

IDWR SUMMARY FOR WILDLIFE APPLICATIONS

The following information is provided for a group of similar wildlife applications in the lower portion of Basin 63:

- 11/9/07 memo summarizing the situation and proposing key conditions of approval if the applications can be approved
- 11/8/07 memo with its attachments documenting extensive IDWR efforts to solicit IDFG comments on the projects
- Includes 3/2/07 IDWR overview notes provided to all the applicants.

Originals are filed in Application 63-32226, the lowest numbered filing in this group.

This cover page is provided to the following applications:

- 63-32226
- 63-32238
- 63-32458
- 63-32459
- 63-32460
- 63-32461
- 63-32462
- 63-32465
- 63-32466
- 63-32467
- 63-32560
- 63-32561
- 63-32562

-JL 11/9/07

MEMORANDUM

TO: Files

FROM: Steve Lester 

DATE: November 9, 2007

RE: **WILDLIFE APPLICATIONS – SUMMARY & PROPOSED
CONDITIONS OF APPROVAL**

This memo summarizes Western Region work over the last two years for a group of similar applications proposing wildlife projects in the lower portion of Basin 63 downstream from Star. Please see the following attachments to this memo:

- 11/8/07 memo summarizing extensive IDWR coordination with IDFG. Includes telephone and email log, 6/12/07 letter to IDFG about bypass flow condition of approval in Obendorf Permit 63-32067 for Sand Hollow Creek, 6/11/07 letter to IDFG about Tree Top Ranches applications for that creek and Boise River, 3/1/07 meeting notes with IDFG
- 3/2/07 IDWR notes provided to applicants when IDWR wrote each applicant to seek additional information.

Although the area in question is open for approval of new permits from surface water sources, the scope of the proposals caused some alarm at the regional office. We were venturing into uncharted waters, so to speak.

This started with two proposals by Obendorf and Iest in late 2004 for Sand Hollow Creek and Boise River wildlife uses totaling 110 cfs. Only after those two approvals were issued and several other filings were made did we realize something unusual was occurring.

Therefore we proposed a comprehensive approach to evaluate individual and cumulative effects of the projects. I discussed this approach with several agencies, seeking their thoughts on the best way to proceed with respect to any concerns they might have. This included IDFG, IDEQ, IDL, Army Corps of Engineers and Bureau of Reclamation.

No concerns from any of those agencies surfaced other than a conditionally resolved protest by IDFG against Tree Top Ranches Application 63-32462.

The 3/2/07 request for information was based on Rule 40 “large diversion” factors. As previously mentioned, the request included IDWR notes about the overall situation. The

request for information also focused on linking the desired quantity of water with a specific wildlife beneficial use. Most applicants provided little if any useful information to establish that link. Perhaps these projects will not benefit wildlife but will instead benefit people seeking to exploit the wildlife resource. The proposed beneficial uses might be incorrectly stated, although maybe we should not get hung up on that.

Applications Other than Tree Top Ranches

Most of the other applications plus a few more filed recently have not been processed or advertised. Two Obendorf applications not yet processed have already been protested (drain ditches just south of the Boise River) by another one of the wildlife applicants.

Some of the applications are senior to Tree Top, including Watson's 63-32461 for 30 cfs from Sand Hollow Creek (not processed yet) downstream from Tree Top.

Processing will continue this winter. We should continue to send comment letters to IDFG for each additional application as it is processed to provide that agency a final chance to register any specific concerns. This is particularly important for Sand Hollow Creek proposals since IDFG holds senior rights near the mouth of that creek (Fort Boise Wildlife Management Area).

Tree Top Ranches Applications

Application 63-32462 remains protested. The protest process might result in useful information for revisiting Permit 63-32067, Obendorf's creek permit.

The other three applications were not protested.

The following key documents help frame an understanding of the four applications:

- 3/2/07 IDWR letter seeking information
- 4/5/07 applicant's response – note the weak reply linking the amounts of water with the proposed beneficial use
- 6/11/07 IDWR comment letters to key public agencies
- and for Application 63-32462 – 6/22/07 protests, 8/22/07 conditional withdrawal of IDFG protest.

Revisiting Iest Permit 63-32066 (river) and Obendorf Permit 63-32067 (creek)

These two approvals started this overall wildlife process.

Permit 63-32066 for Iest included a condition about possible future use of a measuring device. This requirement should be activated. All the wildlife projects within the scope of this process should include measuring devices and controllable diversion works to minimize possible problems. IDWR should also consider subordinating this permit to junior consumptive uses in addition to requiring a credible link between the amount of water diverted and the specific benefit to wildlife.

Permit 63-32067 for Obendorf has a more complex history. Obendorf applied for the entire flow of Sand Hollow Creek.¹ The owner provided credible data from the stream gage to justify the proposed rate of flow. As the primary reviewer, I erred in not realizing the location of the gage several miles downstream from Obendorf's land, therefore calling into question data about available flow upstream from the gage. Additionally, Application Processing Memo #62 concludes that an application "drying up" a stream is not in the public interest. Approval of 63-32067 included a caveat condition about possible bypass flow to be left in the creek for habitat maintenance.

Tree Top Ranches petitioned the department to invoke the bypass and measurement conditions of 63-32067 (letter received 1/11/06). Western Region requested additional information in that regard from the permit holder and the petitioner (letters dated 1/26/06). The petitioner did not reply. The permit holder replied with a letter received on 2/14/06. IDWR did not receive any reply from IDFG in this matter (letter to IDFG 6/12/07).

Perhaps it is acceptable to dewater the creek during winter months for the short reach of the creek along Obendorf's property (about ¼ to ½ mile) as noted in the 2/14/06 response. IDWR lacks a sound scientific basis to invoke the bypass flow condition. However, we should consider subordinating this permit to junior consumptive uses in addition to requiring a credible link between the amount of water diverted and the specific benefit to wildlife. Additionally, we should invoke the measuring device requirement. Ideally, any approvals for the wildlife projects would require measurable and controllable diversion works as well as measurable return flow works for short and long term administration of the permits/rights. Note the previous comment that the protest process for Tree Top Ranches Application 63-32462 might shed some light on revisiting the Obendorf permit.

If approved, any of the pending wildlife applications should include conditions of approval capturing the following thoughts.

1. Lockable and controllable diversion works subject to IDWR approval and inspection prior to diverting water – existing Water District 63 and possible future

¹ Listed in the permit as Sand Run Gulch Creek, apparently the proper name identified by IDWR at that time. Subsequent to that, IDWR revisited the source name during SRBA work. The result was a decision to list the source as Sand Hollow Creek for all SRBA recommendations and for any future approvals issued by IDWR. The source name for Permit 63-32067 can be corrected later as needed.

water district(s) for Snake River &/or Sand Hollow Creek, concerns about over-diverting or dewatering some sources etc.

2. Acceptable measuring devices at the points of diversion and points of return flows subject to IDWR approval and inspection prior to diverting water – again, concerns about possible dewatering of some sources, injury issues etc.
3. Subject to Boise River Watermaster control except applications proposing only Sand Hollow Creek as a source (tributary to Snake River and not part of a water district at this time).
4. Upon filing proof of beneficial use, must submit credible information establishing a link between the amount of water diverted and quantifiable benefits to wildlife – otherwise could be considered speculative.²
5. Subordinated to junior consumptive uses.
6. Subject to water quality standards of the State of Idaho.
7. For Boise River source, see Permit 63-32066: This right does not authorize the diversion and use of water released from Lucky Peak Reservoir for stream flow maintenance purposes in connection with Water Right 63-3618.

² Tree Top Ranches applications – response to this question, simply stated by attorney, is that the amount of water applied for is the amount needed to provide open water channels/ponds for wildlife. No supporting technical/ biological information from a qualified party was submitted. The question of speculation is hard to avoid in this case. Any decision in this regard will have implications for other applications processed later.

MEMORANDUM

TO: Files

FROM: Steve Lester 

DATE: November 8, 2007

RE: **IDFG COMMENTS ON WILDLIFE PROJECTS IN BASIN 63**

Western Region has coordinated with IDFG Southwest Region office in Nampa since early 2007 regarding multiple applications for permit for surface water wildlife projects in the lower portion of Basin 63. The projects generally propose non-irrigation season uses of water for wildlife ponds/amenities. Sources include the Boise River, Sand Hollow Creek and miscellaneous drains.

IDFG protested one of the four Tree Top Ranches applications but subsequently settled the protest without IDWR involvement (63-32462). It is not clear why IDFG failed to protest other applications proposed by the same applicant and involving the same source as 63-32462 (Sand Hollow Creek).

On March 1, 2007 I met with IDFG staff members Walt Poole (State Office), Jerry Deal and Eric Leitzinger (latter two from SW Region Office). We had a thorough discussion about individual and cumulative aspects of this situation. Additionally, we agreed to continue working together to get useful comments from IDFG for these applications. I followed up by providing IDFG with copies on at least two occasions of all the application information from IDWR files (kept IDFG updated).

I kept in touch with Leitzinger since then, including another visit to his office to deliver copies of some additional information we received for most of the applications.

Last month I made a final attempt to get any IDFG comments about the projects. This proved elusive since Leitzinger had recently relocated to IDFG State Office in Boise. The SW Regional Office had not replaced him by the end of last month. Through phone messages and email, I learned from Deal that IDFG did not have any noteworthy concerns about the projects.

Late last month during this attempt at getting IDFG comments, I received a copy of a letter from Tree Top Ranches manager Bill Mulder to Deal. Mulder also called me twice about this letter. He indicated that the applicant's attorney most likely would propose a condition of approval to IDWR as noted in that letter. Western Region has not received or solicited anything else in that specific regard from IDFG or the applicant.

IDWR made considerable effort to include IDFG in evaluating wildlife project applications. Although we had more than one fruitful discussion, IDFG did not submit any formal comments other than a protest against Tree Top Application 63-32462, now conditionally resolved.

MEMORANDUM

____ Office Visit

____ ☒ Telephone

____ Meeting

TO Appls. for Wildlife Projects, Lower Rs. 63

FROM SL

DATE 11/8/07

RE CHRONOLOGY & RECENT IDFG CONTACTS

10/24/07 - left msg. JERRY DEAL SW Region 465-8465
- since Eric Letzinger changed to Boise job

10/25/07 - email to Jerry DEAL since he'll mostly
be out of office through Nov. 7 - but will
check his messages

10/30/07 (some uncertainty & date due to confusion
during Western Region remodel) - msg from Jerry -
IDFG does not have any concerns & projects

APPEARS IDFG IS OK WITH THESE
WILDLIFE PROJECTS PER MARCH-NOVEMBER
2007 COMMUNICATION

Lester, Steve

From: Lester, Steve
Sent: Thursday, October 25, 2007 8:53 AM
To: 'jdeal@idfg.idaho.gov'
Subject: IDWR contact about wildlife water right applications around Parma

Jerry:

Yesterday I left you a phone message on this topic. I also wanted to give you more information about why I called.

Earlier this year I met with you, Eric and Walt at your office to talk over a number of new water right applications proposing surface water for wildlife projects in the Parma area. You probably recall this involves a lot of water and multiple sources, including the Boise River, Sand Hollow Creek and misc. drains/ditches ("wastewater"). Following that meeting, I provided Eric with copies of all the information that IDWR had in this regard - applications, supporting information, IDWR notes etc.

We discussed looking at individual proposals and also considering cumulative effects since so much water would be involved - over 300 cfs and about 1000 af of storage ponds.

I understand that you recently met with Bill Mulder from Tree Top Ranches - Bill sent me a copy of his 10/22 letter to you. Bill also called me after he meet with you.

The four Tree Top applications already went through the legal notice process, as you know. Most of the other owners' applications are close to be published in legal notices. IDWR is at that point where we hope to receive any comments/concerns that your agency has in this regard. Eric has been our central contact for IDFG comments in your region. It appears he moved to a different job.

That is why I called you instead of Eric.

I hope we can talk this over at your earliest convenience, recognizing this is a busy time of year for you. I will be out of the office October 26 and 29 but will be around the rest of the time for the next few weeks.

Thanks in advance for any help you can provide in evaluating these applications.

Steve Lester
Water Rights Supervisor
IDWR Western Region
tel: 208.334.2190
fax: 208.334.2348
steve.lester@idwr.idaho.gov

*email to IDFG
re comments*



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082

PHONE: (208) 334-2190 FAX: (208) 334-2348 www.idwr.idaho.gov

C.L. "BUTCH" OTTER, Governor
DAVID R. TUTHILL, JR., Director

June 12, 2007

ERIC LEITZINGER
ID DEPT FISH & GAME
3101 S POWERLINE
NAMPA ID 83686

HAND DELIVERED

Re: Permit 63-32067, Condition of Approval for Bypass Flow in Creek

Dear Mr. Leitzinger:

This letter concerns a permit approved by the Idaho Department of Water Resources (IDWR) in September 2005 for winter use of water from Sand Hollow Creek (aka Sand Run Gulch etc.). Permit No. 63-32067 authorizes up to 90 cfs for wildlife habitat as noted in the other information provided to you simultaneous with this letter.

The above permit potentially allows the creek to be totally dewatered for about $\frac{1}{4}$ to $\frac{1}{2}$ mile on the permit holder's property. IDWR assumes return flows to the creek would continue whenever water is diverted from the creek for the project. Dewatering of the creek would therefore be limited to an area just south of Highway 20/26 and just east of Highway 95.

Condition of Approval No. 5 in the permit states the following:

The Director retains jurisdiction to require a bypass flow on Sand Run Gulch Creek for maintenance of fish, wildlife, riparian and aquatic habitat.

IDWR received a petition asking the Director to invoke Condition No. 5 for this permit. The petitioner did not provide technical information to support the petition. I hope your agency can advise IDWR in this matter as noted by the following questions:

1. Should IDWR require some water to remain in the creek when Permit 63-32067 is being used?
2. If so, for what reasons should this be required? What habitat benefits would be realized by invoking this condition of approval?
3. What is the minimum rate of flow needed in the creek to protect those habitat benefits?

Permit 63-32067, Condition of Approval for Bypass Flow in Creek

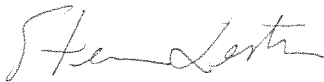
June 12, 2007

Page 2

Any information you can provide in this matter would be helpful as IDWR considers other applications for more wildlife projects also proposing to use the same source of water. However, the other applications do not propose to divert the entire flow of the creek.

Please let me know if you have any questions. Thank you for your help in this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Steve Lester".

Steve Lester
Water Rights Supervisor



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082

PHONE: (208) 334-2190 FAX: (208) 334-2348 www.idwr.idaho.gov

C.L. "BUTCH" OTTER, Governor
DAVID R. TUTHILL, JR., Director

June 11, 2007

ERIC LEITZINGER
ID DEPT FISH & GAME
3101 S POWERLINE
NAMPA ID 83686

HAND DELIVERED

Re: Water Right Applications for Wildlife Projects

Dear Mr. Leitzinger:

Enclosed is information regarding numerous applications for new water rights proposing surface water for wildlife projects in the lower portion of the Boise River system. Several months ago we discussed the need for the Idaho Department of Water Resources (IDWR) to seek comments from your agency, among others, regarding the proposals.

Ideally, IDWR would process all the applications simultaneously for comprehensive and efficient efforts in this regard. However, other constraints require IDWR to act at this time on the first group of the pending applications.

Four applications for Tree Top Ranches LP are being processed at this time. The applications are identified as numbers 63-32462, 63-32465, 63-32466 and 63-32467. If your agency desires to file a protest against any of the four applications, please note the June 25, 2007 protest deadline in the enclosed copy of the legal notice for the applications. If your agency does not want to protest the applications but has concerns about any of them, please provide written comments at your earliest convenience. Please see the enclosed information regarding the Tree Top Ranches applications for more details.

Copies of other applications filed by different owners are also enclosed. Most of the applications include complete information while some await further details from the applicant. IDWR will provide you with any additional information received for this group as the applications are ready to process. IDWR will seek your comments on those applications when they are processed.

In our previous discussion, you asked for information summarizing non-irrigation water rights for the sources in question. I hope I provided that information via new notes added to Figures 2 and 3 in the set of information labeled "Wildlife Projects in Boise River Drainage, IDWR Notes, February 2007." For example, from Figure 2:

- Zone 2 of the Boise River includes about 192 cfs for existing river water rights of all types. About 26 cfs of that total covers non-irrigation rights. Another 60 cfs is proposed for new wildlife projects in Zone 2.
- Tree Top Ranches Applications 63-32465 and 63-32467 propose 40 of that 60 cfs.

SCANNED

JUN 21 2007

Figure 3 in the February 2007 notes covers similar details for Sand Hollow Creek.

Other applications propose water from various drains. Although I did not provide a summary of existing rights from those drains, the total amount of additional water proposed from drains is a category connected to Boise River Zone 3 since the drain water is tributary to the river in that zone (Figure 2, see note about 11.63 cfs proposed from drains).

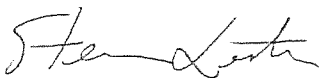
Specific Questions for Tree Top Ranches Applications

In addition to any other comments you wish to make, any information for the following questions regarding Applications 63-32462, 63-32465, 63-32466 and 63-32467 would be appreciated:

1. In each case, is the amount of water justified for achieving the proposed wildlife beneficial use? The applicant makes the basic point that the amounts are needed to prevent diverted water from freezing.
2. In each case, will the project benefit wildlife habitat as proposed?
3. In each case, will the proposed diversion cause adverse habitat conditions for the source in question? In other words, is there a "wildlife cost/benefit" to consider for each project?
4. Does your agency have any concerns regarding the cumulative effect of the four applications or any combination of the applications?
5. Does your agency have any concerns regarding possible effects on senior water rights from Sand Hollow Creek for land administered by your agency?

I hope we can consider individual impacts for any given project in addition to cumulative impacts for all the applications by this process. Please let me know if you have any questions about any of the enclosed information. Thank you for your help with this unprecedented situation in the Boise River area.

Sincerely,



Steve Lester
Water Rights Supervisor

Enclosure

SCANNED
JUN 27 2007

NOTES IDFG – WILDLIFE PROJECTS

 Steve Lester, IDWR Western Region

March 1, 2007

- Asking applicants to contact IDFG Regional Office for information – Water Appropriation Rule 40

IDFG prefers Agency to Agency contact, more productive

- Applicants need to provide credible information linking requested amounts of water to specific wildlife benefits

- What are specific wildlife benefits? – nesting, feeding, other factors? for what species?

Sent 3/2/07 letters to Applicants

- Are there “wildlife costs” to areas that water will be diverted from – habitat degradation etc.? specifics?

- IDFG concerns for Fort Boise Wildlife Mngt. Area if Sand Hollow Creek is partly dewatered upstream under some applications?

What does IDFG think?

Don't forget →

- IDWR should weigh protection of senior water rights against full economic development of water resources when considering applications for new rights – injury, water supply, beneficial uses of water, speculation, local public interest within watershed etc.

Meeting re IDFG SW Office, Monday

- Wally Pook IDFG S.O.

- Terry Deal " SW Office

- Eric Leitzinger " SW Office

Good discussion, individual & cumulative issues

Follow up - send specs All apply to Eric for IDFG Review/consent *done*

Lester, Steve

From: Mark.Mason@deq.idaho.gov
Sent: Friday, June 29, 2007 8:36 AM
To: Lester, Steve
Subject: Four applications for Tree Top Ranches LP and others

Steve,

I have reviewed all of the applications that you sent me including the following:

1. 63-32462
2. 63-62465
3. 63-32466
4. 63-32467
5. 63-32226
6. 63-32238
7. 63-32458
8. 63-32459
9. 63-32461

← original filed here, cc to other files

I also discussed these in general with Craig Shepard, our surface water manager in the Boise Regional Office. We concur that DEQ has no objections, no negative comments, and no intent to protest any of these applications.

Further, unless future applications have something unusual associated with them from environmental standpoint, I doubt that DEQ would protest those as well.

Thanks for the opportunity to review these. They look like good projects for the potentially excess water in the lower Boise and Sand Creek.

Mark Mason, P.E., Engineering Manager
Idaho DEQ - Boise Regional Office
1445 North Orchard
Boise, ID 83706
208-373-0266
mark.mason@deq.idaho.gov

IDEQ comments -
All OK
—

6/29/2007

**SPF**

Water Engineering, LLC
water resource consultants

June 1, 2007

Idaho Department of Water Resources
Western Regional Office
2735 Airport Way
Boise, ID 83705-5082

Attention: Steve Lester

RECEIVED

JUN 04 2007

WATER RESOURCES
WESTERN REGION

Subject: Classen & Co, LLC Application for Permit No. 63-32226

Dear Steve,

On behalf of our client, Classen & Co LLC, this letter is a reply to your request for additional information regarding application for permit 63-32226. Classen & Co LLC has also filed a second and similar application for permit now numbered 63-32608. Although your letter did not request additional information for this second application, this reply attempts to provide a response addressing both applications. We are providing information for both applications in order to simplify IDWR's review and perhaps accelerate approval of both applications.

Rule 40, Item ciii, location(s) of return flows and operation of system

The point of return flow for both applications 63-32226 and 63-32608 is indicated on an enclosed map (see Attachment A). Return flow enters the Ross East End Drain near the northwest corner of the southwest quarter-section. When undiverted, flow from the proposed source enters the same Ross East End Drain about 0.6 miles upstream of the identified return flow location.

The water rights and applications listed in Table 1 divert from the same source and from approximately the same location. The applicant's proposed wildlife uses will divert in priority to minimize impacts to existing senior water rights.

Water Right No	Quantity (cfs)	Source	Priority	Use	Season	Status	Owner
63-3001A	0.08	Unnamed Drain	8/4/1954	Irrigation	3/1 - 11/15	License	Harrold, Woodrow
63-3001C	0.16	Unnamed Drain	8/4/1954	Irrigation	3/1 - 11/15	License	Harrold, Dave
63-32165	1.03	Unnamed Drain	8/4/1954	Irrigation	3/1 - 11/15	License	Classen & Co LLC
63-32166	0.27	Unnamed Drain	8/4/1954	Irrigation	3/1 - 11/15	License	Merges, Doug & Lori
63-32226	1.03	Unnamed Drain	9/23/2005	Wildlife	1/1 – 12/31	Application	Classen & Co LLC
63-32562	1.00	Unnamed Drain	10/23/2006	Wildlife	1/1 – 12/31	Application	Merges, Doug & Lori
63-32608	2.8	Unnamed Drain	11/21/2006	Wildlife	1/1 – 12/31	Application	Classen & Co LLC

Table 1: Water rights diverted from the same source at approximately the same point.

The water rights listed in Table 2 include diversions from the Ross East End Drain (or Waste Water likely from the Ross East End Drain) downstream of the proposed point of diversion. Mr. James Classen of Classen and Co. LLC has observed that the flow in the Ross East End Drain at the point where the unnamed drain enters always has substantial flow rates throughout the year, and higher flows during the irrigation season. Because of adequate supplies in the Ross East End Drain, Mr. Classen does not anticipate any potential for significant impact on these water users' ability to divert their rights due to his proposed diversions. However, if conflicts do occur, Mr. Classen recognizes that water shall be distributed within the priority system as provided by law.

Water Right No	Quantity (cfs)	Source	Priority	Use	Season	Status	Owner
63-26236	0.02	Waste Water	6/1/1964	Domestic	1/1 – 12/31	Decreed	Stutheit
63-12606	0.09	Ross East End Drain	10/13/2000	Irrigation	3/1 - 11/15	Permit	Merges
63-31509	0.02	Ross East End Drain	4/1/2002	Irrigation	3/1 - 11/15	Permit	Carpenter

Table 2: Water rights diverted from the Ross East End Drain downstream of the proposed diversion.

The upper portion of the ditch conveying the proposed flow from the point of diversion to the place of use is shared by the water right owners listed in Table 1. Mr. Classen will cooperate with the other users, as he has in the past, to ensure that the facilities are appropriately maintained (e.g. ditch cleaning) so as to not interfere with the other's use of their respective water rights. Merges has also filed an application for similar wildlife use (63-32562) and Mr. Classen understands that his application number 63-32608 is junior in priority to Merges' application and shall be delivered appropriately respective to priority.

Rule 40, item di, link between quantity diverted and beneficial use

Mr. Classen has provided a statement addressing the link between the amount diverted and the beneficial use to be developed (see Attachment B). The applicant has teamed with the USDA Natural Resources Conservation Service to construct a Wildlife Habitat Incentives Program (WHIP) pond and has experimented to determine the maximum habitat benefit developable from the available flow.

Rule 40, Item dii, show that requested amount is available

Scott King of SPF Water Engineering measured stream discharge of over 3 cfs in the unnamed drain just upstream of the proposed point of diversion on October 20, 2006, demonstrating that the requested amount of water is available during the proposed period of use to fill both applications 63-32226 and 63-32608.

Rule 40, item ei, legal access to proposed point of diversion

Mr. Classen and prior owners of his property have demonstrated legal access to the proposed point of diversion due to their control over and use of the point of diversion and headgate for many years for delivery of water right 63-32165. The other water right owners listed in Table 1 access the same point of diversion and headgate for delivery of their water rights and share the responsibility of operating and maintaining the point of diversion and associated appurtenances.

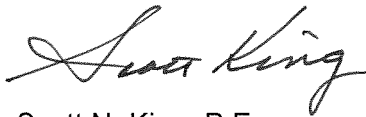
Mr. Classen has also provided deeds documenting easements and water right access to existing ditches. He explained that these deeds pertain to all of the involved lands and were part of the old Harrold property which was subsequently split to Merges and Classen & Co. LLC. Copies of deeds are included in Attachment C.

Rule 40, Item g, comment letters

Letters requesting comment from Canyon County Commissioners and the US Army Corps of Engineers were sent by Roxanne Brown of SPF Water Engineering on May 2, 2007. Copies of these letters are enclosed (see Attachment D). To this date, SPF has not received any responses from either entity.

I trust that this response addresses all of the points identified in your March 2, 2007 request. Please contact me with any questions or requests for additional information.

Sincerely,

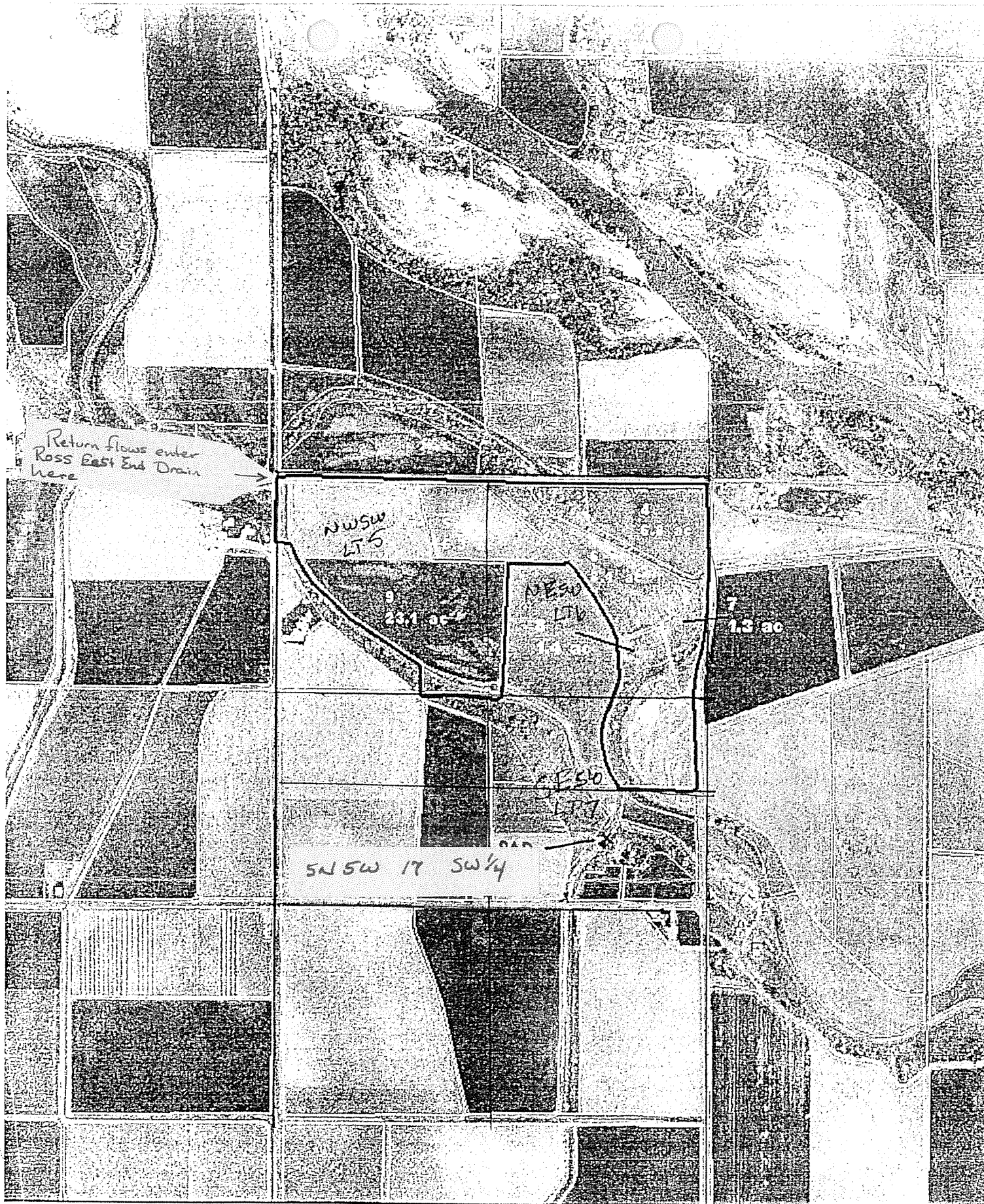
A handwritten signature in cursive script that reads "Scott King".

Scott N. King, P.E.
Project Manager

cc: Classen & Co. LLC

File: 562.0010

**ATTACHMENT A
POINT OF RETURN FLOW MAP**



Canyon County FSA office
 2208 East Chicago St. Suite B
 Caldwell, ID 83605
 208-454-8695

Farm 8198
 Tract 6561



Map Printed: Oct 19, 2004

1-2 77001

ATTACHMENT B
APPLICANT'S STATEMENT REGARDING BENEFICIAL USE

CLASSEN & CO. LLC WILDLIFE WATER STORAGE APPLICATION

Rule 40, Item di

Application for all year usage of our existing irrigation water rights of 1.03 cfs (63-32226) has been expanded by a second application (11/20/06) upping the requested usage to 2.8 cfs during non-irrigation periods. The requested water is sourced from a northward flowing un-named drain that empties into the Ross East End Drain at our point of diversion, and thence into the Boise River. We already have another agricultural/natural drain that runs through our property and empties into the Ross East End Drain northeast of our property. In addition, we also have constructed a 6 acre WHIP pond. Both of these wildlife areas require additional water during non-agricultural water usage periods to maintain habitat. The requested 2.8 cfs would be utilized for improved storage and flow throughout the project areas during lower water flow, after the irrigation season. These areas provide habitat for wildlife year round. We have experimented with water flows and usage and determined that we could provide improved open water habitat during the colder times of winter with even more water flow than requested. The water flows would enter the same Ross East End Drain about 1/3 mile downstream.

**ATTACHMENT C
DEEDS**

Documentation of water right access to existing irrigation ditches on our property
4/30/07:

FROM BACK TO FRONT:

Construction of ditching recorded 10/02/1918

Deed Oregon Corp to James Arthur & Jane Foss dated 8/28/1990

Parcel also subject to maintenance and access easements lying 20.00' either side of the
centerline of those irrigation drain ditches traversing said parcel.

Deed Foss to Whiskey Bottom LP dated 8/13/1997 same as above.

Deed Whiskey Bottom LP to Classen & Co. LLC dated 11/22/2000 Subject to all
other easements and rights-of-way of record or implied.

PC36151

20004147

WARRANTY DEED

FOR VALUE RECEIVED Whiskey Bottom Limited Partnership

the Grantors, do hereby grant, bargain, sell and convey unto Classen & Co., LLC ~~Company, L.L.C.~~

the Grantees, whose address is 6417 Plantation Ln., Boise, ID

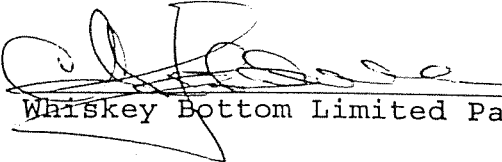
the following described premises, to-wit:

83703

See attached Exhibit "A", which by this reference is made a part hereof and is comprised of three(3) pages.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees, their heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantees, that they are the owners in fee simple of said premises; that said premises are free from all encumbrances; except for general taxes and assessments for the year 2000 and subsequent years, covenants, conditions, restrictions and easements of record; and that they will warrant and defend the same from all lawful claims whatsoever.

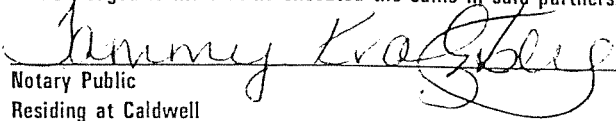
DATED: November 22, 2000

 General Partner
Whiskey Bottom Limited Partnership

STATE OF IDAHO

COUNTY OF CANYON

On this 27th day of November in the year 2000, before me, a Notary Public, personally appeared Charles H. Lobdell known or identified to me to be the partner in the partnership of Whiskey Bottom Limited Partnership and the partner who subscribed said partnership name to the foregoing instrument, and acknowledged to me that he executed the same in said partnership name.


Notary Public

Residing at Caldwell

My commission expires 2/3/04

PIONEER TITLE COMPANY
OF CANYON COUNTY

100 10TH AVE SOUTH
NAMPA, IDAHO 83651

610 SOUTH KIMBALL
CALDWELL, ID 83605

PC 36151

Exhibit "A"

PARCEL 1

A portion of Government Lots 5, 6 and 7 of the Southwest Quarter of the Southwest Quarter and of the Boise River Channel as shown on the 1868 G.L.O. Survey Plat for Section 17, Township 5 North, Range 5 West of the Boise Meridian, Canyon County, Idaho, and is more particularly described as follows:

COMMENCING at the West Quarter corner of said Section 17, as monumented by a brass cap monument; thence

South 0° 43' 01" West along the West boundary of said Section 17 a distance of 8.09 feet to a point in the centerline of Boulder Road, said point being the TRUE POINT OF BEGINNING; thence

South 88° 03' 58" East along said centerline a distance of 1,186.70 feet; thence

South 50° 55' 56" East a distance of 791.25 feet; thence

South 32° 56' 45" East a distance of 18.51 feet; thence

North 88° 57' 28" West a distance of 388.10 feet; thence

South 4° 59' 23" West a distance of 846.76 feet to a point in the centerline of the Ross East End Drain; thence traversing said centerline as follows:

North 77° 44' 19" West a distance of 35.70 feet;

North 74° 52' 58" West a distance of 367.83 feet;

North 56° 53' 02" West a distance of 323.56 feet;

North 54° 19' 35" West a distance of 389.54 feet;

North 44° 32' 12" West a distance of 284.11 feet;

North 29° 41' 45" West a distance of 123.38 feet;

North 24° 24' 13" West a distance of 188.45 feet;

North 0° 24' 55" West a distance of 206.63 feet;

North 1° 44' 29" East a distance of 120.27 feet;

North 45° 57' 48" West a distance of 49.67 feet to a point on the West boundary of said Section 17; thence

North 0° 43' 01" East along said West boundary a distance of 40.62 feet to the POINT OF BEGINNING.

SUBJECT TO a county road right-of-way along the North boundary and to all other easements and rights-of-way of record or implied.

EXCEPTING THEREFROM

Any portion situated in the Southwest Quarter of the Southwest Quarter, Section 17, Township 5 North, Range 5 West, Boise Meridian in Canyon County, Idaho.

(continued)

PARCEL 2

A portion of Government Lots 6 and 7 and of the old original Boise River Channel as shown on the 1868 G.L.O. Survey of Section 17, Township 5 North, Range 5 West of the Boise Meridian, Canyon County, Idaho, and is more particularly described as follows:

BEGINNING at the Center Quarter corner for said Section 17; thence South 1° 13' 26" West along the North-South midsection line for said Section 17 a distance of 829.55 feet to a point in the centerline of Stephen Lane; thence traversing said centerline as follows:
South 8° 36' 21" West a distance of 52.23 feet;
South 12° 31' 59" West a distance of 336.85 feet;
South 1° 50' 35" West a distance of 153.05 feet; thence leaving said centerline and bearing
North 88° 37' 42" West a distance of 544.04 feet to the centerline of an existing ditch; thence traversing said centerline as follows:
North 24° 56' 01" East a distance of 172.78 feet;
North 5° 16' 08" West a distance of 249.04 feet;
North 22° 27' 09" West a distance of 142.90 feet;
North 32° 56' 45" West a distance of 406.37 feet;
North 50° 55' 56" West a distance of 791.25 feet to a point in the centerline of Boulder Road; thence
South 88° 03' 58" East along said centerline a distance of 150.55 feet to a point on the Northerly extension of the West boundary of said Government Lot 6; thence
North 0° 58' 10" East along said extension a distance of 15.81 feet to the West One Sixteenth corner of said Section 17; thence
South 88° 23' 50" East along the East-West midsection line of said Section 17 a distance of 1,337.17 feet to the POINT OF BEGINNING.

SUBJECT TO a county road right-of-way along the North boundary and along the East boundary and to all other easements and rights-of-way of record or implied.

PARCEL 3

A portion of Government Lot 7 and of the old original Boise River Channel as shown on the 1868 G.L.O. Survey for Section 17, Township 5 North, Range 5 West of the Boise Meridian, Canyon County, Idaho, and is more particularly described as follows:

COMMENCING at the South One Sixteenth corner for said Section 17; thence South 1° 13' 26" West along the North-South midsection line of said Section 17 a distance of 56.49 feet; thence
North 88° 37' 42" West a distance of 74.43 feet to a point in the centerline of Stephen Lane, which point is the TRUE POINT OF BEGINNING; thence
South 1° 23' 36" East along said centerline a distance of 734.38 feet to a point on the Northerly boundary of the parcel described as the exception in the Warranty Deed filed as Instrument No. 9016492, records of Canyon County, Idaho; thence

(continued)

North 72° 10' 51" West along said North boundary a distance of 490.41 feet; thence

South 59° 37' 01" West continuing along said boundary a distance of 50.93 feet to a point in the centerline of an existing ditch; thence traversing said centerline as follows:

North 2° 00' 54" East a distance of 93.55 feet;

North 29° 57' 11" West a distance of 175.54 feet;

North 10° 56' 14" West a distance of 142.23 feet;

North 4° 59' 49" East a distance of 133.13 feet;

North 24° 56' 01" East a distance of 115.82 feet; thence leaving said ditch centerline and bearing

South 88° 37' 42" East a distance of 544.04 feet to the TRUE POINT OF BEGINNING.

SUBJECT TO a county road right-of-way along the East boundary and to all other easements and rights-of-way or record or implied.



200041447

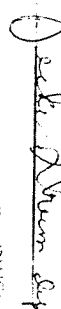
RECORDED

00 NOV 27 PM 12 01

G NOEL HALES

CANYON CNTY RECORDER

BY



REQUEST PIONEER - CALDWELL

TYPED Good FEE 1200

7726982
PC20854

WARRANTY DEED

FOR VALUE RECEIVED James Arthur Foss and Jane Foss, husband and wife

the Grantors, do hereby grant, bargain, sell and convey unto Whiskey Bottom Limited Partnership

the Grantee, whose address is 2205 W. Mace Rd., Eagle, ID 83614

the following described premises, to-wit:

See attached Exhibit "A", which by this reference is made a part hereof and is comprised of two (2) pages.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, its heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantee, that they are the owners in fee simple of said premises; that said premises are free from all encumbrances; except for general taxes and assessments for the year 1997 and subsequent years, covenants, conditions, restrictions and easements of record; and that they will warrant and defend the same from all lawful claims whatsoever.

DATED: August 13, 1997

James Arthur Foss
James Arthur Foss

Jane Foss
Jane Foss

STATE OF IDAHO

COUNTY OF CANYON

On this 13th day of August in the year 1997, before me, a Notary Public, personally appeared James Arthur Foss and Jane Foss, known and identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

William A. Caldwell
Notary Public
Residing at Caldwell
My commission expires 1-27-99

PIONEER TITLE COMPANY
OF CANYON COUNTY

100 10TH AVE SOUTH
NAMPA, IDAHO 83651

423 SOUTH KIMBALL
CALDWELL, ID 83605

PC 20854

Exhibit "A"

BEGINNING at the Northwest corner of Government Lot 3, Section 17, Township 5 North, Range 5 West, Boise Meridian, Canyon County, Idaho; running thence

Easterly along the North line of Government Lot 3 of said Section 17 a distance of 1,000 feet, more or less, to a point on the mean high water line on the left (Southerly bank) of the Boise River; thence

Southeasterly along the said mean high water line to a point on the East line of the Southwest Quarter of the Northeast Quarter of said Section 17; thence

Southerly along the East line of the said Southwest Quarter of the Northeast Quarter a distance of 265.0 feet, more or less, to the Southeast corner thereof; thence

Westerly along the South line of the said Southwest Quarter of the Northeast Quarter to the Southwest corner thereof; thence

Southerly along the East line of said Government Lot 3 and the Southerly extension thereof to a point on the South line of said Section 17; thence

Westerly along the Easterly extension of the South line and the South line of Government Lot 7 to said Section 17 a distance of 1,320 feet, more or less, to the Southwest corner thereof; thence

Northerly along the West line of said Government Lot 7 to the Northwest corner thereof; thence

Northwesterly along the centerline of the drain ditch to the Westerly line of said Section 17; thence

Northerly along the West line of said Section 17, 475 feet, more or less, to the centerline of the County Road; thence in an

Easterly direction along the centerline of said County Road 1,320 feet, more or less, to the Southerly extension of the West line of Lot 3 in said Section 17; thence

North 1,320 feet, more or less, to the Northwest corner of said Lot 3, the POINT OF BEGINNING.

EXCEPTING THEREFROM:

This parcel is a portion of Government Lot 7 and of the original Boise River Channel as shown on Government Land Office plat of the 1868 survey of Section 17, Township 5 North, Range 5 West, Boise Meridian, Canyon County, Idaho, and is more particularly described as follows:

COMMENCING at the Southwest corner of said Section 17; thence

East along the Southerly boundary of said Section 17 a distance of 1,764.88 feet to the TRUE POINT OF BEGINNING; thence

North 9° 16' 56" East a distance of 482.63 feet; thence

North 58° 28' 46" East a distance of 349.98 feet; thence

(continued)

South 73° 19' 06" East a distance of 548.84 feet to a point on the Southerly extension of the Easterly boundary of Government Lot 3 of said Section 17; thence

South 0° 04' 19" East along said extension a distance of 501.74 feet to a point on the Southerly boundary of said Section 17; thence

North 90° 00' 00" West along said Southerly boundary a distance of 902.56 feet to the TRUE POINT OF BEGINNING.

This parcel is subject to County road rights of way along the Southerly and Easterly boundaries and is also subject to maintenance and access easements lying 20.00 feet either side of the centerline of those irrigation drain ditches traversing said parcel.

9726982

RECORDED

97 AUG 15 PM 4 30

NED J KERR

CANYON CNTY RECORDER

BY

John D. Brown

PIONEER - CALDWELL

REQUEST

TYPE *Sub* FEE *920*

INSTRUMENT NO. 97700

PC 02227

WARRANTY DEED

D C Intermediaries, Ltd., an Oregon corporation, as Grantor, conveys and warrants to James Arthur Foss and Jane Foss, husband and wife, as Grantees, whose address is 11375 NE 13th, Terrebonne, Oregon, 97700, for the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the following described real property, to-wit:

See Exhibit "A" attached hereto, and by this reference made a part hereof.

SUBJECT TO taxes and assessments for the year 1990 and all subsequent years, together with any and all existing easements, rights-of-way, reservations and restrictions of record, to all zoning laws and ordinances, to any state of facts an accurate survey or inspection of the premises would show, including but not limited to any difference in the mean high water line of the Boise River and the meander line as shown by the government survey, and to any changes in ownership resulting from accretion or avulsion.

This conveyance shall include any and all appurtenances, tenements, hereditaments, reversions, remainders, easements, rights-of-way, accretions and alluvial land and water rights in anywise appertaining to the property herein described.

The Grantor covenants to the Grantee that it is the owners in fee simple of said premises; that the premises are free from all encumbrances, excepting those as may be herein set forth, and that it will warrant and defend the same from all lawful claims. Provided, however, that this covenant shall not apply to ownership of or claims regarding title to any portion of the premises acquired by accretion or avulsion resulting from changes of the mean high water line of the Boise River.

DATED this 28th day of August, 1990.

D C Intermediaries, Ltd.

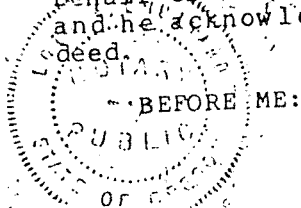
By: Douglas S. Chiapuzio
Douglas S. Chiapuzio, President
and Secretary of Intermediary

STATE OF OREGON)
County of Multnomah)

ss.

August 28th, 1990

Personally appeared Douglas S. Chiapuzio who being duly sworn, did say that he is the President and Secretary of D C Intermediaries, Ltd., an Oregon corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and he acknowledged said instrument to be its voluntary act and deed.



After recording, return original Deed to:

Douglas S. Chiapuzio
Notary Public for Oregon
My Commission Expires: 12/1/91

All tax statements should be
Sent to:

EXHIBIT "A"

BEGINNING at the Northwest corner of Government Lot 3, Section 17, Township 5 North, Range 5 West, Boise Meridian, Canyon County, Idaho; running thence

Easterly along the North line of Government Lot 3 of said Section 17 a distance of 1,000 feet, more or less, to a point on the mean high water line on the left (Southerly bank) of the Boise River; thence

Southeasterly along the said mean high water line to a point on the East line of the Southwest Quarter of the Northeast Quarter of said Section 17; thence

Southerly along the East line of the said Southwest Quarter of the Northeast Quarter a distance of 265.0 feet, more or less, to the Southeast corner thereof; thence

Westerly along the South line of the said Southwest Quarter of the Northeast Quarter to the Southwest corner thereof; thence

Southerly along the East line of said Government Lot 13 and the Southerly extension thereof to a point on the South line of said Section 17; thence

Westerly along the Easterly extension of the South line and the South line of Government Lot 7 to said Section 17 a distance of 1,320 feet, more or less, to the Southwest corner thereof; thence

Northerly along the West line of said Government Lot 7 to the Northwest corner thereof; thence

Northwesterly along the centerline of the drain ditch to the Westerly line of said Section 17; thence

Northerly along the West line of said Section 17, 475 feet, more or less, to the centerline of the County Road; thence in an

Easterly direction along the centerline of said County Road 1,320 feet, more or less, to the Southerly extension of the West line of Lot 3 in said Section 17; thence

North 1,320 feet, more or less, to the Northwest corner of said Lot 3, the POINT OF BEGINNING.

EXCEPTING THEREFROM:

This parcel is a portion of Government Lot 7 and of the original Boise River Channel as shown on Government Land Office plat of the 1868 survey of Section 17, Township 5 North, Range 5 West, Boise Meridian, Canyon County, Idaho, and is more particularly described as follows:

COMMENCING at the Southwest corner of said Section 17; thence East along the Southerly boundary of said Section 17 a distance of 1,764.88 feet to the TRUE POINT OF BEGINNING; thence North $90^{\circ} 16' 56''$ East a distance of 482.63 feet; thence North $58^{\circ} 28' 46''$ East a distance of 349.98 feet; thence South $73^{\circ} 19' 06''$ East a distance of 548.84 feet to a point on the Southerly extension of the Easterly boundary of Government Lot 3 of said Section 17; thence

(continued)

PC 02227

South 0° 04' 19" East along said extension a distance of 501.74 feet to a point on the Southerly boundary of said Section 17; thence

North 90° 00' 00" West along said Southerly boundary a distance of 902.56 feet to the TRUE POINT OF BEGINNING.

This parcel is subject to County road rights of way along the Southerly and Easterly boundaries and is also subject to maintenance and access easements lying 20.00 feet either side of the centerline of those irrigation drain ditches traversing said parcel.

9015492

RECORDED

'90 SEP 6 PM 4 02

RED 1 KFR

CANYON CNTY RECORDER

BY *C. Davis* *et al*

REQUEST PIONEER — CALDWELL

TYPE *Deed* *13* *12*

H.W. Carlyle (a single man)

90862

U.S. of A. acting under the provisions of the Act of Congress of June 17, 1902 (32 Stat., 388) known as Reclamation Act.

C.S.D.

Dated Oct. 2, 1918.
Rec. Oct. 28, 1918. 10:16 A.M.

Book 81 D. Page 274.
Cons. 51. and the benefits to be derived from the construction of drainage works in the vicinity of the land desc. herein.

A strip of land 100 feet wide, 50 ft on each side of the center line of the so-called Ross Drain, measured at right angles thereto and extending throughout the property of the grantor in Sections 17 and 15 all in T. 5 N.R. 5 W.B.M. Said center line is more part. desc. as follows.

Beg. at a point situated S 24° 43' W 250 ft from the NE corner of Sec. 18; thence S 67° 13' E 56.6 feet; thence S 46° 5' E 282.5 feet; thence S 69° 14' E 245.5 ft thence N 89° 50' E 563.5 feet thence S 44° 51' E 114.3 feet thence S 11° W 338.2 feet thence S 29° 10' E 386 feet; thence S 53° 47' E 500 feet; thence S 57° 33' E 450 feet; thence S 78° 3' E 444 feet; thence S 64° 39' E 237.6 feet; thence to the right on a curve of 191 feet radius 173.7 feet as measured on 25 foot cords; thence S 12° 32' E 303 feet; thence to the left on a curve of 191 feet radius 157.8 feet as measured on 25 foot cords; thence S 59° 52' E 214.9 feet; thence S 78° 19' E 356.2 feet; thence S 35° 11' E 197.3 feet; thence S 44° 54' E 118.5 feet to a point situated N 86° 16' E 2650.1 feet from the SW corner of said Sec. 17 said strip of land contains 11.8 acres more or less.

Also a strip of land 100 feet wide, 50 ft on each side of the center line of the so-called Lowell Drain, measured at right angles thereto and extending throughout the property of the grantor along said center line which is more particularly desc. as follows:

Beg. at a point in the center line of the said Ross Drain situated in said Sec. 17 N 76° 21' E 2153 ft from the SW corner of said Sec. 17 thence S 38° 45' W 98 feet; thence S 44° 1' W 305 feet; thence S 3° 37' W 181.4 feet to a point in the S line of said Sec. 17 situated 1813 feet E of the SW corner thereof. Said strip for the Lowell Drain contains 1.3 acres more or less.

Also a strip of land bordering the so-called Sterry Drain throughout the property of the grantor all in lot 8 Sec. 18 T. 5 N.R. 5 W.B.M. the said strip of land being bounded and more part. desc. as follows:

Beg. at a point near the NW corner of said lot 8 situated E 23° 55' West 2944 ft from the SW corner of said Sec. 18; thence E 134 feet thence S 55.6 feet; thence S 33° 36' West 151.7 feet thence S 1138 feet thence W 50 ft to the center line of said Sterry Drain; thence E along said center line and the Western boundary of said lot 8, 1328 ft to the point of beg. Said strip of land contains 1.74 acres more or less.

Proof of Execution. S. of I.C. of Ada Co. I, A.E. Eby a J.P. in and for the S. and C. above named hereby CERTIFY that on this 7th day of Oct. 1918 before me personally appeared D.J. Paul to me known and known to me to be the person whose name is subscribed to the attached instrument as a witness thereto; that the said subscribing witness, having been by me duly sworn, did dep. and say that H.W. Carlyle whose name is subscribed to the attached instrument as party thereto is the person desc. in said instrument and that such person executed the said instrument and the said affiant subscribed his name as a witness thereto; and that my commission expires Feb. 27, 1921. A.E. Eby J.P. (S.E.A.)

L.M. Anderson

90863

Rel. of Mtg. #51729

Dated Oct. 1, 1918.

Rec. Oct. 28, 1918. 11:45 A.M.

Book 18 Rel., Page 357

George M. Read and Helen Read his wife

KNOW ALL MEN BY THESE PRESENTS, That Mrs. L.M. Anderson, assignee and owner of the herein desc. Mtg. does hereby certify and declare that a certain Mtg. dated March 25, 1913 to Sarah J. Carter recorded in Book 54 of Mtgs on page 18 and was recorded on March 26, 1913 together with the debt etc.

Ack. Oct. 1, 1918 before W.A. Buis J.P. res. at Boise Ada Co. I. (S.E.A.)

Robert Noble Estate a corporation

90864

W.D.

Dated, April 12, 1918

Recorded, Oct. 28, 1918. 1:24 P.M.

Book 81 D. Page 276

Cons. 519.41 51. I.R.S.C.

Samuel Kendall

All that part of the NW 1/4 of the SE 1/4 Sec. 16 in T. 3 N.R. 2 W.B.M. lying S and W of the right of way of the Oregon Short Line Railway Company, as the same is now located over and across said lands, containing 5.1941 acres of land, more or less, according to United States survey thereof.

Together with the water rights, ditch rights and rights of way for ditches thereunto belonging or in anywise appertaining.

This conveyance is made subject to rights of way for drainage and other ditches, as the same are now constructed over or across the said premises, and also subject to construction and other charges for drainage of said lands, and water rights for the irrigation thereof, and the taxes and water assessments due or payable thereon in the year 1917 and thereafter.

Signed: Robert Noble Estate By Anna Noble, President Attest: Ernest Noble Secretary (Corp. S.)
Ack. April 12, 1918 by Anna Noble President of the corporation before J.L. Miday J.P. res. Boise Ada Co. I. (S.E.A.)

J.L. Walling

90865

**ATTACHMENT D
COMMENT LETTERS**



SPF Water Engineering, LLC
water resource consultants

May 2, 2007

Canyon County Commissioners
1115 Albany St.
Caldwell, ID 83605

Re: Proposed Water Right Development
Application for Permit 63-32226

Dear Sirs,

The Idaho Dept. of Water Resources (IDWR) has asked our client to solicit comments from the Canyon County Commissioners concerning the above captioned *Application for Permit* to develop a water right from an unnamed drain tributary to the Ross East End Drain. A copy of the application is enclosed.

Please review the application and provide comments to:

Steve Lester
Idaho Dept. of Water Resources
Western Regional Office
2735 Airport Way
Boise, ID. 83705-5082

Please provide a copy of your response to SPF Water Engineering at the address shown below. IDWR has requested that any response be submitted prior to June 2, 2007. Please contact Scott King, in this office, if you have questions concerning the application. Thank you for your consideration of this matter.

Sincerely,

Roxanne Brown

Enclosures:
IDWR Water Application Report

cc: Steve Lester
Classen & Co., LLC

SPF Job No.: 562.0010

[Close](#)IDAHO DEPARTMENT OF WATER RESOURCES
Water Application Report

5/02/2007

WATER RIGHT NO. 63-32226

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CLASSEN & CO LLC 6417 PLANTATION LN BOISE, ID 83703 (208)854-1037

Priority Date: 09/23/2005

Status: Active

<u>Source</u>	<u>Tributary</u>
UNNAMED DRAIN	ROSS EAST END DRAIN

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
WILDLIFE	01/01	12/31	1.03 CFS	10 AFA
WILDLIFE STORAGE	01/01	12/31		
DIVERSION TO STORAGE	01/01	12/31	1.03 CFS	
Total Diversion			1.03 CFS	

Location of Point(s) of Diversion:

UNNAMED DRAIN	SESW Lt 7	Sec. 17	Township 05N	Range 05W	CANYON County
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Place(s) of use:

Place of Use Legal Description: WILDLIFE 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>
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05N	05W	17	6	NESW	5	NWSW	7	SESW			
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Place of Use Legal Description: WILDLIFE STORAGE CANYON County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
05N	05W	17	6	NESW		5	NWSW		7	SESW				

Dates:
Date Application Received: 09/23/2005
Date Application Denied:
Last Date of Beneficial Use:
Extension End Date:
Protest Deadline Date: 1/23/2006
Number of Protests: 0
Enlargement Use Priority Date:
Enlargement Statute Priority Date:

Other Information:
State or Federal:
Owner Name Connector:
Water District Number: 63
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Application Type: New Appropriation
Applicant Remarks: 3/15 - 11/15 irrigation already to periodically irrigate the area when necessary. Likely in fall, will fill pond for wildlife usage. Filling of pond dependent on crop maturity and wildlife needs.
Other Water Rights: 63-32165 for irrigation from same system
Time to Complete Works: 1
Transfer Affected Description:
Transfer Affected Contracts:
Old Transfer Number:
Transfer Reason:
Transfer Return Flows:
Gowan Falls Trust or Nontrust:
Gowan Falls Dismissed:
OLE Act Number:
Sary Act Number:
Mitigation Plan: False

Close



SPF Water Engineering, LLC
water resource consultants

May 2, 2007

Greg Martinez
U.S. Army Corps of Engineers
304 N. 8th St., Rm. 140
Boise, ID 83702

Re: Proposed Water Right Development
Application for Permit 63-32226

Dear Sirs,

The Idaho Dept. of Water Resources (IDWR) has asked our client to solicit comments from the Corps concerning the above captioned *Application for Permit* to develop a water right from an unnamed drain tributary to the Ross East End Drain. A copy of the application is enclosed.

Please review the application and provide comments to:

Steve Lester
Idaho Dept. of Water Resources
Western Regional Office
2735 Airport Way
Boise, ID. 83705-5082

Please provide a copy of your response to SPF Water Engineering at the address shown below. IDWR has requested that any response be submitted prior to June 2, 2007. Please contact Scott King, in this office, if you have questions concerning the application. Thank you for your consideration of this matter.

Sincerely,

Roxanne Brown

Enclosures:
IDWR Water Application Report

cc: Steve Lester
Classen & Co., LLC

SPF Job No.: 562.0010

[Close](#)IDAHO DEPARTMENT OF WATER RESOURCES
Water Application Report

5/02/2007

WATER RIGHT NO. 63-32226

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CLASSEN & CO LLC 6417 PLANTATION LN BOISE, ID 83703 (208)854-1037

Priority Date: 09/23/2005

Status: Active

<u>Source</u>	<u>Tributary</u>
UNNAMED DRAIN	ROSS EAST END DRAIN

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
WILDLIFE	01/01	12/31	1.03 CFS	10 AFA
WILDLIFE STORAGE	01/01	12/31		
DIVERSION TO STORAGE	01/01	12/31	1.03 CFS	
Total Diversion			1.03 CFS	

Location of Point(s) of Diversion:

UNNAMED DRAIN	SESW Lt 7	Sec. 17	Township 05N	Range 05W	CANYON County
---------------	-----------	---------	--------------	-----------	---------------

Place(s) of use:

Place of Use Legal Description: WILDLIFE 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>
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05N	05W	17	6	NESW	5	NWSW	7	SESW			
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Place of Use Legal Description: WILDLIFE STORAGE CANYON County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
05N	05W	17	6	NESW		5	NWSW		7	SESW				

Dates:

Date Application Received: 09/23/2005

Date Application Denied:

Last Date of Beneficial Use:

Extension End Date:

Protest Deadline Date: 1/23/2006

Number of Protests: 0

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Other Information:

State or Federal:

Owner Name Connector:

Water District Number: 63

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Application Type: New Appropriation

Applicant Remarks: 3/15 - 11/15 irrigation already to periodically irrigate the area when necessary. Likely in fall, will fill pond for wildlife usage. Filling of pond dependent on crop maturity and wildlife needs.

Other Water Rights: 63-32165 for irrigation from same system

Time to Complete Works: 1

Transfer Affected Description:

Transfer Affected Contracts:

Old Transfer Number:

Transfer Reason:

Transfer Return Flows:

Water Falls Trust or Nontrust:

Water Falls Dismissed:

OLE Act Number:

Sary Act Number:

Litigation Plan: False



SPF Water Engineering, LLC
water resource consultants

May 2, 2007

Greg Martinez
U.S. Army Corps of Engineers
304 N. 8th St., Rm. 140
Boise, ID 83702

Re: Proposed Water Right Development
Application for Permit 63-32226

Dear Sirs,

The Idaho Dept. of Water Resources (IDWR) has asked our client to solicit comments from the Corps concerning the above captioned *Application for Permit* to develop a water right from an unnamed drain tributary to the Ross East End Drain. A copy of the application is enclosed.

Please review the application and provide comments to:

Steve Lester
Idaho Dept. of Water Resources
Western Regional Office
2735 Airport Way
Boise, ID. 83705-5082

Please provide a copy of your response to SPF Water Engineering at the address shown below. IDWR has requested that any response be submitted prior to June 2, 2007. Please contact Scott King, in this office, if you have questions concerning the application. Thank you for your consideration of this matter.

Sincerely,

Roxanne Brown

Enclosures:
IDWR Water Application Report

cc: Steve Lester
Classen & Co., LLC

SPF Job No.: 562.0010

RECEIVED
MAY 03 2007
WATER RESOURCES
WESTERN REGION

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Application Report

5/02/2007

WATER RIGHT NO. 63-32226

Owner Type	Name and Address
Current Owner	CLASSEN & CO LLC 6417 PLANTATION LN BOISE, ID 83703 (208)854-1037

Priority Date: 09/23/2005
Status: Active

Source	Tributary
UNNAMED DRAIN	ROSS EAST END DRAIN

Beneficial Use	From	To	Diversion Rate	Volume
WILDLIFE	01/01	12/31	1.03 CFS	10 AFA
WILDLIFE STORAGE	01/01	12/31		
DIVERSION TO STORAGE	01/01	12/31	1.03 CFS	
Total Diversion			1.03 CFS	

Location of Point(s) of Diversion:

UNNAMED DRAIN	SESW Lt 7	Sec. 17	Township 05N	Range 05W	CANYON County
---------------	-----------	---------	--------------	-----------	---------------

Place(s) of use:

Place of Use Legal Description: WILDLIFE CANYON County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
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05N	05W	17	6	NESW	5	NWSW	7	SESW			
-----	-----	----	---	------	---	------	---	------	--	--	--

Place of Use Legal Description: WILDLIFE STORAGE CANYON County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
05N	05W	17	6	NESW		5	NWSW		7	SESW				

Dates:

Date Application Received: 09/23/2005

Date Application Denied:

Last Date of Beneficial Use:

Extension End Date:

Protest Deadline Date: 1/23/2006

Number of Protests: 0

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Other Information:

State or Federal:

Owner Name Connector:

Water District Number: 63

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Application Type: New Appropriation

Applicant Remarks: 3/15 - 11/15 irrigation already to periodically irrigate the area when necessary. Likely in fall, will fill pond for wildlife usage. Filling of pond dependent on crop maturity and wildlife needs.

Other Water Rights: 63-32165 for irrigation from same system

Time to Complete Works: 1

Transfer Affected Description:

Transfer Affected Contracts:

Old Transfer Number:

Transfer Reason:

Transfer Return Flows:

Water Falls Trust or Nontrust:

Water Falls Dismissed:

ULE Act Number:

Sary Act Number:

Litigation Plan: False



SPF Water Engineering, LLC
water resource consultants

May 2, 2007

Canyon County Commissioners
1115 Albany St.
Caldwell, ID 83605

Re: Proposed Water Right Development
Application for Permit 63-32226

Dear Sirs,

The Idaho Dept. of Water Resources (IDWR) has asked our client to solicit comments from the Canyon County Commissioners concerning the above captioned *Application for Permit* to develop a water right from an unnamed drain tributary to the Ross East End Drain. A copy of the application is enclosed.

Please review the application and provide comments to:

Steve Lester
Idaho Dept. of Water Resources
Western Regional Office
2735 Airport Way
Boise, ID. 83705-5082

Please provide a copy of your response to SPF Water Engineering at the address shown below. IDWR has requested that any response be submitted prior to June 2, 2007. Please contact Scott King, in this office, if you have questions concerning the application. Thank you for your consideration of this matter.

Sincerely,

Roxanne Brown

Enclosures:
IDWR Water Application Report

cc: Steve Lester
Classen & Co., LLC

SPF Job No.: 562.0010

RECEIVED

MAY 03 2007

**WATER RESOURCES
WESTERN REGION**

Close

DAHO DEPARTMENT OF WATER RESOURCES

Water Application Report

5/02/2007

VATER RIGHT NO. 63-32226

Owner Type	Name and Address
Current Owner	CLASSEN & CO LLC 6417 PLANTATION LN BOISE, ID 83703 (208)854-1037

Priority Date: 09/23/2005
Status: Active

Source	Tributary
UNNAMED DRAIN	ROSS EAST END DRAIN

Beneficial Use	From	To	Diversion Rate	Volume
WILDLIFE	01/01	12/31	1.03 CFS	10 AFA
WILDLIFE STORAGE	01/01	12/31		
DIVERSION TO STORAGE	01/01	12/31	1.03 CFS	
Total Diversion			1.03 CFS	

Location of Point(s) of Diversion:

UNNAMED DRAIN	SESW Lt 7	Sec. 17	Township 05N	Range 05W	CANYON County
---------------	-----------	---------	--------------	-----------	---------------

Place(s) of use:

Place of Use Legal Description: WILDLIFE CANYON County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
----------	-------	---------	-----	-------	-------	-----	-------	-------	-----	-------	-------	-----	-------	-------

05N	05W	17	6	NESW	5	NWSW	7	SESW			
-----	-----	----	---	------	---	------	---	------	--	--	--

Place of Use Legal Description: WILDLIFE STORAGE CANYON County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
05N	05W	17	6	NESW		5	NWSW		7	SESW				

Dates:

Date Application Received: 09/23/2005

Date Application Denied:

Last Date of Beneficial Use:

Extension End Date:

Protest Deadline Date: 1/23/2006

Number of Protests: 0

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Other Information:

State or Federal:

Owner Name Connector:

Water District Number: 63

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Application Type: New Appropriation

Applicant Remarks: 3/15 - 11/15 irrigation already to periodically irrigate the area when necessary. Likely in fall, will fill pond for wildlife usage. Filling of pond dependent on crop maturity and wildlife needs.

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Time to Complete Works: 1

Transfer Affected Description:

Transfer Affected Contracts:

Old Transfer Number:

Transfer Reason:

Transfer Return Flows:

Water Falls Trust or Nontrust:

Water Falls Dismissed:

ULE Act Number:

Sary Act Number:

Litigation Plan: False



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082

PHONE: (208) 334-2190 FAX: (208) 334-2348 www.idwr.idaho.gov

C.L. "BUTCH" OTTER, Governor
DAVID R. TUTHILL, JR., Interim Director

March 2, 2007

CLASSEN & CO LLC
6417 PLANTATION LN
BOISE ID 83703

Re: Application for Permit No. 63-32226

Dear Applicant:

This letter seeks information for a proposed wildlife project from an unnamed drain in the lower Boise River system. Additional background information prepared by the Idaho Department of Water Resources (IDWR) is enclosed for your consideration.

IDWR seeks additional information outlined below to evaluate the application for processing to continue. This request is based on Water Appropriation Rule 40.05, copy enclosed. Some of the information listed in Rule 40 is not necessary as noted by omission below. A copy of the application is enclosed for your convenience.

Rule 40, Item ciii– describe the location(s) for return flows, if any, and mark it on the application map, describe how the proposed system will operate to minimize impacts on other water rights from the proposed source.

Rule 40, Item di– establish a credible link between the amount of water to be diverted and the specific beneficial uses to be developed. For example, why are 1.03 CFS and 10 AF of storage required for the project? Exactly what beneficial use will be provided for wildlife? Determine why the requested amount of water is not speculative.

Rule 40, Item dii – provide credible information to show that the requested amount of water is available during the proposed period of use.

Rule 40, Item ei – provide evidence that the applicant has legal access to the proposed point of diversion for the proposed period of use and nature of use.

Rule 40, Item g – Send comment letters to the Canyon County Commissioners and the US Army Corps of Engineers. Provide IDWR with copies of your comment letters to these entities and any written responses received from them.

Application for Permit No. 63-32226

March 2, 2007

Page 2

Please contact Army Corps as follows:

Attn. Greg Martinez
US Army Corps of Engineers
304 N. 8th St., Room 140
Boise, ID 83702

Phone: (208) 343-2154

Fax: (208) 343-2968

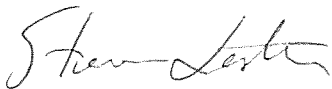
Any credible information that is provided should be attributed to the person or entity supplying the information. This should include verification that the person or entity is qualified to provide that information.

After receiving the additional information from you, IDWR will consult with other natural resource agencies to evaluate the information. Processing of the applications will continue after that step is completed.

The additional information should be provided within the next ninety (90) days. Alternately, you may request up to six months interruption in processing. The applications will be voided under IC § 42-204 without a timely written response.

Thank you for your attention to these matters. Please contact me at your convenience if you need more information.

Sincerely,



Steve Lester
Water Rights Supervisor

Enclosure: Copies of Applications
 IDWR Notes for Wildlife Applications

IDWR INFORMATION PROVIDED TO APPLICANTS

— 82 3/2/07

IDWR sent letters to applicants on 3/2/2007 requesting additional information pursuant to Water Appropriation Rule 40.05.

The letters included a lengthy attachment about multiple applications for wildlife projects in the lower Boise River system.

That attachment is filed in Application 63-32226, the lowest numbered filing in this group. **See 63-32226 for details about this attachment** if necessary.

This explanatory page is provided to the following files:

• 63-32226

• 63-32238

• 63-32458

• 63-32459

• 63-32460

• 63-32461

• 63-32462

• 63-32465

• 63-32466

• 63-32467



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

March 1, 2006

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

Dave & Jeanne Harrold
27922 Pet Lane
Parma ID 83660

RE: Classen Wildlife Pond Application for Permit #63-32226

Dear Harrolds:

The Department has received your letter of 2/27/06 regarding the above described application. The Classen application was received by our office on September 22, 2005. Our staff processed the application with public notice made in the Canyon County Press Tribune. The protest deadline was January 23rd; no protests were received. Unfortunately, the receipt of your letter is past the protest deadline, and can not be considered as a formal protest.

From review of Mr. Classen's and your water rights, it appears 63-03001C and 63-32165 are parented by 63-3001B with the shared priority date of 8/4/54. The existing Classen irrigation right 63-32165 has a flow rate of 1.030 cfs. New application 63-32226 for wildlife proposes the same flow rate of 1.030 cfs. During the irrigation season both 63-32165 and 63-32226 (if approved) will be conditioned so that a diversion of 1.030 cfs can not be exceeded in combination; thus no additional flow will be diverted during the irrigation season.

Your letter expresses issues concerning delivery ditches and pond construction. Issues regarding right-of-ways and lateral ditches are not regulated by the Department. These are considered civil matters between parties. I would suggest both parties meet to resolve the matters of concern. Attached is a booklet that provides the Idaho Statutes applicable to ditches and laterals.

Should you have any questions, please contact me at the Western Regional Office, phone 334-2190.

Sincerely,

John Westra
Western Regional Manager

cc: J. Classen
Enclosures—water right reports,
Ditch Statutes Booklet

RECEIVED

FEB 27 2006

WATER RESOURCES
WESTERN REGION

63-32226

Dave & Jeanne Harold
27922 Pet Lane
Parma ID 83660

Dear Sirs:

We are writing concerning a wildlife pond that has been dug by Classen L.L.C. water application # 63-322-6. Mr. Classen, in the building of this pond, has cut off our irrigation water source. As we are in the business of Agriculture we need this water for irrigation on pasture.

Mr. Classen has never spoken to us about this pond. He has never approached us on an alternate ditch to maintain our land, and he is knowledgeable that this is our only water source to that acreage.

In visiting with water resources we found out the closing date of advertisement was Jan-26.

Please advise us on
what rights we have on
this issue and correct steps
on how to further proceed.

We have enclosed a
copy of our water rights
on this property.

Thank you -

Daniel Jean Harroll

27922 Pet Lane

Parma ID 83660

722-6467

RECEIVED

JAN 13 2006

WATER RESOURCES
WESTERN REGION

e0100285 04527224
1 Idaho Dept. of Water Resourc
2735 Airport Way
BOISE ID 83705

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) SS.
County of Canyon)

Amanda K. McCollum
of Nampa, Canyon County, Idaho, being
first duly sworn, deposes and says:

1. That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not a party to the above entitled action.
2. That I am the Principal Clerk of the Idaho Press-Tribune, a daily newspaper published in the City of Nampa, in the County of Canyon, State of Idaho; that the said newspaper is in general circulation in the said County of Canyon, and in the vicinity of Nampa and Caldwell, and has been uninterruptedly published in said County during a period of seventy-eight consecutive weeks prior to the first publication of this notice, a copy of which is hereto attached.
3. That the notice, of which the annexed is a printed copy, was published in said newspaper 2 time(s) in the regular and entire issue of said paper, and was printed in the newspaper proper, and not in a supplement.
4. That said notice was published the following:
01/05/2006,01/12/2006

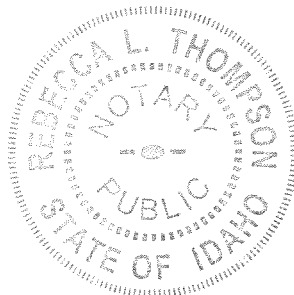
Amanda K. McCollum

STATE OF IDAHO)
County of Canyon)

On the 12th day of January in the year of 2006
before me, a Notary Public, personally appeared.
Amanda K. McCollum,
known or identified to me to be the person
whose name is subscribed to the within
instrument, and being by me first duly sworn,
declared that the statements therein are true, and
acknowledge to me that he/she executed the same.

Rebecca L. Thompson

Notary Public for Idaho
Residing at Nampa
My commission expires April 19, 2008



LEGAL NOTICE

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

63-32226

✓sk

CLASSEN & CO LLC
6417 PLANTATION LN
BOISE ID 83703

Point(s) of Diversion L7 (SESW)	S17 T05N R05W CANYON County	Source UNNAMED DRAIN
Tributary To ROSS EAST END DRAIN		
Use: WILDLIFE	01/01 To 12/31	1.03 CFS
Use: WILDLIFE STORAGE	01/01 To 12/31	10 AFA
Use: DIVERSION TO STORAGE	01/01 To 12/31	1.03 CFS
Total Diversion:		1.03 CFS
Date Filed:	09/23/2005	
Place Of Use:	WILDLIFE STORAGE	
T05N R05W S17	NESW Lot 6 NWSW Lot 5 SESW Lot 7	
Place Of Use: WILDLIFE		
T05N R05W S17	NESW Lot 6 NWSW Lot 5 SESW Lot 7	

Remark: Applicant agrees to mitigate consumptive use in the future as needed.

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Western Region, 2735 Airport Way, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 01/23/2006. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

January 5, 12, 2006

04527224

State of Idaho
Department of Water Resources

RECOMMENDATION OF WATERMASTER

Application Number: 63-32226Applicant's Name: CLASSEN & CO. LLC

Watermaster's Recommendation:

- a) ☐ I do not oppose approval of this application.
- b) ☒ I do not oppose approval of this application if it is conditioned as follows:

Standard Watermaster Conditions

- c) ☐ I oppose approval of this application for the following reasons:

d) Additional Comments: _____

Dated this 10 day of January, 2006Water District Number: 63 Watermaster's Signature: Lee Lisco

Use back side of this page if you need more space

Kreger (Taylor), Sue

To: eleitzinger@idfg.idaho.gov
Subject: comment letters

**IDAHO DEPARTMENT OF WATER RESOURCES
WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705**

January 4, 2006

ERIC LEITZINGER, IDFG
PO BOX 25
BOISE ID 83707

Re: Applications for Permit Nos. 55-13850, 55-13851, 55-13853, 55-13874, 55-13873, 79-14149, 63-32226, 67-14669, and 67-14671

Dear Eric:

Attached are copies of applications that may be of interest to your agency. Please review the application(s) and submit any comments you may have.

This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter. However, if your agency desires to file a formal protest against the approval of any of these applications, your written protest along with the \$25.00 protest fee for each application protested, must be received in this office by January 23, 2006.

If you have any questions regarding these applications, please contact this office at 334-2190.

Sincerely,



55-13850.pdf



55-13851.pdf



55-13853.pdf



55-13873.pdf



55-13874.pdf



63-32226.pdf



67-14669.pdf



67-14671.pdf



79-14149.pdf

Kreger (Taylor), Sue

From: Kreger (Taylor), Sue
Sent: Wednesday, January 04, 2006 12:57 PM
To: 'Wd63@iglide.net'
Subject: Comment Letter

IDAHO DEPARTMENT OF WATER RESOURCES
WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705

January 4, 2006

LEE SISCO
WATERMASTER DIST. NO. 63
6616 OVERLAND RD
BOISE ID 83709

Re: Application(s) for Water Right (s)

Dear Watermaster:

Attached are copies of one or more applications. Also attached is a form for your recommendation concerning these application(s).

Please review the application(s) that are in your area. We must have your comments within two weeks. If you have any questions or need information, feel free to contact this office at 334-2190.

Sincerely,



63-32226.pdf



Copy of
commendation of Wa

**IDAHO DEPARTMENT OF WATER RESOURCES
WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705**

December 29, 2005

Legal Notice Department

PRESS-TRIBUNE

PO BOX 9399

NAMPA ID 83652

RE: Application for Permit No. 63-32226
Application for Transfer No. 72313

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 01/23/2006. Your cooperation is appreciated.

Sincerely

Sue Kreger
Administrative Assistant

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

63-32226

CLASSEN & CO LLC
6417 PLANTATION LN
BOISE ID 83703

Point(s) of Diversion L7 (SESW) S17 T05N R05W CANYON County Source UNNAMED DRAIN
Tributary To ROSS EAST END DRAIN

Use: WILDLIFE	01/01 To 12/31	1.03 CFS	
Use: WILDLIFE STORAGE	01/01 To 12/31		10 AFA
Use: DIVERSION TO STORAGE	01/01 To 12/31	1.03 CFS	
Total Diversion:		1.03 CFS	

Date Filed: 09/23/2005

Place Of Use: WILDLIFE STORAGE

T05N R05W S17 NESW Lot 6 NWSW Lot 5 SESW Lot 7

Place Of Use: WILDLIFE

T05N R05W S17 NESW Lot 6 NWSW Lot 5 SESW Lot 7

Remark: Applicant agrees to mitigate consumptive use in the future as needed.

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Western Region, 2735 Airport Way, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 01/23/2006. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published in the Press Tribune on January 5 and 12, 2006.

RECEIVED

DEC 12 2005

WATER RESOURCES
WESTERN REGION

CLASSEN & CO. LLC

6417 Plantation Lane, Boise, ID 83703

208-854-1037, FAX-1029

classenllc@msn.com

December 8, 2005

Mr. Daniel A. Nelson
Sr. Water Right Agent
IDWR, Western Region
2735 Airport Way
Boise, ID 83705-5082

RE: Application For Permit

Dear Mr. Nelson:

We own water rights covering this requested permit area for irrigation purposes during 3/15 to 11/15 under ID # 63-32165. This permit is requesting water usage the balance of the year for wildlife habitat. I have responded to your listed discrepancies by number pertaining to your response of 12/5/05.

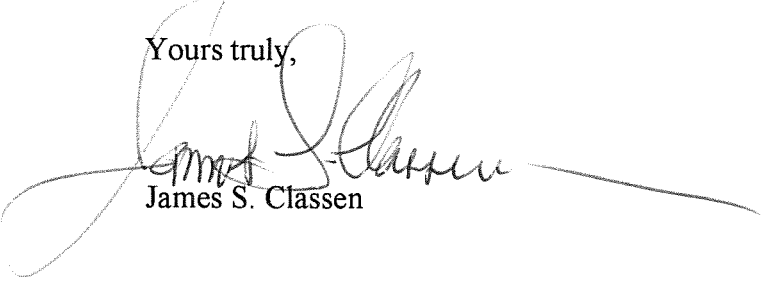
- 1.) Classen & Co. LLC is a Colorado formed LLC. The two General Managers are Jacqueline D. Classen and James S. Classen. Either has authority to act on behalf of the LLC. Note that we use Co. and not Company in our legal matters.
- 2.) As noted on claim 63-32165, our water source is filed as coming from and "unnamed drain" as a "tributary to the Boise River". If this is unsatisfactory, we will have to amend our original claim as to Civil Case 39576.
- 3.) We intend to utilize the water primarily for waterfowl but have altered, initialed and dated our application to reflect your suggested change to "wildlife."
- 4.) We have clarified, initialed and dated under uses in section 4, that the water will be diverted to storage and used to encourage wildlife storage.
- 5.) This pond is under construction and will be approximately 5 acres, 1-3' deep and contain about 10AF when filled.
- 6.) This pond will not always be filled, especially during irrigation periods.
- 7.) We are familiar with the irrigation companies operating in the general area. As mentioned before, we get our water from an unnamed drain that is not controlled by an irrigation company for this particular parcel.
- 8.) Not applicable.
- 9.) Pencil works unless you deem the application to be unacceptable because it in pencil. I resigned the form in pen if that helps.
- 10.) We completed this form in the main office of IWDR with the guidance and review by one of your colleagues. There was no mention of a necessary "Request To Process" form at that time. Thanks for sending me one and it has been completed and returned along with our original Application For Permit.

Mr. Daniel A. Nelson
Sr. Water Right Agent
IDWR, Western Region
2735 Airport Way
Boise, ID 83705-5082

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December 8, 2005

I do not consider requesting water usage for the balance of the year to be a complex issue. However, I did consult with a contemporary IDWR employee in the initial completion of the form. If the supplied information does not clarify your areas of concern, please give me a call at the letterhead number and perhaps I can expedite any further clarification required.

Yours truly,



James S. Classen

Encl.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

December 5, 2005

CLASSEN AND CO LLC
6417 PLANTATION LN
BOISE ID 83703

RE: APPLICATION FOR PERMIT FOR WILDLIFE

Dear Applicant:

I have done an initial review of your application for permit, and have found several discrepancies. Unfortunately, I will need to delay processing and return your application to allow you to make the following changes and clarifications:

- 1.) I could not find Classen & Co. LLC on the Secretary of State Business search homepage. Therefore, I will need a list of your corporate officers, which will need to include the person signing the application.
- 2.) You list the source for your application as an unnamed drain tributary to the Boise River. However, the maps suggest that you are either diverting from the Ross East End Drain tributary to the Boise River, or you are diverting from an unnamed drain tributary to the Ross East End Drain. Please clarify the source of your proposed application.
- 3.) You list waterfowl as a use under section 4. We don't have this kind of use. The closest thing we have is wildlife.
- 4.) You describe a pond in section 6b, but you don't list wildlife storage and diversion to storage in the uses in section 4. If there is not going to be a pond developed under this permit, please show how the water will be put to beneficial use for wildlife purposes.
- 5.) If there is going to be a pond, then we also need the dimensions of the pond, surface area and pond depth.
- 6.) Depending on the size of the pond, there could be a period that the water would evaporate from the pond. You may want to account for the evaporation in the pond.
- 7.) You list that this ground is irrigated. There currently are several companies that supply irrigation water to your area. They are Riverside Irrigation, Haas Ditch Company, and Island Highline Ditch Company. Please let us know which of these companies supply your irrigation water.

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- 8.) If you are planning on using existing ditches and supply conduits of one of the existing canal companies listed above, you will need to attain permission from them to use their irrigation system for your new proposed use. If they divert water from the Boise River for this drain, you may also need to include the Boise River as a source for your wildlife use.
- 9.) Your application is completed in pencil; you may want to redo the application in pen, since it is a legal document. It is highly recommended that all legal documents be completed in non-erasable ink.
- 10.) Your application was submitted without a request to process form. All applications of this type are required to have a request to process form included with the application. I enclosed a request to process form with an explanation of the form with this application for you to complete and return with the application.

Before I can continue with my review of your application, I will need the above items clarified. Due to the complexity of an application such as this one, I strongly recommend that you retain a consultant to assist you with completing the application. There are several issues that need to be considered when completing these types of applications that a consultant could give you good advice on how to address each issue. I would be more than willing to set an appointment to go over your application, but I cannot complete the application for you or give you advice on how best to fill out the application. Therefore, hiring a consultant would be in your best interest.

The Department will hold further processing of your application for 30 days to allow submittal of the required information. Additional time may be granted by the Department upon receipt of a written request and sufficient justification for an extension. After that time, if adequate information is not received, the Department will issue a preliminary order to reject or deny the application.

Any changes that you make to the application will need to be initialed and dated. Please make sure that you initialed all changes. If you have any questions or concerns please contact me at the above address.

Respectfully,



Daniel A. Nelson
Sr. Water Right Agent