

HOLLAND & HART^{LLP}

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SUITE 1400
101 SOUTH CAPITOL BOULEVARD
BOISE, IDAHO 83702-7714
MAILING ADDRESS
P.O. BOX 2527
BOISE, IDAHO 83701-2527



RECEIVED

DEC 12 2007

DEPARTMENT OF
WATER RESOURCES

TELEPHONE (208) 342-5000
FACSIMILE (208) 343-8869
DIRECT FAX (800) 565-7694

LINDA B. JONES
ljones@hollandhart.com

December 10, 2007

Mr. Paul L. Arrington
Barker Rosholt & Simpson LLP
1010 West Jefferson, Suite 102
Boise, Idaho 83701-2139

Re: Objection to Water Rights No. 63-2611A and 63-2611B

Dear Paul:

This letter responds to your letters dated September 26, 2007 to Mallard Farms and W & H Partnership LLC. Our client W & H Limited Liability Company owns Water Right No. 63-2611A and our client Mallard Farms Limited Liability Company owns Water Right No. 63-2611B (the "Water Rights"). The source for both of the Water Rights is the Baldrige and Meadows Drain (the "Drain").

The letters allege that the water subject to the water rights is wastewater. Riverside's Objection to the Water Rights, filed in the Snake River Basin Adjudication ("SRBA") states that the Water Rights are not subject to a lawful appropriation, the water is "wastewater" from Riverside Irrigation District's ("Riverside") water system, and continued use is a trespass on Riverside's system. You requested that my clients resolve the Objection by signing an SF5 settlement form, agreeing to add a "wastewater" notation on the water rights. Your and Riverside's characterization of the two water rights is incorrect.

We attach for your review a copy of the water rights profile of original water right 63-2611 (predecessor of both of the Water Rights); a copy of the License and Certificate of Water Rights for 63-2611; the Report of Engineer for Water Right 63-2611; the Application for Permit to Appropriate the Public Waters of the State, including the State Engineer's Remarks regarding historic water appropriation and use on the land and including a Consent of the Riverside Irrigation District to the appropriation of water from the Drain, and a copy of the District's signed consent.

As the enclosed material shows, the Water Rights are licensed private appropriations from the natural flow in the Drain. Neither the initial license nor the Engineer's remarks indicate this is a wastewater appropriation. The Drain flows year round, and has water in it for the appropriations regardless of whether Riverside's wastewater also flows in the Drain. Riverside in 1944 consented to this appropriation. There is no trespass.

HOLLAND & HART LLP
ATTORNEYS AT LAW

Mr. Paul L. Arrington
December 10, 2007
Page 2

We attach two SF5 forms reflecting the correct characterization of these Water Rights. Historically, there was no "wastewater" label or condition on the License for Water Right 63-2411, and there should not be one now. When the SRBA Recommendation was published, we assume the wastewater label was included inadvertently simply because the Water Rights place of use and diversion falls within the Riverside District boundaries. The label should not have been placed on the Water Rights.

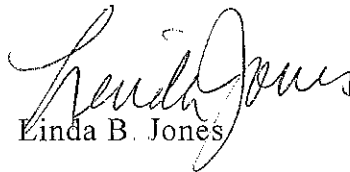
With the enclosed SF5 forms, the owners seek to correctly characterize the Water Rights and to resolve Riverside's Objection and the U.S. Bureau of Reclamation's ("BOR") Response to the Objection. We also have corrected on the SF 5 forms the listing of the point of diversion ("POD"). There is one POD, the Baldrige and Meadows Drain. We also correct the listings of the owners' names.

We request that Riverside and the copied representatives of the Department of Water Resources ("DWR") and BOR execute the enclosed SF5 forms and return the original signatures to me. We will take care of filing the fully-executed SF5 forms with the Court.

Please give me a call if you want to discuss this matter

Sincerely,

HOLLAND & HART LLP


Linda B. Jones

LBJ:tn

cc: Vicky Music (DWR)
Nick Spencer (DWR)
E. Gail McCarry (BOR)
Jerry Waller (Claimants)
Terry Scanlan (SPF Engineering)

State of Idaho License and Certificate of Water Right

Water License No. 19493 Amount 5.1 second feet
Water District No. _____ Priority March 13, 1944

THIS IS TO CERTIFY that CHARLOTTE D. ALLEN
of Parma, Idaho, made application for a permit to appropriate the
public waters of the State of Idaho, dated March 13, 1944; that Permit No. 19493
was issued under said application; that Certificate of Completion of works, with a carrying capacity of
6 second feet, was issued thereunder on July 6, 1944, showing that said works
were completed on the 29th day of June, 1944; and that on the 29th
day of July, 1944,
CHARLOTTE D. ALLEN

of Parma, State of Idaho, made proof to the satisfaction of the
State Reclamation Engineer of Idaho, of the right to use the waters of Meadows & Baldridge Drain
, a tributary of Boise River, for the purpose of agricultural use
(irrigation), under Use Permit No. 19493 of the Department of Reclamation
and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is
hereby confirmed by the State Reclamation Engineer
hereby confirmed by the Commissioner of Reclamation of Idaho and entered of record in Volume 7
of Licenses, at page 4285, on the 5th day of March, 1946;
The right hereby confirmed dates from March 13, 1944;

The Point of Diversion is located about 1320 ft. E. and 400 ft. S. from N W corner Section 27, and
in the NW $\frac{1}{4}$ Sec. 27, Tp. 5 N., R. 5 W., B. M. Canyon County

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid,
is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed 5.1
cubic feet per second.

Description and location of use:

Twp	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
5 N.	5 W.	21	NE $\frac{1}{4}$ NE $\frac{1}{4}$	35	25
			SW $\frac{1}{4}$ NE $\frac{1}{4}$	40	40
			SE $\frac{1}{4}$ NE $\frac{1}{4}$	40	40
			SE $\frac{1}{4}$ NW $\frac{1}{4}$	30	25
			NE $\frac{1}{4}$ SE $\frac{1}{4}$	40	30
			NW $\frac{1}{4}$ SE $\frac{1}{4}$	30	15
		22	NW $\frac{1}{4}$ NW $\frac{1}{4}$	35	20
			SW $\frac{1}{4}$ NW $\frac{1}{4}$	37	30
			NW $\frac{1}{4}$ SW $\frac{1}{4}$	35	30
			Number of acres actually irrigated		255

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of use
herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the State Reclamation Engineer
this 5th day of March, 1946, affixed at Boise, Idaho,
MARK R. KUIP

(SEAL)

Commissioner of Reclamation
State Reclamation Engineer

Cosa

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

11/21/2007

WATER RIGHT NO 63-2611

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CHARLOTTIE D ALLEN
	PARMA ID 83660

Priority Date 03/13/1944
Basis: License
Status: Active

<u>Source</u>	<u>Tributary</u>
BALDRIDGE DRAIN	BOISE RIVER
MEADOWS DRAIN	BOISE RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	/	/	5.1 CFS	
Total Diversion			5.1 CFS	

Location of Point(s) of Diversion:

BALDRIDGE DRAIN NENW Sec. 27 Township 05N Range 05W CANYON County
MEADOWS DRAIN NWNW Sec. 27 Township 05N Range 05W CANYON County

Place(s) of use:

Place of Use Legal Description: IRRIGATION CANYON County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
05N	05W	21		NENE	25		SWNE	40		SENE	40			
				SENE	25									
				NESE	30		NWSE	15						
		22		NWNW	20		SWNW	30						
				NWSW	30									

Total Acres: 255

Conditions of Approval:

1 P/D IN NW1/4 SEC 27 T5N R5W MEADOWS DRAIN & BALDRIDGE DRAIN TRIB TO BOISE RIVER

Dates:

Licensed Date: 08/28/1979
Decreed Date:
Permit Proof Due Date:
Permit Proof Made Date:
Permit Approved Date:
Permit Moratorium Expiration Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Water Supply Bank Enrollment Date Accepted:
Water Supply Bank Enrollment Date Removed:
Application Received Date:
Protest Deadline Date:
Number of Protests: 0

Other Information:

State or Federal:
Owner Name Connector:
Water District Number:
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Civil Case Number:
Old Case Number:
Decree Plaintiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

Close

15. (a) Is reservoir to be used? If so, fill in (b) and (c) below.
 (b) Name of Reservoir and number of Storage Permit:
 (c) Date of filing of Application for Storage Permit and Name of Applicant:

BE IT KNOWN THAT The undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

CHARLOTTIE D. ALLEN Applicant

By Agent

Date of first receipt at Department of Reclamation: 9:00 A.M. March 13, 1944

Returned to applicant for correction:

Corrected application received:

Approval of State Reclamation Engineer

The number of this permit is 19493
 Recorded in Book 70 Page 19493 Approved April 15, 1944
 This is to certify that I have examined the within application for a permit to appropriate the public waters of the State of Idaho, and hereby approve the same, subject to the following limitations and conditions:
 Bond in the sum of \$ to be filed on or before
 Work to begin on or before Completed and to continue diligently and uninterruptedly to completion, unless temporarily interrupted by circumstances over which permit holder has no control.
 One-fifth of the work above specified to be completed on or before Completed
 The whole of said work to be completed on or before July 15, 1944
 Beneficial use of water appropriated in accordance herewith, to be made on or before July 15, 1944

Witness my hand this 15th day of April, 1944

MARK R. KULP
 State Reclamation Engineer

IN TESTIMONY WHEREOF, We, C. A. BOTTOLFSSEN, Governor of the State of Idaho, and GEO. H. CURTIS, Secretary of State of the State of Idaho, have caused this instrument to be executed in the name of the State of Idaho, and caused the Great Seal of the State of Idaho to be hereunto affixed, this 15th day of April, 1944.

STATE OF IDAHO

Countersigned:

(SEAL)

By GEO. H. CURTIS
 Secretary of State

By C. A. BOTTOLFSSEN
 Governor

Remarks: That from the time water for this land was first appropriated and used from the Boise River until a few years ago, it was carried through what was known as the "Ammon Ditch." Since the construction of the drainage canals in that territory above and east of this farm, it has been impossible to use the "Ammon Ditch, and the said water right # 70 has been diverted 14. from the Boise River for the past several years through what is known as the Haas Canal. This canal is not high enough (Continued)

Twp.	Range	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	
5 N.	5 W.	21	35		40	40			30				35		40	30			215
		22					35	37											107
Total Number of Acres to be Irrigated -																			322

Remarks (Continued) to irrigate all of the lands of this farm as described herein except during the time of high water in the Boise River. Therefore, it has been necessary to divert water from the Meadows Drain about 200 feet south of the point where it empties into the Boise River and deliver to the lands described herein through a ditch higher in elevation than the Haas Canal. That in order to irrigate it all from the Haas Canal during the low water period in the Boise River, it would be necessary to maintain a very high and expensive dam across the river and also high checks in the Haas Canal, which were tried for a few years but proved ruinous to the land by causing the alkali to raise to the surface. Therefore, this filing is made, not to take the place of the decreed right from the river, but merely to supplement it during the low water period of the Boise River.

CONSENT

We, the undersigned, Commissioners of the Riverside Irrigation District (a drainage district organized and existing under the laws of the State of Idaho), hereby give and grant on behalf of the said Riverside Irrigation District, a permit to Charlotte D. Allen, a widow, of Parma, Idaho, to appropriate and use six second feet of water from the Meadows and Baldridge Drain, as now located within the said Riverside Irrigation District, at a point of diversion thereon located at approximately the following point of diversion in Canyon County, Idaho, to-wit: At a point about 1320 feet East, and 400 feet South from the Northwest corner of Section 27, Township 5 North, Range 5 West, of the Boise Meridian.

Said water from said Meadows and Baldridge Drain, to be used by the said Charlotte D. Allen, her heirs, executors, administrators, successors and assigns, upon the following described lands in Canyon County, Idaho, to-wit: The NE 1/4 of the NE 1/4, the SW 1/4 of the NE 1/4; SE 1/4 of the NE 1/4; SE 1/4 of the NW 1/4; NE 1/4 of the SE 1/4 and NW 1/4 of the SE 1/4, all in Section 21, Twp. 5 North, Range 5 West of the Boise Meridian, containing 215 acres. And, The NW 1/4 of the NW 1/4; SW 1/4 of the NW 1/4; and NW 1/4 of the SW 1/4, all in Section 22, Twp. 5 North, Range 5 West of the Boise Meridian, containing 107 acres.

Dated at Parma, Idaho, March 13, 1944

RIVERSIDE IRRIGATION DISTRICT

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

REPORT OF ENGINEER

Permit No 18498

This proof is for Beneficial use In Water District No.1. Name of applicant Charlottie D. Allen- C/o Ernest Anderson, Att'y.-at-Law- Parma, Idaho2. Source of water supply: Meadows & Baldridge Drain3. Location of point of diversion: Is in the NW $\frac{1}{4}$ of Section 27T 5 N. R 5 W. County of Canyon

4. Describe works as they exist, giving dimensions and capacities of same: A Lumber Check Dam 12 feet long, 8 feet wide, and 7 feet deep with stop log control, and a Headgate structure of concrete, 5 feet wide X 5 feet high with outlet culvert 4 feet X 4 feet in section discharging to a ditch of 6 feet width X 1 to 1 $\frac{1}{2}$ feet in depth.

5. Water is used for: Irrigation6. State whether or not water has been turned into works of diversion: Yes

7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if for other than irrigation): NE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 21;
NW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 22;
All in Twp. 5 N., Range 5 W., B. M.

(Submit map on attached plat, showing location and details of above description.)

8. What large stream would the water here appropriated finally reach? Boise River

Remarks

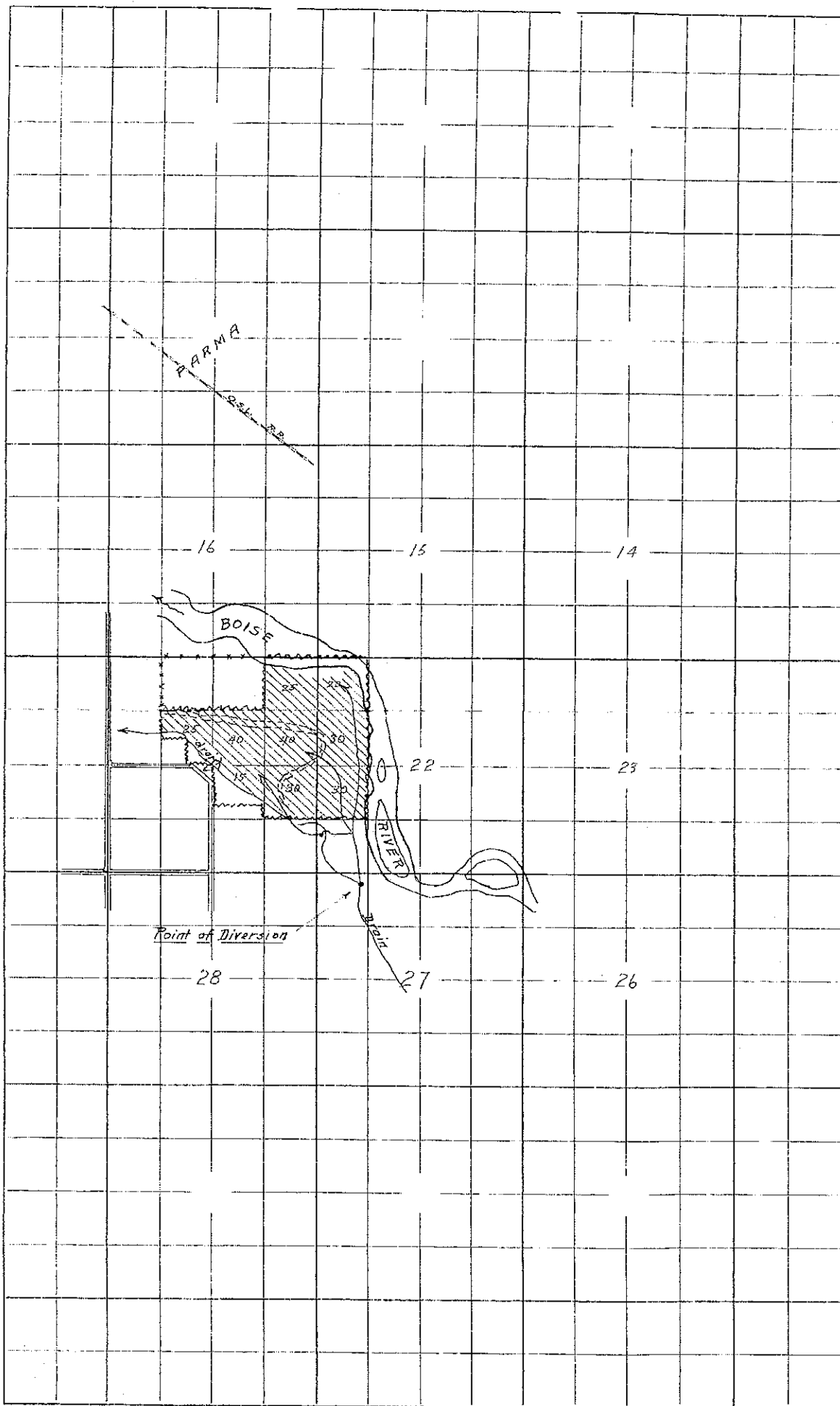
A Concrete Control Structure 9 feet long, 8 feet high, and 10 feet wide is located 70 feet below the point of diversion.

However, it has no wing walls, is more or less washed out at the sides, and is not at present in a usable condition.

This examination was made on the 26th. day of Sept., 1945

(Signed)

Red A. Palmer
Examiner



SCALE: 2 INCHES EQUALS 1 MILE DRAW MAP IN INK

19493

No. 19493

B-2611

APPLICATION FOR PERMIT
To Appropriate the Public Waters of the State of Idaho

Application No. 26988
Permit No. 19493
District No

1. Name of Applicant: CHARLOTTIE D. ALLEN

Postoffice address: Parma County: Canyon State: Idaho

I. If applicant is a corporation, give:

- (a) Date and place of incorporation:
- (b) Amount of capital stock:
- (c) Amount paid in:
- (d) Names and addresses of directors:

II. The financial resources of the applicant are:

- (a) Cash on hand:
- (c) Bonds to be issued:

- (b) Treasury stock:
- (d) Other resources:

2. Quantity of water claimed: Six (6) cubic feet per second.

3. Source of water supply: Meadows and Baldridge Drain which is a tributary of Boise River

4. Location of point of diversion: From NW corner Sec. 27 about 1,320 feet distant from the East, thence South 400 ft.
corner of Section , T. , R. , B. M., and is in the NW $\frac{1}{4}$
of Section 27 , T. 5 N. , R. 5 W. , B. M., County of Canyon

5. Water is to be used for Agricultural purposes (Irrigation)

6. If for mining, milling, power or manufacturing purposes, give:

(a) Point of use of water: feet distant from corner of Section
T. , R. , B. M., in the of Section , T. , R. , B. M.
(b) Amount of power generated: H P., under feet head.
(c) Water is to be returned to at a point feet
distant from the corner of Section , T. , R. , B. M., in the
of Section , T. , R. , B. M.

7. Estimated cost of works: \$ 200.00

8. Kind of works: Check and ditch

9. Height of dam feet; length of dam at top feet; length of dam at bottom
feet; material used in dam:

10. Size of headgate: Width feet; height feet;

11. Ditch: Width at bottom 3 feet; width at water line 4 feet; depth of water 1 feet;

dimensions of flume:

Diameter of pipe inches; length of conduit 2 miles

Average grade per mile 5 feet.

12. The time required for the completion of such work is None years. (already completed)

13. The time required for the complete application of the water to the proposed use is None additional years

14. The land to be irrigated is described in the following tabulation: See remarks.

For new filing

CONSENT

We, the undersigned, Commissioners of the Riverside Irrigation District (a drainage district organized and existing under the laws of the State of Idaho), hereby give and grant on behalf of the said Riverside Irrigation District a permit to Charlottie D. Allen, a widow, of Parma, Idaho to appropriate and use six second feet of water from the Meadows and Baldrige Drain, as now located within the said Riverside Irrigation District, at a point of diversion thereon located at approximately the following point of diversion in Canyon County, Idaho, to-wit:-

At a point about 1,320 feet East, and 400 feet South from the northwest corner of Section 27, Township 5 North, Range 5 West of the Boise Meridian,

Said water from said Meadows and Baldrige Drain, to be used by the said Charlottie D. Allen, her heirs, executors, administrators, successors and assigns, upon the following described lands in Canyon County, Idaho, to-wit:-

The NE $\frac{1}{4}$ of the NE $\frac{1}{4}$; the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$; the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$; SE $\frac{1}{4}$ of the NW $\frac{1}{4}$; NE $\frac{1}{4}$ of SE $\frac{1}{4}$, and NW $\frac{1}{4}$ of SE $\frac{1}{4}$, all in Section 21, Twp. 5 North, Range 5 West of the Boise Meridian, containing 215 acres.

and
The NW $\frac{1}{4}$ of the NW $\frac{1}{4}$; SW $\frac{1}{4}$ of the NW $\frac{1}{4}$; and NW $\frac{1}{4}$ of the SW $\frac{1}{4}$, all in Section 22, Twp. 5 North, Range 5 West of the Boise Meridian, containing 107 acres.

Dated at Parma, Idaho, March 13, 1944.

RIVERSIDE IRRIGATION DISTRICT

By W.H. Kriebel
Ralph Stark
C.D. Allen

Commissioners.

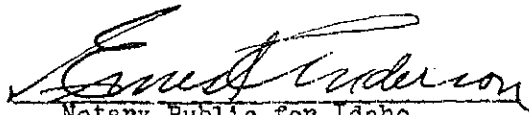
19493

Page #2. Consent.

State of Idaho, }
County of Canyon, } SS.

On this 13th day of March, 1944, before me,
ERNEST ANDERSON, a Notary Public in and for said State,
personally appeared W. H. KNIEFEL, RALPH STARK and C. G.
ALLEN, known to me to be the Commissioners of Riverside
Irrigation District (a drainage district) of Canyon County,
Idaho, and who executed the foregoing instruments on be-
half of the said Riverside Irrigation District, and acknow-
ledged to me that such irrigation district 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 Parma, Idaho.

19493

In Re SRBA	)	Subcase No.: 63-2611B
	)	
Case No 39576	)	
	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

December 10, 2007

IDWR CONCURRENCE

Vicky Music, Sr Water Resource Agent

Date

IDWR CONCURRENCE

Nick Spencer, Deputy Attorney General

Date

CERTIFICATE OF SERVICE

I certify that on _____, 2007, I caused to be served true and correct copies of this Standard Form 5, to the following persons, in the manner indicated 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

☐ Overnight Mail
☐ Regular Mail
☐ Hand-Delivered
☐ Facsimile

2 Copies to:

IDWR Document Repository
P O Box 83720
Boise, ID 83720-0098

☐ Overnight Mail
☐ Regular Mail
☐ Hand-Delivered
☐ Facsimile

Riverside Irrigation District
PO Box 1080
Parma, ID 83660

☐ Overnight Mail
☐ Regular Mail
☐ Hand-Delivered
☐ Facsimile

E. Gail McGarry
USA acting through the Dept.
of Int., Bur. of Rec., Reg. Dir.
PN Code-3100
1150 N. Curtis Rd., Ste 100
Boise, ID 83706-1234

☐ Overnight Mail
☐ Regular Mail
☐ Hand-Delivered
☐ Facsimile

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

☐ Overnight Mail
☐ Regular Mail
☐ Hand-Delivered
☐ Facsimile

Signature of person or attorney mailing the form

SF5 - Amended Director's Report

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

RIGHT NUMBER: 63-2611B

NAME AND ADDRESS: W & H PARTNERSHIP-LLC Limited Liability Company
DBA-MALLARD FARMS
504 N PHILLIPPI ST
BOISE ID 83706

SOURCE: BALDRIDGE DRAIN AND MEADOWS DRAIN TRIBUTARY: BOISE RIVER
MEADOWS DRAIN TRIBUTARY: BOISE RIVER

QUANTITY: 2.280 CFS

PRIORITY DATE: 03/13/1944

POINT OF DIVERSION:
~~T05N R05W S27 NWNW Within CANYON County~~
~~T05N R05W S27 NWNW Within CANYON County~~
T05N R05W S27 Lot 3 NENW Within Canyon County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	03/01 11/15	2 280 CFS

PLACE OF USE: IRRIGATION in CANYON County

T05N R05W S21 Lot 7 SWNE	20 00	T05N R05W S21 Lot 8 SENE	13 00
T05N R05W S21 Lot 6 SENW	16 00	T05N R05W S21 Lot 9 NESE	30 00
T05N R05W S21 NWSE	12 00	T05N R05W S22 Lot 4 SWNW	1 00
T05N R05W S22 Lot 3 NWSW	22 00		

114 ACRES TOTAL

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

~~This right remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.~~

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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - license

Use of this water is combined with water from Haas Ditch Co

Right No. 63-2611A is also diverted through point of diversion described above

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. : 63-2611A
	)	
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

Mallard Farms Limited Liability Company

Date

OBJECTOR

Riverside Irrigation District

Date

RESPONDENT

E. Gail McGarry
USA acting through the Dept. of Int ,
Bur. of Rec , Reg. Dir. PN Code-3100

Date

IDWR CONCURRENCE

Vicky Music, Sr Water Resource Agent

Date

IDWR CONCURRENCE

Nick Spencer, Deputy Attorney General

Date

CERTIFICATE OF SERVICE

I certify that on _____, 2007, I caused to be served true and correct copies of this Standard Form 5, to the following persons, in the manner indicated 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

☐ Overnight Mail
☐ Regular Mail
☐ Hand-Delivered
☐ Facsimile

2 Copies to:

IDWR Document Repository
P O. Box 83720
Boise, ID 83720-0098

☐ Overnight Mail
☐ Regular Mail
☐ Hand-Delivered
☐ Facsimile

Riverside Irrigation District
PO Box 1080
Parma, ID 83660

☐ Overnight Mail
☐ Regular Mail
☐ Hand-Delivered
☐ Facsimile

E. Gail McGarry
USA acting through the Dept.
of Int., Bur. of Rec., Reg. Dir.
PN Code-3100
1150 N. Curtis Rd., Ste. 100
Boise, ID 83706-1234

☐ Overnight Mail
☐ Regular Mail
☐ Hand-Delivered
☐ Facsimile

Mallard Farms Limited
Liability Company
504 N Phillippi St
Boise, ID 83706

☐ Overnight Mail
☐ Regular Mail
☐ Hand-Delivered
☐ Facsimile

Signature of person or attorney mailing the form

SF5 -- Amended Director's Report

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

RIGHT NUMBER: 63-2611A

NAME AND ADDRESS: MALLARD FARMS LIMITED LIABILITY COMPANY
DBA W & H PARTNERSHIP-LLC
504 N PHILLIPPI ST
BOISE ID 83706

SOURCE: BALDRIDGE DRAIN AND MEADOWS DRAIN TRIBUTARY: BOISE RIVER
MEADOWS DRAIN TRIBUTARY: BOISE RIVER

QUANTITY: 2.280 CFS

PRIORITY DATE: 03/13/1944

POINT OF DIVERSION:

105N R05W S27 Lot 3 NENE Within CANYON County

105N R05W S27 NENE Within CANYON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	03/01 11/15	2.280 CFS

PLACE OF USE: IRRIGATION in CANYON County

105N R05W S21 Lots 4 & 8 NENE	25.00	105N R05W S21 Lots 3 & 7 SWNE	17.00
105N R05W S21 Lot 8 SENE	24.00	105N R05W S22 NWNW	20.00
105N R05W S22 Lot 4 SWNW	28.00		

114 ACRES TOTAL

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

~~This right remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.~~

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Use of this water is combined with water from the Haas Ditch Co.

Right No. 63-2611B is also diverted through point of diversion described above

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