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FEB 19 2008

DEPARTMENT OF  
WATER RESOURCES

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

) Subcase

67-14945

) (Insert water right number)

Case 39576

) STANDARD FORM 4

) MOTION TO FILE:

) ☒ LATE NOTICE OF CLAIM

) ☐ AMENDED NOTICE OF CLAIM

INSTRUCTIONS

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even-number pages upside down.

The water right number for your late or amended claim must be indicated above in the blank space following "Subcase." You must use a **separate form for each** late or amended Notice of Claim.

This form has been adopted by the court in **SRBA Administrative Order 1, Rules of Procedure** (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

By filing a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

☒ I have read **SRBA Administrative Order 1, Rules of Procedure** (amended Sept. 30, 1996).

My name is \_\_\_\_\_

My address is \_\_\_\_\_  
\_\_\_\_\_

My phone number is: Work \_\_\_\_\_ Home \_\_\_\_\_

I am an attorney representing Wallach IX, LLC

My name is Scott L. Campbell and Dylan B. Lawrence

My address is Moffatt Thomas Barrett Rock & Fields, Chtd.  
Post Office Box 829, Boise, Idaho 83701-0829

My phone number is (208) 345-2000

### **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:  
Wallach IX purchased the subject property on September 20, 2007 and did not  
immediately discover the springs. Upon discovery, Wallach IX conducted factual and  
legal investigations to determine whether these springs could be claimed in the SRBA and  
to identify an appropriate priority date. This due diligence was only recently concluded.

☐ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or stock watering use. I desire to reinstate my Notice of Claim for domestic or stock watering use.

☒ I am providing legal and factual documentation for my claimed use of water. You must describe these documents and attach a readable copy. (You do not need to fill this out if you are reinstating a Notice of Claim for domestic or stock watering use, but you **must** attach a copy of your Notice of Claim.)

01-23-08 Letter from Tom Grossen  
\_\_\_\_\_  
\_\_\_\_\_

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 \$ 100.
- ☐ 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 \$ \_\_\_\_\_.

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 May 20, 2008 at 1:30 p.m.  
(Insert Date and Time)  
at the SRBA 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:

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- ☐ I am providing legal and factual documentation to support my amended Notice of Claim.  
You must describe these documents and attach a readable copy.

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I have attached:

- ☐ An amended Notice of Claim (available from IDWR).

- ☐ Payment of the following additional fees required by IDWR:

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**VERIFICATION** (Must be completed)

State of Idaho

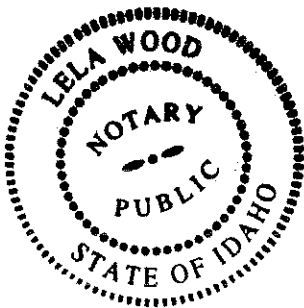
County of Ada

Dylan Lawrence, being first duly sworn, upon oath, deposes and says:  
(Insert name of person filing form)

That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

Dylan Lawrence

Subscribed and sworn to before me on February 15, 2008.  
(Insert Date)



Lela Wood  
Notary Public for Idaho  
Residing at: Boise  
My Commission expires: 5-31-2012

**INSTRUCTIONS FOR MAILING**

You must mail this form, including all attachments, to the Clerk of the SRBA Court. **FAX filings will not be accepted by the SRBA Clerk of the Court.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

## CERTIFICATE OF MAILING

I certify that on February 15, 2008, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

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

2. Copies to:

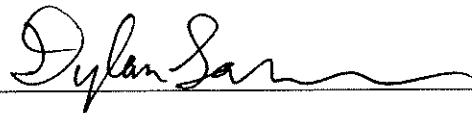
IDWR Document Depository  
PO Box 83720  
Boise, ID 83720-0098

Chief, Natural Resources Division  
Office of the Attorney General  
State of Idaho  
PO Box 44449  
Boise, ID 83711-4449

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

3. If you are filing an amended Notice of Claim in a subcase being heard before the Presiding Judge or a Special Master, you must serve a copy on all parties to that subcase.

(Insert Names/address of parties)



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: 67-14945  
Date Received:  
Receipt No:  
Received By:

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

Wallach IX, LLC.  
PO Box 5667  
Incline Village, NV 89450

Phone: (775)831-3797

2. Date of Priority: January 1, 1958

3. Source: Springs Trib. to: Sinks

4. Point of Diversion:

| Township | Range | Section | 1/4 of 1/4 of 1/4 Lot |    |    | County | Type |
|----------|-------|---------|-----------------------|----|----|--------|------|
| 14N      | 1W    | 6       | SW                    | NE | SE | Adams  |      |

5. Description of diverting works:

6. Water is used for the following purposes:

| Purpose    | From  | To    | C.F.S. | (or) A.F.A |
|------------|-------|-------|--------|------------|
| STOCKWATER | 01/01 | 12/31 | .02    |            |

7. Total Quantity Appropriated is:  
.02 CFS

8. Total consumptive use:

9. Non-irrigation uses: 150 Range Cattle

10. Place of use:

| Township | Range | Section | 1/4 of | 1/4 Lot | Use        |
|----------|-------|---------|--------|---------|------------|
| 14N      | 1W    | 6       | NE     | SE      | STOCKWATER |

11. Place of use in counties: Adams

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used: None

14. Remarks:

15. Basis of Claim: Beneficial Use

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do \_\_\_\_\_ do not ☒ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: \_\_\_\_\_

For Organizations:

I do solemnly swear or affirm that I am Manager of \_\_\_\_\_ Title

Wallach TX LLC, that I have signed the foregoing Organization

document in the space below as Manager of Title

Wallach TX LLC and that the statements contained in the Organization

foregoing document are true and correct. [Signature] Signature of Authorized Agent

Manager, Wallach TX LLC Title and Organization

2/8/08 Date

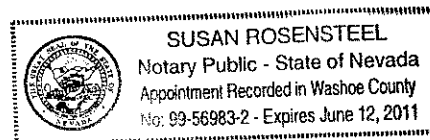
State of NEVADA )  
Idaho )  
County of WASHOE ) SS.

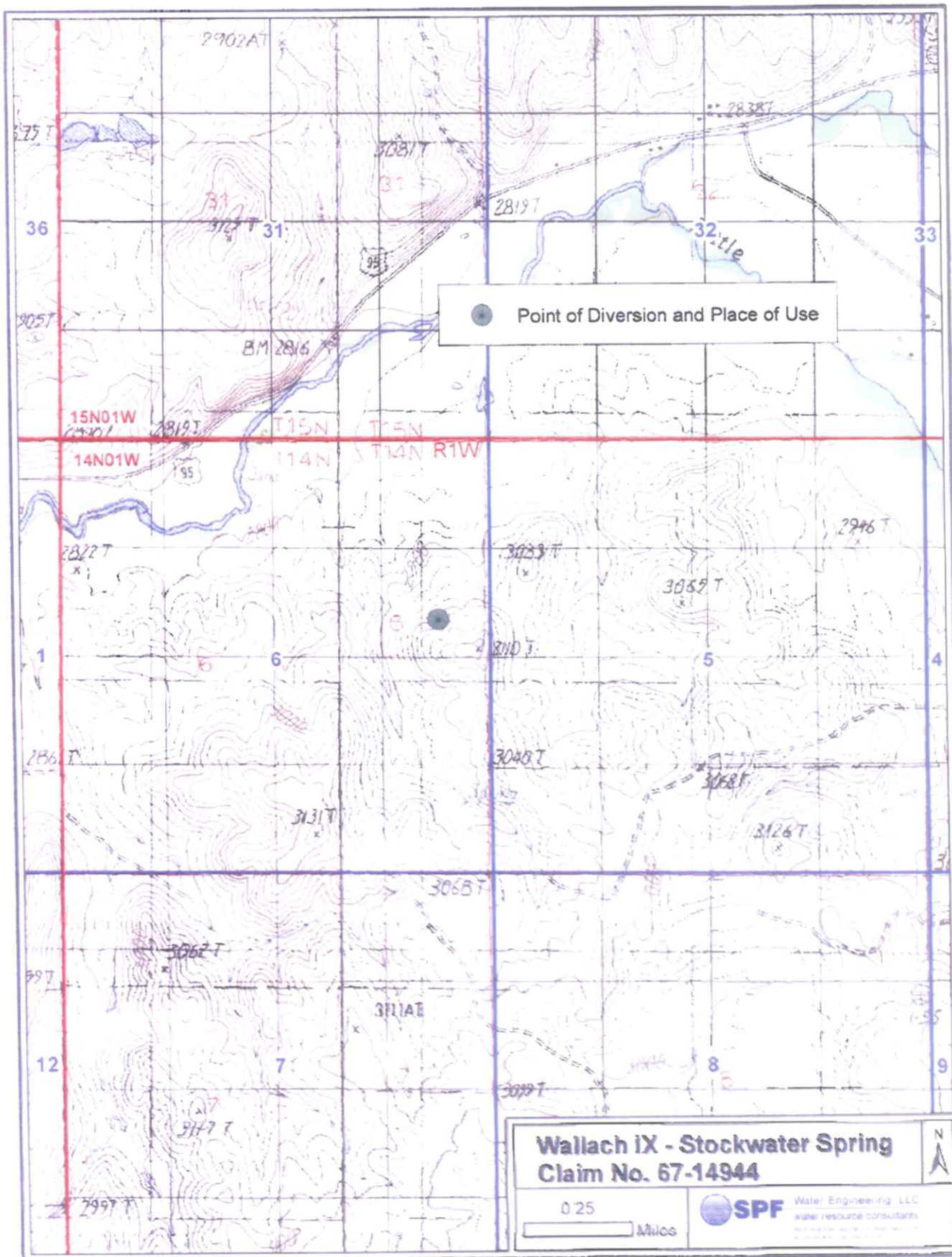
Subscribed and sworn (or affirmed) before me this 8TH DAY  
of FEBRUARY 2008 [Signature]

Notary Public

Residing at 937 TAHOE BLVD STE 200 INCLINE VILLAGE, NV

My commission Expires JUNE 12, 2011



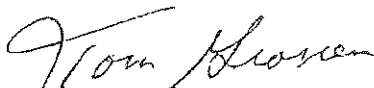


January 23, 2008

My name is Tom Grossen and I am a resident of Adams County, Idaho. This letter is provide information regarding historical use of stockwater springs on property located in Adams County, Idaho, currently owned by Wallach IX, LLC, a property formerly known as the "Bankhead" property, whose address is 1059 W. Indian Valley Road.

I was born in 1944 and raised in Indian Valley on an adjacent property located at 1010 Highway 95, Indian Valley; and have resided in the vicinity of this property throughout my life. I currently reside at 2245 Ogle Lane, Indian Valley, about a half mile east of the property.

I have observed cattle on the property throughout my life and while it's likely that the springs have been used by cattle since the early homesteaders in the late 1800's, I've observed cattle using these springs since I was 14 years old. That would be 1958.



Tom Grossen  
P.O. Box 72  
Indian Valley, ID 83632