

RECEIVED

SEP 12 2006

WATER RESOURCES  
WESTERN REGIONSTATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
**APPLICATION FOR PERMIT**

To appropriate the public waters of the State of Idaho

AMENDED

5-29-07

1. Name of Applicant MALLARD FARMS DBA W&H PARTNERSHIP LLC Phone (208) 323-7767  
Mailing address 504 N. PHILLIPPI ST. BOISE, ID. 83706
2. Source of water supply UNNAMED DRAIN which is a tributary of BOISE, RIVER
3. Location of point of diversion is Township 05N Range 05W Sec. 27 in the NE 1/4, NW 1/4, Govt. Lot CANYON 27, B.M., County;  
additional points of diversion if any:

4. Water will be used for the following purposes: FILL & MAINTAIN PONDS FOR WILDLIFE USAGE & STORAGE

Amount 4.6 for WILDLIFE purposes from 11/16 to 2/28 (both dates inclusive)  
(cfs or acre-feet per annum)

Amount 4.6 for DIV TO STORAGE purposes from 11/16 to 2/28 (both dates inclusive)  
(cfs or acre-feet per annum)

Amount 78.8 for WILDLIFE STORAGE purposes from 1/1 to 12/31 (both dates inclusive)  
(cfs or acre-feet per annum)

Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
(cfs or acre-feet per annum)

Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
(cfs or acre-feet per annum)

Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
(cfs or acre-feet per annum)

5. Total quantity to be appropriated is (a) 4.6 and/or (b) 78.8  
cubic feet per second acre feet per annum

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source MEADOWS AND BALDRIDGE DRAIN.  
EXISTING DIVERSION STRUCTURE INTO EXISTING UPPER HAAS DITCH.

b. Height of storage dam NOT APPLICABLE feet; active reservoir capacity 78.8 acre-feet;  
total reservoir capacity 78.8 acre-feet

c. Proposed well diameter is \_\_\_\_\_ inches; proposed depth of well is \_\_\_\_\_ feet

d. Is ground water with a temperature of greater than 85°F being sought?

e. If well is already drilled, when? \_\_\_\_\_; Drilling firm \_\_\_\_\_;

Well was drilled for (well owner) \_\_\_\_\_; Drilling Permit No. \_\_\_\_\_

7. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year)

8. Description of proposed uses (if irrigation only, go to item 9):

a. Hydropower; show total feet of head and proposed capacity in kW.

b. Stockwatering; list number and kind of livestock.

c. Municipal; show name of municipality.

d. Domestic; show number of households.

e. Other; describe fully. FILL AND MAINTAIN PONDS FOR WILDLIFE - OVERFLOW RETURNS TO BOISE RIVER

Description of place of use: MALLARD FARMS, 26620 LEE LANE, PARMA, ID.

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

| 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  | X  | X  |    | X  |    |    |    |    |    |    |    | X  |    |    |    |        |
|     |     | 22  |    |    |    |    |    | X  | X  |    |    |    |    |    |    |    |    |    |        |
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|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |

total number of acres to be irrigated

0. Describe any other water rights used for the same purposes as described above. 63-02-611 & 63-00-202

1. a. Who owns the property at the point of diversion? UNKOWN

b. Who owns the land to be irrigated or place of use? W&H PARTNERSHIP LLC

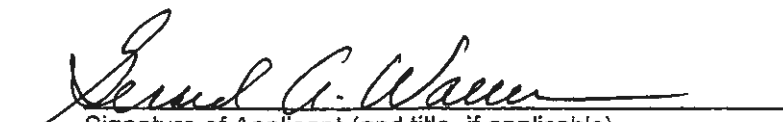
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing:

2. Remarks: WATER FROM MEADOWS AND BALDRIDGE DRAINS FLOW BACK INTO THE BOISE RIVER FROM PONDS.

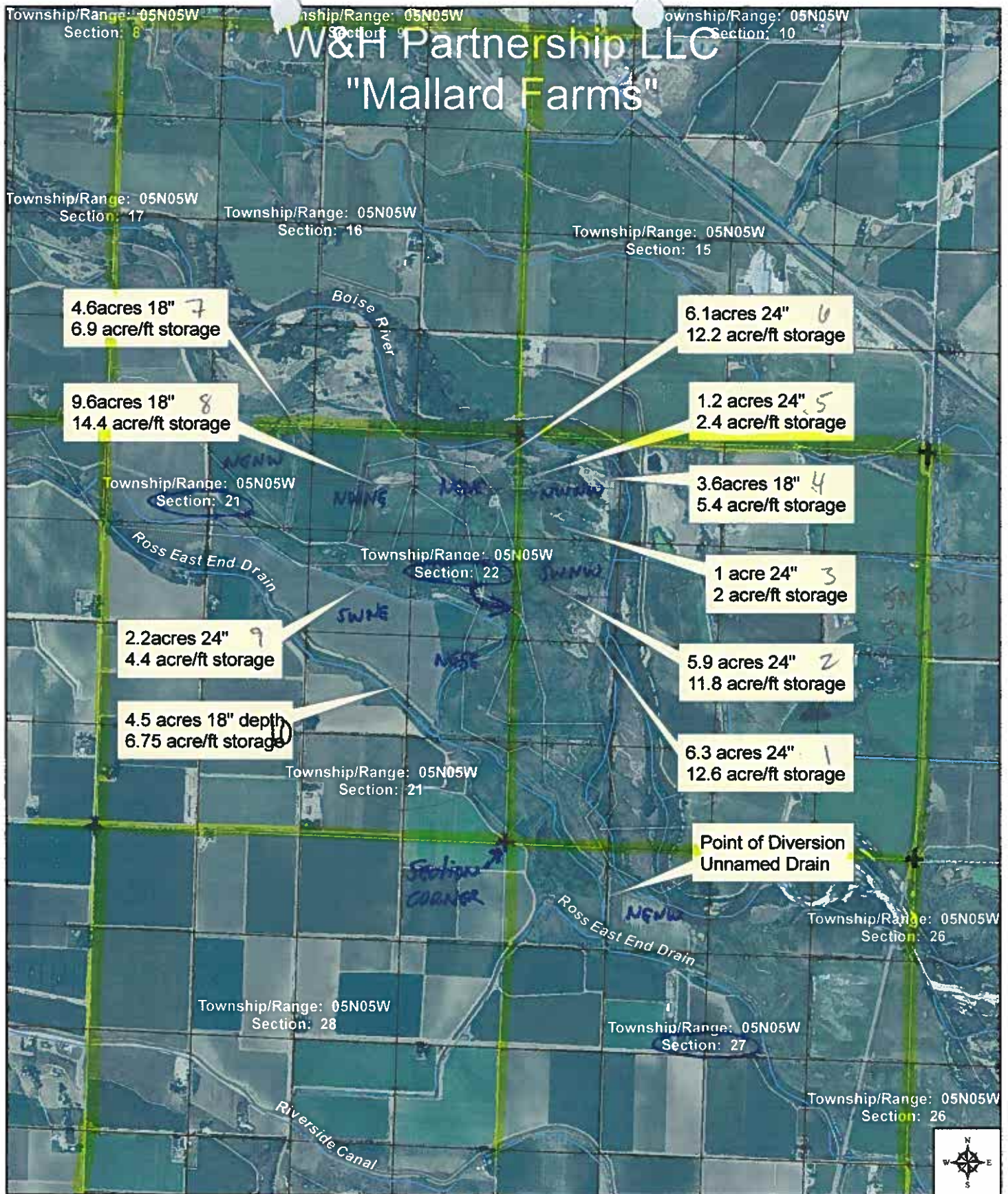
3. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

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

SEE ORIGINAL & FEE  
INFO, CORRECT PAYMENT 1/12/06

  
Signature of Applicant (and title, if applicable)  
GERALD A. WALLER, GENERAL PARTNER

Received by g Date 9/12/06 Time \_\_\_\_\_ Preliminary check by SL  
Fee \$ \_\_\_\_\_ Received by \_\_\_\_\_ # \_\_\_\_\_ Date \_\_\_\_\_  
Publication prepared by DB Date 10/28/2010 Published in: PRESS TRIBUNE  
Publication approved \_\_\_\_\_ DATE: \_\_\_\_\_ Date 7 NOV. 4 & 11, 2010



## Location Map

Township 5N, Range 5W, Sections 21 & 22

Canyon County, Idaho

Wetlands Northwest LLC

Office: 208-375-5373

Fax: 208-375-2552

Email: [gary.howard@wetlandsnorthwest.com](mailto:gary.howard@wetlandsnorthwest.com)

MAY 29 2007

WATER RESOURCES  
WESTERN REGION

63-32458



STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
**APPLICATION FOR PERMIT**

To appropriate the public waters of the State of Idaho

RECEIVED

JAN 12 2006

DEPARTMENT OF  
WATER RESOURCES

1. Name of Applicant MALLARD FARMS DBA W&H PATNERSHIP LLC Phone (208) 323-7767  
Mailing address 504 N. PHILLIPPI ST. BOISE, ID. 83706
2. Source of water supply MEADOW & BALDRIDGE DRAIN which is a tributary of BOISE RIVER
3. Location of point of diversion is Township 05N Range 05W Sec. 21-22 in the \_\_\_\_\_ 1/4, \_\_\_\_\_ 1/4, \_\_\_\_\_ 1/4, Govt. Lot \_\_\_\_\_, B.M., CANYON 27 County; additional points of diversion if any: POD IN 27
4. Water will be used for the following purposes: FILL & MAINTAIN PONDS FOR WILDLIFE USAGE & STORAGE  
 Amount 4.6 for FILL AND MAINTAIN PONDS purposes from 1-1 to 12-31 (both dates inclusive)  
 (cfs or acre-feet per annum) \_\_\_\_\_  
 Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
 (cfs or acre-feet per annum) \_\_\_\_\_  
 Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
 (cfs or acre-feet per annum) \_\_\_\_\_  
 Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
 (cfs or acre-feet per annum) \_\_\_\_\_  
 Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
 (cfs or acre-feet per annum) \_\_\_\_\_  
 Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
 (cfs or acre-feet per annum) \_\_\_\_\_
5. Total quantity to be appropriated is (a) 4.6 and/or (b) \_\_\_\_\_  
 cubic feet per second acre feet per annum
6. Proposed diverting works:
  - a. Describe type and size of devices used to divert water from the source MEADOWS AND BALDRIDGE DRAIN.  
EXISTING DIVERSION STRUCTURE INTO EXISTING UPPER HAAS DITCH.
  - b. Height of storage dam EXISTING VARIES feet; active reservoir capacity 19.3 \* acre-feet;  
 total reservoir capacity 19.3 \* acre-feet
  - c. Proposed well diameter is \_\_\_\_\_ inches; proposed depth of well is \_\_\_\_\_ feet
  - d. Is ground water with a temperature of greater than 85°F being sought?
  - e. If well is already drilled, when? \_\_\_\_\_; Drilling firm \_\_\_\_\_;  
 Well was drilled for (well owner) \_\_\_\_\_; Drilling Permit No. \_\_\_\_\_
7. Time required for completion of works and application of water to proposed beneficial use is \_\_\_\_\_ years (minimum 1 year)
8. Description of proposed uses (if irrigation only, go to item 9):
  - a. Hydropower; show total feet of head and proposed capacity in kW.
  - b. Stockwatering; list number and kind of livestock.
  - c. Municipal; show name of municipality.
  - d. Domestic; show number of households.
  - e. Other; describe fully. FILL AND MAINTAIN PONDS FOR WILDLIFE - OVERFLOW RETURNS TO BOISE RIVER.

*Superseded*

RECEIVED

JAN 17 2006

WATER RESOURCES  
WESTERN REGION

Description of place of use: MALLARD FARMS, 26620 LEE LANE, PARMA, ID.

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

| TWP | RGE | SEC  | NE |    |       |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | TOTALS |
|-----|-----|------|----|----|-------|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|     |     |      | NE | NW | SW    | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
|     |     | S-21 | NE | NE | PONDS |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     | S-22 | NW | NW | PONDS |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     | S-22 | SW | NW | PONDS |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |      |    |    |       |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
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|     |     |      |    |    |       |    |    |    |    |    |    |    |    |    |    |    |    |    |        |

total number of acres to be irrigated, NA.

0. Describe any other water rights used for the same purposes as described above. 63-02-611 & 63-00-202

1. a. Who owns the property at the point of diversion? UNKNOWN

b. Who owns the land to be irrigated or place of use? W&H PARTNERSHIP LLC

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing:

2. Remarks: WATER FROM MEADOWS AND BALDRIDGE DRAINS FLOW BACK INTO THE BOISE RIVER FROM PONDS.

MAP ATTACHED, SEC 27, TOWNSHIP 05N, RANGE 05W

3. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

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

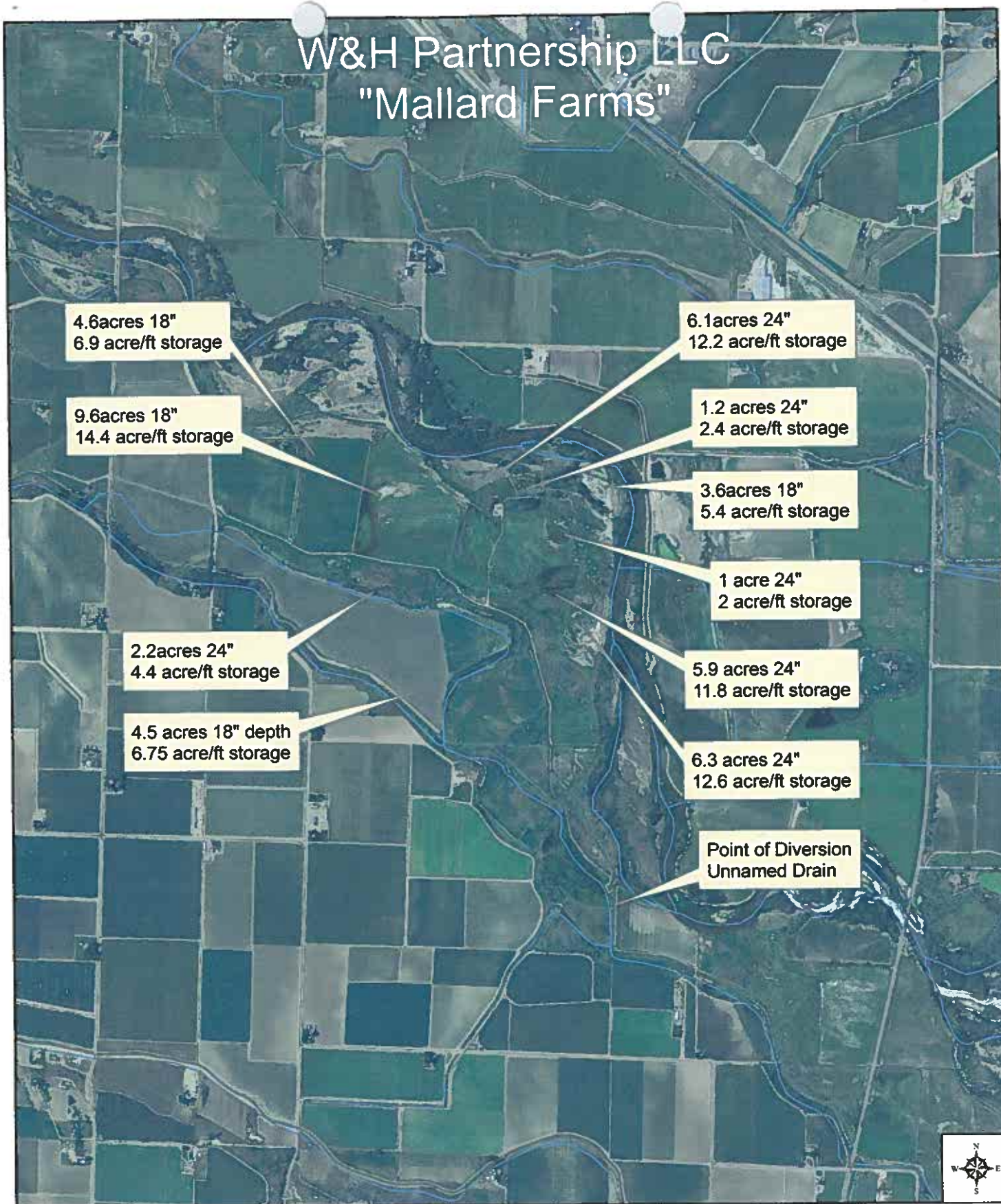
ALLAN D. HUMPHRIES, GENERAL PARTNER

Signature of Applicant (and title, if applicable)

GERALD A. WALLER, GENERAL PARTNER

Received by \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_ Preliminary check by \_\_\_\_\_  
 Fee \$ 410.00 Receipted by AM # C080044 Date 1-12-06  
 Publication prepared by \_\_\_\_\_ Date \_\_\_\_\_ Published in \_\_\_\_\_  
 Publication approved \_\_\_\_\_ Date \_\_\_\_\_

# W&H Partnership LLC "Mallard Farms"



Location Map  
Township 5N, Range 5W, Sections 21 & 22

Canyon County, Idaho

Wetlands Northwest LLC  
Office: 208-375-5373  
Fax: 208-375-2552  
Email: [gary.howard@wetlandsnorthwest.com](mailto:gary.howard@wetlandsnorthwest.com)

63-32458



Township/Range: 05N05W  
Section: 8

Township/Range: 05N05W  
Section: 9

Township/Range: 05N05W  
Section: 10

Township/Range: 05N05W  
Section: 17

Township/Range: 05N05W  
Section: 16

Township/Range: 05N05W  
Section: 15

Township/Range: 05N05W  
Section: 14

Township/Range: 05N05W  
Section: 17

Township/Range: 05N05W  
Section: 21

Township/Range: 05N05W  
Section: 22

Township/Range: 05N05W  
Section: 20

Township/Range: 05N05W  
Section: 21

Township/Range: 05N05W  
Section: 26

Township/Range: 05N05W  
Section: 29

Township/Range: 05N05W  
Section: 28

Township/Range: 05N05W  
Section: 27

Township/Range: 05N05W  
Section: 26

Township/Range: 05N05W  
Section: 32

Township/Range: 05N05W  
Section: 33

Township/Range: 05N05W  
Section: 34

Township/Range: 05N05W  
Section: 35

Area of use

Area of use

Area of use

Area of use

Area of use

Area of use

Area of use

Point of Diversion



#### GENERAL NOTES:

1. The attached NRCS construction and materials specifications are part of this project and shall govern the installation of this project. Construction spec. 356, 587D, 430II

2. This project shall be constructed to lines and grades as shown on the drawings and detailed in the construction specifications.

3. Pond can be filled and emptied at will for maintenance.

#### PERMITS:

The NRCS does not assume any responsibility for the application and/or securing of any necessary permits for the construction and operation of this facility. All permits are the responsibility of the owners.

#### UTILITIES:

It is the landowner's/operator's responsibility to locate and protect all public utilities (underground or overhead) within the work areas.

#### REVIEW AND ACCEPTANCE:

I have reviewed the plans and specifications and agree to construct this project to the best of my ability in accordance with them.

#### REVISIONS:

SIGNED: \_\_\_\_\_

DATE: \_\_\_\_\_

PREPARED BY: WETLANDS NORTHWEST LLC

REVIEWED BY: \_\_\_\_\_

APPROVED BY: \_\_\_\_\_

CHECKED BY: \_\_\_\_\_

## Location Map

Canyon County, Idaho

Wetlands Northwest LLC

Office: 208-938-4473

Fax: 208-938-4742

Email: [gary.howard@wetlandsnorthwest.com](mailto:gary.howard@wetlandsnorthwest.com)

## **Buffington, Denise**

---

**From:** Buffington, Denise  
**Sent:** Thursday, October 28, 2010 11:19 AM  
**To:** Press Tribune  
**Subject:** LEGAL NOTICE  
**Attachments:** Canyon County Ads - Cover Letter.Doc; Canyon County Ads - COMBINED.Doc

Attached please find (1) legal notice being submitted for publication. Please contact me immediately if you have any questions, or if you are not able to publish the ad on the dates requested.

Thank you in advance,

*Denise Buffington  
Administrative Assistant I  
Dept of Water Resources  
Western Region  
(208) 334-2190*

October 28, 2010

**LEGAL NOTICE DEPARTMENT**

PRESS-TRIBUNE  
PO BOX 9399  
NAMPA, ID 83652

RE: Transfer No. 76590  
Water Right No(s). 63-32507, 63-32509

RE: Application For Permit No(s).: 63-32458

Dear Legal Notice Department:

Please publish the enclosed legal notice 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 11/22/2010. Your cooperation is appreciated.

Sincerely,

Denise Buffington  
Administrative Assistant

Enclosure(s)

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

**63-32458**

W & H PARTNERSHIP LLC

DBA MALLARD FARMS

PO BOX 7943

BOISE, ID 83707

Point of Diversion L3(NENW) S27 T05N R05W CANYON County Source UNNAMED DRAIN Tributary BOISE RIVER

Use: WILDLIFE STORAGE 01/01 to 12/31 78.8 AF

Use: DIVERSION TO STORAGE 01/01 to 12/31 4.6 CFS

Total Diversion: 4.6 CFS

Date Filed: 1/12/2006

Place Of Use: WILDLIFE STORAGE

T05N R05W S21 L8(NENE) L8(NWNE) L7(SWNE) L6(NENW) L9(NESE)

T05N R05W S22 NWNW SWNW

Ten wildlife ponds will be filled and maintained from a source locally known as Meadows & Baldrige Drain. Water will exit the site and flow to the Boise River in NENE Section 21.

#### **PROPOSED CHANGE OF WATER RIGHTS**

Terry and Debbie Schreiner of 5909 Diamond Ridge Way, Nampa, ID 83686 filed Application No. 76590 to transfer 2 water rights with 1962 and 1972 priority dates from ground water totaling 1.12 cfs. The purpose of the transfer is to split a pro rata share of the water rights for applicants' lot and add a point of diversion for applicants' well. The applicants' pro rata share will be 0.02 cfs for 2 acres of irrigation. Water will be used at the current place of use northeast of the intersection of 12<sup>th</sup> Ave. and Bowmont Rd, about 8 miles south of Nampa, ID.

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Idaho Code § 42-211 / § 42-222. For specific details regarding the application, please contact the Idaho Department of Water Resources (IDWR) Western Region at 208-334-2190 or visit [www.idwr.idaho.gov](http://www.idwr.idaho.gov) with details provided under "new water right applications." Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before November 22, 2010. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

Published on 11/4 & 11/11/2010

## **Buffington, Denise**

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**From:** Buffington, Denise  
**Sent:** Thursday, October 28, 2010 2:30 PM  
**To:** Rex Barrie, WD-63  
**Subject:** Comment Letter for 63-32458  
**Attachments:** Comment Letter to WD 63.Doc; 63-32458 APP.pdf

Please review the attached information and comment as necessary. If you have any questions regarding the attached information, please feel free to contact our office.

Thank You,

*Denise Buffington  
Administrative Assistant I  
Dept of Water Resources  
Western Region  
(208) 334-2190*

October 28, 2010

REX BARRIE  
WATER DISTRICT #63  
PO BOX 767  
10769 W STATE ST  
STAR, ID 83669-0767

RE: Application for Permit: 63-32458

Dear Watermaster:

A copy of the above referenced application is enclosed. Please review the application, then complete the enclosed recommendation form and return it to this office within 21 days of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the watermaster, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR's regional offices can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Sincerely,

Denise Buffington  
Administrative Assistant

Enclosure(s)

**Buffington, Denise**

---

**From:** Buffington, Denise  
**Sent:** Thursday, October 28, 2010 2:31 PM  
**To:** Rick Ward, Fish & Game  
**Subject:** Comment Letters  
**Attachments:** Comment Letter to F & G.Doc; 63-32458 APP.pdf; 65-23436 APP.pdf

Please review the attached information and comment as necessary. If you have any questions regarding the attached information, please feel free to contact our office.

Thank You,

*Denise Buffington  
Administrative Assistant I  
Dept of Water Resources  
Western Region  
(208) 334-2190*

October 28, 2010

STATE OF IDAHO  
DEPT OF FISH & GAME  
ATTN: RICK WARD  
3101 S POWERLINE RD  
NAMPA, ID 83686

RE: Application for Permit: 63-32458 & 65-23436

Dear Mr. Ward:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right application. A copy of the application is enclosed for your reference. Please review the application, complete the enclosed recommendation form, and submit it to this office within 21 days.

The Department can publish notice of the application as soon as the initial review is completed. Therefore, your prompt response to this request is appreciated. If your agency desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication.

Please contact this office if you have any questions regarding the application.

Sincerely,

Denise Buffington  
Administrative Assistant

Enclosure(s)

**Lester, Steve**

---

**From:** Lester, Steve  
**Sent:** Monday, October 25, 2010 11:20 AM  
**To:** 'lgraves@spfwater.com'  
**Subject:** W & H Partnership/Mallard Farms Application 63-32458  
  
**Contacts:** Lori Graves

Lori:

As we discussed earlier today, the return flow point at the river is identified in the application.

The application will be advertised in the first half of next month. One other piece of information is needed while processing continues. Information about ownership and access for the point of diversion remains incomplete. The original and amended applications list "unknown" for ownership and no explanation for access.

Research indicates the same diversion is described in Permit 63-12601 for other wildlife ponds for this applicant. The original application for that permit listed the point of diversion ownership as unknown without any explanation of access. The amended application for 63-12601 stated the diversion point was owned by the applicant.

The file information is inconsistent and unclear in this regard.

Current tax lot ownership shows the land owner as either G.O. Investments LLC (Obendorf) or KL Farms LLC.

Please provide information by December 1, 2010 confirming ownership at the point of diversion. If the owner is not the applicant, please explain the applicant's legal access to that point allowing use of the diversion from 11/16 through 2/28. Thank you for your help with this.

Steve

*Request for info e diversion point owner/access.*

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES**CHANGE IN ADDRESS**This form can be used to notify the Department of a change in  
address of the owners of record for the listed water rights.  
(Please print or type)

RECEIVED

JUL 08 2009

WATER RESOURCES  
WESTERN REGION

*PD 10-15-08 10-15-08*

[ ] Water Right Number(s): 63-2611A, 63-2611B, 63-32418, 63-32458 *APPL.*  
63-15173, 63-12601 - permit  
PD

[ ] Name(s): Mallard Farms  
W & H Partnership, LLC

[ ] Old Mailing Address: 504 N. Phillippi  
Boise, ID 83706

[ ] New Mailing Address: PO Box 7943  
Boise, ID 83707

Telephone Number: ( 208 ) 323 - 7767

Email: jaw@rmph.net

[ ] Signature(s) of Owner(s) *James C. Wheeler*

(Include your title if on behalf of company or organization)

Date: 7-2-2009

Send a signed original to your closest regional office:

IDWR Northern Region  
7600 Mineral Dr., Suite 100  
Coeur d'Alene, ID 83815  
(208) 762-2800

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

IDWR Eastern Region  
900 N. Skyline Dr., Suite A  
Idaho Falls, ID 83402-1718  
(208) 525-7161

IDWR Southern Region  
1341 Fillmore St., Suite 200  
Twin Falls, ID 83301-3380  
(208) 736-3033

*✓ D'BASE UPDATED C  
63-32458*



RECEIVED

NOV 14 2007

WATER RESOURCES  
WESTERN REGION

November 13, 2007

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

Re: Application for Permit No. 63-32458

Dear Steve,

W & H, LLC, aka Mallard Farms, has hired SPF Water Engineering, LLC as their consultant. Enclosed is a letter from Gerald Waller authorizing SPF to represent them with regards to Application for Permit No. 63-32458. Jerry listed both Terry Scanlan and me as their SPF representatives. For IDWR correspondence, I will be the primary contact.

Also enclosed are copies of comment letters sent to the parties listed in your information request letter dated March 2, 2007. Please let me know if you have any questions. Thanks Steve.

Sincerely,

Lori Graves  
Water Rights Specialist  
[www.spfwater.com](http://www.spfwater.com)

Enclosures

Cc: W & H, LLC

File No. 645.0010

RECEIVED

NOV 14 2007

WATER RESOURCES  
WESTERN REGION

W&H LLC  
504 N. Phillippi St.  
Boise ID 83706

November 12, 2007

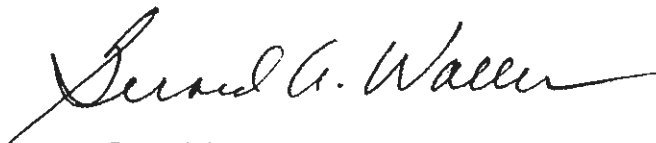
Mr. Steve Lester  
State of Idaho  
Department of Water Resources

Re: Permit No. 63-32458, Winter Water Rights

Dear Mr. Lester,

This letter is to inform you that Gary Howard is no longer a representative of W&H LLC and has been replaced by SPF Water Engineering. Contacts that now represent W&H LLC are Terry Scanlan, Principal Engineer and Lori Graves, Water Rights Specialist. Any and all water information is now under their supervision and rights.

Best regards,



Gerald A. Waller  
Member

*Revokes power of attorney; consultant status  
e Gary Howard - SEE doc received 4/3/07 - and  
appoints SPF as consultant -JL*

**SPF**Water Engineering, LLC  
water resource consultants

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WATER RESOURCES  
WESTERN REGION

November 13, 2007

Canyon County Commissioners  
1115 Albany  
Caldwell, ID 83605

Re: Application for Water Right Permit No. 63-32458

Dear Commissioners,

The Idaho Dept. of Water Resources (IDWR) has asked our client to solicit comments from Canyon County Commissioners concerning the above-captioned *Application for Permit* to develop a water right from an Unnamed Drain tributary to the Boise River. 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.  
Thank you for your consideration of this matter.

Sincerely,

Lori Graves  
Water Rights Specialist

Enclosures

cc: Steve Lester

SPF Job No.: 645.0010

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

11/13/2007

WATER RIGHT NO. 63-32458

| Owner Type    | Name and Address                                                                                |
|---------------|-------------------------------------------------------------------------------------------------|
| Current Owner | MALLARD FARMS<br>DBA W & H PARTNERSHIP LLC<br>504 N PHILLIP<br>BOISE, ID 83706<br>(208)323-7767 |

Priority Date: 09/12/2006  
Status: Active

| Source        | Tributary   |
|---------------|-------------|
| UNNAMED DRAIN | BOISE RIVER |

| Beneficial Use       | From  | To    | Diversion Rate | Volume   |
|----------------------|-------|-------|----------------|----------|
| WILDLIFE             | 01/01 | 12/31 | 4.6 CFS        |          |
| WILDLIFE STORAGE     | 01/01 | 12/31 |                | 78.8 AFA |
| DIVERSION TO STORAGE | 01/01 | 12/31 | 4.6 CFS        |          |
| Total Diversion      |       |       | 4.6 CFS        |          |

Location of Point(s) of Diversion:

UNNAMED DRAIN|NENW Lt 3|Sec. 27|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   | 21      | 2   | NENE  | 3     | NWNE |       | 7     | SWNE |       | 8     | SENE |       |       |
|          |       |         | 4   | NENW  | 6     | SENW |       |       |      |       |       |      |       |       |
|          |       |         | 9   | NESE  |       | NWSE |       |       |      |       |       |      |       |       |
|          |       | 22      |     | NWNW  | 4     | SWNW |       |       |      |       |       |      |       |       |
|          |       |         | 3   | NWSW  |       |      |       |       |      |       |       |      |       |       |

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   | 21      | 2   | NENE  | 3     | NWNE |       | 7     | SWNE |       | 8     | SENE |       |       |
|          |       |         | 4   | NENW  | 6     | SENW |       |       |      |       |       |      |       |       |
|          |       |         | 9   | NESE  |       | NWSE |       |       |      |       |       |      |       |       |
|          |       | 22      |     | NWNW  | 4     | SWNW |       |       |      |       |       |      |       |       |
|          |       |         | 3   | NWSW  |       |      |       |       |      |       |       |      |       |       |

Dates:

Date Application Received: 01/12/2006

Date Application Denied:

Last Date of Beneficial Use:

Extension End Date:

Protest Deadline Date:

Number of Protests: 0

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Other Information:

State or Federal:

Owner Name Connector:

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Application Type: New Appropriation

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

Other Water Rights:

Time to Complete Works: 5

Transfer Affected Description:

Transfer Affected Contracts:

Old Transfer Number:

Transfer Reason:

Transfer Return Flows:

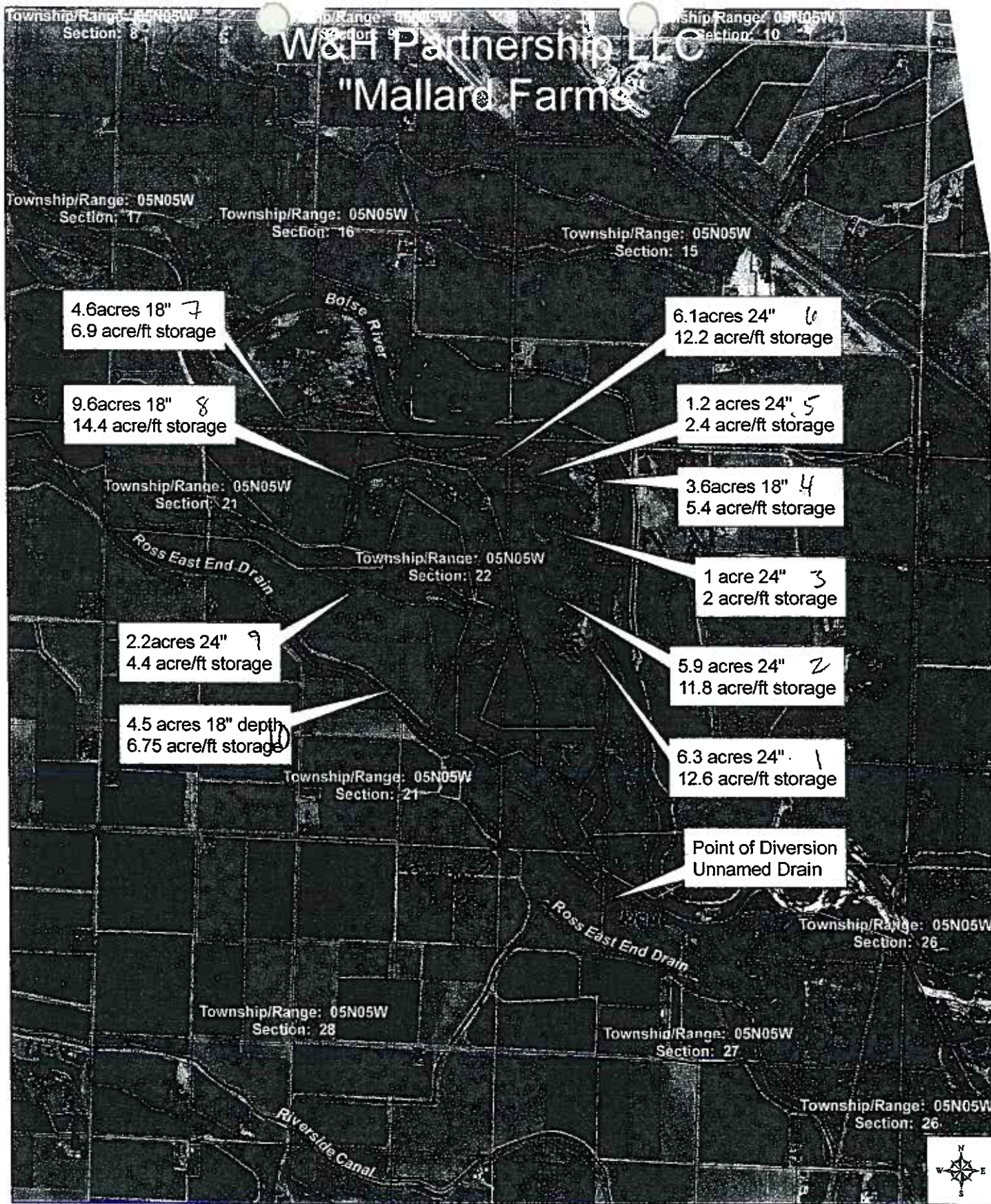
Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False



## Location Map

Township 5N, Range 5W, Sections 21 & 22

Canyon County, Idaho

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WATER RESOURCES

Wetlands Northwest LLC

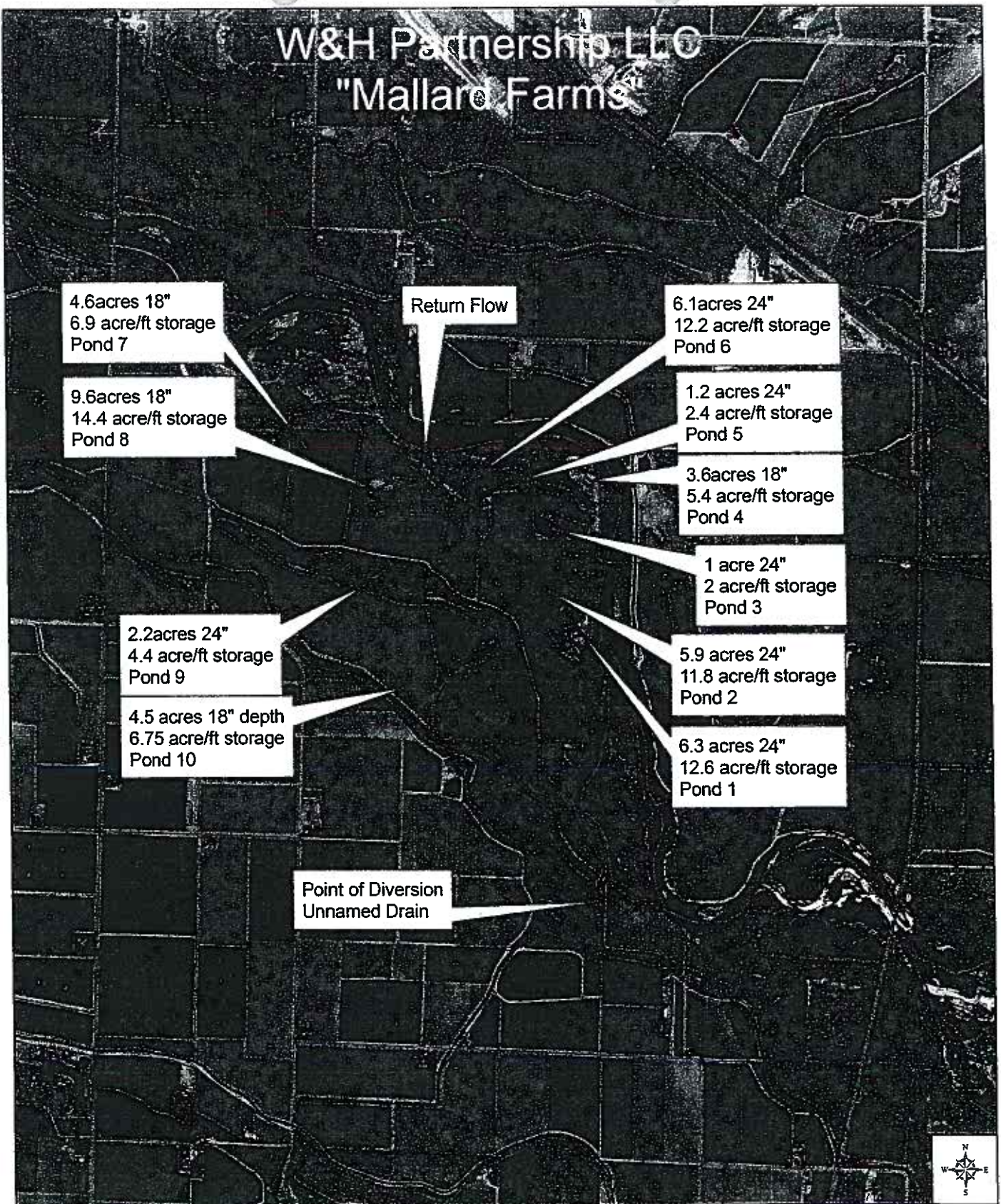
Office: 208-375-5373

Fax: 208-375-2552

Email: gary.howard@wetlandsnorthwest.com

63-32458 map 1 of 2

# W&H Partnership LLC "Mallard Farms"



Location Map

JUN 11 2007

Wetlands Northwest LLC

Office: 208-375-5373

Fax: 208-375-2552

Township 5N, Range 5W, Sections 21 & 22

WATER RESOURCES  
WESTERN REGION

Email: gary.howard@wetlandsnorthwest.com

Canyon County, Idaho

identical to map #1 but typed pond #'s & → 63-32458 map 292  
added return flow point AT RIVER

**SPF**Water Engineering, LLC  
water resource consultants

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WATER RESOURCES  
WESTERN REGION

November 13, 2007

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

Re: Application for Water Right Permit No. 63-32458

Dear Greg,

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 Boise River. 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.  
Thank you for your consideration of this matter.

Sincerely,

Lori Graves  
Water Rights Specialist

Enclosures

cc: Steve Lester

SPF Job No.: 645.0010

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

11/13/2007

WATER RIGHT NO. 63-32458

| Owner Type    | Name and Address                                                                                 |
|---------------|--------------------------------------------------------------------------------------------------|
| Current Owner | MALLARD FARMS<br>DBA W & H PARTNERSHIP LLC<br>504 N PHILLIPI<br>BOISE, ID 83706<br>(208)323-7767 |

Priority Date: 09/12/2006  
Status: Active

| Source        | Tributary   |
|---------------|-------------|
| UNNAMED DRAIN | BOISE RIVER |

| Beneficial Use       | From  | To    | Diversion Rate | Volume   |
|----------------------|-------|-------|----------------|----------|
| WILDLIFE             | 01/01 | 12/31 | 4.6 CFS        |          |
| WILDLIFE STORAGE     | 01/01 | 12/31 |                | 78.8 AFA |
| DIVERSION TO STORAGE | 01/01 | 12/31 | 4.6 CFS        |          |
| Total Diversion      |       |       | 4.6 CFS        |          |

Location of Point(s) of Diversion:

UNNAMED DRAIN|NENW L1 3|Sec. 27|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   | 21      | 2   | NENE  | 3     | NWNE | 7     | SWNE  | 8   | SENE  |       |     |       |       |
|          |       |         | 4   | NENW  | 6     | SENE |       |       |     |       |       |     |       |       |
|          |       |         | 9   | NESE  |       | NWSE |       |       |     |       |       |     |       |       |
|          |       | 22      |     | NWNW  | 4     | SWNW |       |       |     |       |       |     |       |       |
|          |       |         |     | NWSW  |       |      |       |       |     |       |       |     |       |       |
|          |       |         |     |       |       |      |       |       |     |       |       |     |       |       |
|          |       |         |     |       |       |      |       |       |     |       |       |     |       |       |
|          |       |         |     |       |       |      |       |       |     |       |       |     |       |       |
|          |       |         |     |       |       |      |       |       |     |       |       |     |       |       |
|          |       |         |     |       |       |      |       |       |     |       |       |     |       |       |
|          |       |         |     |       |       |      |       |       |     |       |       |     |       |       |

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   | 21      | 2   | NENE  | 3     | NWNE | 7     | SWNE  | 8   | SENE  |       |     |       |       |
|          |       |         | 4   | NENW  | 6     | SENE |       |       |     |       |       |     |       |       |
|          |       |         | 9   | NESE  |       | NWSE |       |       |     |       |       |     |       |       |
|          |       | 22      |     | NWNW  | 4     | SWNW |       |       |     |       |       |     |       |       |
|          |       |         |     | NWSW  |       |      |       |       |     |       |       |     |       |       |
|          |       |         |     |       |       |      |       |       |     |       |       |     |       |       |
|          |       |         |     |       |       |      |       |       |     |       |       |     |       |       |
|          |       |         |     |       |       |      |       |       |     |       |       |     |       |       |
|          |       |         |     |       |       |      |       |       |     |       |       |     |       |       |
|          |       |         |     |       |       |      |       |       |     |       |       |     |       |       |
|          |       |         |     |       |       |      |       |       |     |       |       |     |       |       |

Dates:

Date Application Received: 01/12/2006

Date Application Denied:

Last Date of Beneficial Use:

Extension End Date:

Protest Deadline Date:

Number of Protests: 0

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Other Information:

State or Federal:

Owner Name Connector:

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Application Type: New Appropriation

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

Other Water Rights:

Time to Complete Works: 5

Transfer Affected Description:

Transfer Affected Contracts:

Old Transfer Number:

Transfer Reason:

Transfer Return Flows:

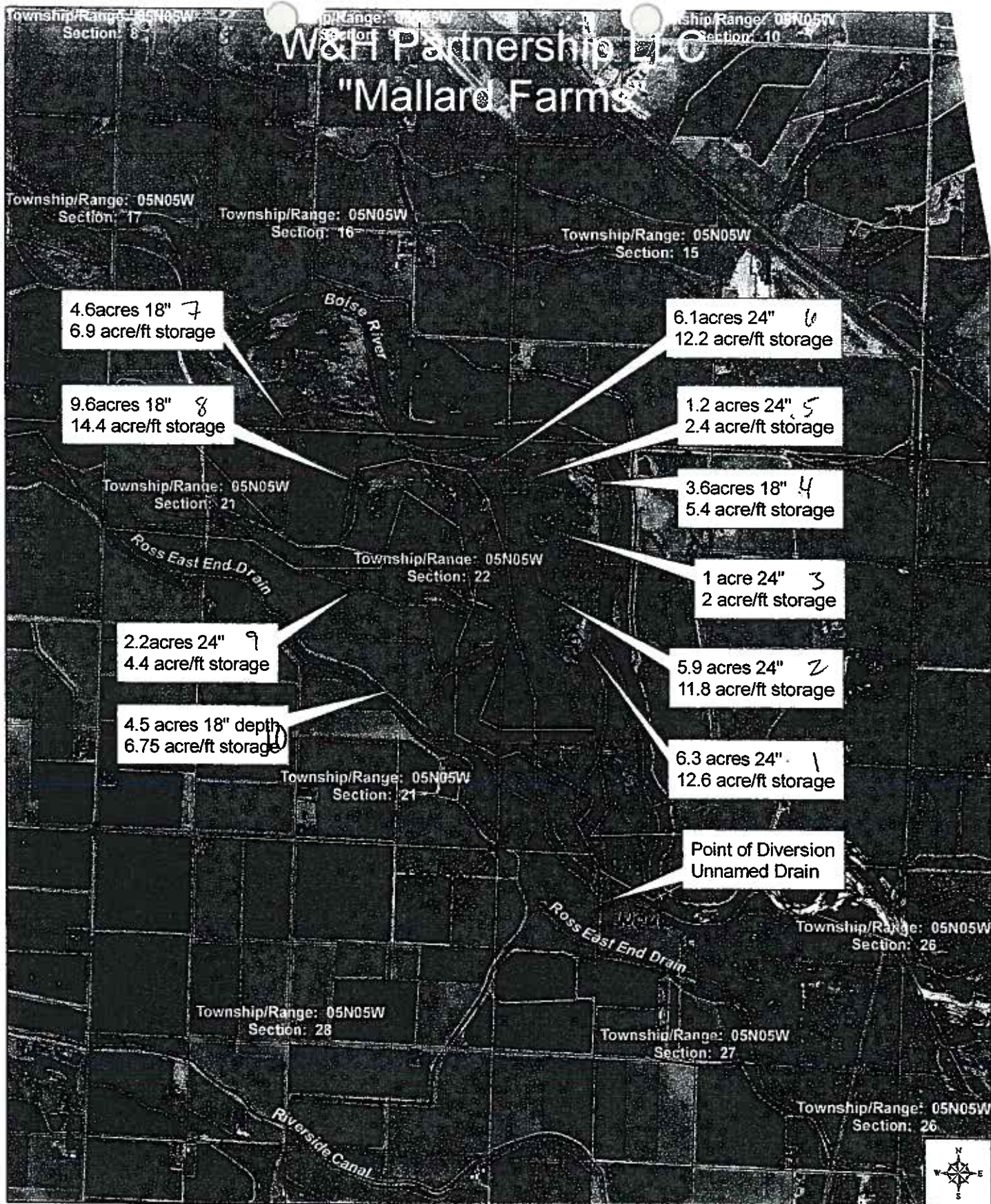
Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False



## Location Map

Township 5N, Range 5W, Sections 21 & 22

RECEIVED

Canyon County, Idaho

MAY 29 2007

WATER RESOURCES

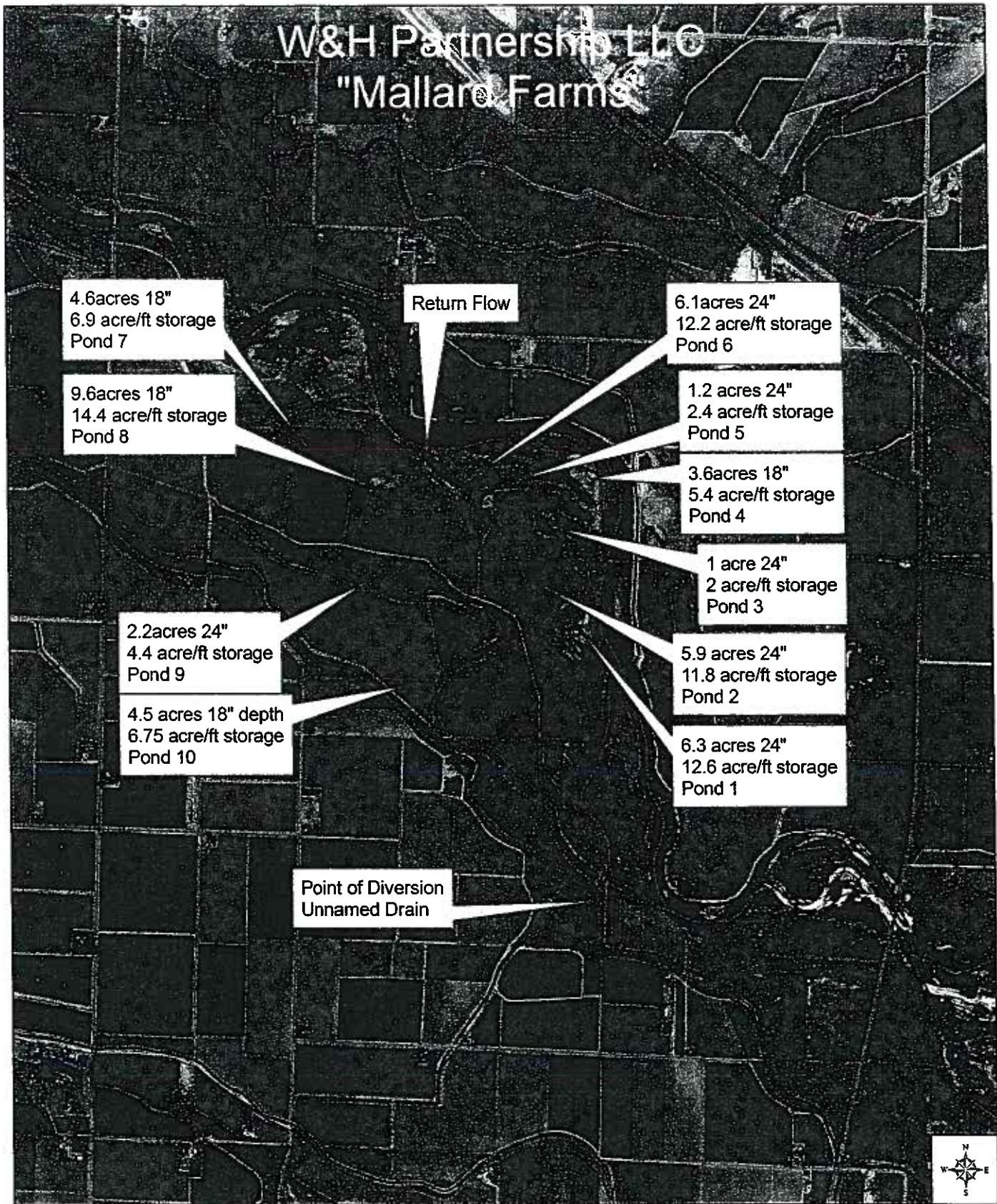
Wetlands Northwest LLC

Office: 208-375-5373

Fax: 208-375-2552

Email: [gary.howard@wetlandsnorthwest.com](mailto:gary.howard@wetlandsnorthwest.com)

63-32458 map 172



Location Map

JUN 11 2007

Wetlands Northwest LLC

Office: 208-375-5373

Fax: 208-375-2552

Township 5N, Range 5W, Sections 21 & 22

WATER RESOURCES  
WESTERN REGION

Email: gary.howard@wetlandsnorthwest.com

Canyon County, Idaho

identical to map #1 but typed pond #'s  
added return flow point AT RIVER

63-32458 map 2 of 2



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WATER RESOURCES  
WESTERN REGION

November 13, 2007

Riverside Drain District  
PO Box 1080  
Parma, ID 83660

Re: Application for Water Right Permit No. 63-32458

To Whom it May Concern,

The Idaho Dept. of Water Resources (IDWR) has asked our client to solicit comments from Riverside Drain District concerning the above-captioned *Application for Permit* to develop a water right from an Unnamed Drain tributary to the Boise River. 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.  
Thank you for your consideration of this matter.

Sincerely,

Lori Graves  
Water Rights Specialist

Enclosures

cc: Steve Lester

SPF Job No.: 645.0010

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

11/13/2007

WATER RIGHT NO. 63-32458

| Owner Type    | Name and Address                                                                                |
|---------------|-------------------------------------------------------------------------------------------------|
| Current Owner | MALLARD FARMS<br>DBA W & H PARTNERSHIP LLC<br>504 N PHILLIP<br>BOISE, ID 83706<br>(208)323-7767 |

Priority Date: 09/12/2006  
Status: Active

| Source        | Tributary   |
|---------------|-------------|
| UNNAMED DRAIN | BOISE RIVER |

| Beneficial Use       | From  | To    | Diversion Rate | Volume   |
|----------------------|-------|-------|----------------|----------|
| WILDLIFE             | 01/01 | 12/31 | 4.6 CFS        |          |
| WILDLIFE STORAGE     | 01/01 | 12/31 |                | 78.8 AFA |
| DIVERSION TO STORAGE | 01/01 | 12/31 | 4.6 CFS        |          |
| Total Diversion      |       |       | 4.6 CFS        |          |

Location of Point(s) of Diversion:

UNNAMED DRAIN|NENW L1 3|Sec. 27|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   | 21      | 2   | NENE  | 3     | NWNE | 7     | SWNE  | 8   | SENE  |       |     |       |       |
|          |       |         | 4   | NENW  | 6     | SENW |       |       |     |       |       |     |       |       |
|          |       |         | 9   | NESE  |       | NWSE |       |       |     |       |       |     |       |       |
|          |       | 22      |     | NWNW  | 4     | SWNW |       |       |     |       |       |     |       |       |
|          |       |         |     |       |       |      |       |       |     |       |       |     |       |       |
|          |       |         | 3   | NWSW  |       |      |       |       |     |       |       |     |       |       |

Place of Use Legal Description: WILDLIFE STORAGE CANYON County

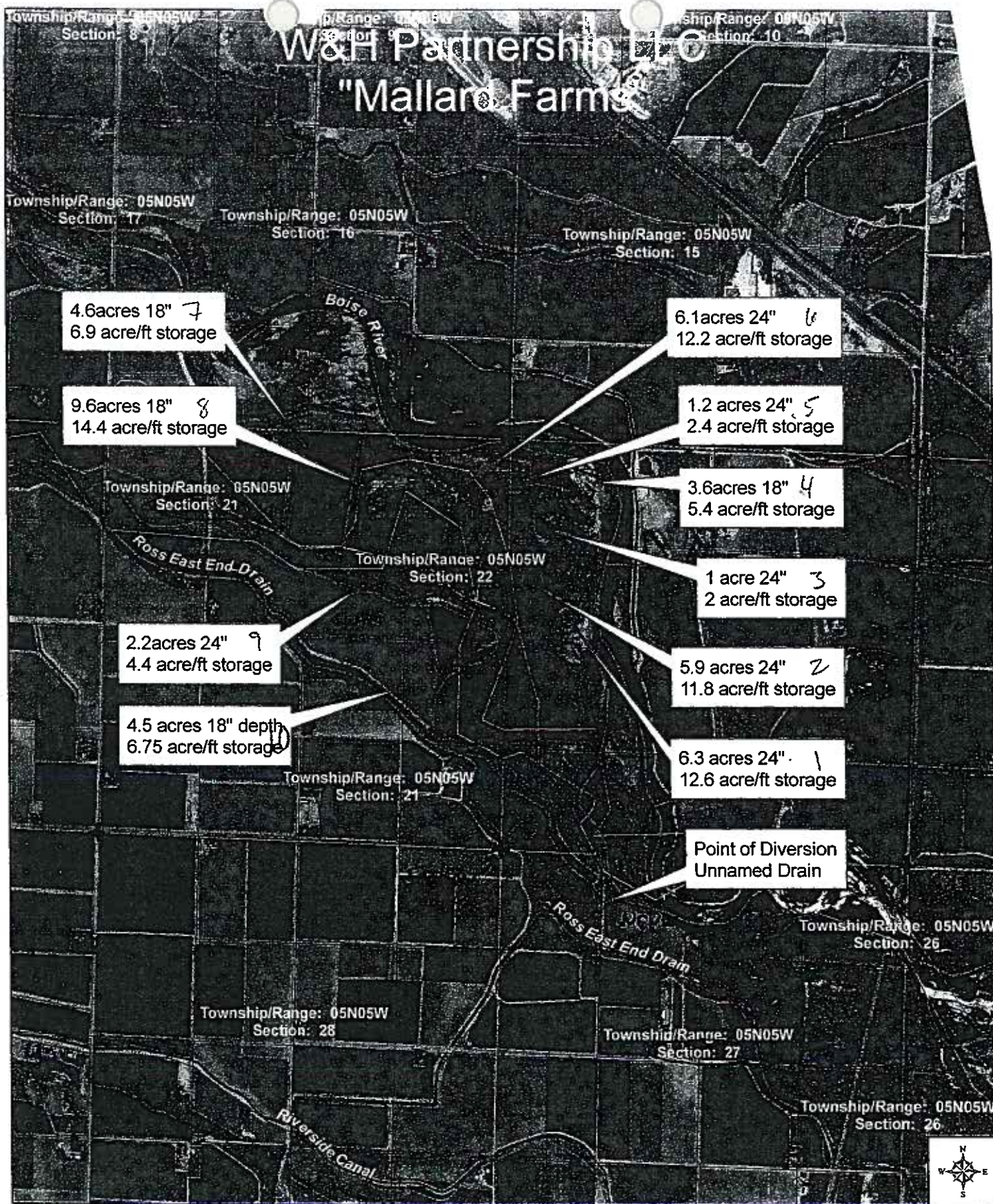
| Township | Range | Section | Lot | Tract | Acres | Lot  | Tract | Acres | Lot | Tract | Acres | Lot | Tract | Acres |
|----------|-------|---------|-----|-------|-------|------|-------|-------|-----|-------|-------|-----|-------|-------|
| 05N      | 05W   | 21      | 2   | NENE  | 3     | NWNE | 7     | SWNE  | 8   | SENE  |       |     |       |       |
|          |       |         | 4   | NENW  | 6     | SENW |       |       |     |       |       |     |       |       |
|          |       |         | 9   | NESE  |       | NWSE |       |       |     |       |       |     |       |       |
|          |       | 22      |     | NWNW  | 4     | SWNW |       |       |     |       |       |     |       |       |
|          |       |         |     |       |       |      |       |       |     |       |       |     |       |       |
|          |       |         | 3   | NWSW  |       |      |       |       |     |       |       |     |       |       |

## Dates:

Date Application Received: 01/12/2006  
Date Application Denied:  
Last Date of Beneficial Use:  
Extension End Date:  
Protest Deadline Date:  
Number of Protests: 0  
Enlargement Use Priority Date:  
Enlargement Statute Priority Date:

## Other Information:

State or Federal:  
Owner Name Connector:  
Water District Number:  
Generic Max Rate per Acre:  
Generic Max Volume per Acre:  
Application Type: New Appropriation  
Applicant Remarks: Water from Meadows and Baldridge Drains flow back into the Boise River from ponds.  
Other Water Rights:  
Time to Complete Works: 5  
Transfer Affected Description:  
Transfer Affected Contracts:  
Old Transfer Number:  
Transfer Reason:  
Transfer Return Flows:  
Swan Falls Trust or Nontrust:  
Swan Falls Dismissed:  
DLE Act Number:  
Cary Act Number:  
Mitigation Plan: False



## Location Map

Township 5N, Range 5W, Sections 21 & 22

Canyon County, Idaho

RECEIVED

MAY 29 2007

WATER RESOURCES

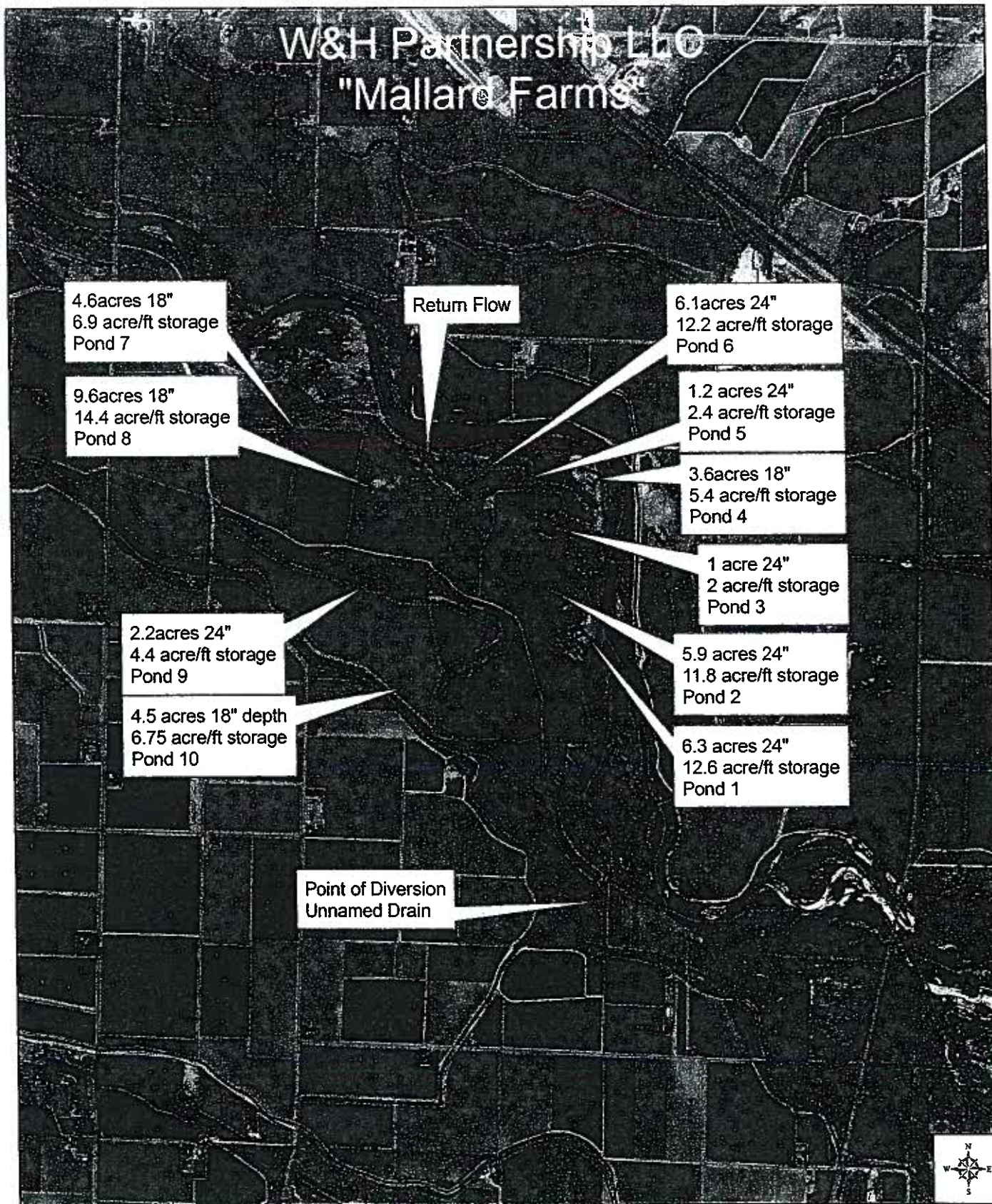
Wetlands Northwest LLC

Office: 208-375-5373

Fax: 208-375-2552

Email: [gary.howard@wetlandsnorthwest.com](mailto:gary.howard@wetlandsnorthwest.com)

63-32458 map 1 of 2



Location Map

JUN 11 2007

Wetlands Northwest LLC

Office: 208-375-5373

Fax: 208-375-2552

Township 5N, Range 5W, Sections 21 & 22

WATER RESOURCES  
WESTERN REGION

Email: gary.howard@wetlandsnorthwest.com

Canyon County, Idaho

*identical to map #1 but typed pond #'s & added return flow point at river* → 63-32458 map 2 of 2

## **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

☒ Office Visit

☐ Telephone

☐ Meeting

TO 63-32458  
FROM JL  
DATE 10/11/07  
RE Appl. INFO/CONCERNS

Jeray Waller } W+H PARTNERS  
Alan Humphries }  
Gary Howard, consultant

3/2/07 Request c Add'l info - mostly answered  
c 5/29 Amended appl. plus info received 6/11/07.

Rec'd  
11/14/07

☒ Still has not provided CC's of amendment letters  
applicant sent - will provide asap.

Meanwhile, appears ok for legal notice.

**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

June 01, 2007

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JUN 11 2007

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
WESTERN REGION, 2735 AIRPORT WAY, BOISE, IDAHO 83705-5082

WATER RESOURCES  
WESTERN REGION

Re: Application for Permit No. 63-32458

Dear Steve Lester:

This letter is a response to the requested information regarding the application for Permit No. 63-32458 for Mallard Farms wildlife project. Enclosed in the letter are Rule 40, Item ci, Item ciii, Item dii, Item ei, and Item g.

Rule 40, Item ci- No other users are known, point of diversion is marked on location map.

Rule 40, Item ciii- The return flow location is marked on the location map. The return flow from all of the proposed wetlands flow to an established return location to the Boise River, no additional work on the stream bank is required. The irrigation ditch used to supply the proposed wetlands is used and maintained exclusively by Mallard Farms and has no impact on other water rights. No modification of the irrigation ditch is needed.

Rule 40, Item dii- Historical use of the drain ditch for existing water rights on Mallard Farms, has provided more than the requested amount of water. The drain ditch under full usage spills large amounts of excess water into the Boise River at the point of diversion.

Rule 40, Item ei- Copies of the recorded easements are attached.

Rule 40, Item g- Comment letters are attached. \*

Thank you for your help with the application for permit process. Please contact me if you have any questions or further requests.

Sincerely,

Gary Howard

\* attorney did not have letter available for Gary for  
6/11/07 Appl. & IOWA - will fax request  
-SL

**Mallard Farms**  
**Pond Locations and Descriptions**

**Pond 1**

Township/Range: 05N05W  
Section: 22  
Q/Q: SW1/4NW1/4  
Area: 6.3 acres  
Depth: 24"  
Capacity: 12.6 acre/ft

**Pond 2**

Township/Range: 05N05W  
Section: 22  
Q/Q: SW1/4NW1/4  
Area: 5.9 acres  
Depth: 24"  
Capacity: 11.8 acre/ft

**Pond 3**

Township/Range: 05N05W  
Section: 22  
Q/Q: NW1/4NW1/4  
Area: 1 acre  
Depth: 24"  
Capacity: 2 acre/ft

**Pond 4**

Township/Range: 05N05W  
Section: 22  
Q/Q: NW1/4NW1/4  
Area: 3.6 acres  
Depth: 18"  
Capacity: 5.4 acre/ft

**Pond 5**

Township/Range: 05N05W  
Section: 22  
Q/Q: NW1/4NW1/4  
Area: 1.2 acres  
Depth: 24"  
Capacity: 12.2 acre/ft

Pond 6

Township/Range: 05N05W  
Section: 21  
Q/Q: NE1/4NE1/4  
Area: 6.1 acres  
Depth: 24"  
Capacity: 12.2 acre/ft

Pond 7

Township/Range: 05N05W  
Section: 21  
Q/Q: NE1/4NW1/4  
Area: 4.6 acres  
Depth: 18"  
Capacity: 14.4 acre/ft

Pond 8

Township/Range: 05N05W  
Section: 21  
Q/Q: NW1/4NE1/4  
Area: 9.6 acres  
Depth: 18"  
Capacity: 14.4 acre/ft

Pond 9

Township/Range: 05N05W  
Section: 21  
Q/Q: SW1/4NE1/4  
Area: 2.2 acres  
Depth: 24"  
Capacity: 4.4 acre/ft

Pond 10

Township/Range: 05N05W  
Section: 21  
Q/Q: NE1/4SE1/4  
Area: 4.5 acres  
Depth: 18"  
Capacity: 6.75 acre/ft

Point of Diversion

Township/Range: 05N05W  
Section: 27  
Q/Q: NE1/4NW1/4

10. An Easement for the purpose shown below and rights incidental thereto as reserved in a document.
- |           |                                                              |
|-----------|--------------------------------------------------------------|
| Purpose:  | Ditches, canals and right of way for irrigation and drainage |
| Recorded: | April 15, 1950 as Instrument No. 361693                      |
| Affects:  | Parcel I                                                     |
11. Rights of the State of Idaho in and to that portion of the land, if any, lying in the bed or former bed of the Boise River.
12. ~~Any prohibition or limitation on the use, occupancy, or improvements of the~~ land resulting from the rights of the public or riparian owners to use any waters which may cover the land or to use any portion of the land which is now or may formerly have been covered by water.
13. The right of use, control, or regulation by the United States of America in its exercise of the power over commerce, navigation and fishery.
14. The Canyon County Assessor may object to the legal description, which contains calls without distances.

**NOTE: PURSUANT TO THE STATE OF IDAHO INSURANCE REGULATIONS, A CANCELLATION FEE IS TO BE CHARGED ON ALL CANCELLED ORDERS, UNLESS OTHERWISE ADVISED. ORDERS WILL BE CONSIDERED CANCELLED SIX MONTHS AFTER THE EFFECTIVE DATE ON THE COMMITMENT. THE AMOUNT OF THE FEE ASSESSED SHALL BE IN ACCORDANCE WITH OUR RATE FILING WITH THE IDAHO DEPARTMENT OF INSURANCE.**

**NOTE: Many companies as well as governmental agencies over which the Company has no control are often needed to provide critical information or services to consummate real estate transactions. These companies or agencies may not be prepared for "Year 2000" and related data processing errors (commonly known as "Y2K") in their computer systems. The purpose of this note is to advise you as our customer that if the companies or governmental agencies involved in this transaction are not Y2K compliant, there may be delays in consummating your transaction. Please consider this potential issue as part of your planning for closing this transaction. This Note is for information purposes only and it will not be carried over into any title policy and will not be construed in any way to modify or limit any policy which is issued pursuant to this Commitment/Report."**

The following page is a copy of the Canyon County Treasurer's records and is for your information only and not within the insuring provision of the commitment or policy.

ATTACHED TO AND MADE A PART OF STEWART  
TITLE GUARANTY COMPANY POLICY NO.: O-9941-266236

Order No.: ST-88002856

10. EASEMENT, AND THE TERMS AND CONDITIONS THEREOF:  
In Favor of CLINTON ALLEN AND BERTHA ALLEN  
Purpose PERPETUAL EASEMENT AND RIGHT OF WAY TO BUILD,  
CONSTRUCT, RECONSTRUCT AND REPAIR LEVEES,  
EMBANKMENTS, REVETMENTS, CANALS  
Recorded SEPTEMBER 4, 1954  
Instrument No. 413676
11. AN EASEMENT OVER SAID LAND IN FAVOR OF IDAHO POWER COMPANY FOR  
ELECTRIC TRANSMISSION, DISTRIBUTION AND TELEPHONE LINES AND  
CIRCUITS AND INCIDENTAL PURPOSES AS SET FORTH IN AN INSTRUMENT  
RECORDED JUNE 27, 1975 AS INSTRUMENT NO. 753466 OFFICIAL  
RECORDS.
12. EASEMENT, AND THE TERMS AND CONDITIONS THEREOF:  
In Favor of CANYON COUNTY  
Purpose PUBLIC ROAD  
Recorded JULY 18, 1893  
Book/Page No. 11/226
13. RIGHT-OF-WAY FOR EAST END DRAIN AND THE RIGHTS OF ACCESS THERETO  
FOR MAINTENANCE OF SAID DRAIN.
14. RIGHTS OF WAY FOR DITCHES, TUNNELS AND TELEPHONE AND  
TRANSMISSION LINES CONSTRUCTED BY AUTHORITY OF THE UNITED STATES  
AS GRANTED TO THE UNITED STATES UNDER PROVISION OF SECTION  
58-604, IDAHO CODE 1947. (ALL DEEDS AFTER 1905)
15. RIGHT, TITLE AND INTEREST OF MALLARD FARMS AS DISCLOSED BY IDAHO  
POWER EASEMENT RECORDED JUNE 27, 1975 AS INSTRUMENT NO. 753466.
16. RESERVATIONS AS CONTAINED IN WARRANTY DEED RECORDED APRIL 11,  
1950 AS INSTRUMENT NO. 361693, REGARDING DITCHES, CANALS, AND  
RIGHTS OF WAY THEREFORE FOR BENEFIT OF ADJOINING LANDS.
17. ANY CLAIM ARISING FROM THE DIFFERENCE IN THE MEAN HIGH WATER  
LINE OF THE BOISE RIVER AND THE MEANDER LINE AS SHOWN BY THE  
GOVERNMENT SURVEY.
18. ANY QUESTION THAT MAY ARISE DUE TO THE SHIFTING AND CHANGING IN  
THE COURSE OF THE BOISE RIVER.
19. ANY RIGHTS, INTERESTS OR EASEMENTS IN FAVOR OF THE STATE OF  
IDAHO, THE UNITED STATES OF AMERICA, OR THE PUBLIC WHICH EXIST  
OR ARE CLAIMED TO EXIST IN AND OVER THE WATERS, BED AND BANKS OF  
THE BOISE RIVER.
20. A MORTGAGE AND THE TERMS AND CONDITIONS THEREOF:  
Stated Amount : \$10.00  
Mortgagor : ROCKY MOUNTAIN HUTS, INC., AN IDAHO  
CORPORATION

Continued on next page

**STEWART TITLE**  
GUARANTY COMPANY

MAY 29 2007

WATER RESOURCES  
WESTERN REGION

## Enhancement of Structural and Functional Wetland Components

Riparian areas generally make up between one and two percent of the landscape, yet these communities provide significantly more habitat for plant and wildlife species than all other type of vegetative communities combined (Almand and Krohn 1979).

Maintenance and improvement of riparian and wetland communities alike increases the overall biodiversity of an area, provides primary movement corridors for both aquatic and terrestrial species, and creates habitat (cover, forage, nesting, breeding, water, space, etc.) for a variety of plant and wildlife species (Sharitz and Gibbons 1988). However, for these types of communities to function properly and provide adequate habitat, a consistent source of water must be available, such is the case at Mallard Farms.

Specific goals of the project include, but are not limited to:

- Restoring and enhance native, endemic wetland plant species and diversity;
- Controlling/reducing established invasive and noxious weed species, while limiting the establishment and spread of new populations;
- Increasing the amount and diversity of habitat for wildlife including: nesting and feeding sites for water fowl, migratory birds and raptors, open water wetlands for amphibians and macro invertebrates, as well as developing travel corridors, forage, cover and water for large and small mammal species.

Habitat enhancement efforts will emphasize reestablishment of limited or missing native vegetative components with active planting of native and endemic species, including rushes, sedges, grasses, and riparian associated forbs, shrubs and trees. In order to reestablish a diverse wetland community, age class of native and desired plants will vary from young to established, enhancing the overall available habitat for a multitude of animals. The use of live mature plants in addition to seeding will likely increase the potential success rate of the project significantly. In addition, live mature plants will provide instant functional and structural components to the wetland system, i.e. soil stability, hydrologic function, and nutrient processing.

Rather than depending on continual herbicide applications, intense control of invasive and noxious weeds will regenerate mechanical and biological controls in the plant community. Phasing out chemical herbicides from the biological system will also protect aquatic and amphibian species by increasing water quality.

As the structural and functional components are re-established, the site will be more resistant to invasive and noxious weed species, and more resilient to human and natural disturbances. Restoring the functionality of the site and increasing/improving habitat for plant and wildlife species will also be achieved through restoration and enhancement of the wetland community.

Almand, J and Krohn, W. 1979. The position of the Bureau of Land Management on the protection and management of riparian ecosystems. Pp. 359-361 in Strategies.

for protection and management of floodplain wetlands and other riparian ecosystems.  
U.S. Dep. Agric., For. Serv. Gen. Tech. Rep. WO-12.

Sharitz, R. and Gibbons, J. 1988. Freshwater wetlands and wildlife symposium.  
Savannah River Ecol. Lab. Symp. Ser.

RECEIVED

MAY 29 2007

WATER RESOURCES  
WESTERN REGION

# CONVERSATION MEMORANDUM

Date 5/29/07

File 63-32458

NAME OF PARTY GARY HOWARD, Consultant  
EMPLOYEE JZ

RE: AMENDED APPL

GH has power of Attorney for Applicant -  
per 4/3/07 meeting & document.

Provided new map today & amended the Appl:

- 1) correct pld
- 2) correct pln
- 3) no dams for excavated pond sites
- 4) provided partial response to 3/2/07 letter  
requesting info: Rule 40, item d

Remaining info re 3/2/07 request is due by  
6/2/07 ... Friday ... so due Monday 6/4/07

He will work on that info & provide 6/1/07 @  
10 Am. Appt.

# APPLICATION 63-32458

## MEETING NOTES

Gerald Waller, manager

Gary Howard, consultant

Power of attorney, Gary can sign for applicant

Gary is contact consultant (add to d'base)

Proposes 1 system, interconnected ponds

Same P/D but different ponds than Permit 63-12601

Will provide better map:

- add pls lines ✓ *pending\**
- label return flow sites ✓
- use to confirm P/D & P/U & complete the appl form ✓

Dams *n/a*, excavated pond sites

Will list P/D landowner & explain legal access to site

Working on additional info requested in 3/2/07 letter (note latest amended appl already listed pond specs for total capacity) *} pending\**

Follow up appointment 4/13/07 with Gary –complete missing/incorrect info on latest amended version

✓ Some info provided 5/29/07 appt

\* for 6/1/07 Appt.

—JR 4/3/07

RECEIVED

APR 03 2007

WATER RESOURCES  
WESTERN REGION

LIMITED POWER OF ATTORNEY

I, Gerald A. Waller of Boise, Ada County, State of Idaho, individually and as the authorized manager of W & H Limited Liability Company, an Idaho limited liability company, and as the authorize manager of Mallard Farms Limited Liability Company, an Idaho limited liability company, (collectively the "Grantors") and designate and appoint Gary Howard of Boise, Ada County, State of Idaho, as Grantors attorney in fact and agent (the "Agent") to act in Grantors' name and for Grantors' benefit. Grantors grant to Agent full power and authority to do everything necessary in exercising any of the powers herein granted as fully as Grantor might or could do if personally present and/or represented and fully competent, hereby ratifying and confirming all that Agent shall lawfully do or cause to be done by virtue of this power of attorney and the powers herein granted.

1. Specific Powers. Agent shall have and may exercise each of the following specific powers. Agent shall have the power and authority to conduct or participate in any lawful business with the Idaho Department of Water Resources regarding the Mallard Farms/Gerald Waller's Wildlife Water Rights.

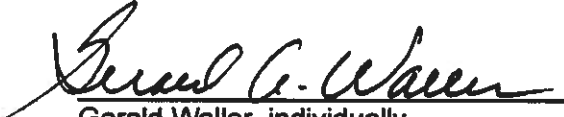
2. Revocability. This Limited Power of Attorney is revocable, provided, that insofar as any governmental agency, bank, trust company, insurance company, transfer agent, or other person shall rely upon this power, this power may be revoked only by a notice in writing executed by Grantors or Agent and delivered to such person or institution.

3. Interpretation. This instrument is to be construed and interpreted as a limited power of attorney. The enumeration of powers herein is intended to be limited and restricted to the specific powers defined in Section 1. This instrument is executed and delivered in the State of Idaho, and the laws of the State of Idaho shall govern all questions as to the validity of this power and the construction of its provisions.

4. Third-Party Reliance. Third parties may rely upon the representations of Agent as to all matters relating to any power granted to Agent, and no person who may act in reliance upon the representations of Agent or the authority granted to Agent shall incur any liability to me or my estate as a result of permitting Agent to exercise any power.

5. Expiration of Powers. This Limited Power of Attorney shall expire on December 31, 2007.

IN WITNESS WHEREOF, I have executed this Limited Power of Attorney this 8<sup>TH</sup> day of March, 2007.

  
Gerald Waller, individually

W & H Limited Liability Company

By:   
Gerald Waller, Manager



*The Wetlands Group, LLC*

*Wetlands Mitigation Banking*

*Wetlands Consulting Services*

*Design and Construction*

*Gary Howard*

*Senior Project Manager*

*Mobile 208-573-4866*

*gary.howard@wetlandsnorthwest.com*

Office: 208-375-5373

Fax: 208-375-2552

63-32458

POWER OF ATTORNEY

Consultant

-R

Mallard Farms Limited Liability  
Company

By: Gerald A. Waller  
Gerald Waller, Manager

Signed, sealed, and delivered in the presence of:

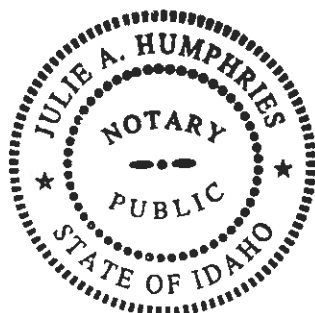
Witness: Carolyn L. Browning

Witness: Donna Hendrix

STATE OF IDAHO                    )  
                                              ) ss.  
County of Ada                    )

On this 8<sup>th</sup> day of MARCH, 2007, before me,  
JULIE A. HUMPHRIES, a notary public in and for said state, and personally  
appeared Gerald Waller, signing individually and for W & H Limited Liability Company, and for  
Mallard Farms Limited Liability Company, and CAROLYN L. BROWNING as a witness, and  
DONNA HENDRIX as a witness, known to me to be the persons whose  
names are subscribed to the within instrument, and acknowledged to me that they executed the  
same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the  
day and year in this certificate first above written.



Julie A. Humphries  
Notary Public for Idaho  
Residing at Boise Idaho  
Commission Expires Aug. 2010

## 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

PHONE: (208) 334-2190 FAX: (208) 334-2348 [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

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

March 2, 2007

MALLARD FARMS DBA W & H PARTNERSHIP LLC  
504 N PHILLIPI ST  
BOISE ID 83706

Re: Application for Permit No. 63-32458

Dear Applicant:

This letter seeks additional information to evaluate your application for a wildlife project. Additional background information prepared by the Idaho Department of Water Resources (IDWR) is enclosed for your consideration.

IDWR seeks additional information 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 your application is enclosed for your convenience.

- ✓ First, the application remains incomplete. The ¼ ¼ section information has not been completed for the proposed point of diversion and place of use. Please make an appointment with me at your earliest convenience to take care of that step.
- ✓ Rule 40, Item ci – provide the name, address and approximate point of diversion for all other users of the unnamed drain in question. Provide the appropriate water right number for each owner if you know it.
- ✓ Rule 40, Item ciii– describe the location(s) for return flows 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. Provide credible information that the ditch has adequate carrying capacity for your proposed use in addition to any uses authorized under existing water rights held by other owners and/or existing drainage activities conducted by the Riverside Drain District. Explain if modifications to the ditch will be necessary to complete your project. If so, what steps will you take to mitigate impacts to other users of the ditch?
- ✓ Additionally, identify the number of acres to be covered by ponds and the average depth (in feet) of the ponds to justify the amount of storage capacity in acre-feet (AF) requested in your application. *SEE Revised map*
- ✓ 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 4.6 CFS and 78.8 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 (all year).

Page 2

- ✓ Rule 40, Item g – Send comment letters to the Canyon County Commissioners, the Riverside Drain District and any irrigation district and/or canal company in the local area, 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. Please contact Riverside Drain District and Army Corps as follows:

Enclosure: Copies of Applications  
IDWR Notes for Wildlife Applications



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

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

FAX (208) 334-2348

September 7, 2006

JAMES E. RISCH  
Governor

KARL J. DREHER  
Director

ATTN ALLAN HUMPHRIES &/OR GERALD WALLER  
MALLARD FARMS DBA W & H PARTNERSHIP LLC  
504 N PHILLIPPI ST  
BOISE ID 83706

Re: Application for Permit for Wildlife Ponds

Dear Gentlemen:

Mallard Farms filed an application for permit in early 2006 regarding a proposed wildlife project near Parma. The Idaho Department of Water Resources has worked with the applicant (c/o Gary Howard) since then to achieve a complete application that can be processed.

I understand that recent efforts to adequately amend the application were not completely successful and that continued efforts are underway in this regard.

The letter is to advise you that the application should be sufficiently amended to allow processing to continue. Please provide the sufficiently amended application within the next thirty (30) days. The application will be voided without your timely written response (Section 42-204, *Idaho Code*).

Please disregard this letter if the amended application is already in the process of being sent to this office. Please contact me at 334-2190 if you need more information or have any questions.

Thank you for your attention to this matter.

Sincerely,

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

Steve Lester  
Water Rights Supervisor

HAROLD Q. NOACK, JR.  
ATTORNEY AT LAW

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

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

December 6, 1989

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

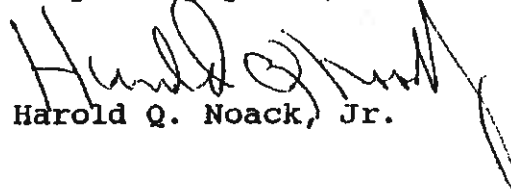
Re: Mallard Farms water rights  
ID# A63-15173, A63-00202A, A63-00172A, and A63-02611A

Dear Mr. Johnson:

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

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

Very truly yours,

  
Harold Q. Noack, Jr.

HQN:dsg  
cc: Jerry Waller  
Jeff Peppersack

HAROLD Q. NOACK, JR.  
Attorney at Law

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

Telephone  
(208) 336-2480

FAX  
(208) 336-6701

October 7, 1989

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

Re: Water rights

Dear Jerry:

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

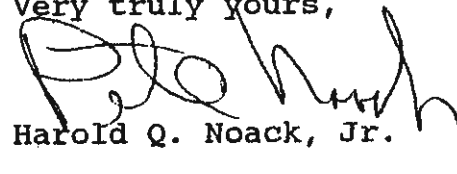
The purpose of the adjudication that the State is going through now is for people to re-establish their water right claims. If a party holds a valid water right now, that right will not be lost through the adjudication process. If you have sufficient water at the present time to maintain wildlife ponds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

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

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

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

Very truly yours,

A handwritten signature in dark ink, appearing to read "H. Q. Noack, Jr.", with a stylized, cursive script.

Harold Q. Noack, Jr.

HQN:dsg