  Place of Use
-  Section Lines

Total Place of Use: 4.3 acres



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:

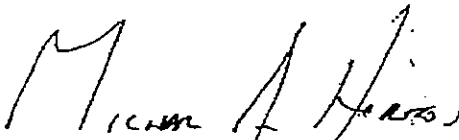
As per your request I have written a short note concerning my experience and knowledge of use of the water system for irrigation at Staley Springs Lodge during my tenure there. I helped out as a part time boat boy for Leonard McMinin while vacationing there, then worked as boat boy a season for Don Hart,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

State of Idaho
County of _____

AFFIDAVIT

Department of Water Resources
Eastern District Office

REPORTING: - WITH RESOURCES:
- Eastern District Office

deposes and says: I purchased Staley Springs Lodge from Leonard Maxmiller in Nov. of 1980. At that time, there was one well on the property and to the best of my knowledge, it was drilled in 1945. That well supplied all water to the entire property. In Sept. of 1984 I drilled a second well (Anderson Drilling) which supplies the R.V. Park.

(Signature)

Subscribed and sworn to before me this 27 day of June, 1995

(Notary Public)

Residing at Mackinac Island
My Commission Expires Later

MICROFILMED

3514/50

JUL

Department of Water Resources
Eastern District Office

LEONARD MANNINEN being first duly sworn,

In Nov of 1980

sales Staley Springs Lodge to Royal
Park. I had owned the Lodge
for 14 years prior to selling.
To my knowledge, the well supplying
water to the entire property was
drilled in 1945.

Leonard Munninen
(Signature)

Subscribed and sworn to before me this 27th day of June, 1985

Kathleen Clark
(Notary Public)

Residing at West Yellowstone
My Commission Expires 1-17-87

MICROFILMED