

NOV 06 2015

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 CSRBA

Subcase: 91-7914

Case No. 49576

STANDARD FORM 4

MOTION TO FILE A LATE NOTICE OF
CLAIM

INSTRUCTIONS

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

The water right number for your late Notice of Claim must be indicated above in the blank space following "Subcase." To obtain your water right number, contact the Idaho Department of Water Resources. You must use a **separate form for each** late Notice of Claim.

By filing a Motion to File a Late Notice Claim, you certify that it is well-grounded in fact; is warranted by existing law or 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 *CSRBA Administrative Order 1*, Rules of Procedure.

My name is: J.M.F. Co., Inc

My Address is: 318 Highland Avenue, St. Maries, Idaho 83861

My phone number is: (208) 245-3274

☒ I am an attorney representing: J.M.F. Co., Inc.

My name is: Mariah R. Dunham of Morris and Wolff, P.A.

My address is: 722 Main Avenue, St. Maries, Idaho 83861

My phone number is: (208) 245-2523

☒ I did not file a Notice of Claim to the use of water in the CSRBA because: This is a claim for de minimis stockwater which was properly deferred pursuant to the Order Establishing Procedures For the Adjudication of De Minimis Domestic and Stockwater Clams in the Coeur D'Alene-Spokane River Basin Adjudication entered on November 12, 2008. The claimant elected to defer adjudication of the claim for a period of time and has now elected to adjudicate the claim following the procedures set forth in paragraph II of said order. The claim is for instream stockwatering, and to the knowledge and belief of the claimant, has no negative effect on any other claimant in the adjudication.

☐ 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.)

(1) Notice of Claim to a Water Right

(2) Narrative Regarding Priority Date

(3) Excerpt from Pioneer Days on the Shadowy St. Joe, by Orland A. Scott, Caldwell Idaho, Caxton Printers, Ltd. 1967, pgs. 193-198, photo 10.

(4) Deed from Northern Pacific Railroad Co. (grantor) to Edward H. Dighton (grantee) dated April 20, 1899.

(5) Deed from Edward H. Dighton (grantor) to Frank E. Scott (grantee) dated September 25, 1906.

(6) Sheriff's deed, Benewah County Instrument No. 261358 dated November 30, 2011.

- (7) Colored map showing point of diversion and place of use.
- (8) Assessor's information for parcel Nos. PIN 46N01E217800A and PIN 46N01E224200A

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

Follow these instructions regarding the hearing on the motion.

1. Contact the Clerk of the CSRBA Court at (208) 736-3011 to request a hearing date and time.
2. Fill in the following information:

This motion will be heard on **Tuesday February 16, 2016, at 1:30 p.m. (Pacific Time)** at the CSRBA Courthouse, 253 Third Avenue North, Twin Falls, Idaho.

I have attached:

- ☒ A fully completed Notice of Claim (available from IDWR).
- ☒ A claim filing fee for domestic and stock watering use. IDWR may charge this fee pursuant to I.C. §42-1414. To determine the 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.
- ☐ A claim filing fee and a late claim fee for those claims other than domestic or stock watering use for which a notice of claim was not filed.

Dated this 3 day of November, 2015

MORRIS & WOLFF, P.A.

By: Mariah R. Dunham
MARIAH R. DUNHAM, ISB #7287
Attorney for J.M.F. Co., Inc.

INSTRUCTIONS FOR MAILING

You must mail the Motion, to the Clerk of the court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on November 3, 2015, I mailed a copy of the original and copies of this Motion, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Coeur d'Alene-Spokane River Basin Adjudication
253 Third Avenue North
PO Box 2727
Twin Falls, ID 83303-2707

2. Copies to:

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

United States Department of Justice
Environmental & Nat'l Resources Div
550 W. Fort Street, MSC 033
Boise, ID 83824

Chief, Natural Resource Division
Office of Attorney General
PO Box 44449
Boise, ID 83711-4449

MORRIS & WOLFF, P.A.

By: Mariah R. Dunham
MARIAH R. DUNHAM, ISB #7287
Attorney for J.M.F. Co., Inc.