

IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED
WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 21-13112
NAME AND ADDRESS: DGM PROPERTIES LLC
C/O GENE KANTACK
5405 LONG COVE DR
IDAHO FALLS, ID 83404

SOURCE: GROUND WATER

QUANTITY: ~~0.060 CFS~~ 0.05 CFS

Rights 21-7362 & 21-13112 when combined shall not exceed a total diversion rate of 0.07 cfs.

PRIORITY DATE: ~~07/15/1985~~ 06/01/1945

POINT OF DIVERSION: T15N R43E S6 Lot 2 NWNW Within FREMONT County
T15N R43E S6 Lot 2 NWNW Within FREMONT County

PURPOSE AND PERIOD OF USE:	Purpose of use	Period of use:	Quantity:
	IRRIGATION	05/01 10/31	~~0.060 CFS~~ 0.05 CFS

PLACE OF USE: IRRIGATION within FREMONT County
T15N R43E S06 Lot 2 NWNW 4.3

4.3 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

~~No lawful appropriation shown.~~

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

~~No lawful appropriation shown. There are a number of circumstances in which a claim is proposed to be disallowed on this basis. This is most commonly included for a claim based on beneficial use or posted notice that is proposed to be disallowed because the right claimed is not within an exception to the mandatory permit statute, and beneficial use of water prior to the mandatory permit statute was not confirmed. This is also included where a claim is proposed to be disallowed because the claim is to water that is not public water subject to appropriation. This is also included where a right was determined not to exist in a prior adjudication.~~

**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 No. 21-13112
	)	
Case No. 39576	)	
	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
_____	)	WATER RIGHT

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

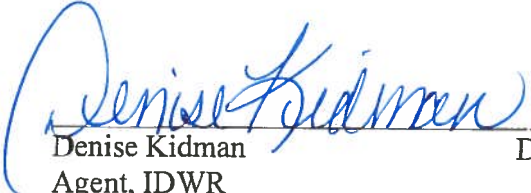
CLAIMANT/OBJECTOR:
DGM Properties LLC

OBJECTORS:
G&S Development LLC
Funk-Drussell LLC
Wengreen Development LLC

Robert L. Harris, Attorney Date

Robert L. Harris, Attorney Date

IDWR Concurrence:

 9-22-11

Denise Kidman Date
Agent, IDWR

Nicholas Spencer Date
Deputy Attorney General

CERTIFICATE OF MAILING

I certify that on _____, 2011, 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, Idaho 83303-2707

2. Copies to:

DGM PROPERTIES LLC
FUNK-DRUSSEL LLC
G&S DEVELOPMENT LLC
WENGREEN DEVELOPMENT LLC

Represented by:
ROBERT L HARRIS
1000 RIVERWALK DR, STE 200
PO BOX 50130
IDAHO FALLS, ID 83405
Phone: 208-523-0620

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

Signature of person mailing the form

IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED
WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 21-13112

NAME AND ADDRESS: DGM PROPERTIES LLC
C/O GENE KANTACK
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Holden Kidwell
Hahn & Crapo P.L.L.C.
L A W O F F I C E S

RECEIVED

APR 04 2011

Department of Water Resources
Eastern Region

1000 Riverwalk Drive, Suite 200
PO Box 50130
Idaho Falls, Idaho 83405

Tel: (208) 523-0620
Fax: (208) 523-9518
www.holdenlegal.com
E-mail: rharris@holdenlegal.com

April 1, 2011

Idaho Department of Water Resources
ATTN: Denise Kidman
900 N. Skyline Dr., Ste. A
Idaho Falls, ID 83402

Re: *Notice of Change of Water Right Ownership*
Water Right No. 21-7362 & 21-13112

Dear Denise:

Enclosed for processing, please find a Notice of Change of Water Right Ownership for water rights located on the Staley Springs property. You have been assisting me in the SRBA matters, and I thought it would be important to route this document through you before it makes its way to Jonie. Enclosed is a chain of title for the property to which the water rights are appurtenant, as well as a recently executed and recorded *Water Rights Agreement, Quitclaim Deed and Well Use Agreement*. This document has been recorded as Instrument No. 532216 in the records of Fremont County.

As you can see from reviewing this recorded document, Water Right No. 21-7362 is now entirely owned by my clients. Additionally, my clients have conveyed any portion of Water Right No. 21-13112 that is located upon the Albano property. Because this water right has been disallowed in the SRBA, it presents somewhat of an unusual circumstance. Nevertheless, to the extent it is determined that any portion of Water Right No. 21-13112 is on the Albano property, it has been conveyed to them. I suspect you may want to do an NCAP with the SRBA Court to indicate their ownership interest.

We believe this resolves the ownership questions that prevented a prior Notice of Change of Water Right Ownership from being processed. It is my understanding that the original filing fee of \$25.00 was returned to our office, and now enclosed please find a \$25.00 check for the filing fee to change ownership for Water Right 21-7362. My understanding is that because Water Right No. 21-13112 is a pending SRBA claim, there is no required filing fee.

Established in 1896

Idaho Department of Water Resources

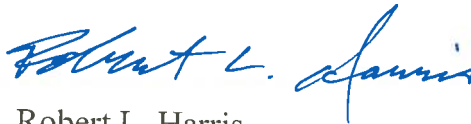
April 1, 2011

Page 2

If you have any questions or concerns, please let me know. As usual, I have inadvertently delayed providing this to you, and there is a status conference for the SRBA Court next week on this matter. You therefore may want to give the attorney handling the matter a heads-up on the filing of this particular document.

Thanks again for all your help in this matter.

Best Regards,



Robert L. Harris

HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Enclosure

G:\WPDATA\RLH\15601 DGM Properties, LLC\Denise Kidman ltr 040111.wpd sm



Holden Kidwell
Hahn & Crapo P.L.L.C.
LAW OFFICES

RECEIVED

SEP 16 2010

Department of Water Resources
Eastern Region

1000 Riverwalk Drive, Suite 200
PO Box 50130
Idaho Falls, Idaho 83405

Tel: (208) 523-0620
Fax: (208) 523-9518
www.holdenlegal.com

E-mail: rharris@holdenlegal.com

September 15, 2010

Idaho Department of Water Resources
ATTN: Denise Kidman
900 N. Skyline Dr., Ste. A
Idaho Falls, ID 83402

RE: Amended Notice of Claim for Subcase No.: 21-13112, in the Name of DGM Properties, LLC, et al.

Dear Denise:

Enclosed please find an Amended Notice of Claim for Subcase No. 21-13112. As you pointed out to me by phone, our original claim only claimed one of the well locations, when it should have claimed both. We have therefore added the additional point of diversion as we discussed, and note that the additional point of diversion is located within the same quarter-quarter as the other well.

We appreciate your efforts in bringing this to our attention. Additionally, we will be providing within the next couple of weeks, additional information relative to the historic irrigation practices on the property.

Best Regards,

Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Enclosure

G:\WPDATA\RLH\15601 DGM Properties, LLC\Denise Kidma ltr 091410 wpd cdv

Established in 1896



Holden Kidwell
Hahn & Crapo P.L.L.C.
L A W O F F I C E S

1000 Riverwalk Drive, Suite 200
PO Box 50130
Idaho Falls, Idaho 83405

RECEIVED

SEP 08 2010

Department of Water Resources
Eastern Region

Tel: (208) 523-0620
Fax: (208) 523-9518
www.holdenlegal.com
E-mail: rharris@holdenlegal.com

September 7, 2010

Idaho Department of Water Resources
ATTN: Denise Kidman
900 N. Skyline Dr., Ste. A
Idaho Falls, ID 83402

RE: Affidavit of Michael A. Horton, Subcase No.: 21-13112.

Dear Denise:

Enclosed please find an Affidavit of Michael A. Horton, who was an employee at the Staley Springs Lodge located near Henry's Lake, Idaho. You had previously inquired as to any additional evidence of historical irrigation on the property, and we believe this affidavit provides that information. Please review and let us know if you have any questions or concerns. We appreciate your assistance with this matter.

Best Regards,

Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Enclosure

G:\WPDATA\RLH\15601 DGM Properties, LLC\Denise Kidman ltr 090710 wpd cdv

Established in 1896

RECEIVED

SEP 08 2010

Department of Water Resources
Eastern Region

Robert L. Harris, Esq. (ISB #7018)
Luke H. Marchant, Esq. (ISB #7944)
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.
1000 Riverwalk Dr., Ste. 200
P.O. Box 50130
Idaho Falls, Idaho 83405
Telephone: (208) 523-0620
Facsimile: (208) 523-9518
Idaho State Bar Number 7018

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

Subcase No.: 21-13112

AFFIDAVIT OF MICHAEL A. HORTON

STATE OF MONTANA)
)ss
County of GALLATIN)

I, Michael A. Horton, do solemnly swear or affirm that the testimony given in this sworn statement is the truth, the whole truth, and nothing but the truth, that is made upon my personal knowledge and experience.

Being so sworn I depose and say:

1. I am over the age of eighteen (18) years of age and competent to testify as to the matters herein. I was born on December 12, 1966.
2. I previously provided a letter to William Moss explaining my observations and understanding regarding historical water use at the Staley Spring Lodge located near Henry's Lake in Idaho. A copy of this letter is attached hereto as Exhibit A, and is dated May 15, 2008. It is my understanding that additional clarification is needed regarding

- irrigation on the property, and since my prior letter was not notarized, I will restate the matters outlined in my letter.
3. During my youth, I worked at the Staley Springs Lodge located next to Henry's Lake, Idaho. During that time, I helped out as a part-time boat boy for Leonard McMinin when I vacationed there, and also worked as a boat boy for a season for Don Hart, who was the subsequent owner. Eventually, I managed the resort for Stanley Horton, during the years of roughly 1986 to 2000. Overall, my experience with the Staley Springs Lodge spans three separate ownerships.
 4. In my opinion, irrigated green lawns are important at a vacation resort, and over my time at the Staley Springs Lodge, we irrigated around the cabins and lodge from two wells that were located on the property. Irrigation was generally done by running a hose to a sprinkler from the hose bibs from each of the cabins, and from some of the water spigots located throughout the property. We did not have an established irrigation system, such as a sprinkler system, to perform the irrigation. However, I personally observed ground water being utilized on the property for irrigation purposes.
 5. I cannot recollect exactly how much irrigation took place, but areas around the cabins and other common areas were also irrigated.
 6. I also remember that during the season I worked for Don Hart, he used a pump to draw water from an irrigation tributary of a stream known as "Timber Creek" and from Staley Springs/Henry's Lake to irrigate the property as well.
 7. Overall, irrigation of the lodge property was important, and I personally observed water being sprinkled on these areas from the hose bibs located on the cabins and elsewhere throughout the resort.
 8. Further Affiant Sayeth Not.

DATED this 20TH day of July, 2010.

Michael A. Horton
Michael A. Horton MTRB # 6268

SUBSCRIBED AND SWORN TO before me this 20TH day of July, 2010.



Phyllis G. Johnson
Phyllis G. Johnson
Notary Public for Montana
Residing at: Belgrade, MT
My Commission Expires: 10-16-2011

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:

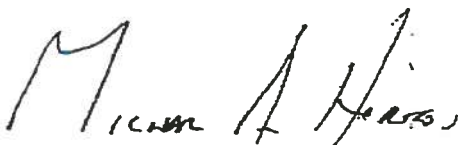
As per your request I have written a short note concerning my experience and knowledge of use of the water system for irrigation at Staley Springs Lodge during my tenure there. I helped out as a part time boat boy for Leonard McMinin while vacationing there, then worked as boat boy a season for Don Hart,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

EXHIBIT

A

Office Use Only

Well ID No. _____

Inspected by: _____

Twsp _____ Rge _____ Sec _____

_____ 1/4 _____ 1/4 _____ 1/4

Lat: _____ : _____ : _____ Long: _____ : _____

12 WELL TESTS:

☒ Pump ☐ Bailer ☐ Air ☐ Flowing Artesian

Yield gal/min	Drawdown	Pumping Level	Time
100 gpm	108'	130'	6 Hrs

Water Temp _____ Bottom hole temp _____
Water Quality test or comments: _____

13 LITHOLOGIC LOG:

Depth first water encountered:

(Describe repairs or abandonment)

[illegible]

RECEIVED

MAY 1 1996

Department of Veterans Affairs	
Eastern Office	

Completed Depth	322'	(Measurable)	
Date: Started	2/19/09	Completed	4/10/09

7 **SEALING PROCEDURES:**

Seal Material	From	To	Weight / Volume	Seal Placement Method
Cement	0	61'	5782 lbs	Overbore

Was drive shoe used? ☒ Yes ☐ No Shoe Depth(s) 269'

Was drive shoe seal tested? ☐ Yes ☒ No How? _____

8 **CASING/LINER:**

Dia	From	To	Gauge	Material
6"	+2'	269'	0.28	Steel

Length of Headpipe: _____ Length of Tailpipe: _____

Packer ☐ Yes ☒ No Type: _____

Casing ☒ Liner ☐ Welded ☒ Threaded ☐

9 PERFORATIONS/SCREENS: PACKER TYPE
Perforation Method: _____
Screen Type & Method of Installation: _____

From	To	SlotSize	Number	Diameter	Material	Casing	Liner

Seal Material	From	To	Weight / Volume	Seal Placement Method

11 **STATIC WATER LEVEL OR ARTESIAN PRESSURE:**
22 ft. below ground Artesian Pressure: _____ lb
 Depth flow encountered: _____ ft
 Describe access port or control devices: Sanitary Well Cap

14 DRILLER'S CERTIFICATION:

I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Company Name Andrew Well Drilling Services, Inc. Firm No. 5

Principal Driller Roger Bush Date: 5-7-09
and
Driller or Operator II Mike Bush Date: 5-7-09
Operator I David Henson Date: 5-7-09

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 21-13112

NAME AND ADDRESS: DGM PROPERTIES LLC
C/O GENE KANTACK
5405 LONG COVE DR
IDAHO FALLS ID 83404

DISALLOWED

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.060 CFS

PRIORITY DATE: 07/15/1985

POINT OF
DIVERSION:

T15N R43E S6 NWNW Lot 2 Within FREMONT County
T15N R43E S6 NWNW Lot 2 Within FREMONT County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

05/01 10/31

0.060 CFS

PLACE OF USE: IRRIGATION in FREMONT County

T15N R43E S06 Lot 2 NWNW 4.30

4.3 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

No lawful appropriation shown.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

No lawful appropriation shown: There are a number of circumstances in which a claim is proposed to be disallowed on this basis. This is most commonly included for a claim based on beneficial use or posted notice that is proposed to be disallowed because the right claimed is not within an exception to the mandatory permit statute, and beneficial use of water prior to the mandatory permit statute was not confirmed. This is also included where a claim is proposed to be disallowed because the claim is to water that is not public water subject to appropriation. This is also included where a right was determined not to exist in a prior adjudication.



IDAHO SECRETARY OF STATE Viewing Business Entity

Ben Ysursa, Secretary of State

[[New Search](#)] [[Back to Summary](#)]
[[Get a certificate of existence for FUNK-DRUSSEL, LLC](#)]

FUNK-DRUSSEL, LLC

5990 GLENEAGLES DR
IDAHO FALLS, ID 83401

Type of Business: LIMITED LIABILITY COMPANY**Status:** EXISTING, ANREPT SENT 04 Nov 2009**State of Origin:** IDAHO**Date of** 07 Jan 2005**Origination/Authorization:**

Current Registered Agent: GARY WIGHT
5990 GLENEAGLES DR
IDAHO FALLS, ID 83401

File Number: W35862**Date of Last Annual Report:** 14 Nov 2009

Original Filing:

Filed 07 Jan 2005 ARTICLES OF
ORGANIZATION

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REPORT

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Comments, questions or suggestions can be emailed to: sosinfo@sos.idaho.gov



IDAHO SECRETARY OF STATE Viewing Business Entity

Ben Ysursa, Secretary of State

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[[Get a certificate of existence for DGM PROPERTIES LLC](#)]

DGM PROPERTIES LLC

PO BOX 628
RIGBY, ID 83442

Type of Business: LIMITED LIABILITY COMPANY

Status: EXISTING, 2ND AR NOTICE SENT 02 Jul 2010

State of Origin: IDAHO

Date of 15 Jun 2006

Origination/Authorization:

Current Registered Agent: DALE MICKELSEN
5249 N 5TH W
IDAHO FALLS, ID 83401

File Number: W51723

Date of Last Annual Report: 12 Jul 2010

Original Filing:

Filed 15 Jun 2006 ARTICLES OF
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REPORT

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Comments, questions or suggestions can be emailed to: sosinfo@sos.idaho.gov



IDAHO SECRETARY OF STATE Viewing Business Entity

Ben Ysursa, Secretary of State

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[[Get a certificate of existence for G & S DEVELOPMENT, LLC.](#)]

G & S DEVELOPMENT, LLC

5405 LONG COVE DR
IDAHO FALLS, ID 83404

Type of Business: LIMITED LIABILITY COMPANY

Status: EXISTING, 2ND AR NOTICE SENT 02 Jul 2010

State of Origin: IDAHO

Date of 15 Jun 2006

Origination/Authorization:

Current Registered Agent: GENE R KANTACK
5405 LONG COVE DR
IDAHO FALLS, ID 83404

File Number: W51708

Date of Last Annual Report: 08 Jul 2010

Original Filing:

Filed 15 Jun 2006 ARTICLES OF
ORGANIZATION

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Amendments:

Amendment Filed 04 Oct 2007 NAME CHANGED
TO G & S
DEVELOPMENT,
LLC

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Comments, questions or suggestions can be emailed to: sosinfo@sos.idaho.gov



IDAHO SECRETARY OF STATE Viewing Business Entity

Ben Ysursa, Secretary of State

[[New Search](#)] [[Back to Summary](#)]
[[Get a certificate of existence for WENGREEN DEVELOPMENT, LLC](#)]

WENGREEN DEVELOPMENT, LLC

3456 E 17TH STE 140
IDAHO FALLS, ID 83406

Type of Business: LIMITED LIABILITY COMPANY

Status: EXISTING, ANREPT SENT 05 Apr 2010

State of Origin: IDAHO

Date of 15 Jun 2006

Origination/Authorization:

Current Registered Agent: DARRYL W HARRIS
360
IDAHO FALLS, ID 83402

File Number: W51752

Date of Last Annual Report: 10 May 2010

Original Filing:

Filed 15 Jun 2006 ARTICLES OF
ORGANIZATION

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Amendments:

Amendment Filed 07 May 2008 REINSTATEMENT

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Annual Reports:

Report for year 2010 ANNUAL REPORT

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Report for year 2009 ANNUAL REPORT

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Report for year 2008 CHANGE
ADDRESS

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Report for year 2008 REINSTATEMENT

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Comments, questions or suggestions can be emailed to: sosinfo@sos.idaho.gov

STAFF TIME LOG

LATE CLAIMS

Claim No(s). 27-13112

[illegible]



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

February 8, 2010

ROBERT L HARRIS
HOLDEN KIDWELL HAHN & CRAPO PLLC
PO BOX 50130
IDAHO FALLS ID 83405

RE: Snake River Basin Adjudication (SRBA)
Notice of Claim to a Water Right #21-13112
Your Client: DGM Properties, LLC; Development, LLC; Funk-Drussel,
LLC; Wingreen Development, LLC

Dear Mr. Harris:

The Notice of Claim to a Water Right you filed for your client referenced above was received from the SRBA Court recently. I have enclosed receipt #C089927 for the fees your firm paid.

Your client's Notice of Claim will be investigated and reported to the Court in a future supplemental Director's Report. Please contact me at 208/287-4916 if you have any questions.

Sincerely,

Craig L. Saxton
Water Rights Supervisor
Adjudication Bureau

CLS:ss:region

Enclosure:

Receipt Referenced Above

SCANNED
FEB - 4 2010

Microfilm No. 532216
At 10:58 Day Jan 2011
O'clock 9 M
ABBIE MACE
FREMONT CO RECORDER
Fee \$ 48 Recorded at Request of CC Deputy
Handwritten signature
FILE

WATER RIGHTS AGREEMENT, QUITCLAIM DEED, AND WELL USE AGREEMENT

THIS WATER RIGHTS AGREEMENT, QUITCLAIM DEED, AND WELL USE AGREEMENT (this "Agreement") is made and entered into as of the 22nd day of December, 2010, by between DGM Properties, LLC, an Idaho Limited Liability Company, G&S Development, LLC, an Idaho Limited Liability Company, Funk-Drussel, LLC, an Idaho Limited Liability Company, and Wengreen Development, LLC, an Idaho Limited Liability Company, (collectively, DGM Properties, LLC, G&S Development, LLC, Funk-Drussel, LLC, and Wengreen Development, LLC are referred to herein as "Staley Springs"), and William H. Albano and Carol A. Albano, husband and wife (hereinafter collectively "Albano"), as well as each of their successors, legal representatives, officers, directors, agents, assigns, and all other persons or entities acting for, by or through them. Together, Staley Springs and Albano are referred to herein as the "Parties."

RECITALS:

- A. Staley Springs is the owner of real property described in Instrument No. 503327 recorded on June 28, 2006 in the records of Fremont County, Idaho, including a certain platted Well Lot located between Lots 9 and 10 of the Moose Bay Subdivision (the "Well Lot") as per the plat recorded as Instrument No. 441608 in the records of Fremont County, Idaho (the "Staley Springs Property"). The prior owner of the Staley Springs Property was the Horton Trust, with Joseph Stanley Horton as the Trustee of the Horton Trust.
- B. Albano is the owner of real property described as Lot 11 of the Moose Bay Subdivision, as per the recorded plat thereof, as evidenced by Instrument No. 504470 recorded on August 11, 2006 in the records of Fremont County, Idaho (the "Albano Property"). The prior owners of the Albano Property were CPI/American Fork Limited Partnership, and Roger and Vicki Cantlon.
- C. A certain well is located on the Well Lot on the Staley Springs Property. The well had been historically used by the Horton Trust on the Staley Springs Property for commercial and incidental irrigation purposes. The well also has been used on the Albano Property for domestic and irrigation purposes.
- D. Based on past recorded documents contained in the records of Fremont County, Idaho, the well is currently owned by Albano. On August 22, 2001, J. Stanley Horton and Roger Canton entered into a Well Option Agreement, recorded as Instrument No. 470188 on August 11, 2006 in the records of Fremont County, Idaho, wherein water from the well was

RECEIVED

FEB 08 2011

Department of Water Resources
Eastern Region

provided to Mr. Cantlon on a short term basis and Cantlon and Horton further agreed to an option to purchase the well for \$7,000.00. Cantlon apparently exercised the option for purchase of well, as evidenced by (1) a Quitclaim Deed from J. Stanley Horton to Roger D. Canton and Vicki Canton recorded on January 23, 2003 as Instrument No. 479132 in the records of Fremont County, Idaho, conveying ownership in the well, including the pressure tank and electrical pressure switch, and (2) a Maintenance Agreement recorded on January 27, 2003 as Instrument No. 479133 in the records of Fremont County, Idaho, which granted Roger Cantlon a maintenance easement for the well.

- E. Albano's well ownership was confirmed by a Quitclaim Deed recorded as Instrument No. 518753 recorded on September 9, 2008 in the records of Fremont County, Idaho, which conveyed to Albano any rights in the well from CPI/American Fork Limited Partnership (which apparently obtained rights to the well from and Roger and Vicki Cantlon).
- F. Water Right No. 21-7362 was obtained by Staley Springs Lodge pursuant to Idaho law, and confirmed by an issued water right license issued on March 14, 1990. The license for Water Right No. 21-7362 confirmed development of the application for permit for such water right with the following elements:

Diversion Rate:	.06 cfs
Diversion Volume:	2.8 AF
Source:	Ground water
Beneficial Use:	Commercial
Season of Use:	05/25 to 09/30
Points of Diversion:	15N, 43E, Sec. 6, Lot 2 (NWNW)
	15N, 43E, Sec. 6, Lot 2 (NWNW)
Place of Use:	15N, 43E, Sec. 6, Lot 2 (NWNW)

- G. Based upon documents contained in the water rights backfile for Water Right No. 21-7362, the license confirmed development of two wells used over time for commercial purposes and incidental irrigation purposes for the Staley Springs Lodge cabins and RV park. The first well was apparently drilled in 1945, with the second well drilled in 1984. It is the second well that is located on the Well Lot.
- H. Based upon the issued license for Water Right No. 21-7362, a Notice of Claim to a Water Right was filed by J. Stanley Horton on March 21, 1989 in the Snake River Basin Adjudication (the "SRBA") based upon the anticipated elements of the water right license. A partial decree was issued for Water Right No. 21-7362 in the SRBA on February 2, 2007 consistent with the provisions of the license.
- I. Regarding Water Right No. 21-7362, there is no reservation of this water right to The Horton Trust or its predecessors when The Horton Trust obtained title to the Staley Springs Property and presumably the water right passed as an appurtenance consistent with language contained

in the deed recorded as Instrument No. 503327 on June 28, 2006 in the records of Fremont County, Idaho.

- J. However, in the Quitclaim Deed recorded as Instrument No. 518753 on September 9, 2008, in the records of Fremont County, Idaho, CPI/American Fork Limited Partnership quitclaimed its interest in the well to Albano, as well as "all appurtenant water rights, including Water Right License No. 21-7362." The Quitclaim Deed was apparently recorded "to confirm and establish Grantees' [Albano] continued right to use the above-described well and water right to provide water for domestic purposes to Lot 11 of Moose Bay Subdivision, ..."
- K. The contents of Instrument No. 503327 recorded on June 28, 2006 in the records of Fremont County, Idaho, and the Quitclaim Deed recorded as Instrument No. 518753 on September 9, 2008, in the records of Fremont County, Idaho, appear to conflict with one another, and Staley Springs and Albano desire to resolve any and all conflicts with regards to use of the well and ownership of Water Right No. 21-7362 as further set forth below.
- L. Additionally, Staley Springs has filed a late claim in the SRBA for Water Right No. 21-13112, which seeks a decree of a beneficial use water right with the following elements:

Diversion Rate:	.09 cfs
Source:	Ground water
Beneficial Use:	Irrigation
Season of Use:	05/01 to 10/31
Points of Diversion:	15N, 43E, Sec. 6, Lot 2 (NWNW)
	15N, 43E, Sec. 6, Lot 2 (NWNW)
Place of Use:	15N, 43E, Sec. 6, Lot 2 (NWNW): 4.3 acres

- M. Based upon review of aerial photography, it appears that a portion of the place of use of Water Right No. 21-13112 is located on the Albano Property, and that Albano is entitled to a portion of Water Right No. 21-13112.
- N. The claim for Water Right No. 21-13112 has recently been recommended as disallowed by IDWR in the SRBA, and an objection to the disallowal has been filed by Staley Springs. It is anticipated that Staley Springs will address the reasons for disallowal with IDWR.
- O. In light of the foregoing recitals, Staley Springs and Albano wish to clarify any potential confusion relative to ownership of the well and Water Right Nos. 21-7362 and 21-13112 and agree as follows.

AGREEMENTS:

NOW THEREFORE, FOR VALUABLE CONSIDERATION, THE RECEIPT OF WHICH IS ACKNOWLEDGED, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. **CONFIRMATION OF ALBANO'S RIGHT TO DOMESTIC WATER.** Pursuant to Idaho Code § 42-111(a) (the so-called "domestic exemption"), Albano has the ability to divert up to .02 cfs and 13,000 gallons per day for domestic purposes associated with his home located on the Albano property, including the irrigation of up to ½ acre of property on the Albano Property. The Parties hereby confirm Albano's right to divert such water from the well on the Well Lot. The Parties further understand that as of the date of this Agreement, Idaho law does not require Albano to obtain a water right license for his domestic use, but the Parties agree that should Idaho law ever be amended to require procurement of such a water right license, or should Albano voluntarily elect to file an application for water right permit to confirm his domestic uses, Staley Springs shall not object to or protest, or otherwise support any protest or objection, against such a filing in any manner.

2. **CONFIRMATION OF MAINTENANCE EASEMENT.** The Parties hereby confirm the right, title, and interest Albano currently possesses for a maintenance easement for the well over and across the Well Lot as set forth in Instrument No. 479133 recorded on January 27, 2003 in the records of Fremont County, Idaho.

3. **QUITCLAIM OF WATER RIGHT NO. 21-7362 TO STALEY SPRINGS.**

FOR VALUE RECEIVED, William H. Albano and Carol A. Albano, husband and wife, do hereby convey, release, remise and forever quitclaim unto DGM Properties, LLC, an Idaho Limited Liability Company, G&S Development, LLC, an Idaho Limited Liability Company, Funk-Drussel, LLC, an Idaho Limited Liability Company, and Wengreen Development, LLC, an Idaho Limited Liability Company, any right, title, and/or interest William H. Albano and Carol A. Albano have in Water Right No. 21-7362.

4. **QUITCLAIM OF WATER RIGHT NO. 21-13112 PORTION TO ALBANO.**

FOR VALUE RECEIVED, DGM Properties, LLC, an Idaho Limited Liability Company, G&S Development, LLC, an Idaho Limited Liability Company, Funk-Drussel, LLC, an Idaho Limited Liability Company, and Wengreen Development, LLC, an Idaho Limited Liability Company, do hereby convey, release, remise and forever quitclaim unto William H. Albano and Carol A. Albano, husband and wife, any right, title, and/or interest said limited liability companies have in the portion of Water Right No. 21-13112 located upon Lot 11 of the Moose Bay Subdivision, Fremont County, Idaho, as per the recorded plat thereof.

5. **QUITCLAIM OF ½ UNDIVIDED INTEREST IN WELL.**

FOR VALUE RECEIVED, William H. Albano and Carol A. Albano, husband and wife, do hereby convey, release, remise and forever quitclaim unto DGM Properties, LLC, an Idaho Limited Liability Company, G&S Development, LLC, an Idaho Limited Liability Company, Funk-Drussel, LLC, an Idaho Limited Liability Company, and Wengreen Development, LLC, an Idaho Limited Liability Company, an undivided ½ interest in the well located on that certain platted Well Lot located between Lots 9 and 10 of the Moose Bay Subdivision (the "Well Lot") as per the plat recorded as Instrument No. 441608 in the records of Fremont County, Idaho, SUBJECT TO the Well Use Agreement Provisions set forth below.

6. **WELL USE AGREEMENT.**

- a. **Albano Domestic Use.** As set forth in Paragraph 1 above, Albano shall use of water from the well for domestic purposes.
- b. **Costs.** Because the Staley Springs Property is currently in the development planning stages, the well is currently not being actively used for Staley Springs' purposes. Albano shall therefore be responsible and liable for any and all use, maintenance, repair, rehabilitation, and costs (including electrical costs) incurred for such, unless Staley Springs uses the well during a calendar year. In the event Staley Springs uses the well in a calendar year, then the costs for maintenance, repair, rehabilitation, and costs (including electrical costs) shall be apportioned pro-rata based on usage between Albano and Staley Springs.

7. **FUTURE WATER RIGHT TRANSFERS.** The Parties hereby agree that they shall not object to or protest, or otherwise support any protest or objection, against any application for water right transfer filed with IDWR that purports to remove the well as an authorized point of diversion for any of the Parties' water rights. The Parties do, however, expressly retain the right to protest any application for transfer that purports to add the well as an authorized point of diversion for a water right not identified in this Agreement. The Parties further agree that they shall provide the other Party written notice of any transfer application that either purports to remove the well as an authorized point of diversion or add the well as an authorized point of diversion under a water right not identified in this Agreement.

8. **FUTURE WATER RIGHT APPLICATION FOR PERMIT.** Other than the potential domestic water right filing of Albano identified in Paragraph 1 above, the Parties hereby agree that they will not seek any new application for water right permit which identifies the well as an authorized point of diversion without express written consent of the other Party.

9. **NO OTHER WATER USERS ON THE WELL.** The Parties hereby agree that they will not seek add any other water user to the well without express written consent of the other Party.
10. **RELIANCE UPON STATEMENTS / INTEGRATION AND MERGER:** The Parties hereto specifically acknowledge that they were represented by counsel in this matter, and agree that other than as is set forth herein, they have executed this Agreement without relying upon any statements or representations written or oral, as to any statement of law or fact made by any other party or attorney. The Parties to this Agreement have read and understand the Agreement, and warrant and represent that this Agreement is executed voluntarily and without duress or undo influence on the part of or on behalf of any party. This Agreement represents the sole entire and integrated Agreement by and between the Parties hereto, and supersedes any and all prior understandings or agreements whether written or oral except as specifically provided herein.
11. **SUCCESSORS AND ASSIGNS:** This Agreement shall be binding upon and shall inure to the benefit of each Parties' successors and assigns.
12. **WAIVER OR MODIFICATION:** No provision of this Agreement may be waived, modified, or amended except by written agreement executed by all of the Parties hereto.
13. **ENFORCEMENT:** This Agreement is a valid and binding obligation of the Parties, and their successors or assigns. It shall be admissible and enforceable according to its terms, and venue in any subsequent action shall rest within the State of Idaho. This Agreement is subject to interpretation in accordance with the laws of the State of Idaho.
14. **TIME IS OF THE ESSENCE:** The Parties hereto agree that time is of the essence in completing the obligations set forth in this Agreement.
15. **ATTORNEY'S FEES:** The Parties hereby agree that in executing this Agreement, each has agreed to be solely responsible for their own attorneys fees incurred. Should any party be required to bring a separate action to enforce the terms of this Agreement, however, such party will be entitled to its reasonable attorneys fees upon prevailing in such action.
16. **COUNTERPARTS.** This Agreement may be executed in counterparts, each of which is deemed an original but all of which constitute one and the same instrument. The signature pages may be detached from each counterpart and combined into one instrument.
17. **RECORDING.** This Agreement shall be recorded in the records of Fremont County, Idaho.

DGM PROPERTIS, LLC



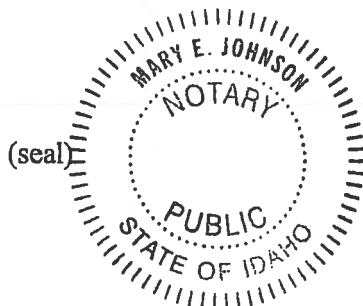
By: Dale Mickelsen

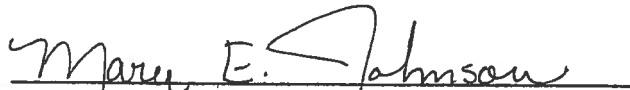
Its: Manager

STATE OF IDAHO)
)ss.
County of Jefferson)

On this 26 day of December, 2010, before me a notary public in and for said State, personally appeared Dale Mickelsen known or identified to me (or proved to me on the oath of Dale Mickelsen) to be the manager of the limited liability company that executed the instrument or the person who executed the instrument on behalf of said limited liability company and acknowledged to me that such limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.




Notary Public for Idaho
Residing at: Jefferson County
My commission expires: Sept. 28, 2013

G & S DEVELOPMENT, LLC



By: Gene Kantack

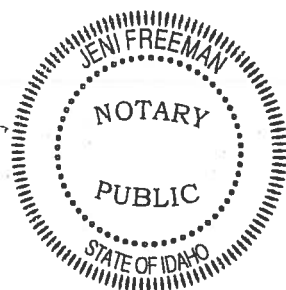
Its: Manager

STATE OF IDAHO)
)ss.
 County of Bonneville)

On this 23rd day of December, 2010, before me a notary public in and for said State, personally appeared Gene Kantack known or identified to me (or proved to me on the oath of Gene Kantack) to be the manager of the limited liability company that executed the instrument or the person who executed the instrument on behalf of said limited liability company and acknowledged to me that such limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(seal)

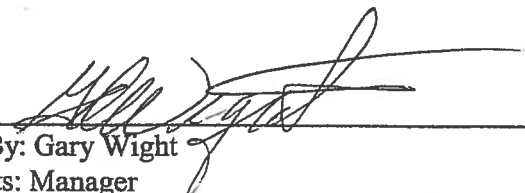



Notary Public for Idaho

Residing at: Bonneville CountyMy commission expires: 7/22/2011

532216

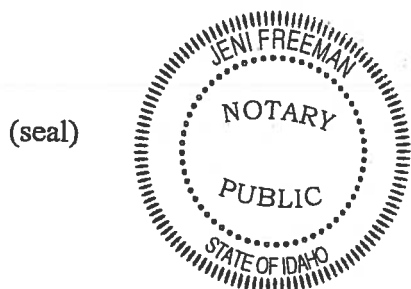
FUNK-DRUSSEL, LLC


By: Gary Wight
Its: Manager

STATE OF IDAHO)
)ss.
County of Bonneville)

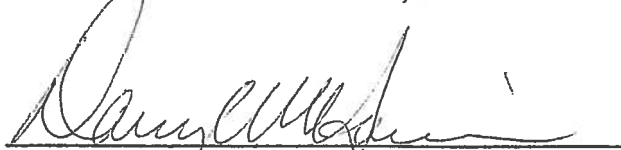
On this 20th day of December, 2010, before me a notary public in and for said State, personally appeared Gary Wight known or identified to me (or proved to me on the oath of Gary Wight) to be the manager of the limited liability company that executed the instrument or the person who executed the instrument on behalf of said limited liability company and acknowledged to me that such limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Jeni Freeman
Notary Public for Idaho
Residing at: Bonneville County
My commission expires: 7/22/2011

WENGREEN DEVELOPMENT, LLC



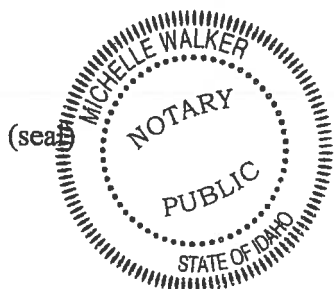
By: Darryl W. Harris

Its: Manager

STATE OF IDAHO)
)ss.
County of Bonneville)

On this 21st day of December, 2010, before me a notary public in and for said State, personally appeared Darryl W. Harris known or identified to me (or proved to me on the oath of Darryl W. Harris) to be the manager of the limited liability company that executed the instrument or the person who executed the instrument on behalf of said limited liability company and acknowledged to me that such limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Notary Public for Idaho

Residing at: Idaho FallsMy commission expires: February 4, 2014

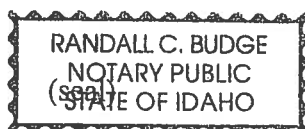
William H. Albano
 William H. Albano

Carol A. Albano
 Carol A. Albano

STATE OF IDAHO)
)ss.
 County of Bannock)

On this 22nd day of December, 2010, before me a notary public in and for said State, personally appeared William H. Albano and Carol A. Albano, known or identified to me (or proved to me on the oath of William H. Albano and Carol A. Albano) to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Randall C. Budge
 Notary Public for Idaho
 Residing at: Pocatello, ID. 83201
 My commission expires: 10/11/12

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

A. GENERAL INFORMATION

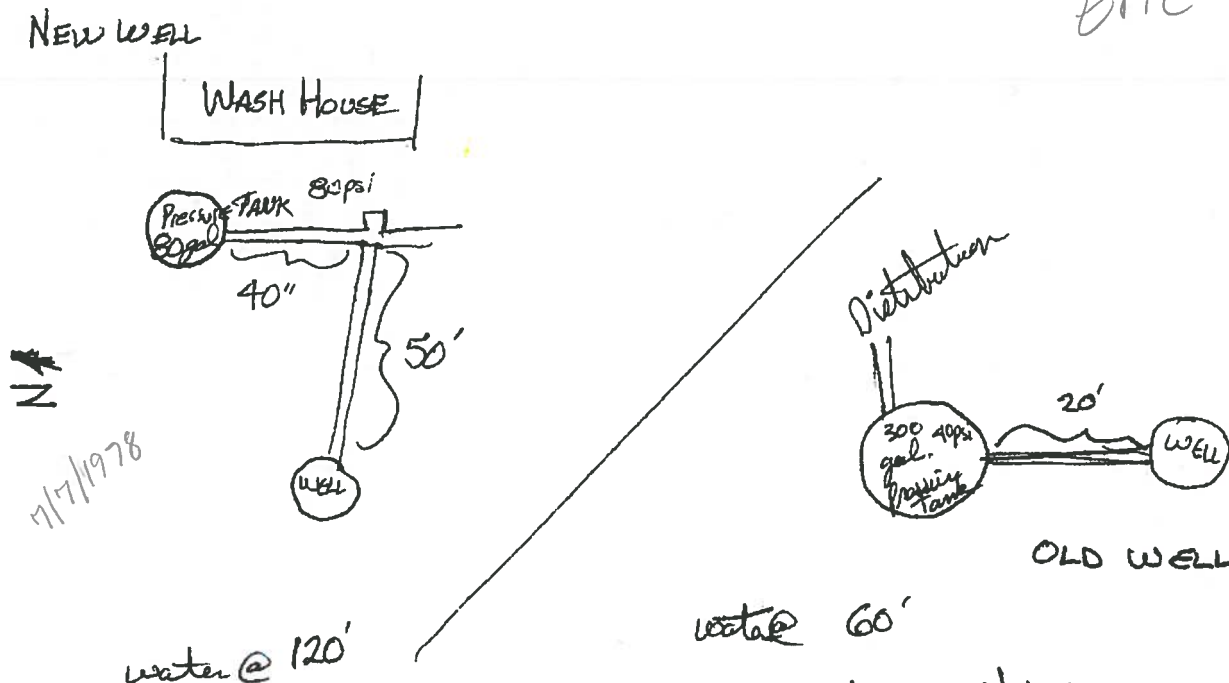
1. Owner: STALEY'S SPRING LODGE Permit No. 21-7362
Current Address: STAR ROUTE, Box 102; MACK'S INN, Idaho 83433 Phone No. 558-7471
2. Accompanied by: STAN HORTON EXAM. DATE: 6-July-1987
Address: SAME Phone No. 558-7471
Relationship to Permit Holder: OWNER
3. Source: GROUNDWATER tributary to _____

B. OVERLAP REVIEW

1. Other water rights with same place of use: NONE ☐ Copies Attached
2. Other water rights with same point of diversion: NONE ☐ Copies Attached ☐ Copies of Field Exam's Attached

C. SYSTEM DESCRIPTION

1. **Diversion System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable. ☒ Alternative diagram attached



Scale: 1" = No Scale.

2. ☒ Copy of U.S.G.S. Quadrangle Attached
Showing location(s) of point(s) of diversion and
place(s) of use (required). ☐ Aerial Photo Attached
☒ Photo of Diversion and System Attached
(required for all but single household domestic groundwater, and stockwater.
(required for irrigation of 10 acres or more).

NW **MICROFILMED**

MAR 26 1990

Do not use this space

D. FLOW MEASUREMENTS

☐ Additional Data Sheets Attached

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date

2. Measurements:

THEORETICALS: OLD WELL: * STATIC WATER @ 60', HP = 1.0

$$Q = \frac{(1 \text{ HP})(8.814)(.80)}{(60' \text{ psi} + 2.308)} = 0.046 \text{ cfs}$$

NEW WELL: * STATIC WATER @ 120', HP = 1.0

$$Q = \frac{(1 \text{ HP})(8.814)(.80)}{(120' + 2.308)} = 0.023 \text{ cfs}$$

120' ~~psi~~ + 2.308

THEOR. CAPACITY = 0.069 cfs

FROM PUMP MAINT. RECORDS OF OWNER

E. FLOW CALCULATIONS

☐ Additional Computation Sheets Attached

Allow 0.06 ^{per} permit.

1. Measured Method:

THEORETICAL = 0.069 - Allow 0.06 per permit.

2. Alternate Method for Checking Purposes:

F. PUMP EFFICIENCY DATA (Optional)

Discharge Pressure: _____ psi x 2.31 = _____ ft (1); Dynamic pumping level: _____ ft (2)

Total Head: (1) + (2) = _____ (3)

; Flow rate: _____ cfs (4)

Water HP: (3) x (4) ÷ 8.8 = _____ (5)

Meter Input KW: 3.6 x _____ KH x _____ CTR or _____ MULT x _____ PTR x _____ N/ _____ T = _____ (6)

Meter Input HP: (6) x 1.34 = _____ (7)

Panel Input KW: _____ Ave PF x _____ Ave Volts x _____ Ave Amps x .001732 = _____ (6)

Panel Input HP: (6) x 1.34 = _____ (7) Efficiency: (5)/(7) x 100 = _____ %

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$V_{IR} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) =$ _____

$V_{DR} = [\text{Diversión Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 =$ _____

$V = \text{Smaller of } V_{IR} \text{ and } V_{DR} =$ _____

2. Volume Calculations for Other Uses:

CABINS = Assume 50 gal/day/person - Max persons = 40

$$(128 \text{ days})(50 \text{ gpd})(40 \text{ persons}) / 325,825 \text{ gal/AF} = 0.79 \text{ AFA}$$

RV PARK + WASH Room = Assume 50 gal/day/person 100 people max

$$(128 \text{ days})(50 \text{ gpd})(100 \text{ persons}) / 325,850 \text{ gal/AF} = 1.96 \text{ AFA}$$

2.75
AFA

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MAR 26 1990

System Description (continued)

3. Narrative: Description (As operating at time of measurement. Indicate pressure, number of sprinklers, etc.)

New well Service RV hookups. There are 30 spaces. Also services wash house w/ one washing machine, men's and 2 restrooms.

Old well - service bldg w/ kitchen, restrooms 3 15 caline (RATARS)

No irrigation on system.

Systems are normally run separate but can be connected if need be.

☐ See Remarks on page 4 for continuation

- 4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
New Well	UNKNOWN	1.0	UNKNOWN	UNKNOWN Make	Submersible 6"
OLD WELL	GE.	1.0	5K2390N10028X	Fairbank, ~~Moore~~ 3 CO.	FM-11-PHW

*Code to correspond with No. on map and aerial photo

5. Point(s) of Diversion:

Ident. No.	Gov't. Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
OLD	2	NE	NW	NW	6	15N	43E	FREMONT	USGS MAP/ ON-SITE INSPEC.
NEW	2	SE	NW	NW	6	15N	43E	FREMONT	USGS MAP/ ON-SITE INSPEC.

6. Place(s) of Use:

Indicate Method of Determination _____

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
15N	43E	6					C												
							L-2												

MICROFILMED

MAR 26 1990

Do not use this space

RECEIVED
SEP 17 1986

For Office Use Only
Fee Received \$50.00
Date 9-17-86
Receipt # 39224
Receipt by [Signature]
Reviewed by [Signature]
Sent to region 9/18

STATE OF IDAHO Department of Water Resources
DEPARTMENT OF WATER RESOURCES
PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources will consider this form as a statement that the permit holder(s) has completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee or a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

Permit No. 21-7362
Name(s) of Permit Holder: STALEY SPRINGS LODGE
Post Office Address: STAR ROUTE BOX 102 MACOS INN, IDAHO
83433 Telephone No. (208) 558-7471

Source of Water: WELL (UNDERGROUND)

Extent of Use:

Domestic _____ (number of households) Stockwater _____ (number and type of stock)
Irrigation _____ (acres) Other/Remark USED FOR VACATION

CASINO AND RV HOTSPOTS PER PERMIT.

Total rate and/or volume for which proof is submitted 0.05-0.20 cfs _____ acre-feet

Show the date water was first diverted and beneficially used under this permit: I'm a NEW OWNER, BUT
TO THE BEST OF MY KNOWLEDGE IT WAS DATE 1985.

Measuring Device: Required? ☐ Yes ☒ No Fee enclosed \$ 50.00
Installed? ☐ Yes ☒ No (See License Examination Fee Schedule)

Flow Measurement Port: Required? ☐ Yes ☒ No
Installed? ☐ Yes ☒ No

Person to contact to accompany the Department representative during the field examination:

STAN HORTON (208) 558-7471
(Name) (Telephone Number)

STAR ROUTE BOX 102 MACOS INN, IDAHO 83433
(Address)

The above information is my true statement of the extent to which the above numbered permit has been developed and I relinquish any undeveloped portion of the permit to the state of Idaho.

9/11/86
Date

Staley Springs Lodge
Stan Horton - NEW OWNER
Signature of Permit Holder (and title, if appropriate)

MICROFILMED

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 21-07362

Priority: July 15, 1985

Maximum Diversion Rate:
Maximum Diversion Volume:¹

0.06 CFS
2.8 AF

This is to certify, that STALEYS SPRINGS LODGE

STAR RT. BOX 102

MACKS INN, ID 83433

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated July 15, 1985; and has submitted Proof of Beneficial Use on September 17, 1986. An examination indicates that the works have a diversion capacity of .070 cfs of water from a **GROUNDWATER** source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
COMMERCIAL	05/25 to 09/30	0.06 CFS	2.8 AF

LOCATION OF POINT(S) OF DIVERSION: LOT 2(NWNW), Sec. , Township 15N, Range 43E
FREMONT County

PLACE OF USE: COMMERCIAL

TWN RGE SEC

15N 43E 6 LOT 2(NWNW)

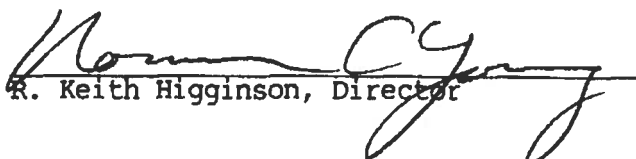
CONDITIONS/REMARKS:

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. 2 points of diversion located in LOT 2 (NWNW), S6, T15N, R43E.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code, Witness the seal and signature of the Director, affixed at Boise, this 14TH day of MARCH, 1990.

MICROFILMED

MAR 26 1990

Acting for  R. Keith Higginson, Director

1-29-2003
ALLIANCE TITLE ESCROW
P.O. BOX 752
REXBURG, ID 83400

QUITCLAIM DEED

For Value Received I J. Stanley Horton, Trustee of the Horton Trust

do hereby convey, release, remise and forever quit claim unto Roger D Cantlon and Vicki Cantlon

whose current address is 1101 West River Street, Suite 100
Boise, Idaho 83702

the following described premises, to-wit: Water well on well lot located between Lot 9 and Lot 10 of Moose Bay Subdivision (as designated in CC&R's of Moose Bay Subdivision on file in Fremont County recorders office). Pressure tank and electrical pressure switch included. Mr Cantlon to provide his own power supply and plumbing from the well to his property. No real property is conveyed with the Quitclaim Deed.

together with their appurtenances.

Dated: January 23, 2003

J. Stanley Horton 1/23/03

STATE OF IDAHO, COUNTY OF *Blaine*
On this *24th* day of *January*, 2003
before me, a notary public in and for said State, personally
appeared *J. Stanley Horton*

known to me to be the person who name
subscribed to the within instrument, and acknowledged to
me that *he* executed the same.

Billie Richards
BILLIE RICHARDS Notary Public
NOTARY PUBLIC for the State of Montana
Residing at *Residing at West Yellowstone, Montana*
Comm. Expires *Commission Expires June 4, 2008*

479132
ALLIANCE TITLE ESCROW
FREMONT CO RECORDERS

Furnished by the
ALLIANCE
TITLE & ESCROW CORP.

This instrument filed
as an accommodation only.
It has not been examined
as to its execution, insurability
or effect on title.

1-29-Horton-L
ALLIANCE TITLE
P.O. BOX 702
REXBURG, ID 83440

MAINTENANCE EASEMENT

I, J. Stanley Horton, on this 24th day of January, hereby grant a maintenance easement to Roger Cantlon for maintaining the well on well lot located between lot #9 and lot #10 of Moose Bay Subdivision (as designated in CC&R's of Moose Bay subdivision on file in Fremont County recorders office)

Easement is for reasonable access and maintenance from current utility easement along north side of Moose Bay road (as noted in Moose Bay Subdivision plat on file in the Fremont County recorders office) to well, a distance of five feet . Easement is to be 12 feet wide as shown on attached map.

Easement is for accessing lot for maintenance of well only. No building of any kind can be erected on easement or well lot by recipient.

479133
Microfilm No. 27 94 23
AL 15:55 10 23 M
ADRIE MACE
FREMONT CO RECORDER
Fee \$12
AL 15:55 10 23 M
Recorded at Request of ESCROW

Signed and Dated: 1/24/03

J. Stanley Horton

Billie Richards
1-24-2003

BILLIE RICHARDS
NOTARY PUBLIC for the State of Montana
Residing at West Yellowstone, Montana
My Commission Expires June 4, 2008

This instrument filed
as an accommodation only.
It has not been examined
as to it's execution, insurability
or effect on title.

Subject: RE: Well Issue

From: "Randy Budge" <rcb@racinelaw.net>

Date: Fri, 25 Jul 2008 00:20:17 -0600

To: "william h albano" <balbano@cableone.net>

CC: "Randy Budge" <rcb@racinelaw.net>

Hi Bill:

I picked up your message this evening. I mistakenly left my laptop home and cannot open attachments so I will have to look at this the first of the week when I get back. Am in N. Idaho and traveling home over the weekend. Sorry for the delay but tied up in meetings all day and traveling home over the weekend. Assume there is no rush in which case let me look it over and get back.

If you want I see no problem with running over and have IDWR take a look. I would ask for Ernie Carlson. He is very good to work with and I work with him when ever I can.

Thanks!
Randy

From: william h albano [mailto:balbano@cableone.net]

Sent: Thu 7/24/2008 1:31 PM

To: Randy Budge; william h albano

Subject: Well Issue

Randy,

I have researched the matter of my well.. I thought I would duck their calls until you had a chance to review what I have. The water right in question is 21-7362. I bought the well outright from Roger Cantlon when I bought lot 11 at 3610 Moose Bay Drive. I have attached a copy of the Quit Claim Deed from Stan Horton to Cantlon and a copy of my deed as it pertains to the well. I own both lots 10 and 11 with my cabin on lot 11. I have no idea weather they have an easement or what but I'm assuming I have no water right to pump from my well. I had Eric do the legal before purchasing.

Should I take this to IDWR and talk with them? Be sure and bill me for our conversations etc. as I really appreciate the help.

Bill



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

A. Kenneth Dunn
Director

150 Shoup — Suite 15
Idaho Falls, Idaho 83402
(208) 525-7161



21-7362

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.

after 1985
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
Michael A. Horton

*when
Rec'd
Date*

*no evidence
of right
from
Timber C*

3040121186-2

ALLIANCE TITLE & ESCROW
P.O. BOX 732
REXBURG, ID 83440

Well Option Agreement

This document is to record an agreement between Mr. Roger Cantlon and Mr. J. Stanley Horton concerning access to an existing water well owned by Mr. Horton and located upon the "Well Lot" (as noted in the CC&R's of Moose Bay Subdivision and on the plat therefore on file in the Fremont County Records Office) located in Moose Bay Properties Subdivision.

Mr. Horton and Mr. Cantlon agree that in order to provide water to lot # 11 of Moose Bay Properties in the short term, Mr. Horton will lease to Mr. Cantlon access to his water well on the "well lot" North of the culdesac bordering Moose Bay Drive as described in the CCR's on file with Fremont County Planning and Zoning. Said lease agreement is to last for one year from the closing of escrow on lot #11 for the sum of \$300.00, and allows Mr. Cantlon the option to buy the well from Mr. Horton at the end of said lease for the amount of \$7,000.00. *The purchase of the well shall include an appropriate amount for access and maintenance, and shall include well, pump, electrical system etc for a complete operating well.*

J. Stanley Horton

Roger Cantlon

470188
Mortgage No. 470188
At 11:36 on Aug 21 2001
ALLIANCE TITLE & ESCROW
FREMONT CO. RECORDER
Fee \$ 12.00
Recorded at Request of
ALLIANCE TITLE & ESCROW

RECEIVED

OCT 28 2010

Department of Water Resources
Eastern Region

Order Number
0174131

PACKING SLIP

DA-FSA, Aerial Photography Field Office
2222 West 2300 South
Salt Lake City UT 84119-2020
Telephone: (801) 844-2922

Ship To: HOLDEN LEGAL
1000 RIVERWALK DR STE 200
IDAHO FALLS ID 83401
208-523-0620 Commercial

Agency Code: 9900
Order Date: 05-OCT-2010
Ship Date: 08-OCT-2010
APFO Customer Code: 95196
Purchase Order#: LUKE MARCHANT
Sales Representative: Sharron
(801) 844-2922
apfo.sales@slc.usda.gov

Ship Remarks:

**** ACCOUNTING SUMMARY OF PRODUCTS AND SERVICES ****

Product	Unit Cost	Quantity	Amount
2401 24x24 BW PAPER	0.00	4	144.00
Total Cost:			144.00
-Amount Remitted:			144.00
Balance Due:			0.00

County/State: FREMONT ID
Order Remarks: NONE

LINE	PRODUCT	QTY	EXP SYMBOL	ROLL	EXPOSURES	ENLG CODE	SHIFT CODE	ZONE	SCALE ft/in
	2401	1	16043 Remarks: SHOW DATE: 8-18-71	171	879-879	X	N60W65	NZ	330
	2401	1	16043 Remarks: SHOW DATE: 7-25-78	178	106-106	X	N30E05	NZ	330
	2401	1	HAP 80 Remarks: SHOW DATE: 8-21-80	187	109-109	X	S20E10	NZ	500
	2401	1	NAPP Remarks: SHOW DATE: 9-11-87	319	61-61	X	N05W55	NZ	330

**** THANK YOU FOR YOUR ORDER ****

PLEASE REVIEW SHIPMENT CONTENTS FOR ACCURACY. RETURN ANY ITEMS WITH DISCREPANCIES SUCH AS QUANTITY DAMAGE, OR QUALITY WITHIN 60 DAYS FOR REPLACEMENT OR REFUND. PRODUCTS RETURNED AFTER 60 DAYS OF SHIPMENT WILL NOT BE ACCEPTED. ALL PRODUCTS ARE SUBJECT TO REVIEW FOR VALID REPLACEMENT OR REFUND.

RECEIVED

OCT 28 2010

Department of Water Resources
Eastern Region

RECEIVED

NOV 02 2009

DEPARTMENT OF
WATER RESOURCES

COPY

Hearing: 149-2010

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

Fees ok

*Claim
Complete*

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.

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NOV - 4 2009

√ 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.

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NOV - 4 2009

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:

SCANNED

NOV - 4 2009

- ☐ 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:

SCANNED
NOV - 4 2009

VERIFICATION

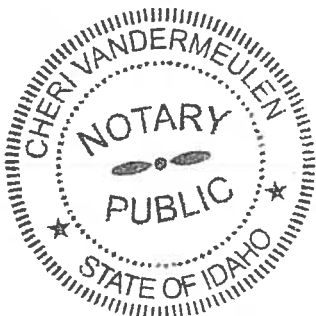
State of Idaho)
)ss.
County of Bonneville)

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

SCANNED

NOV - 4 2009

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:

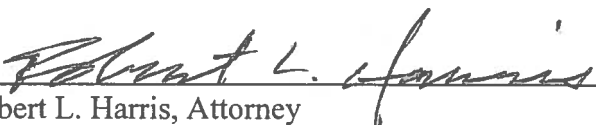
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

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\RLH\15601 DGM Properties, LLC\Form 4 wpd

SCANNED

NOV - 4 2009

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.) _____

SCANNER

NOV - 4 2009

9. Description of place of use:
- If water is for irrigation, indicate acreage in each subdivision in the population 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 _____

SCANNED

NOV - 4 2009

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

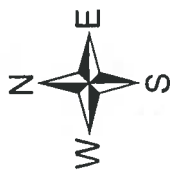
G:\WPDATA\RLH\15601 DGM Properties, LLC\Claim.wpd.cdv

SCANNED

NOV - 4 2009

Last Name _____ Ident. Number _____

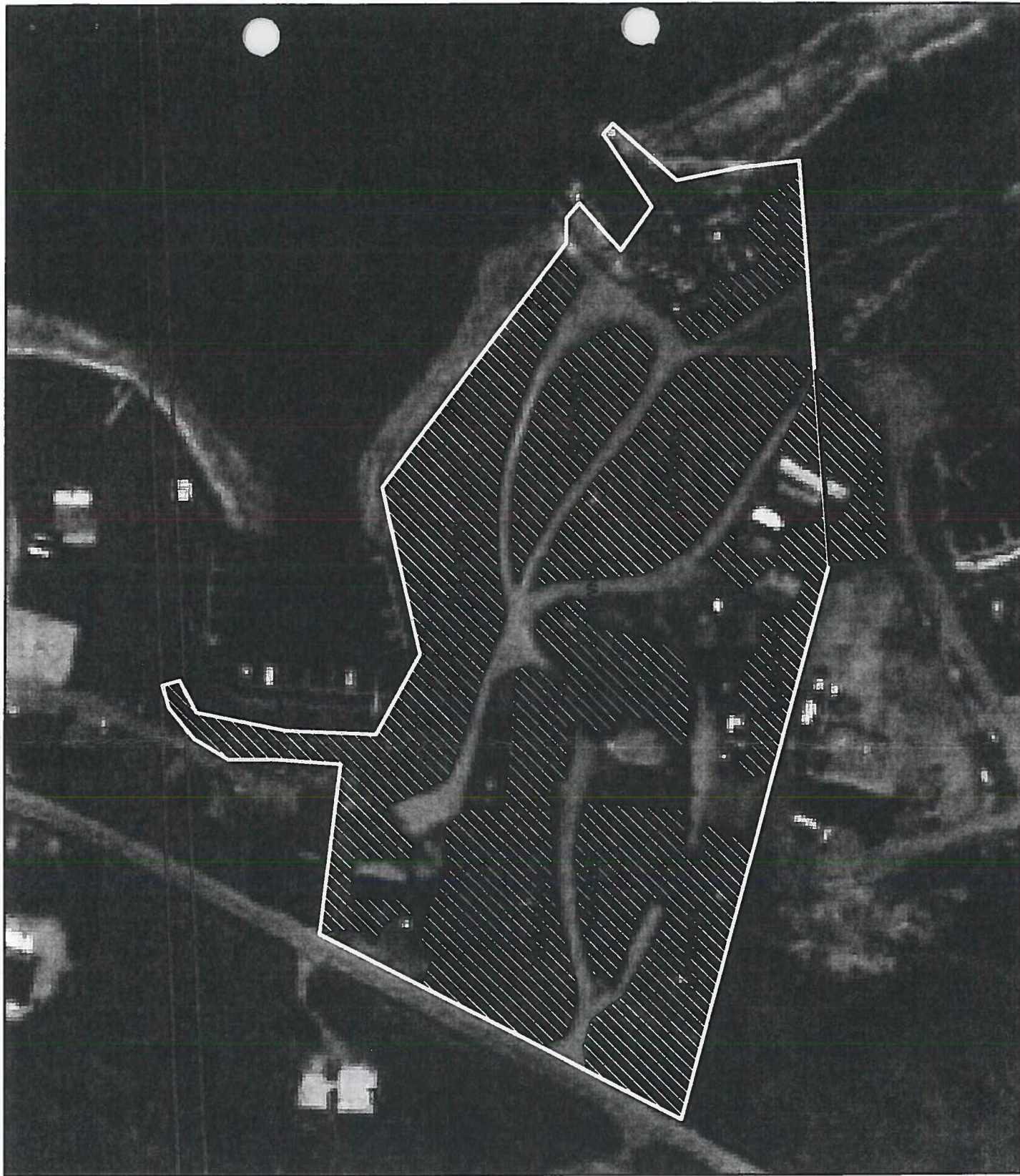
Olde Staley Resort Place of Use



Legend

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

Total Place of Use: 4.3 acres



SCANNED
NOV - 4 2009

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:

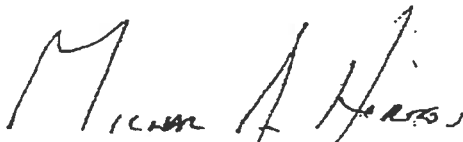
As per your request I have written a short note concerning my experience and knowledge of use of the water system for irrigation at Staley Springs Lodge during my tenure there. I helped out as a part time boat boy for Leonard McMinin while vacationing there, then worked as boat boy a season for Don Hart,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

SCANNED

NOV - 4 2009

IN THE MATTER OF:)

AFFIDAVIT

JUL

JUL

Department of Water Resources
Eastern District Office

Department of Water Resources
Eastern District Office

State of Idaho
County of _____

LEONARD MAXMIN being first duly sworn,

deposes and says:

I purchased Staley
Spring Lodge from Leonard Maxmin
in Nov. of 1980. At that time, there
was an 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 (Ardena Spring) which
supplies the R.V. Park.

(Signature)

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

(Notary Public)

Residing at Mack's Inn, El
My Commission Expires date

MICROFILMED

SCANNED

NOV - 4 2009

15/11/51

JUL

Department of Water Resources
Eastern District Office

LEONARD MARININEN being first duly sworn,

deposes and says: In Nov of 1980 I
sold Skelton Springs Lodge to Donald
Hart. I had owned the Lodge
for 17 years prior to selling.
To my knowledge, the well supplying
water to the entire property was
drilled in 1945.

Leonard Munnisen
(Signature)

Subscribed and sworn to before me this 21st day of June, 1985

Kathleen Clark
(Notary Public)

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

SCANNED
NOV - 4 2009

MICROFILMED

RECEIVE

SEP 16 2010

Department of Water Resources
Eastern RegionIN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLSIN 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 _____

AMENDED NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW1. Name of Claimant(s) DGM Properties, LLC; G&S Development, LLC; Funk-Drussel, LLC; Wengreen Development, LLC Phone (208) _____Mailing Address 5990 Gleneagles Dr., Idaho Falls, ID Zip 834012. Date of Priority (Only (1) per claim) June 1, 19453. 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: 15N, 43E, Sec. 6, NW 1/4 NW 1/4, Gov't. Lot 2.

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.) _____

FILED

SCANNED
AUG 25 2011

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 Organizations: I do solemnly swear or affirm under penalty of perjury that I am attorney for DGM Properties, LLC, G&S Development, LLC; Funk-Drussel, LLC; Wengreen Development, LLC, that I have signed the foregoing document in the space below as attorney for DGM Properties, LLC, G&S Development, LLC; Funk-Drussel, LLC; Wengreen Development, LLC, and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent

Robert L. Jannis

Title and Organization Attorney, DGM Properties, LLC, G&S Development, LLC; Funk-Drussel, LLC; Wengreen Development, LLC, Date _____

Last Name DGM Properties, LLC, G&S Development, LLC; Funk-Drussel, LLC; Wengreen Development, LLC, Ident. Number 21-13112

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 September 15, 2010

G:\WPDATA\RLH\15601 DGM Properties, LLC\Claim, Amended.wpd.cdv

Last Name DGM Properties, LLC, G&S Development, LLC; Funk-Drussel, LLC; Wengreen Development, LLC,

Ident. Number 21-13112

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLSRECEIVED
JAN 21 2010
DEPARTMENT OF
WATER RESOURCESIN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 21-13112Date Received 1.21.2010Receipt Number C089927587
6100-NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAWDISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED
2009 OCT 30 AM 10 13

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.) _____

SCANNED
JAN 26 2010

9. Description of place of use:
- If water is for irrigation, state acreage in each subdivision in the table 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 _____

SCANNED
JAN 26 2010

Last Name _____ Ident. Number _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am The Manager of

(Title)

GTS Development LLC, that I have signed the foregoing document in the space below as
(Organization)

Manager of GTS LLC Development and that the statements contained in the
(Title) (Organization)

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

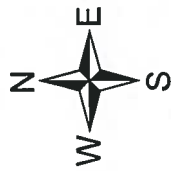
Date Oct. 29, 2009

G:\WPDATA\RLH\15601 DGM Properties, LLC\Claim.wpd.cdv

SCANNED
JAN 26 2010

Last Name _____ Ident. Number _____

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



SCANNED
JAN 26 2010

2004 NAIP Photo

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

SCANNED
JAN 26 2010

IN THE MATTER OF:)

AFFIDAVIT

JUL

JUL

Department of Water Resources
Eastern District Office

Department of Water Resources
Eastern District Office

State of Idaho
County of _____

DAVID HART being first duly sworn,

deposes and says:

I purchased Staley
Spring Lodge from Leonard Maximin
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 (Ardena Spring) which
supplies the R.V. Park.

(Signature)

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

(Notary Public)

Residing at Mack's Inn, El
My Commission Expires 8/85

SCANNED
JAN 26 2010

MICROFILMED

MICROFILMED

RECEIVED

JAN 21 2010

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

JAN 20 2010

By _____ Clerk
Deputy Clerk

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: 21-13112

Case No. 39576

ORDER GRANTING MOTION TO FILE
LATE NOTICE OF CLAIM

On October 30, 2009, DGM Properties, LLC, *et al.*, by and through counsel, Robert L. Harris, filed a *Motion to File Late Notice of Claim* for the above-captioned water right. Hearing was held on the *Motion* on January 19, 2010. This *Motion* complied with all procedural requirements under *SRBA Administrative Order 1*, and no objections were made to this late Notice of Claim.

THEREFORE, IT IS ORDERED, that the *Motion to File a Late Notice of Claim* for the above-captioned water right is **granted**.

The original Notice of Claim, as well as any attached filing fees, and a copy of this **Order** will be forwarded to the Idaho Department of Water Resources for further action. Following investigation by the Idaho Department of Water Resources, recommendation for the claim will be reported in the next *Late Claims Director's Report* which is issued on an annual basis. This modifies the provisions of *SRBA Administrative Order 1* 4d(2)(h).

IT IS SO ORDERED.

Dated January 20, 2010.


ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

SCANNED
JAN 26 2010

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTION TO FILE LATE NOTICE OF CLAIM was mailed on January 20, 2010, with sufficient first-class postage to the following:

DGM PROPERTIES LLC
FUNK-DRUSSEL LLC
G & S DEVELOPMENT LLC
WENGREEN DEVELOPMENT LLC

Represented by:
ROBERT L HARRIS
1000 RIVERWALK DR, STE 200
PO BOX 50130
IDAHO FALLS, ID 83405
Phone: 208-523-0620

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

SCANNED
JAN 26 2010

ORDER

Page 1 1/20/10

FILE COPY FOR 00494

Deputy Clerk

Julia Murphy