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MAR 20 2008

DEPARTMENT OF
WATER RESOURCES

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

MAR 19 2008

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

Clerk

Deputy Clerk

In Re SRBA

Subcase: 63-32910

Case No. 39576

ORDER GRANTING MOTION TO FILE
LATE NOTICE OF CLAIM

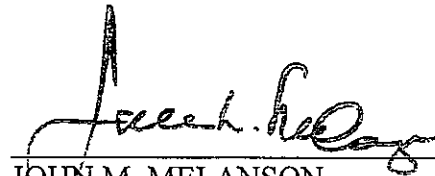
On December 11, 2007, W & H Limited Liability Company, filed a *Motion to File Late Notice of Claim* for the above-captioned water right. Hearing was held on the *Motion* on March 18, 2008. This *Motion* complied with all procedural requirements under *SRBA Administrative Order 1*, and no objections 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 March 19, 2008.



JOHN M. MELANSON

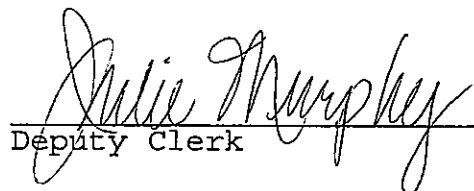
Presiding Judge
Snake River Basin Adjudication

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 March 19, 2008, with sufficient first-class postage to the following:

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

W & H LIMITED LIABILITY CO
504 N PHILLIPPI ST
BOISE, ID 83706
Phone: 208-323-7767

A handwritten signature in cursive script, reading "Julie Murphy", is written over a horizontal line. The signature is in dark ink and is positioned to the right of the printed text "Deputy Clerk".

214'

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number: 63-32910

Date Received:

Receipt No:

Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED
2007 DEC 11 PM 10 07

1. Name of Claimant(s)

W & H Limited Liability Company
504 N. Phillippi St.
Boise, ID 83706

Phone: (208) 323-7767

2. Date of Priority: January 1, 1970

3. Source: Baldridge and Meadows Drain

Trib. to: Boise River

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County	Type
5N	5W	27	NE NW	3	Canyon	

5. Description of diverting works:

Water is diverted from the drain into Upper Haas Ditch, which fills a pond that overflows and floods surrounding fields.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
Diversion to Storage	1/1	12/31	4.6	
Wildlife	1/1	12/31	4.6	
Wildlife Storage	1/1	12/31		45.0

7. Total Quantity Appropriated is:

4.6 cfs/45.0 afa

8. Total consumptive use:

9. Non-irrigation uses:

Miscellaneous Wildlife

10. Place of use:

TWP	RNG	SEC	NE ¼				NW ¼				SW ¼				SE ¼				totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
5S	5E	22						W W/S	Lt 4 W W/S			Lt 3 W W/S							

11. Place of use in counties: Canyon

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

13. Other Water Rights Used:

Permit 63-12601

14. Remarks: Water is diverted from the Baldridge and Meadows Drain into a ditch, also known as the Upper Haas Ditch, that carries water to the SWNW, Section 22, T5N, R5W, where it is continuously discharged to flood 45 acres 1 foot deep for wildlife purposes. A 2006 NAIP Photo was used to determine the point of diversion from the drain.

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 A MEMBER of

WTH, L.L.C. Title
Organization, that I have signed the foregoing

document in the space below as MEMBER of

WTH, L.L.C. Title
Organization and that the statements contained in the

foregoing document are true and correct.

[Signature]
Signature of Authorized Agent

MEMBER, WTH, L.L.C.
Title and Organization

12/10/07
Date

State of Idaho)
County of ADA) SS.

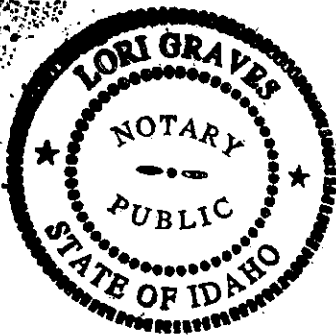
Subscribed and sworn (or affirmed) before me this
of DECEMBER 20 07

10th day
Lori Graves

Notary Public

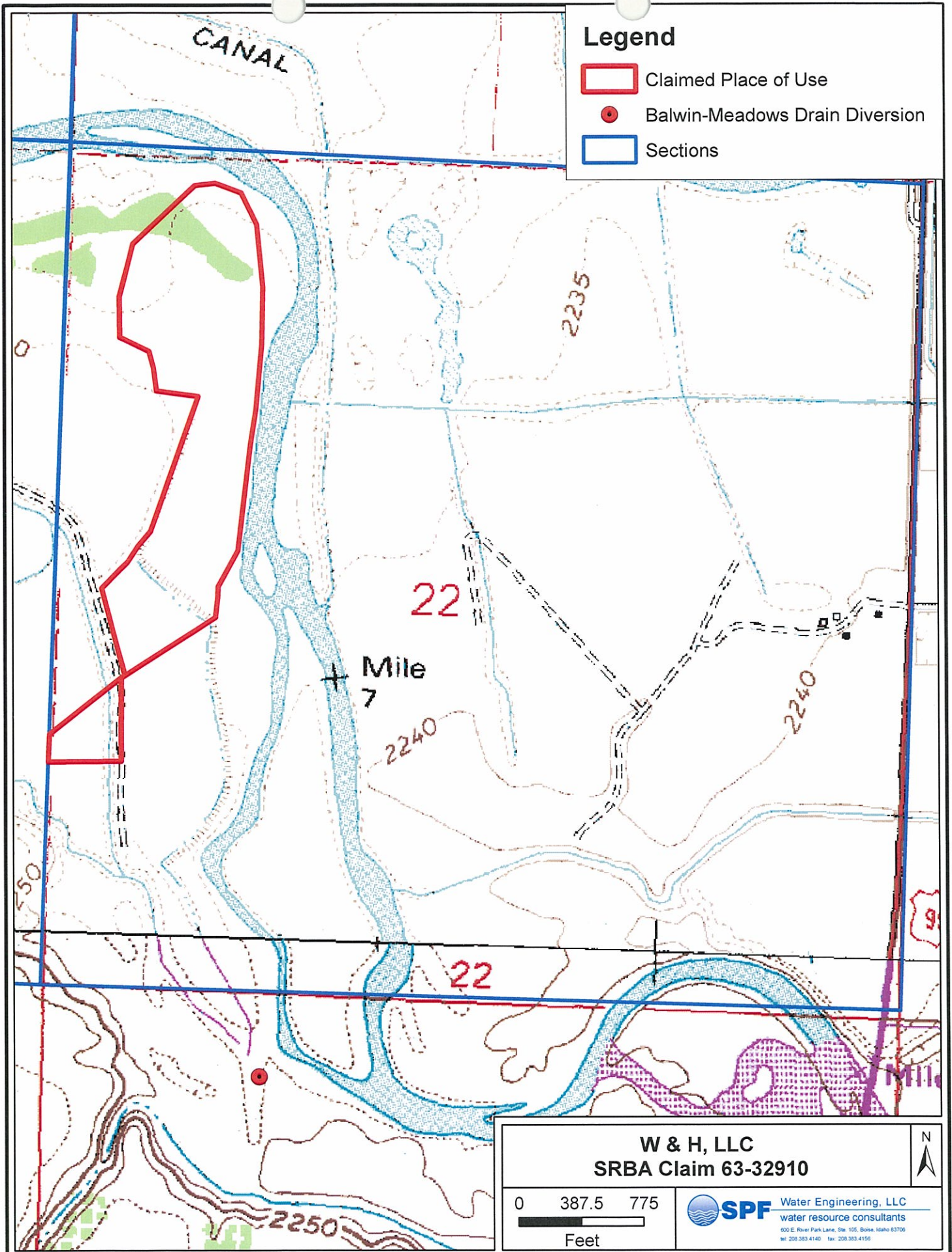
Residing at BOISE

My commission Expires 6/18/2010



Legend

-  Claimed Place of Use
-  Balwin-Meadows Drain Diversion
-  Sections



IN THE MATTER OF: Civil Case 39576

SNAKE RIVER BASIN ADJUDICATION

[Evidence of Priority]

State of Idaho

County of Canyon

AFFIDAVIT

I, Ward Williamson, being past owner of Mallard Farm from the early 1970's until 2005,
attest that water was deliberately diverted year round for wildlife uses from the
Baldrige/Meadows Drain, which is also known as the Upper Haas Ditch. To my
knowledge, this has occurred since at least 1970 with evidence at that time, such as cat
tails, indicating use many years prior. All the water from the Upper Haas Ditch was
diverted into a pond located on Mallard Farm in the SWNW, Section 22, T5N R5W,
which then filled, overflowed, and flooded the majority of Mallard Farm property and
part of the Walker Farm property located in the E1/2, Section 21 and the W1/2, W1/2,
Section 22, T5N R5W. Year round diversion for wildlife uses has resulted in the
development of a wetlands atmosphere that promotes and supports wildlife uses.

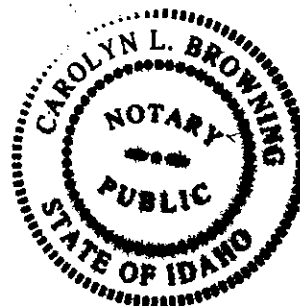
Ward C. Williamson
(Signature)

Subscribed and sworn before me this 29th day of November, 2007.

Carolyn L. Browning
(Signature of Notary)

Residing at Boise Idaho

My commission expires 5/15/2013



HAROLD Q. NOACK, JR.
ATTORNEY AT LAW

345 Bobwhite Court, Suite 110
Boise, ID 83706
P.O. Box 875
Boise, ID 83701

Telephone
(208) 336-2480
FAX
(208) 336-6701

December 6, 1989

James Johnson
Idaho Water Resource Board
1301 N. Orchard
Boise, ID 83720

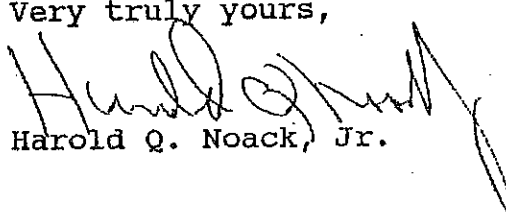
Re: Mallard Farms water rights
ID# A63-15173, A63-00202A, A63-00172A, and A63-02611A

Dear Mr. Johnson:

I represent Mallard Farms, a partnership, owners of farm property adjacent to the Boise River near Parma, Idaho. On October 25, 1989, a conference was held at the Water Resource Board office on Orchard Street. Present at that meeting were Jerry Waller (a partner in Mallard Farms), Jeff Peppersack, you and me.

The purpose of this letter is to verify that as a result of that conference it is your position that based upon the water rights held by Mallard Farms, which are identified above, there is no need for a transfer of nature of use for Mallard Farms to maintain on a yearly basis water for ponds which exist on the property for the maintenance and use of wildlife and for use of the water for the growing of crops for wildlife forage.

Very truly yours,


Harold Q. Noack, Jr.

HQN:dsg
cc: Jerry Waller
Jeff Peppersack

HAROLD Q. NOACK, JR.
Attorney at Law

345 Bobwhite Court, Suite 110
P. O. Box 875
Boise, ID 83701

Telephone
(208) 336-2480

FAX
(208) 336-6701

October 7, 1989

Gerald A. Waller
Rocky Mountain Pizza Huts, Inc.
504 N. Phillippi
Boise, ID 83706

Re: Water rights

Dear Jerry:

I talked to Jeff Peppersack with the Water Resource Board about "wildlife water rights." Jeff said that the wildlife water right is not well-defined by statute and that it is usually claimed by a state agency such as Fish and Game for wildlife refuges. Claiming a wildlife water right does not give you a better water right claim than a claim for stock water or irrigation purposes. All water rights go by priority, i.e., by when the water right was claimed.

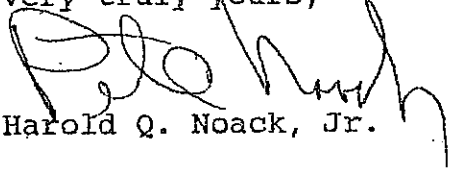
The purpose of the adjudication that the State is going through now is for people to re-establish their water right claims. If a party holds a valid water right now, that right will not be lost through the adjudication process. If you have sufficient water at the present time to maintain wildlife ponds through the existing water rights, there would not be any advantage to applying for wildlife water rights, if such application is possible.

The only area in which a wildlife water right could be important is providing water for ponds during the non-irrigation season. According to Jeff, the irrigation season runs from March 15 through November 15 of each year. If the ponds are to be maintained all year round, technically, it would be necessary to amend our claims which we may do to include wildlife water rights for the non-irrigation season. However, as a practical matter, the question of use of water during non-irrigation season would have to be raised by someone who was affected thereby, which is not likely to happen because there isn't a demand for water during the non-irrigation season.

Letter to Gerald A. Waller
October 7, 1989
Page 2

In accordance with our telephone conversation, I will pursue the matter further.

Very truly yours,



Harold Q. Noack, Jr.

HQN:dsg