

FAX

TO: '12087362121@venali.net'

FROM: Lori Anderson

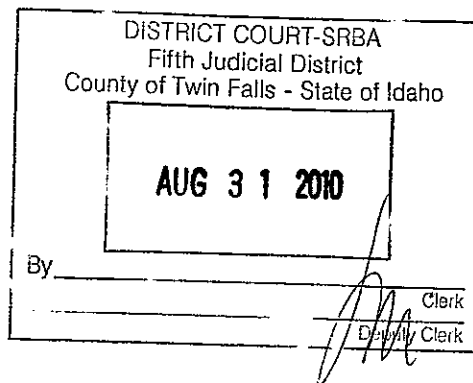
FAX: 12087362121

DATE: Tue, 31 Aug 2010 11:11:31 -0600

RE: Notice of Late Claim 63-33354 63-33361 [WVOV-GPDMS.FID446952]

MESSAGE

From:
Lori Anderson
GIVENS PURSLEY LLP
601 West Bannock Street
Post Office Box 2720
Boise, Idaho 83701-2720
Telephone: (208) 388-1234
Facsimile: (208) 388-1300
Email: landerson@givenspursley.com
Web: www.givenspursley.com



DATE: Tuesday, August 31, 2010

PAGES (INCLUDING COVER): 5

ORIGINAL FILED WITH IDWR

RECEIVED
SEP 01 2010
DEPARTMENT OF
WATER RESOURCES

RE:

W&H Limited Liability Co.

63-33354 & 63-33361

TO:

Clerk of the Snake River Basin Adjudication
ATTN: DIANA

SEND TO FAX PHONE: 208-736-2121

MESSAGE:

Enclosed is a copy of the Amended Late Notice of Claim for water right 63-33361 as ordered by Judge Wildman in his 8/19/10 Order Conditionally Granting Late Notice of Claim. Please note that per our telephone discussion this morning, we are fax filing a copy of the Amended Late Notice of Claim with the court and filing the original with IDWR in Boise along with checks for the additional filing fees (\$155.00 for 63-33354; \$5.00 for 63-33361).

- Lori (on behalf of Michael P. Lawrence)

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RECEIVED
SEP 01 2010
DEPARTMENT OF
WATER RESOURCES

*Info. only
previously
sent*

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
AUG 19 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	)	WATER RIGHT NO: 63-33354 and 63-
	)	33361
Case No. 39576	)	
	)	ORDER CONDITIONALLY GRANTING
	)	LATE NOTICES OF CLAIM
	)	
	)	
	)	

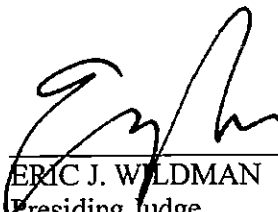
On May 28, 2010, Claimant W&H Limited Liability Company, through its attorneys of record Michael C. Creamer and Michael P. Lawrence, filed a *Motion to File Late Notice of Claim* for each of the above-captioned water rights. A hearing on the *Motions* was held on August 17, 2010. No party appeared in opposition to the *Motion*. However, at the hearing the Idaho Department of Water Resources ("IDWR") as well as counsel for Claimant pointed out that discussions between them has revealed certain clerical errors in the source element and place of use element of the *Late Notice of Claim* for water right 63-33351. Also at the hearing, IDWR noted that although a filing fee had been paid by Claimant with respect to the *Motions to File Late Notices of Claim* in the amount of \$100.00, the correct cumulative filing fee for the two *Motions* was \$155.00, resulting in a \$55.00 deficiency.

Following a review of the file and after hearing the comments made in open court, the Court finds that good cause exists for granting the instant *Motions*, provided that Claimants first (1) file and serve, as required by *SRBA Administrative Order 1* ("AOI") section 6, an *Amended Late Notice of Claim* with respect to water right claim 63-33351 that corrects the above-mentioned clerical errors as to the claimed source and place of use on or before August 31, 2010, and (2) submit a \$55.00 payment made payable to IDWR

to correct the deficiency existing with respect to the cumulative filing fee for the two *Late Notices of Claim* on or before August 31, 2010.

THEREFORE, IT IS HEREBY ORDERED that the *Motions to File a Late Notice of Claim* for the above-captioned water rights are **conditionally granted** subject to (1) the filing and service, as required by *AOI* section 6, by the Claimants of an *Amended Late Notice of Claim* with respect to water right claim 63-33351 that corrects the clerical errors presently existing in the *Notice of Claim* pertaining to source and place of use on or before August 31, 2010, and (2) Claimant submitting a \$55.00 payment made payable to IDWR to correct the deficiency existing with respect to the cumulative filing fee for the two *Late Notices of Claim* on or before August 31, 2010. Upon receipt by this Court of an *Amended Late Notice of Claim* that conforms with this *Order*, this Court will forward the *Amended Late Notice of Claim* to the Idaho Department of Water Resources for processing.

Dated August 19, 2010.


ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER CONDITIONAL GRANTING LATE NOTICES OF CLAIM was mailed on August 19, 2010, with sufficient first-class postage to the following:

W & H LIMITED LIABILITY

Represented by:
MICHAEL C CREAMER
601 W BANNOCK ST
PO BOX 2720
BOISE, ID 83701-2720
Phone: 208-388-1200

W & H LIMITED LIABILITY

Represented by:
MICHAEL P LAWRENCE
601 W BANNOCK ST
PO BOX 2720
BOISE, ID 83701-2720
Phone: 208-388-1200

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

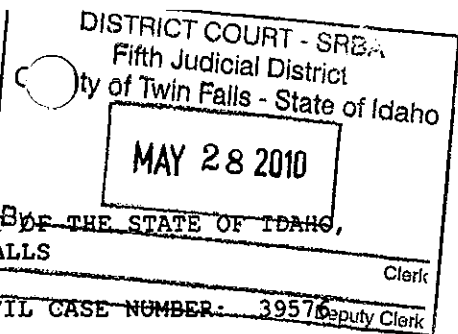
ORDER

Page 1 8/18/10

FILE COPY FOR 02331

Deputy Clerk

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".



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

Ident. Number: 63-33354
Date Received:
Receipt No: *C091624*
Received By:

RECEIVED

SEP 01 2010

DEPARTMENT OF
WATER RESOURCES

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)
W & H Limited Liability
Company
DBA Mallard Farms
PO Box 7943
Boise, ID 83707

Phone: (208) 323-7767

2. Date of Priority: 3/13/1944

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 and from Upper Haas Ditch to smaller ditches.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
Stockwater	1/1	12/31	1.55	

7. Total Quantity Appropriated is:

1.55 cfs

8. Total consumptive use:

9. Non-irrigation uses:

Stockwater for 200 beef cattle

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	
5N	5W	16												S			S		
		21	Lt2 S	Lt3 S	Lt7 S	Lt8 S	Lt4 S			Lt6 S					Lt9 S	S			
		22						S	Lt4 S			Lt3 S	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: Incidental stockwater use during the irrigation season under decrees 63-172B, 63-202B, 63-2611A and 63-2611B. Year-round stockwater use claimed under SRBA beneficial use claim 63-33361.

14. Remarks: Water is diverted from the Baldrige and Meadows Drain into a ditch, also known as the Upper Haas Ditch, that carries water to feeder ditches for stockwater, wildlife and irrigation uses. The claimed flow rate includes 1.50 cfs for conveyance losses.

15. Basis of Claim: Beneficial Use

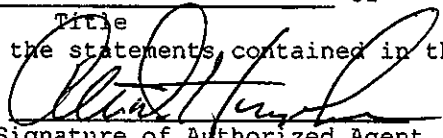
16. Signature(s)

(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 X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 1 (map)

For Organizations:

I do solemnly swear or affirm that I am Manager of
Title
W & H Limited Liability Company, that I have signed the foregoing
Organization
document in the space below as Manager of
Title
W & H Limited Liability Company and that the statements contained in the
Organization
foregoing document are true and correct.


Signature of Authorized Agent

Manager, W & H Limited Liability Company
Title and Organization

5/27/10
Date

State of Idaho)
County of Ada) SS.

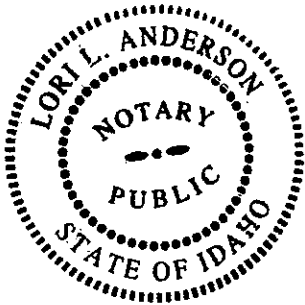
Subscribed and sworn (or affirmed) before me this 27th

of May 2010


Notary Public

Residing at Boise Idaho

My commission Expires Aug 23, 2013



T5N R5W

2009 Photo

16

15

21

22

Legend

-  Property Boundary
-  Stockwater Place of Use (Upper Haas)
-  Point of Diversion
-  Sections
-  Section QtrQtr Lines

W & H Partnership, LLC
Claim 63-33354



0 750 1,500
Feet



2331

DISTRICT COURT - SBBA Fifth Judicial District County of Twin Falls - State of Idaho	
MAY 28 2010	
By _____	Clerk
CIVIL CASE NUMBER: 39576	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 THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

Ident. Number: 63-33361
Date Received:
Receipt No: *C091623*
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED
SEP 01 2010
DEPARTMENT OF
WATER RESOURCES

1. Name of Claimant(s)
 W & H Limited Liability
 Company
 DBA Mallard Farms
 PO Box 7943
 Boise, ID 83707

Phone: (208) 323-7767

2. Date of Priority: 3/13/1944

3. Source: Ground Water

Trib. to: Boise River

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County	Type
5N	5W	22	SW	SW	Canyon	Beginning Reach
5N	5W	21	NE	NW	Canyon	Ending Reach

5. Description of diverting works:

Lower Haas Ditch

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
Stockwater	1/1	12/31	0.05	

7. Total Quantity Appropriated is:

0.05 cfs

8. Total consumptive use:

9. Non-irrigation uses:

Stockwater for 200 beef cattle

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	
5N	5W	21			Lt 7 S	Lt 8 S	Lt 4 S												
		22						Lt 4 S				Lt 3 S	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: Incidental stockwater use during the irrigation season under decrees 63-172B, 63-202B, 63-2611A and 63-2611B. Year-round stockwater use claimed under SRBA beneficial use claim 63-33354.

14. Remarks: This claim is for naturally occurring ground water that accumulates in the Lower Haas Ditch that is not attributable to water being diverted from the Boise River through the Lower Haas Ditch. Conveyance loss is not applicable.

15. Basis of Claim: Beneficial Use

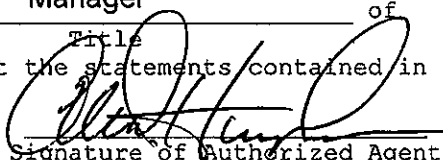
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For Organizations:

I do solemnly swear or affirm that I am Manager of
Title
W & H Limited Liability Company, that I have signed the foregoing
Organization
document in the space below as Manager of
Title
W & H Limited Liability Company and that the statements contained in the
Organization
foregoing document are true and correct.


Signature of Authorized Agent

Manager, W & H Limited Liability Company
Title and Organization

5/27/10
Date

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this
of May 2010

27th



Notary Public

Residing at Boise Idaho

My commission Expires Aug 23, 2013

