

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

**IN THE MATTER OF APPLICATION
FOR PERMIT NOS. 63-32458 AND
63-33463 IN THE NAME OF W&H
LIMITED LIABILITY COMPANY
AND APPLICATION FOR PERMIT
NOS. 63-33508 AND 63-32460 IN THE
NAME OF G.O. INVESTMENTS, LLC**

**INTERLOCUTORY ORDER
AUTHORIZING CERTAIN
TERMS AND CONDITIONS**

On May 10, 2013, W&H Limited Liability Company (“W&H”) and G.O. Investments, LLC (“G.O.”) filed a *Notice of Settlement and Joint Motion to Approve Stipulated Conditions* with the Idaho Department of Water Resources (“Department”) notifying the Department that they had entered into a settlement agreeing to withdraw their respective Protests to Application for Permit No. 63-32458 and Application for Permit No. 63-32460 and W&H agreeing to withdraw its Application for Permit No. 63-33463, provided *inter alia* that certain conditions and terms are included in any permit and license issued with respect to Application for Permit Nos. 63-32458, 63-33508 and 63-32460. Having considered the matter, the Department makes the following Order pursuant to IDAPA 37.01.01.710:

ORDER

IT IS HEREBY ORDERED that:

1. Any approved permit and water right license issued pursuant to Application for Permit No. 63-32458 shall include the following condition of approval:

“This water right is subordinate to Water Right No. 63-33508.”

2. Any approved permit and water right license issued pursuant to Application for Permit No. 63-33508 shall include the following terms:

“Water Right No. 63-32458 is subordinate to this water right;” and

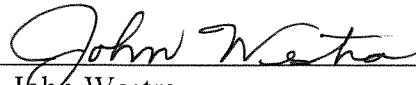
“Water Right No. 63-32910 is subordinate to this water right from October 1 through November 15, inclusive.”

3. Any approved permit and water right license issued pursuant to Application for Permit No. 63-32460 shall include the following term:

“Water Right No. 63-32910 is subordinate to this water right.”

4. This Order is an addendum to Applications for Permit Nos. 63-32458, 63-33463, 63-33508 and 63-32460.

DATED this 15th day of May, 2013.



John Westra
Regional Manager

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 17 day of May, 2013, the above and foregoing, was served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

Michael Creamer
Givens Pursley LLP
P.O. Box 2720
Boise, Idaho 83701-2720

Dana L. Hofstetter
Hofstetter Law Office, LLC
608 West Franklin Street
Boise, Idaho 83702

Andrew J. Waldera
Moffatt Thomas
P.O. Box 829
Boise, Idaho 83701-0829

Megan Gregory

4027.2\10359

HOFSTETTER LAW OFFICE

608 West Franklin Street
Boise, Idaho 83702

Dana@IdahoWaterLaw.com

Dana L. Hofstetter
Attorney at Law

Telephone: (208) 424-7800
Facsimile: (208) 424-8774

May 9, 2013

RECEIVED

MAY 10 2013

WATER RESOURCES
WESTERN REGION

Director
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

Re: In the Matter of Application for Permit to Appropriate Water Nos. 63-32458
and 63-33463 in the Name of W&H Limited Liability Company and
Applications for Permit Nos. 63-33508 and 63-32460 in the name of G.O.
Investments, LLC

To Whom It May Concern:

Pursuant to the IDWR Rules of Procedure, I enclose the **original and a copy of the following document** in the above-referenced matter:

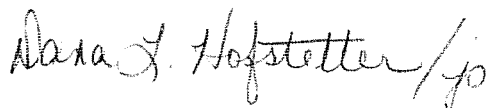
Notice of Settlement and Joint Motion to Approve Stipulated Conditions

Please file the **original** and conform the **copy** and return the **copy** to this office in the enclosed stamped and addressed envelope.

Also enclosed is the Interlocutory Order Authorizing Certain Terms and Conditions approved by John Westra. Thank you.

Sincerely,

HOFSTETTER LAW OFFICE, LLC



Dana L. Hofstetter

Enclosures
4027.2/10386

ORIGINAL

Michael C. Creamer (ISB # 4030)
Michael P. Lawrence (ISB # 7288)
GIVENS PURSLEY LLP
277 North Sixth Street, Suite 200
P.O. Box 2720
Boise, Idaho 83701-2720
Telephone: 208-388-1200
Facsimile: 208-388-1300

Attorneys for W&H Limited Liability Company

RECEIVED
MAY 10 2013
WATER RESOURCES
WESTERN REGION

BEFORE THE DEPARTMENT OF WATER RESOURCES OF
THE STATE OF IDAHO

IN THE MATTER OF APPLICATION
FOR PERMIT NOS. 63-32458 and
63-33463 IN THE NAME OF W&H
LIMITED LIABILITY COMPANY AND
APPLICATIONS FOR PERMIT NOS. 63-
33508 and 63-32460 IN THE NAME OF
G.O. INVESTMENTS, LLC

NOTICE OF SETTLEMENT AND
JOINT MOTION TO APPROVE
STIPULATED CONDITIONS

COME NOW W&H LIMITED LIABILITY COMPANY ("W&H"), by and through its attorneys, Givens Pursley LLP, and G.O. INVESTMENTS, LLC ("G.O."), by and through its attorney, Hofstetter Law Office, LLC, and pursuant to IDAPA 37.01.01.204, .260 and .612, hereby notify the Department that the above-named parties have negotiated a settlement of their respective protests in the above-entitled matters (collectively the "Applications").

The parties have agreed to withdraw their respective protests to Application for Permit No. 63-32458 and Application for Permit No. 63-32460, provided *inter alia* that certain conditions and terms are included in any permit and license that may hereafter be issued by the Department upon such Applications. The parties, therefore, move the Department, pursuant to IDAPA 37.01.01.612, for an order ("Order") approving the conditions and terms and

confirming that they shall be included by the Department in any approval of the Applications. Upon the issuance of a final Order stating that the conditions and terms are approved and shall be made a part of the respective Permits, G.O.'s protest to Application for Permit No. 63-32458 shall be deemed withdrawn, W&H's protest to Application for Permit 63-32460 shall be deemed withdrawn and W&H's Application No. 63-33463 shall be withdrawn. Provided that the respective Applications are not subsequently amended from their current form except as may be required by the Department to continue processing, the parties' respective withdrawal of protests to such Application shall be with prejudice.

The conditions and terms that the parties have stipulated to be included in any permit and license issued pursuant to the respective Applications are as follows:

With respect to Application for Permit 63-32458, a condition stating that

- This water right is subordinate to Water Right No. 63-33508.

With respect to Application for Permit No. 63-33508, the following terms:

- Water Right No. 63-32458 is subordinate to this water right.
- Water Right No. 63-32910 is subordinate to this water right from October 1 through November 15, inclusive.

With respect to Application for Permit No. 63-32460, a term stating that

- Water Right No. 63-32910 is subordinate to this water right.

WHEREFORE, the parties respectfully request the entry of an Order approving the settlement terms and conditions set forth herein, each party to bear its own costs, expenses, and attorney's fees.

DATED: May 2, 2013.

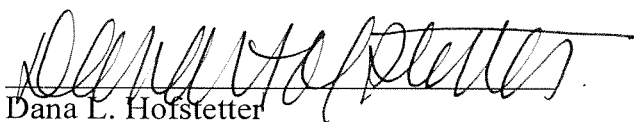
GIVENS PURSLEY LLP



Michael C. Creamer
Attorneys for W&H Limited Liability
Company

DATED: May 2, 2013.

HOFSTETTER LAW OFFICE, LLC



Dana L. Hofstetter
Attorney for G.O. Investments, LLC

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of May, 2013 a true and correct copy of the foregoing was filed and/or served upon the following individual(s) by the means indicated:

Michael C. Creamer
Givens Pursley LLP
601 W. Bannock St.
P.O. Box 2720
Boise, ID 83701-2720
Facsimile: (208) 388-1300

☒ U.S. Mail, postage prepaid
☐ Express Mail
☐ Hand Delivery
☐ Facsimile

~~Dana L. Hofstetter
Hofstetter Law Office
608 West Franklin St.
Boise, ID 83702~~

☐ U.S. Mail, postage prepaid
☐ Express Mail
☐ Hand Delivery
☒ Facsimile (208) 424-8774

John Westra
Manager, Western Region
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

☒ U.S. Mail, postage prepaid
☐ Express Mail
☐ Hand Delivery
☐ Facsimile

Andrew J. Waldera
Moffatt Thomas
P.O. Box 829
Boise, Idaho 83701-0829

☒ U.S. Mail, postage prepaid
☐ Express Mail
☐ Hand Delivery
☐ Facsimile

By: Dana L. Hofstetter /j

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF PERMIT TO	)	
APPROPRIATE WATER NO.	)	
63-32458, 63-32459, 63-32460,	)	NOTICE OF HEARING
63-32462, 63-33507, & 63-33508.	)	
IN THE NAME OF:	)	
W & H LIMITED LIABILITY CO,	)	
G O INVESTMENTS LLC &	)	
TREE TOP RANCHES LP.	)	

On 1/12/2006, W & H LIMITED LIABILITY CO, filed an Appropriation of a Water Right Permit No. 63-32458 with the Idaho Department of Water Resources (Department). Protest(s) were filed by G O INVESTMENTS LLC

On 4/5/2005, RAY OBENDORF, filed an Appropriation of a Water Right Permit No. 63-32459 & 63-32460 with the Idaho Department of Water Resources (Department). On July 31, 2009, the applications were assigned to G.O. INVESTMENTS LLC. Protest(s) were filed by W & H LIMITED LIABILITY CO, & TREE TOP RANCHES LP.

On 12/28/2005, TREE TOP RANCHES LP, filed an Appropriation of a Water Right Permit No. 63-32462 with the Idaho Department of Water Resources (Department). Protest(s) were filed by GREG OBENDORF, & J F WATSON FARMS CO.

On 5/3/2011, G.O. INVESTMENTS LLC, filed an Appropriation of a Water Right Permit No. 63-33507 with the Idaho Department of Water Resources (Department). Protest(s) were filed by TREE TOP RANCHES LP, & HAAS DITCH CO.

On 5/3/2011, G.O. INVESTMENTS LLC, filed an Appropriation of a Water Right Permit No. 63-33508 with the Idaho Department of Water Resources (Department). Protest(s) were filed by TREE TOP RANCHES LP.

On Wednesday, February 27, 2013, a pre-hearing conference was held and the parties requested that a formal hearing be held to resolve the protested matter.

The Department has scheduled the matters for consecutive hearings on Thursday, October 24, 2013, Friday, October 25, 2013, Monday, October 28, 2013, Tuesday, October 29, 2013, and Wednesday, October 30, 2013, beginning at 9:30 AM each day, at IDAHO DEPT OF WATER RESOURCES - STATE OFFICE, CONFERENCE ROOMS 602 C&D, 322 E FRONT ST, BOISE, ID, 83702.

If you plan to offer exhibits for the record at the hearing, note that Rule 606 of the department's Rules of Procedure requires that a copy be provided to the presiding officer.

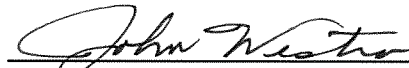
The presiding officer at the hearing will be Shelley Keen, whose mailing address is 322 E. Front St., 6th Floor, Boise, ID 83720-0098.

The hearing will be held in accordance with the provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, the adopted Rules of Procedure of the Department, IDAPA 37.01.01, and Water Appropriation Rules 40 and 45. A copy of the code/rules may be obtained from the Department's website, www.idwr.idaho.gov, or upon request.

All parties appearing in the matter will have the opportunity to present information, examine witnesses, and provide argument on issues related to the contested application.

The hearing will be conducted in a facility that satisfies the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in, or understand the conference, please notify the Department at least (10) days prior to the hearing. Inquiries about scheduling, hearing facilities, etc., should be directed to Megan Schaler, (208)334-2190.

Dated this 7th day of March, 2013.



John Westra
Regional Manager

ORDER AUTHORIZING DISCOVERY AND HEARING ORDER

IT IS HEREBY ORDERED that the parties may engage in discovery as follows:

1. General discovery can begin immediately and will end **October 3, 2013**.
 - . All written discovery requests shall be served on or before **September 26, 2013**. Answers to written discovery must be served on the requesting party within fourteen (14) days of service of the request. All responses to discovery shall be served on or before discovery end.
2. All depositions shall be complete on or before **October 3, 2013**.
3. On or before **August 29, 2013**, each party must disclose to all other parties, in writing, the identity of all expert witnesses that will or may testify at the hearing. Expert witness reports must be submitted to all parties on or before **September 26, 2013**.
4. Witness lists shall be submitted to all parties on or before **October 10, 2013**

IT IS FURTHER ORDERED that, on or before **October 10, 2013**, each party seeking to offer exhibits at the hearing must physically serve (in the actual physical possession of the person being served) on all other parties and the hearing officer copies of exhibits that may be offered at the hearing. Service of the proposed exhibits will be the method of providing copies of exhibits to the parties as required by Rule 606 of the Rules of Procedure. All parties shall review the proposed exhibits prior to the hearing, and come to the hearing prepared to discuss whether each of the proposed exhibits should be admitted into evidence.

A telephonic prehearing status conference will be held at 9:30 AM on **July 15, 2013**. Remaining contested applications will be identified. Parties will determine which hearings may be consolidated, hearing order, and address other hearing matters.

Dated this 7th day of March, 2013



For: Shelley Keen
Hearing Officer

PRE-HEARING CONFERENCE AND/OR HEARING PROCEDURE APPLICATION FOR PERMIT

ISSUES

Applications to appropriate the water of the state of Idaho are referred to as applications for permit, and are for the development of new water rights. Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit::

1. Will the proposed appropriation reduce the quantity of water under existing water rights?
2. Is the water supply sufficient for the purpose for which it is sought to be appropriated?
3. Was the application made in good faith or for delay or speculative purposes?
4. Does the applicant have sufficient financial resources with which to complete the proposed project?
5. Will the proposed use conflict with the local public interest, where local public interest is defined as interests that the people in the area directly affected by a proposed water use have in the effects of such use on the public water resource?
6. Will the proposed use be contrary to the conservation of water resources within the State of Idaho?
7. Will the proposed use adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, 3, 4, 6, and 7 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issues 4, if applicable, lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for these issues.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a pre-hearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues to avoid unnecessary proof, identify documents, schedule discovery, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement or make settlement offers, schedule hearings, establish procedure at hearing, and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement. When attending the conference, please bring a calendar with your schedule for the next two–six month period from the date of the pre-hearing conference for the purpose of scheduling a hearing. Parties will be expected to discuss their availability at the prehearing conference for the purpose of scheduling the hearing.

HEARING

A hearing may be conducted according to Sections 42-1701A(1) and (2), Idaho Code and the department's Rules of Procedure. Copies of Idaho Code and the department's rules are available upon request or by accessing the department's website at: www.idwr.idaho.gov. The department records formal hearings, and copies of a hearing recording are available upon request. There may be a charge for reproducing the recording.

The hearing will likely be conducted by a hearing officer appointed by the Director rather than by the Director himself. If so, the hearing officer will prepare a recommended or preliminary order. Parties can petition for reconsideration of a decision or file exceptions. A brief to support exceptions may request oral argument. Parties may seek judicial review of any final order issued by the Director.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please notify the department no later than ten (10) days prior to the hearing.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7 day of March, 2013, true and correct copies of the documents described below were served by placing a copy of the same with the United States Postal Service, certified mail with return receipt requested, postage prepaid and properly addressed to the following:

Document Served: Notice of Hearing
Hearing Procedure for Application for Permit
Discovery and Hearing Order Scheduling

GIVENS PURSLEY LLP
C/O MICHAEL C CREAMER
PO BOX 2720
BOISE, ID 83701-2720

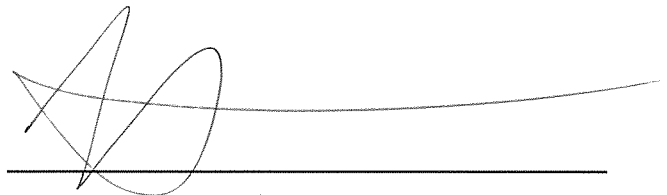
MOFFATT THOMAS
ATTN: ANDY WALDERA
PO BOX 829
BOISE ID 83701-0829

SPF WATER ENGINEERING LLC
C/O LORI GRAVES
300 E MALLARD DR STE 350
BOISE, ID 83706

BARKER ROSHOLT &
SIMPSON LLP
ATTN: ALBERT P BARKER
PO BOX 2139
BOISE ID 83701-2139

G.O. INVESTMENTS LLC
C/O HOFSTETTER LAW OFFICE
ATTN: DANA HOFSTETTER
608 W FRANKLIN ST
BOISE ID 83702

Email: Shelley Keen
Vicky Music

A handwritten signature in black ink, appearing to read 'Megan Schaler', is written over a horizontal line.

Megan Schaler
Office Specialist II

Prehearing Conference Notes

**Applications for Permit 63-32459, 63-33507, 63-32460, 63-33508,
63-32458, 63-32462**

From: J. Westra, R. Sommer

Date: 02/27/13

Location: Western Regional Office

Attendance: see attached roster

- Clients/Applicants were all represented by Attorneys for their contested applications. Dana Hofstetter attended the meeting via telephone.
- J. Westra discussed the 6 contested applications had been contested a number of years due to SRBA issues and other matters. It is time to get them processed.
- The group went through the application list handout. Attorneys felt the first 5 applications could possibly consolidated into 1 hearing given the issues. #63-32462 would need to be segregated as the issues are different. Several of the applications have pending settlement agreements.
- The group all agreed to blocking a week of time and having any hearing in a consecutive schedule as many of the applications are cross protested. It was agreed the week of the October 21st would be the hearing dates.
- It was agreed there would be a call-in status conference on July 15th to determine which application had not been settled and would be forwarded to a hearing.
- All agreed that discovery would start immediately
- Hearing notice will include deadlines for exhibits etc. etc.
- Do not include language about interrogatories—M. Creamer.
- Yes the Department will further process applications that have been settled Also continue with junior priority applications being held once these six are processed or hearing completed.
- Was a very productive conference, all parties were very cooperative/supportive.



IDAHO SECRETARY OF STATE

Viewing Business Entity

Ben Ysursa, Secretary of State

[\[New Search \]](#) [\[Back to Summary \]](#)

MALLARD FARMS LIMITED LIABILITY COMPANY

504 N PHILLIPPI ST
BOISE, ID 83706

Type of Business: LIMITED LIABILITY COMPANY

Status: ADMIN DISSOLVED, ADMIN DISSLV 10 Mar 2006

State of Origin: IDAHO

Date of 29 Dec 1995

Origination/Authorization:

Current Registered Agent: GERALD A WALLER
504 N PHILLIPPI ST
BOISE, ID 83706

File Number: W1874

Date of Last Annual Report: 13 Oct 2004

Original Filing:

Filed 29 Dec 1995 ARTICLES OF
ORGANIZATION

[\[Help Me Print/View TIFF \]](#)

[View Image \(PDF format\)](#) [View Image \(TIFF format\)](#)

Annual Reports:

[\[Help Me Print/View TIFF \]](#)

Report for year 2004	ANNUAL REPORT	View Image (PDF format) View Image (TIFF format)
Report for year 2003	ANNUAL REPORT	View Image (PDF format) View Image (TIFF format)
Report for year 2002	ANNUAL REPORT	View Image (PDF format) View Image (TIFF format)
Report for year 2001	ANNUAL REPORT	View Image (PDF format) View Image (TIFF format)
Report for year 2000	ANNUAL REPORT	View Image (PDF format) View Image (TIFF format)
Report for year 1999	ANNUAL REPORT	View Image (PDF format) View Image (TIFF format)
Report for year 1998	ANNUAL REPORT	View Image (PDF format) View Image (TIFF format)
Report for year 1997	ANNUAL REPORT	View Image (PDF format) View Image (TIFF format)
Report for year 1996	ANNUAL REPORT	View Image (PDF format) View Image (TIFF format)

[Idaho Secretary of State's Main Page](#)

[State of Idaho Home Page](#)

Comments, questions or suggestions can be emailed to: sosinfo@sos.idaho.gov



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

February 4, 2013

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

W & H LIMITED LIABILITY CO

Attn: Michael Creamer

Givens Pursley LLP

601 W Bannock ST

PO Box 2720

Boise ID 83701

G O Investments LLC

Attn: Dana Hofstetter

Hofstetter Law Office

608 W Franklin ST

Boise ID 83702

**RE: Water Permit #63-12601; Applications for Permit #63-32458 & #63-33463
W & H LIMITED LIABILITY CO**

Dear Parties:

This letter will serve as a follow up to my letter of January 30, 2013 regarding ownership assignments/changes for the above described permit and permit applications.

Attached are revised Department proof report copies for the above permit and applications that show the word LIMITED spelled out. The permit holder and applicant now read:

"W & H LIMITED LIABILITY CO"

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

Sincerely,

John Westra, Manager

Enclosure: proof reports for 63-12601, 63-32458, 63-32463

Cc: A Waldera.

IDAHO DEPARTMENT OF WATER RESOURCES

Water Application Report 63-33463

WATER RIGHT NUMBER: 63-33463

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	W & H PARTNERSHIP LLC DBA MALLARD FARMS PO BOX 7943 BOISE, ID 83707 (208)323-7767
Representative	SPF WATER ENGINEERING LLC C/O LORI GRAVES 300 E MALLARD DR STE 350 BOISE, ID 83706 (208)383-4140
Current Owner	W & H LIMITED LIABILITY CO PO BOX 7943 BOISE, ID 83707 (208) 323-7767

Priority Date: 12/22/2010

Status: Active

<u>Source</u>	<u>Tributary</u>
UNNAMED DRAIN	BOISE RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
WILDLIFE	01/01	to 12/31	4.600 CFS	
	<u>Total Diversion:</u>		4.600 CFS	

Location of Point(s) of Diversion

UNNAMED DRAIN	L4 (NW1/4NW1/4)	Sec. 27, Twp 05N, Rge 05W, B.M.
CANYON County		

Place of Use

WILDLIFE																			
Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
05N	05W	21	X	X	X	X	X								X				
			L 2	L 3	L 7	L 8	L 4								L 9				
05N	05W	22						X	X			X							
									L 4			L 3							

Dates and Other Information:

Application Received Date: 12/22/2010

Application Type: New Appropriation

Applicant Remarks: This application is being submitted as a backup to W & H claim 63-32910 for 4.6 cfs with 1/1/1970 priority date. In the event that 63-32910 is not approved, then this application will cover the diversion rate originally sought by the claim for wildlife use. In the event that 63-32910 is approved, then W & H will withdraw this application.

Time to Complete Works: 5

IDAHO DEPARTMENT OF WATER RESOURCES

Water Permit Report 63-12601

WATER RIGHT NUMBER: 63-12601

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	MALLARD FARMS PO BOX 7943 BOISE, ID 83707 (208)344-5784
Current Owner	W & H LIMITED LIABILITY CO PO BOX 7943 BOISE, ID 83707

Priority Date: 08/24/2000

Status: Active

<u>Source</u>	<u>Tributary</u>
WASTE WATER	BOISE RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
WILDLIFE STORAGE	01/01 to 12/31		20.00 AF
DIVERSION TO STORAGE	01/01 to 12/31	0.200 CFS	
	<u>Total Diversion:</u>	0.200 CFS	

Location of Point(s) of Diversion

WASTE WATER L4 (NE1/4NW1/4NW1/4) Sec. 27, Twp 05N, Rge 05W, B.M.
CANYON County

Place of Use

Twp Rge Sec			NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N	05W	21	X																
			L 8																
05N	05W	22						X	X										
									L 4										

Conditions of Approval:

1. X57 Approval of this permit does not grant any right-of-way or easement for use of a delivery system owned by person(s) other than the right owner.
2. 121 The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.
3. 01J Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.
4. 26A Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
5. R04 Use of water under this water right will be regulated by the watermaster of State Water District No. 63.

Dates and Other Information:

Permit Approved Date: 2/2/2001
Field Exam Date: 9/16/2011

IDAHO DEPARTMENT OF WATER RESOURCES

Water Application Report 63-32458

WATER RIGHT NUMBER: 63-32458

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	W & H PARTNERSHIP LLC DBA MALLARD FARMS PO BOX 7943 BOISE, ID 83707 (208)323-7767
Attorney	GIVENS PURSLEY LLP C/O MICHAEL C CREAMER PO BOX 2720 BOISE, ID 83701-2720 (208)388-1200
Representative	SPF WATER ENGINEERING LLC C/O LORI GRAVES 300 E MALLARD DR STE 350 BOISE, ID 83706 (208)383-4140
Current Owner	W & H LIMITED LIABILITY CO PO BOX 7943 BOISE, ID 83707 (208) 323-7767

Priority Date: 09/12/2006

Status: Active

<u>Source</u>	<u>Tributary</u>
UNNAMED DRAIN	BOISE RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
DIVERSION TO STORAGE	01/01	to 12/31	4.600 CFS	
WILDLIFE STORAGE	01/01	to 12/31		78.80 AF
<u>Total Diversion:</u>			4.600 CFS	

Location of Point(s) of Diversion

UNNAMED DRAIN L3 (NE1/4NW1/4) Sec. 27, Twp 05N, Rge 05W, B.M. CANYON County

Place of Use

WILDLIFE STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE					
05N	05W	21	X	X	X		X								X				
			L 8	L 8	L 7		L 6								L 9				
05N	05W	22						X	X										

Dates and Other Information:

Application Received Date: 1/12/2006

Protest Deadline Date: 11/22/2010

Number of Protests: 1

Application Type: New Appropriation

Applicant Remarks: Water from Meadows and Baldrige Drains flow back into the Boise River from ponds.

Time to Complete Works: 5