

SRBA

SUBCASE SUMMARY REPORT 63-32910

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SRBA
08-06-2009

SUBCASE SUMMARY REPORT

HTML12

SUBCASE: 63-32910 FILE#: 02145
CLAIMANT: W & H LIMITED LIABILITY
DBA MALLARD FARMS
504 N PHILLIPPI ST

BOISE ID 83706
STATUS: RESPONSES DUE SPECIAL MASTER:
WATER SOURCE:
ISSUES: NAME AND ADDRESS DESCRIPTION
SOURCE OF WATER
QUANTITY OF WATER USED
PRIORITY DATE
POINT(S) OF DIVERSION DESCRIPTION
PURPOSE OF USE DESCRIPTION
PERIOD OF YEAR WHEN WATER IS USED
PLACE OF USE OR IRRIGATED ACRES IN EACH 40 A.
0

****** PARTIES INVOLVED ******

W & H LIMITED LIABILITY C PRO SE
W & H LIMITED LIABILITY CO O PRO SE

****** ROA ENTRIES ******

12-11-2007	MOTION TO FILE LATE NOTICE OF CLAIM	MG	03-19-2008
12-11-2007	NOTICE OF CLAIM TO A WATER RIGHT		
12-11-2007	NOTICE SETTING HEARING - LATE CLAIM	HH	03-18-2008 0130
03-18-2008	HEARING HELD	HH	03-18-2008 0130
03-18-2008	MINUTES		
03-19-2008	ORDER GRANTING MOTION TO FILE LATE NOTICE OF CLAIM		
03-19-2008	LATE CLAIM FORWARDED TO IDWR		03-19-2008
06-10-2009	DIRECTOR'S REPORT FOR LATE CLAIMS		
06-10-2009	NOTICE OF FILING DIRECTOR'S REPORT FOR LATE CLAIMS		
	OBJECTIONS DUE	8/10/09 8B	08-10-2009 0500
	RESPONSES DUE	11/09/09 RB	11-09-2009 0500
06-22-2009	OBJ 01 F/B W & H LIMITED LIABILITY CO	RB	08-20-2007 0001

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BALDRIDGE & MEADOWS DRAIN

W+H

WHAT ARE THE CAPACITIES FOR UPPER/LOWER HAAS DITCHES

SAME
POD
See
Riverbank
Apparent

63-2611A+B - Dring. - 2.28 cfs - 1944

63-32910 - Wildlife - 1970 - 4.6 AF 45 AF SOL

Need to check the storage capacity out.

APP. FOR PERMIT - 63-32458 - 4.6 cfs 28.8

Upper Haas Ditch.

Permit # 63-12601 - 8/24/2000. .02 cfs
for study wildlife - Upper Haas ditch

Haas Ditch to share also.

Opendorf

App. for Permit. - 6 cfs + 40 g - 4/5/2005
63-32460 - 6 cfs + 40 g 4/5/05 -
Upper Haas + Upper Haas Ditch on Opendorf's land. + 63-32459 - Lower Haas ditch (wk) than the Lower Haas ditch.

NOTE: The Ross drain flows to the South of the property drained & the topo map does not appear to go into the Baldridge & Meadows Drain.

2011003981

RECORDED

2011 JAN 28 PM 12 18

CHRIS W. O'DONNELL

CANYON COUNTY RECORDER

TYPE 344 FEE 91.00

AGREEMENT

This Agreement is entered into effective the 21st day of January, 2011 by and between W&H Limited Liability Company, an Idaho limited liability company ("W&H") and Gregory Obendorf and G.O. Investments, LLC a Colorado limited liability company (collectively "Obendorf") to resolve pending disputes between them concerning the use of water and water delivery facilities.

RECITALS

A. W&H owns real property in Canyon County, Idaho adjacent to the Boise River more particularly described in Exhibit A hereto. ("W&H Property")

B. W&H has filed certain claims in the Snake River Basin Adjudication ("SRBA"), including Amended Claim No. A63-32910 claiming 4.60 cubic feet per second ("cfs")/45 acre-feet per annum ("AFA") from a drain known locally as the Baldridge and Meadows Drain ("Drain") for year-round wildlife, wildlife storage and stock water purposes with a claimed priority date of January 1, 1970 (the "Wildlife Claim"). W&H also has filed late claims A63-33354 claiming 1.55 cfs from the Drain for stock watering with a claimed priority date of March 13, 1944, and Claim A63-33361 claiming .05 cfs from the Lower Haas Ditch for stock watering with a claimed priority date of March 13, 1944 (the "Stock Water Claims").

C. W&H also has filed an Application for Permit No. 63-32458 ("W&H Application") with the Idaho Department of Water Resources ("IDWR") seeking to appropriate an additional 4.6 cfs/78.8 AFA of water for year-round wildlife purposes from the Drain with a priority date of September 12, 2006 for delivery to the W&H Property via the Upper Haas Ditch via a headgate and control works located on the Obendorf property ("Upper Haas Headgate").

D. W&H also holds decreed water right Nos. 63-02611A and 63-02611B, each with a priority date of March 13, 1944 for 2.28 cfs for irrigation purposes diverted and delivered from the Drain via the Upper Haas Headgate and Upper Haas Ditch.

E. W&H also holds water right Permit 63-12601 with a priority date of August 24, 2000 for 0.2 cfs/20AFA for year-round wildlife purposes diverted and delivered from the Drain via the Upper Haas Headgate and Upper Haas Ditch.

F. The above-described water rights, including applications for permit, permits, licenses, claims and decrees, belonging to W&H are collectively referred to herein as the "W&H

Water Rights.” W&H also owns shares in the Haas Ditch Company for irrigation from the Lower Haas Ditch that are not the subject of this Agreement.

G. Obendorf owns real property adjacent to the W&H property, more particularly described in Exhibit B hereto (“Obendorf Property”), and has filed an Application for Permit No. 63-32460 with IDWR seeking to appropriate 6 cfs/40 acre-feet of water from the Drain with a priority date of April 5, 2005 for wildlife uses from the Upper Haas Headgate and using the Upper Haas Ditch on the Obendorf Property, and an Application for Permit No. 63-32459 seeking to appropriate 24 cfs from the Boise River with a priority date of April 5, 2005 for delivery through the Lower Haas Ditch for wildlife uses (the “Obendorf Applications”). Obendorf also has other water rights, including without limitation, from the Riverside Irrigation District and the Haas Ditch Company, that are not the subject of this Agreement.

H. Obendorf also desires to obtain a water right for the same purposes and in the same quantity as sought in Application for Permit 63-32460 to be diverted and delivered to storage and wildlife purposes from March 1 through November 15 from the Upper Haas Headgate and using the Upper Haas Ditch on the Obendorf Property. A copy of Obendorf’s proposed new permit application is attached hereto as Exhibit C. Obendorf may also desire to obtain a water right for the same purposes as sought in Application for Permit 63-32459 to be diverted from the Boise River for delivery through the Lower Haas Ditch for wildlife uses from March 1 through November 15.

I. Obendorf also intends filing: 1) a SRBA claim for a water right for wildlife and wildlife storage purposes using water diverted from the “Meadows Drain,” a tributary to the Drain, to be delivered to existing ponds on the Obendorf Property lying south of the Lower Haas Ditch, which water right would not be diverted or delivered from the Upper Haas Headgate or Upper Haas Ditch; 2) a SRBA claim for a water right for irrigation of ten acres of the Obendorf Property lying south of the Lower Haas Ditch using wastewater diverted directly from lands owned by Obendorf lying south and west from the Drain; and 3) a SRBA claim for a water right for irrigation of twelve acres of the Obendorf Property lying on both sides of the Lower Haas Ditch using water from the Drain diverted at the Upper Haas Headgate and delivered through and from the Upper Haas Ditch on the Obendorf Property. Copies of the above-described proposed SRBA Claims are attached hereto as Exhibits D, E and F respectively (the “Obendorf SRBA Claims”).

J. W&H has filed an Objection in the SRBA to IDWR’s recommendation of disallowal of its Wildlife Claim. Obendorf has filed a Response in the SRBA supportive of IDWR’s recommendation of disallowal of the Wildlife Claim and the matter currently is set for trial.

K. W&H has protested the Obendorf Applications and notified IDWR that Obendorf currently has no consent from W&H to use the Upper Haas Headgate or Upper Haas Ditch to deliver water to the Obendorf property. Obendorf has protested W&H’s Application for Permit No. 63-32458 raising as an issue, among other things, that W&H does not have an easement to

use the Upper Haas Headgate and Upper Haas Ditch to deliver the water sought by the Application.

L. W&H and Obendorf wish to resolve these various disputes between them concerning water use and use of the Upper Haas Headgate and Upper Haas Ditch on terms set forth herein.

M. The general locations of the various drains and ditches are described in Exhibit G hereto.

NOW THEREFOR, in consideration of the recitals, terms, covenants and conditions set forth herein, the parties agree as follows:

1. W&H and Obendorf will enter into a stipulated settlement by way of an SF-5 approved by IDWR allowing entry of a partial decree in the SRBA of the Wildlife Claim providing that the combined diversion rate for wildlife and stock water purposes under the Wildlife Claim and stock water claim A63-33354 is 4.6 cfs/45 AFA, and including language in substantially the following form subordinating the priority of the Wildlife Claim to the priority of Application for Permit No. 63-32460 when there is not a sufficient flow of water in the Drain to fully satisfy both:

This water right shall be subordinate to Water Right No. 63-32460. When the quantity of water necessary for the authorized beneficial use under Water Right No. 63-32460 is not available to be delivered from the source of this water right, diversions under this water right shall be limited to the extent required to supply the authorized beneficial use under Water Right No. 63-32460.

2. Obendorf shall not object to IDWR's recommendations and the SRBA's approval and partial decree of the Stock Water Claims, provided that W&H will reduce the quantity claimed for stock water under its late claim A63-33354 to 0.05 cfs, which, when combined with the Wildlife Claim, shall be limited to a total diversion rate and volume from the Drain of 4.6 cfs/45 AFA.

3. W&H shall file appropriate documents with IDWR to withdraw its protests to the now pending Obendorf Applications subject to IDWR approval consistent with the terms and conditions herein specified, and agrees not to protest the proposed applications described in Recital H above, including, without limitation, Exhibit C hereto. W&H's protest withdrawals will specifically state that a permit may be issued pursuant to such application for water right No. 63-32460 to Obendorf for 6 cfs/40 acre-feet, with a source of the Drain diverted at Upper Haas Headgate and delivered through the Upper Haas Ditch on the Obendorf Property as provided herein, and such Permit No. 63-32460 and any subsequently issued license of same, may

expressly recognize the subordination of W&H's Wildlife Claim described in Section 1 above to Permit No. 63-32460.

4. Obendorf may file the new application for permit shown in Exhibit C hereto, and provided that any permit issued has a priority date junior to September 12, 2006, W&H will not protest the new application. Obendorf may also file an Application for Permit for a water right for the same purposes as sought in Application for Permit 63-32459 to be diverted from the Boise River for delivery through the Lower Haas Ditch for wildlife uses from March 1 through November 15.

5. Obendorf may file the Obendorf SRBA Claims and, provided such SRBA Claims are recommended in substantial conformance with the elements contained in the attached Exhibits D, E and F, W&H will not object to the Obendorf SRBA Claims.

6. Obendorf will withdraw its protest to the W&H Application, subject to IDWR approval consistent with the terms and conditions herein specified.

7. Obendorf and W&H agree to share equally the cost of design and construction of any new measuring and/or control structure(s) that may be required by IDWR to allow the Watermaster to measure and deliver their respective water rights from the Drain at the Upper Haas Headgate. Upon the request of either party, one or more structures shall be designed and constructed after IDWR consultation, and as applicable, after approval from IDWR and/or U.S. Army Corps of Engineers, to allow W&H and Obendorf to accurately measure and confirm that they each are getting their authorized quantities from the Upper Haas Ditch. If IDWR recommends that accurate measurement can be obtained using only one structure, the parties will share equally in the costs and design of that measurement structure. If separate structures are recommended by IDWR for the parties' respective diversions from the Upper Haas Ditch, then W&H and Obendorf will be solely and individually responsible for designing and constructing all such measurement structures at any points measuring delivery of their individual respective water rights.

8. Obendorf agrees to take appropriate steps as necessary to ensure that the existing roadway by which W&H accesses the Upper Haas Headgate is not made impassable due to flooding or seepage resulting from Obendorf's use of water diverted at the Upper Haas Headgate.

9. Obendorf confirms W&H's existing right-of-way for the Upper Haas Headgate and the Upper Haas Ditch located on the Obendorf Property and W&H's continued right of access thereto for operation, maintenance, repair and replacement of same for delivery of water to the W&H Property under the W&H Water Rights described in this Agreement, and W&H confirms Obendorf's continued right of access to the Upper Haas Headgate and Upper Haas Ditch for the construction, operation, maintenance, repair and replacement of Obendorf's portion of the Upper Haas Headgate and Upper Haas Ditch for delivery of water to the Obendorf Property under the various Obendorf water rights, applications, permits and claims described in this Agreement.

10. W&H and Obendorf shall endeavor in good faith to implement this Agreement and shall not encourage or assist any third party in undertaking any action that either of them would be precluded from taking themselves by way of this Agreement.

11. This Agreement may be recorded by either party or produced by either party in any proceeding before the SRBA or the IDWR to confirm the parties' intent with respect to the processing of the water right claims and applications that are the subject hereof.

12. All of the obligations and covenants contained herein shall be binding on the parties hereto and their respective principals, members, managers, agents, employees, representatives, successors and assigns.

13. Each party will bear their own attorney fees and costs with respect to proceedings regarding the water right applications and/or SRBA claims that are the subject of this Agreement.

14. In the event of a breach of this Agreement by any party, the non-breaching party shall have all remedies available at law or in equity, including injunctive or other equitable relief. In any suit, action or appeal therefrom to enforce or interpret this Agreement, the prevailing party shall be entitled to recover its costs incurred therein, including reasonable attorneys' and consultants' fees and disbursements, and also including reasonable attorneys' fees and costs and fees associated with any appeal of a judgment.

15. This Agreement may be executed in any number of counterparts for the convenience of the Parties, all of which, when taken together and after execution by all Parties hereto, shall constitute one and the same Agreement

[End of text – separate signature pages follow]

W&H LIMITED LIABILITY COMPANY,
an Idaho limited liability company

By: Gerald A. Waller
Gerald A. Waller, Manager

STATE OF IDAHO)
) ss.
County of Ada)

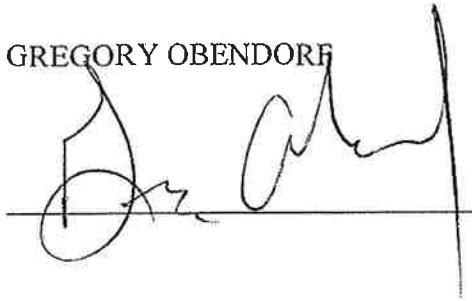
On this 6th day of January, 2011, before me, a Notary Public in and for the State of Idaho, personally appeared Gerald A. Waller, known or identified to me to be one of the members in the limited liability company of W&H Limited Liability Company, LLC and the member or one of the Managers of said limited liability company who subscribed said name to the foregoing instrument, and acknowledged to me that he executed the same in said limited liability company name.

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



Katharine Creswell
Notary Public for Idaho
Residing at: Ada County
My commission expires: 3/22/16

GREGORY OBENDORF

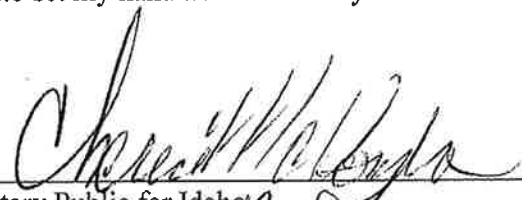


STATE OF IDAHO)
) ss.
County of Canyon)

On this 18th day of January, 2011, before me, the undersigned, a notary public in and for said county and state, personally appeared Gregory Obendorf, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

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





Notary Public for Idaho
Residing at _____
Commission expires 12/02/2011

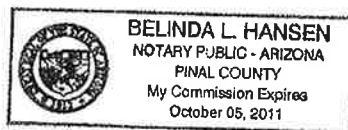
G.O. INVESTMENTS, LLC
a Colorado limited liability company

By: George Ray Obendorf
George Ray Obendorf, Manager

STATE OF ARIZONA)
) ss.
County of MARICOPA)

On this 17 day of January, 2011, before me, a Notary Public in and for the State of ARIZONA, personally appeared George Ray Obendorf, known or identified to me to be one of the members in the limited liability company of G.O. Investments, LLC and the member or one of the Managers of said limited liability company who subscribed said name to the foregoing instrument, and acknowledged to me that he executed the same in said limited liability company name.

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



Belinda L. Hansen
Notary Public for ARIZONA
Residing at: Queen Creek, AZ
My commission expires: 10-5-2011

EXHIBIT A
(W&H Property Description)

Parcel I

A tract of land situated in the County of Canyon, State of Idaho to wit:

Beginning at the Northwest corner of Lot 3, Section 21, Township 5 North, Range 5 West of the Boise Meridian, Canyon County, Idaho and running thence West on the North line of said Section 21, a distance of 1305 feet; thence South 17°10' West 250.0 feet; thence South 3°45' East 565.0 feet; thence South 16°45' East 245.5 feet; thence North 90°0' East 102.2 feet; thence South 68°30' East 295.5 feet; thence South 49°44' East 428.7 feet; thence South 56°10' East 343.0 feet; thence South 67°28' East 335.9 feet to a point 1735.25 feet South of the North ¼ corner of Section 21, Township 5 North, Range 5 West of the Boise Meridian; thence South 76°38' East 416.6 feet; thence South 63°07' East 255.3 feet; thence South 82°50' East 132.5 feet; thence North 84°55' East 271.0 feet; thence South 26°45' East 231.3 feet; thence North 89°53' East 176.3 feet; thence North 78°50' East 380.7 feet; thence South 68°25' East 546.0 feet; thence South 73°22' East 486.0 feet; to a point which is North 6°38' East 254.0 feet from the ¼ corner between Section 21 and 22, Township 5 North, Range 5 West of the Boise Meridian; thence South 82°58' East 515.5 feet; thence South 81°30' East 413.0 feet to the Southwesterly bank of the Boise River; thence continuing South 81°30' East 375.8 feet to a point on the East side of Lot 4 of Section 22, Township 5 North, Range 5 West of the Boise Meridian 81.3 feet North of the Southeast corner of said Lot 4; thence North along the East side of Lot 4 and the Northwest ¼ of the Northwest ¼ of said Section 22 to the North line of said Section 22, thence West along the North line of Section 22 and Section 21, Township 5 North, Range 5 West of the Boise Meridian to the North ¼ corner of said Section 21, which is the Northwest corner of Lot 3, Section 21, Township 5 North, Range 5 West of the Boise Meridian, Canyon County, Idaho, the point of Beginning. (Consisting of 242 acres more or less.)

Parcel II

Beginning at a point 20.0 feet East of the Northwest corner of the Southwest Quarter of Lot Six of Section Twenty-one, Township Five North, Range Five West of the Boise Meridian, thence North $2^{\circ} 55'$ East 645.0 feet; thence North $2^{\circ} 10'$ West 252.0 feet; thence North $16^{\circ} 45'$ West 12.5 feet; thence North $90^{\circ} 0'$ East, 102.2 feet; thence South $68^{\circ} 30'$ East 295.5 feet; thence South $49^{\circ} 44'$ East 428.7 feet; thence South $56^{\circ} 10'$ East 343.0 feet; thence South $67^{\circ} 28'$ East 335.9 feet to a point 1735.25 feet South of the quarter corner on the North side of said Section Twenty-one; thence South $76^{\circ} 38'$ East 416.6 feet; thence South $63^{\circ} 07'$ East 255.3 feet; thence South $82^{\circ} 50'$ East 132.5 feet; thence North $84^{\circ} 55'$ East 271.0 feet; thence South $26^{\circ} 45'$ East 231.3 feet; thence North $89^{\circ} 52'$ East 176.3 feet; thence North $78^{\circ} 50'$ East 380.7 feet; thence South $68^{\circ} 25'$ East 546.0 feet; thence South $73^{\circ} 22'$ East 486.0 feet to a point North $6^{\circ} 38'$ East 254.0 feet from the Quarter corner between Section Twenty-one and Twenty-two, Township Five North, Range Five West of the Boise Meridian; thence South $82^{\circ} 58'$ East 515.5 feet; thence South $81^{\circ} 30'$ East 413.0 feet to the Southwesterly bank of the Boise River; thence continuing South $81^{\circ} 30'$ East 375.8 feet to a point on the East side of Lot Four of Section Twenty-two, Township Five North, Range Five West of the Boise Meridian, 81.3 feet North of the Southeast corner of said Lot Four; thence South along the east side of Lot Four and Lot Three, Section Twenty-two, Township Five North, Range Five West of the Boise Meridian, to the Southeast corner of Lot Three (Northwest Quarter of the Southwest Quarter) of Section Twenty-two, Township Five North, Range Five West of the Boise Meridian; thence West along the South line of Lot Three of Section Twenty-two, and Lot Nine of Section Twenty-one, Township Five North, Range Five West

(continued on next page)

of the Boise Meridian, to a point 180.0 feet East of the Southwest corner of Lot Nine (Northeast Quarter of the Southeast Quarter) of Section Twenty-one, Township Five North, Range Five West of the Boise Meridian; thence Northwesterly 269.1 feet to a point 200.0 feet North of the said Southwest corner of Lot Nine; thence North 130.0 feet; thence West 1324.6 feet parallel to the center line of Section Twenty-one; thence North 991.5 feet to the center of Section Twenty-one; Township Five North, Range Five West of the Boise Meridian; thence 663.4 feet West along the center line of said Section Twenty-one; thence North 660 feet; thence West 640 feet to the point of beginning;

Parcel III

The Southeast Quarter of the Southwest Quarter and the Southwest Quarter of the Southeast Quarter of Section 16, Township 5 North, Range 5 West, Boise Meridian, Canyon County, Idaho.

EXCEPTING from said Southwest Quarter of the Southeast Quarter:

BEGINNING at the Northeast corner of the Southwest Quarter of the Southeast Quarter of said Section 16; running thence due

South 210 feet; thence due

West 210 feet; thence due

North 210 feet; thence due

East 210 feet to the POINT OF BEGINNING.

(The end of Exhibit A)

EXHIBIT B
(Obendorf Property Description)

Lot 10 of Sec. 21, and Lot 5 of Sec. 22, and Lot 4 of Sec. 27 and the NE¼ of the NE¼ of Sec. 28;

ALSO a strip of land of uniform width off the entire South side of the NW¼ of the SE¼ of Sec. 21, said strip of land containing 10 acres;

ALSO, a tract of land in the SW corner of Lot 9 of Sec. 21, described as follows, to-wit:
Commencing at the SW corner of said Lot 9, running thence East along the South side of said Lot 9, 180 feet, thence in a NWrlly direction to a point on the West line of said Lot 9, 200 feet North of the SW corner of said lot, thence South along the West line of said Lot 9 to the SW corner of said lot, the point of beginning,

ALL of the above described land being in Twp. 5 N, R 5 W B.M.;

EXCEPTING therefrom the lands conveyed to the United States of America by deed recorded in Book 76 of Deeds, at page 535, records of Canyon County, Idaho, to which reference is hereby made, AND SUBJECT to the rights acquired by agreement recorded in Book 4 of Bonds and Agreements, at page 29, records of Canyon County, Idaho, to which reference is hereby made.

EXHIBIT C
(Obendorf Permit Application)

FORM 202 03/10 Print form as a 2 page, single-sided document

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT
To appropriate the public waters of the State of Idaho

Ident. No. _____

1. Name of applicant(s) G. O. Investments, LLC Phone 208-482-7397
Name connector (check one): ☐ and ☐ or ☐ and/or

Mailing address: 24034 Batt Corner Road City Parma

State ID Zip 83660 Email: _____

2. Source of water supply Unnamed Drain which is a tributary of Boise River

3. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag #
5N	5W	27	4	NE	NW	NW	Canyon	Unnamed Drain	

4. Water will be used for the following purposes:

Amount 6.0 cfs for Wildlife purposes from 2/29 to 11/15 (both dates inclusive)
(cfs or acre-feet per year)

Amount 6.0 cfs for Diversion to Storage purposes from 2/29 to 11/15 (both dates inclusive)
(cfs or acre-feet per year)

Amount 40.0 af for Wildlife Storage purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per year)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per year)

5. Total quantity to be appropriated is (a) 6.0 cubic feet per second (cfs) and/or (b) 40.0 acre-feet per year (af).

3. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source. Checkbox, pipe

b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 11.
For dams 10 feet or more in height OR reservoirs with a total storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☐ No

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? ☐ Yes ☐ No

e. If well is already drilled, when? _____; drilling firm _____;

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

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

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 or the applicant's qualifications as a municipal provider. _____

d. Domestic; show number of households _____

e. Other; describe fully. Five ponds covering a total of 10 acres with an average depth of 4 feet are planned for wildlife

8. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- 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	
5N	5W	22											Lt 5						
													W						
		27						Lt 4											
								W											

Total number of acres to be irrigated: _____

9. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? 63-32460

- Who owns the property at the point of diversion? Applicant
- Who owns the land to be irrigated or place of use? Applicant
- If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

11. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. Source also known as Baldridge and Meadows Drain. This application covers the remainder of the year not covered on application 63-32460 for the uses described above.

12. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).
13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" 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.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant _____

Signature of Applicant _____

Print Name (and title, if applicable) _____

Print Name (and title, if applicable) _____

For Department Use:

Received by _____ Date _____ Time _____ Preliminary check by _____
 Fee \$ _____ Received by _____ Receipt No. _____ Date _____



EXHIBIT D
(Obendorf SRBA Claim - wildlife ponds)

SRBA Form No.42-1409-1 (Internet 2/09)

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

**IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM**

CIVIL CASE NUMBER: 39576

Ident. Number _____
Date Received: _____
Receipt No: _____
Received By: _____

**NOTICE OF CLAIM
TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

Please type or print clearly

1. Name of Claimant (s) G. O. Investments, LLC Phone (208) 482-7397
Mailing Address 24034 Batt Corner Road, Parma, Idaho ZIP 83660
Street or Box _____ City _____ State _____
2. Date of Priority (Only one (1) per claim) March 14, 1944
Month Day Year (YYYY)

3. Source of water supply (Check one) Ground Water () or Other (✓) (a) Meadows Drain
which is tributary to (b) Boise River

4. a. Location of Point of Diversion is: Township 5N, Range 5W, Section 27
NW, 1/4 of NW, 1/4 Govt. Lot 4, BM., County of Canyon

Parcel (PIN) no. _____

Additional points of diversion if any: _____

If available, GPS Coordinates _____

b. If instream flow, beginning point of claimed instream flow is:

Township _____, Range _____, Section _____, _____, 1/4 of _____, 1/4

Govt. Lot _____, BM., County of _____

ending point is: Township _____, Range _____, Section _____, _____, 1/4 of _____, 1/4

Govt. Lot _____, BM., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. Ponds cover about 12 acres at an average depth of 2 feet.

6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For Wildlife purposes from 1/1 to 12/31 amount 2.5 or

For Diversion to Storage purposes from 1/1 to 12/31 amount 2.5 or

For Wildlife Storage purposes from 1/1 to 12/31 amount or 24.0

For purposes from to amount or

7. Total quantity claimed (a) 2.5 (cfs) and/or (b) 24.0 (acre feet)

8. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.)

9. Description of place of use:

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 use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

Twn	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
5N	5W	22											Lt 5						
													W						
		27						Lt 4											
								W											

Parcel (PIN) no(s).

Total number of acres irrigated

10. In which county (ies) are lands listed above as place of use located? Canyon

11. Do you own the property listed above as place of use? Yes (✓) No ()

If your answer is No, describe in Remarks below the authority you have to claim this water right.

12. Describe any other water rights used at the same place and for the same purposes as described above.

or None (✓)

13. Remarks: Meadows Drain is a drain that flows through the SESE Section 28, T5N, R5W to a confluence with the "Balldridge and Meadows Drain". The confluence of the two drains is located near the boundary of the SENWNW, Section 27 and the SWNENW, Section 27, T5N, R5W. The point of diversion for this claim is upstream of the confluence of the two drains.

Last Name G. O. Investments, LLC

Identification No.

Map of Project: Attach aerial photograph or topographic map showing clearly the point of diversion, place of use, section number, township, and range number, unless unavailable. Otherwise sketch the elements above on the grid below.



14. Basis of Claim (Check One) Beneficial Use (☒) Posted Notice (☐) License (☐) Permit (☐) Decree (☐)

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number _____

15. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notices in the Snake River Basin Adjudication." (b.) I/We do (☐) do not (☐) wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 1 Aerial Photo

For Individuals: I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date: _____

_____ Date: _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am

Manager _____ of G. O. Investments, LLC _____,
Title Organization

that I have signed the foregoing document in the space below as

Manager _____ of G. O. Investments, LLC _____,
Title Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____ Date _____

Title and Organization _____

16. Notice of Appearance:

Notice is hereby given that I, Dana L. Hofstetter, Hofstetter Law Office, LLC, will be acting as attorney at law of behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____ Date _____

Address Hofstetter Law Office, LLC

608 West Franklin Street, Boise, ID 83702

EXHIBIT E
Obendorf SRBA Claim - irrigation)

SRBA Form No.42-1409-1 (Internet 2/09)

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

**IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM**

CIVIL CASE NUMBER: 39576

Ident. Number _____

Date Received: _____

Receipt No: _____

Received By: _____

**NOTICE OF CLAIM
TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

Please type or print clearly

1. Name of Claimant (s) G. O. Investments, LLC Phone (208) 482-7397

Mailing Address 24034 Balt Corner Road, Parma, Idaho Zip 83660
Street or Box City State

2. Date of Priority (Only one (1) per claim) March 1, 1940
Month Day Year (YYYY)

3. Source of water supply (Check one) Ground Water () or Other () (a) Waste water
which is tributary to (b) Boise River

4. a. Location of Point of Diversion is: Township 5N, Range 5W, Section 21,
SE, 1/4 of SE, 1/4 Govt. Lot 10, BM., County of Canyon

Parcel (PIN) no. _____

Additional points of diversion if any: _____

If available, GPS Coordinates _____

b. If instream flow, beginning point of claimed instream flow is:

Township _____, Range _____, Section _____, _____, 1/4 of _____, 1/4

Govt. Lot _____, BM., County of _____

ending point is: Township _____, Range _____, Section _____, _____, 1/4 of _____, 1/4

Govt. Lot _____, BM., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed
and as enlarged and the depth of each well. Waste water collection pond, concrete ditch

6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For Irrigation purposes from 3/1 to 11/15 amount 1.0 or _____

For Diversion to Storage purposes from 3/1 to 11/15 amount 1.0 or _____

For Irrigation Storage purposes from 3/1 to 11/15 amount _____ or 15

For Diversion from Storage purposes from 3/1 to 11/15 amount 1.0 or _____

7. Total quantity claimed (a) 1.00 (cfs) and/or (b) 15 (acre feet)

8. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.) _____

9. Description of place of use:

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 use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

Twn	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
5N	5W	27						Lt 4											
								5											5
		21																stg	

Parcel (PIN) no(s). _____ Total number of acres irrigated 5

10. In which county (ies) are lands listed above as place of use located? Canyon

11. Do you own the property listed above as place of use? Yes (✓) No ()

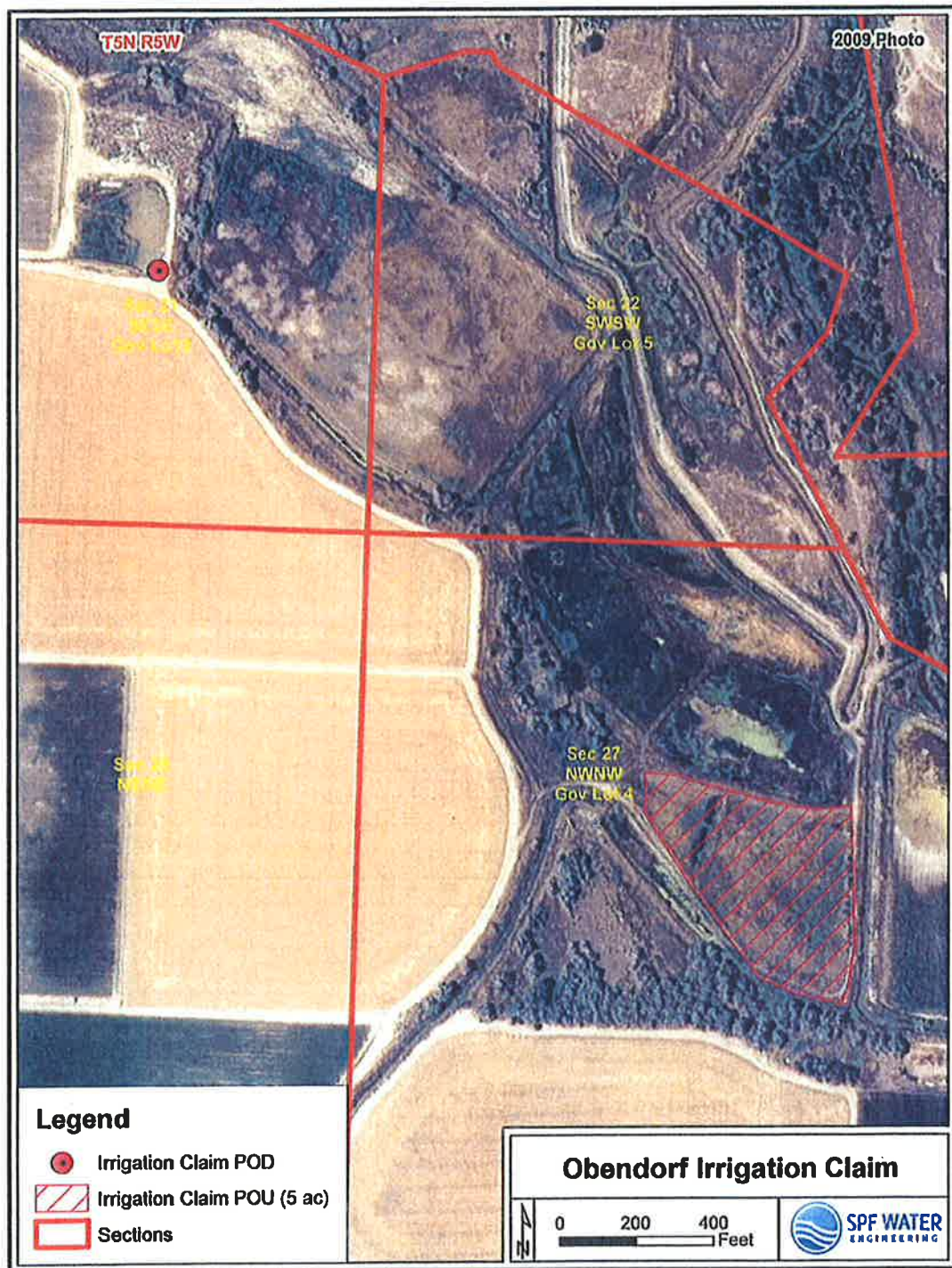
If your answer is No, describe in Remarks below the authority you have to claim this water right.

12. Describe any other water rights used at the same place and for the same purposes as described above.

_____ or None (✓)

13. Remarks: Source of water is waste water from Riverside Irrigation District irrigated lands owned by the claimant that are located west of the place of use and point of diversion for this claim.

Last Name G. O. Investments, LLC Identification No. _____



14. Basis of Claim (Check One) Beneficial Use (☒) Posted Notice (☐) License (☐) Permit (☐) Decree (☐)

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number _____

15. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notices in the Snake River Basin Adjudication." (b.) I/We do (☐) do not (☐) wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 1 Aerial Photo

For Individuals: I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date: _____

_____ Date: _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am

Manager _____ of G. O. Investments, LLC _____,
Title Organization

that I have signed the foregoing document in the space below as

Manager _____ of G. O. Investments, LLC _____,
Title Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____ Date _____

Title and Organization _____

16. Notice of Appearance:

Notice is hereby given that I, Dana L. Hofstetter, Hofstetter Law Office, LLC, will be acting as attorney at law of behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____ Date _____

Address Hofstetter Law Office, LLC

608 West Franklin Street, Boise, ID 83702

Last Name _____ Identification No. _____

EXHIBIT F
(SRBA Irrigation Claim from Upper Haas)

SRBA Form No.42-1409-1 (Internet 2/09)

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

**IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM**

CIVIL CASE NUMBER: 39576

Ident. Number: _____
Date Received: _____
Receipt No: _____
Received By: _____

**NOTICE OF CLAIM
TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

Please type or print clearly

1. Name of Claimant (s) G. O. Investments, LLC Phone (208) 482-7397
Mailing Address 24034 Batt Corner Road, Parma, Idaho ZIP 83660

Street or Box City State
2. Date of Priority (Only one (1) per claim) March 14, 1944

Month Day Year (YYYY)
3. Source of water supply (Check one) Ground Water () or Other () (a) Baldrige and Meadows Drain
which is tributary to (b) Boise River
4. a. Location of Point of Diversion is: Township 5N, Range 5W, Section 27,
NW, 1/4 of NW, 1/4 Govt. Lot 4, BM., County of Canyon
Parcel (PIN) no. _____
Additional points of diversion if any: _____
If available, GPS Coordinates _____
- b. If instream flow, beginning point of claimed instream flow is:
Township _____, Range _____, Section _____, _____, 1/4 of _____, 1/4
Govt. Lot _____, BM., County of _____
ending point is: Township _____, Range _____, Section _____, _____, 1/4 of _____, 1/4
Govt. Lot _____, BM., County of _____
5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed
and as enlarged and the depth of each well. _____

6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For Irrigation purposes from 3/1 to 11/15 amount 1.00 or

For purposes from to amount or

For purposes from to amount or

For purposes from to amount or

7. Total quantity claimed (a) 1.00 (cfs) and/or (b) (acre feet)

8. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.)

9. Description of place of use:

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 use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

Twn	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
5N	5W	21																L10	
		22											L 5					1	1
													11						11

Parcel (PIN) no(s).

Total number of acres irrigated 12

10. In which county (ies) are lands listed above as place of use located? Canyon

11. Do you own the property listed above as place of use? Yes (✓) No ()

If your answer is No, describe in Remarks below the authority you have to claim this water right.

12. Describe any other water rights used at the same place and for the same purposes as described above.

or None (✓)

13. Remarks: This claim includes 0.4 cfs for conveyance loss between the point of diversion and the field headgate.

Last Name G. O. Investments, LLC

Identification No.



14. Basis of Claim (Check One) Beneficial Use (☒) Posted Notice (☐) License (☐) Permit (☐) Decree (☐)

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number _____

15. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notices in the Snake River Basin Adjudication." (b.) I/We do (☐) do not (☐) wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 1 Aerial Photo

For Individuals: I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date: _____

_____ Date: _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am

Manager _____ of G. O. Investments, LLC _____,
Title Organization

that I have signed the foregoing document in the space below as

Manager _____ of G. O. Investments, LLC _____,
Title Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____ Date _____

Title and Organization _____

16. Notice of Appearance:

Notice is hereby given that I, Dana L. Hofstetter, Hofstetter Law Office, LLC, will be acting as attorney at law of behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____ Date _____

Address Hofstetter Law Office, LLC

608 West Franklin Street, Boise, ID 83702

Last Name _____ Identification No. _____

2011003981

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CHRIS V. 010
CANYON COUNTY RECORDER
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AGREEMENT

This Agreement is entered into effective the 21st day of January, 2011 by and between W&H Limited Liability Company, an Idaho limited liability company ("W&H") and Gregory Obendorf and G.O. Investments, LLC a Colorado limited liability company (collectively "Obendorf") to resolve pending disputes between them concerning the use of water and water delivery facilities.

RECITALS

- A. W&H owns real property in Canyon County, Idaho adjacent to the Boise River more particularly described in Exhibit A hereto. ("W&H Property")
- B. W&H has filed certain claims in the Snake River Basin Adjudication ("SRBA"), including Amended Claim No. A63-32910 claiming 4.60 cubic feet per second ("cfs")/45 acre-feet per annum ("AFA") from a drain known locally as the Baldrige and Meadows Drain ("Drain") for year-round wildlife, wildlife storage and stock water purposes with a claimed priority date of January 1, 1970 (the "Wildlife Claim"). W&H also has filed late claims A63-33354 claiming 1.55 cfs from the Drain for stock watering with a claimed priority date of March 13, 1944, and Claim A63-33361 claiming .05 cfs from the Lower Haas Ditch for stock watering with a claimed priority date of March 13, 1944 (the "Stock Water Claims").
- C. W&H also has filed an Application for Permit No. 63-32458 ("W&H Application") with the Idaho Department of Water Resources ("IDWR") seeking to appropriate an additional 4.6 cfs/78.8 AFA of water for year-round wildlife purposes from the Drain with a priority date of September 12, 2006 for delivery to the W&H Property via the Upper Haas Ditch via a headgate and control works located on the Obendorf property ("Upper Haas Headgate").
- D. W&H also holds decreed water right Nos. 63-02611A and 63-02611B, each with a priority date of March 13, 1944 for 2.28 cfs for irrigation purposes diverted and delivered from the Drain via the Upper Haas Headgate and Upper Haas Ditch.
- E. W&H also holds water right Permit 63-12601 with a priority date of August 24, 2000 for 0.2 cfs/20AFA for year-round wildlife purposes diverted and delivered from the Drain via the Upper Haas Headgate and Upper Haas Ditch.
- F. The above-described water rights, including applications for permit, permits, licenses, claims and decrees, belonging to W&H are collectively referred to herein as the "W&H

Water Rights.” W&H also owns shares in the Haas Ditch Company for irrigation from the Lower Haas Ditch that are not the subject of this Agreement.

G. Obendorf owns real property adjacent to the W&H property, more particularly described in Exhibit B hereto (“Obendorf Property”), and has filed an Application for Permit No. 63-32460 with IDWR seeking to appropriate 6 cfs/40 acre-feet of water from the Drain with a priority date of April 5, 2005 for wildlife uses from the Upper Haas Headgate and using the Upper Haas Ditch on the Obendorf Property, and an Application for Permit No. 63-32459 seeking to appropriate 24 cfs from the Boise River with a priority date of April 5, 2005 for delivery through the Lower Haas Ditch for wildlife uses (the “Obendorf Applications”). Obendorf also has other water rights, including without limitation, from the Riverside Irrigation District and the Haas Ditch Company, that are not the subject of this Agreement.

H. Obendorf also desires to obtain a water right for the same purposes and in the same quantity as sought in Application for Permit 63-32460 to be diverted and delivered to storage and wildlife purposes from March 1 through November 15 from the Upper Haas Headgate and using the Upper Haas Ditch on the Obendorf Property. A copy of Obendorf’s proposed new permit application is attached hereto as Exhibit C. Obendorf may also desire to obtain a water right for the same purposes as sought in Application for Permit 63-32459 to be diverted from the Boise River for delivery through the Lower Haas Ditch for wildlife uses from March 1 through November 15.

I. Obendorf also intends filing: 1) a SRBA claim for a water right for wildlife and wildlife storage purposes using water diverted from the “Meadows Drain,” a tributary to the Drain, to be delivered to existing ponds on the Obendorf Property lying south of the Lower Haas Ditch, which water right would not be diverted or delivered from the Upper Haas Headgate or Upper Haas Ditch; 2) a SRBA claim for a water right for irrigation of ten acres of the Obendorf Property lying south of the Lower Haas Ditch using wastewater diverted directly from lands owned by Obendorf lying south and west from the Drain; and 3) a SRBA claim for a water right for irrigation of twelve acres of the Obendorf Property lying on both sides of the Lower Haas Ditch using water from the Drain diverted at the Upper Haas Headgate and delivered through and from the Upper Haas Ditch on the Obendorf Property. Copies of the above-described proposed SRBA Claims are attached hereto as Exhibits D, E and F respectively (the “Obendorf SRBA Claims”).

J. W&H has filed an Objection in the SRBA to IDWR’s recommendation of disallowal of its Wildlife Claim. Obendorf has filed a Response in the SRBA supportive of IDWR’s recommendation of disallowal of the Wildlife Claim and the matter currently is set for trial.

K. W&H has protested the Obendorf Applications and notified IDWR that Obendorf currently has no consent from W&H to use the Upper Haas Headgate or Upper Haas Ditch to deliver water to the Obendorf property. Obendorf has protested W&H’s Application for Permit No. 63-32458 raising as an issue, among other things, that W&H does not have an easement to

SAME AMOUNTS &
POP - DIFF
POU IN S. 27
SAME IN S. 27

use the Upper Haas Headgate and Upper Haas Ditch to deliver the water sought by the Application.

L. W&H and Obendorf wish to resolve these various disputes between them concerning water use and use of the Upper Haas Headgate and Upper Haas Ditch on terms set forth herein.

M. The general locations of the various drains and ditches are described in Exhibit G hereto.

NOW THEREFOR, in consideration of the recitals, terms, covenants and conditions set forth herein, the parties agree as follows:

1. W&H and Obendorf will enter into a stipulated settlement by way of an SF-5 approved by IDWR allowing entry of a partial decree in the SRBA of the Wildlife Claim providing that the combined diversion rate for wildlife and stock water purposes under the Wildlife Claim and stock water claim A63-33354 is 4.6 cfs/45 AFA, and including language in substantially the following form subordinating the priority of the Wildlife Claim to the priority of Application for Permit No. 63-32460 when there is not a sufficient flow of water in the Drain to fully satisfy both:

This water right shall be subordinate to Water Right No. 63-32460. When the quantity of water necessary for the authorized beneficial use under Water Right No. 63-32460 is not available to be delivered from the source of this water right, diversions under this water right shall be limited to the extent required to supply the authorized beneficial use under Water Right No. 63-32460.

2. Obendorf shall not object to IDWR's recommendations and the SRBA's approval and partial decree of the Stock Water Claims, provided that W&H will reduce the quantity claimed for stock water under its late claim A63-33354 to 0.05 cfs, which, when combined with the Wildlife Claim, shall be limited to a total diversion rate and volume from the Drain of 4.6 cfs/45 AFA.

3. W&H shall file appropriate documents with IDWR to withdraw its protests to the now pending Obendorf Applications subject to IDWR approval consistent with the terms and conditions herein specified, and agrees not to protest the proposed applications described in Recital H above, including, without limitation, Exhibit C hereto. W&H's protest withdrawals will specifically state that a permit may be issued pursuant to such application for water right No. 63-32460 to Obendorf for 6 cfs/40 acre-feet, with a source of the Drain diverted at Upper Haas Headgate and delivered through the Upper Haas Ditch on the Obendorf Property as provided herein, and such Permit No. 63-32460 and any subsequently issued license of same, may

Recs for W&H claims
already limited .05 cfs + 4.56 cfs (200 AFB) = 4.61 cfs

← Will allocation license w/ this subord. condition?

expressly recognize the subordination of W&H's Wildlife Claim described in Section 1 above to Permit No. 63-32460.

4. Obendorf may file the new application for permit shown in Exhibit C hereto, and provided that any permit issued has a priority date junior to September 12, 2006, W&H will not protest the new application. Obendorf may also file an Application for Permit for a water right for the same purposes as sought in Application for Permit 63-32459 to be diverted from the Boise River for delivery through the Lower Haas Ditch for wildlife uses from March 1 through November 15.

5. Obendorf may file the Obendorf SRBA Claims and, provided such SRBA Claims are recommended in substantial conformance with the elements contained in the attached Exhibits D, E and F, W&H will not object to the Obendorf SRBA Claims.

6. Obendorf will withdraw its protest to the W&H Application, subject to IDWR approval consistent with the terms and conditions herein specified.

7. Obendorf and W&H agree to share equally the cost of design and construction of any new measuring and/or control structure(s) that may be required by IDWR to allow the Watermaster to measure and deliver their respective water rights from the Drain at the Upper Haas Headgate. Upon the request of either party, one or more structures shall be designed and constructed after IDWR consultation, and as applicable, after approval from IDWR and/or U.S. Army Corps of Engineers, to allow W&H and Obendorf to accurately measure and confirm that they each are getting their authorized quantities from the Upper Haas Ditch. If IDWR recommends that accurate measurement can be obtained using only one structure, the parties will share equally in the costs and design of that measurement structure. If separate structures are recommended by IDWR for the parties' respective diversions from the Upper Haas Ditch, then W&H and Obendorf will be solely and individually responsible for designing and constructing all such measurement structures at any points measuring delivery of their individual respective water rights.

8. Obendorf agrees to take appropriate steps as necessary to ensure that the existing roadway by which W&H accesses the Upper Haas Headgate is not made impassable due to flooding or seepage resulting from Obendorf's use of water diverted at the Upper Haas Headgate.

9. Obendorf confirms W&H's existing right-of-way for the Upper Haas Headgate and the Upper Haas Ditch located on the Obendorf Property and W&H's continued right of access thereto for operation, maintenance, repair and replacement of same for delivery of water to the W&H Property under the W&H Water Rights described in this Agreement, and W&H confirms Obendorf's continued right of access to the Upper Haas Headgate and Upper Haas Ditch for the construction, operation, maintenance, repair and replacement of Obendorf's portion of the Upper Haas Headgate and Upper Haas Ditch for delivery of water to the Obendorf Property under the various Obendorf water rights, applications, permits and claims described in this Agreement.

10. W&H and Obendorf shall endeavor in good faith to implement this Agreement and shall not encourage or assist any third party in undertaking any action that either of them would be precluded from taking themselves by way of this Agreement.

11. This Agreement may be recorded by either party or produced by either party in any proceeding before the SRBA or the IDWR to confirm the parties' intent with respect to the processing of the water right claims and applications that are the subject hereof.

12. All of the obligations and covenants contained herein shall be binding on the parties hereto and their respective principals, members, managers, agents, employees, representatives, successors and assigns.

13. Each party will bear their own attorney fees and costs with respect to proceedings regarding the water right applications and/or SRBA claims that are the subject of this Agreement.

14. In the event of a breach of this Agreement by any party, the non-breaching party shall have all remedies available at law or in equity, including injunctive or other equitable relief. In any suit, action or appeal therefrom to enforce or interpret this Agreement, the prevailing party shall be entitled to recover its costs incurred therein, including reasonable attorneys' and consultants' fees and disbursements, and also including reasonable attorneys' fees and costs and fees associated with any appeal of a judgment.

15. This Agreement may be executed in any number of counterparts for the convenience of the Parties, all of which, when taken together and after execution by all Parties hereto, shall constitute one and the same Agreement

[End of text – separate signature pages follow]

W&H LIMITED LIABILITY COMPANY,
an Idaho limited liability company

By: Gerald A. Waller
Gerald A. Waller, Manager

STATE OF IDAHO)
) ss.
County of Ada)

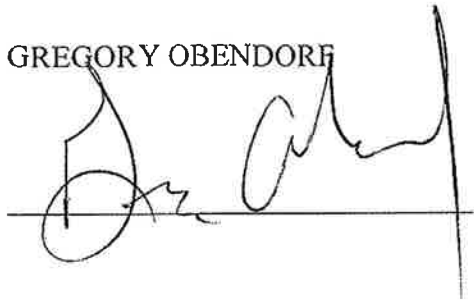
On this 6th day of January, 2011, before me, a Notary Public in and for the State of Idaho, personally appeared Gerald A. Waller, known or identified to me to be one of the members in the limited liability company of W&H Limited Liability Company, LLC and the member or one of the Managers of said limited liability company who subscribed said name to the foregoing instrument, and acknowledged to me that he executed the same in said limited liability company name.

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



Katharine Creswell
Notary Public for Idaho
Residing at: Ada County
My commission expires: 3/22/16

GREGORY OBENDORF

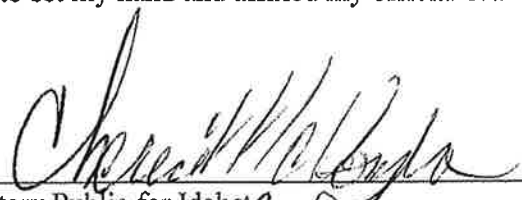


STATE OF IDAHO)
) ss.
County of Canyon)

On this 18th day of January, 2011, before me, the undersigned, a notary public in and for said county and state, personally appeared Gregory Obendorf, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

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





Notary Public for Idaho
Residing at Paris
Commission expires 12/02/2011

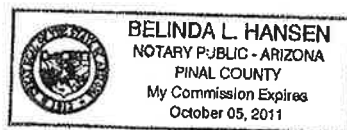
G.O. INVESTMENTS, LLC
a Colorado limited liability company

By: George Ray Obendorf
George Ray Obendorf, Manager

STATE OF ARIZONA)
) ss.
County of MARICOPA)

On this 17 day of January, 2011, before me, a Notary Public in and for the State of ARIZONA, personally appeared George Ray Obendorf, known or identified to me to be one of the members in the limited liability company of G.O. Investments, LLC and the member or one of the Managers of said limited liability company who subscribed said name to the foregoing instrument, and acknowledged to me that he executed the same in said limited liability company name.

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



Belinda L. Hansen
Notary Public for ARIZONA
Residing at: Queen Creek, AZ
My commission expires: 10-5-2011

EXHIBIT A
(W&H Property Description)

Parcel I

A tract of land situated in the County of Canyon, State of Idaho to wit:

Beginning at the Northwest corner of Lot 3, Section 21, Township 5 North, Range 5 West of the Boise Meridian, Canyon County, Idaho and running thence West on the North line of said Section 21, a distance of 1305 feet; thence South 17°10' West 250.0 feet; thence South 3°45' East 565.0 feet; thence South 16°45' East 245.5 feet; thence North 90°0' East 102.2 feet; thence South 68°30' East 295.5 feet; thence South 49°44' East 428.7 feet; thence South 56°10' East 343.0 feet; thence South 67°28' East 335.9 feet to a point 1735.25 feet South of the North ¼ corner of Section 21, Township 5 North, Range 5 West of the Boise Meridian; thence South 76°38' East 416.6 feet; thence South 63°07' East 255.3 feet; thence South 82°50' East 132.5 feet; thence North 84°55' East 271.0 feet; thence South 26°45' East 231.3 feet; thence North 89°53' East 176.3 feet; thence North 78°50' East 380.7 feet; thence South 68°25' East 546.0 feet; thence South 73°22' East 486.0 feet; to a point which is North 6°38' East 254.0 feet from the ¼ corner between Section 21 and 22, Township 5 North, Range 5 West of the Boise Meridian; thence South 82°58' East 515.5 feet; thence South 81°30' East 413.0 feet to the Southwesterly bank of the Boise River; thence continuing South 81°30' East 375.8 feet to a point on the East side of Lot 4 of Section 22, Township 5 North, Range 5 West of the Boise Meridian 81.3 feet North of the Southeast corner of said Lot 4; thence North along the East side of Lot 4 and the Northwest ¼ of the Northwest ¼ of said Section 22 to the North line of said Section 22, thence West along the North line of Section 22 and Section 21, Township 5 North, Range 5 West of the Boise Meridian to the North ¼ corner of said Section 21, which is the Northwest corner of Lot 3, Section 21, Township 5 North, Range 5 West of the Boise Meridian, Canyon County, Idaho, the point of Beginning. (Consisting of 242 acres more or less.)

Parcel II

Beginning at a point 20.0 feet East of the Northwest corner of the Southwest Quarter of Lot Six of Section Twenty-one, Township Five North, Range Five West of the Boise Meridian, thence North $2^{\circ} 55'$ East 645.0 feet; thence North $2^{\circ} 10'$ West 252.0 feet; thence North $16^{\circ} 45'$ West 12.5 feet; thence North $90^{\circ} 0'$ East, 102.2 feet; thence South $68^{\circ} 30'$ East 295.5 feet; thence South $49^{\circ} 44'$ East 428.7 feet; thence South $56^{\circ} 10'$ East 343.0 feet; thence South $67^{\circ} 28'$ East 335.9 feet to a point 1735.25 feet South of the quarter corner on the North side of said Section Twenty-one; thence South $76^{\circ} 38'$ East 416.6 feet; thence South $63^{\circ} 07'$ East 255.3 feet; thence South $82^{\circ} 50'$ East 132.5 feet; thence North $84^{\circ} 55'$ East 271.0 feet; thence South $26^{\circ} 45'$ East 231.3 feet; thence North $89^{\circ} 52'$ East 176.3 feet; thence North $78^{\circ} 50'$ East 380.7 feet; thence South $68^{\circ} 25'$ East 546.0 feet; thence South $73^{\circ} 22'$ East 486.0 feet to a point North $6^{\circ} 38'$ East 254.0 feet from the Quarter corner between Section Twenty-one and Twenty-two, Township Five North, Range Five West of the Boise Meridian; thence South $82^{\circ} 58'$ East 515.5 feet; thence South $81^{\circ} 30'$ East 413.0 feet to the Southwesterly bank of the Boise River; thence continuing South $81^{\circ} 30'$ East 375.8 feet to a point on the East side of Lot Four of Section Twenty-two, Township Five North, Range Five West of the Boise Meridian, 81.3 feet North of the Southeast corner of said Lot Four; thence South along the east side of Lot Four and Lot Three, Section Twenty-two, Township Five North, Range Five West of the Boise Meridian, to the Southeast corner of Lot Three (Northwest Quarter of the Southwest Quarter) of Section Twenty-two, Township Five North, Range Five West of the Boise Meridian; thence West along the South line of Lot Three of Section Twenty-two, and Lot Nine of Section Twenty-one, Township Five North, Range Five West

(continued on next page)

of the Boise Meridian, to a point 180.0 feet East of the Southwest corner of Lot Nine (Northeast Quarter of the Southeast Quarter) of Section Twenty-one, Township Five North, Range Five West of the Boise Meridian; thence Northwesterly 269.1 feet to a point 200.0 feet North of the said Southwest corner of Lot Nine; thence North 130.0 feet; thence West 1324.6 feet parallel to the center line of Section Twenty-one; thence North 991.5 feet to the center of Section Twenty-one; Township Five North, Range Five West of the Boise Meridian; thence 663.4 feet West along the center line of said Section Twenty-one; thence North 660 feet; thence West 640 feet to the point of beginning;

Parcel III

The Southeast Quarter of the Southwest Quarter and the Southwest Quarter of the Southeast Quarter of Section 16, Township 5 North, Range 5 West, Boise Meridian, Canyon County, Idaho.

EXCEPTING from said Southwest Quarter of the Southeast Quarter:

BEGINNING at the Northeast corner of the Southwest Quarter of the Southeast Quarter of said Section 16; running thence due South 210 feet; thence due West 210 feet; thence due North 210 feet; thence due East 210 feet to the POINT OF BEGINNING.

(The end of Exhibit A)

EXHIBIT B
(Obendorf Property Description)

Lot 10 of Sec. 21, and Lot 5 of Sec. 22, and Lot 4 of Sec. 27 and the NE¼ of the NE¼ of Sec. 28;

ALSO a strip of land of uniform width off the entire South side of t he NW¼ of the SE¼ of Sec. 21, said strip of land containing 10 acres;

ALSO, a tract of land in the SW corner of Lot 9 of Sec. 21, described as follows, to-wit:
Commencing at the SW corner of said Lot 9, running thence East along the South side of said Lot 9, 180 feet, thence in a NWrlly direction to a point on t he West line of said Lot 9, 200 feet North of the SW corner of said lot, thence South along the West line of said Lot 9 to the SW corner of said lot, the point of beginning,

ALL of the above described land being in Twp. 5 N,R 5 W B.M.;

EXCEPTING therefrom t he lands conveyed to the United States of America by deed recorded in Book 76 of Deeds, at page 535, records of Canyon County, Idaho, to which reference is hereby made, AND SUBJECT to the rights acquired by agreement recorded in Book 4 of Bonds and Agreements, at page 29, records of Canyon County, Idaho, to which reference is hereby made.

EXHIBIT C
(Obendorf Permit Application)

FORM 202 03/10 Print form as a 2 page, single-sided document

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT
To appropriate the public waters of the State of Idaho

Ident. No. _____

1. Name of applicant(s) G. O. Investments, LLC Phone 208-482-7397
Name connector (check one): ☐ and ☐ or ☐ and/or

Mailing address: 24034 Balt Corner Road City Parma

State ID Zip 83660 Email: _____

2. Source of water supply Unnamed Drain which is a tributary of Boise River

3. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag #
5N	5W	27	4	NE	NW	NW	Canyon	Unnamed Drain	

4. Water will be used for the following purposes:

Amount 6.0 cfs for Wildlife purposes from 2/29 to 11/15 (both dates inclusive)
(cfs or acre-foot per year)

Amount 6.0 cfs for Diversion to Storage purposes from 2/29 to 11/15 (both dates inclusive)
(cfs or acre-foot per year)

Amount 40.0 af for Wildlife Storage purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-foot per year)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-foot per year)

5. Total quantity to be appropriated is (a) 6.0 cubic feet per second (cfs) and/or (b) 40.0 acre-feet per year (af).

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source. Checkbox, pipe

b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 11.

For dams 10 feet or more in height OR reservoirs with a total storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☐ No

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

d. Is ground water with a temperature of greater than 65°F being sought? ☐ Yes ☐ No

e. If well is already drilled, when? _____; drilling firm _____;

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

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

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 or the applicant's qualifications as a municipal provider. _____

d. Domestic; show number of households _____

e. Other; describe fully. Five ponds covering a total of 10 acres with an average depth of 4 feet are planned for wildlife

8. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- 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	
5N	5W	22											Lt 5						
													W						
		27						Lt 4											
								W											

Total number of acres to be irrigated: _____

9. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? 63-32460

- Who owns the property at the point of diversion? Applicant
- Who owns the land to be irrigated or place of use? Applicant
- If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

11. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. Source also known as Baldrige and Meadows Drain. This application covers the remainder of the year not covered on application 63-32460 for the uses described above.

12. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).
13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" 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.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant

Signature of Applicant

Print Name (and title, if applicable)

Print Name (and title, if applicable)

For Department Use:

Received by _____ Date _____ Time _____ Preliminary check by _____
Fee \$ _____ Received by _____ Receipt No. _____ Date _____



EXHIBIT D
(Obendorf SRBA Claim - wildlife ponds)

SRBA Form No.42-1409-1 (Internet 2/09)

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

**IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM**

CIVIL CASE NUMBER: 39576
Ident. Number 63-33501 \$ 350
Date Received: _____
Receipt No: _____
Received By: _____

**NOTICE OF CLAIM
TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

Please type or print clearly

1. Name of Claimant (s) G. O. Investments, LLC Phone (208) 482-7397
Mailing Address 24034 Batt Corner Road, Parma, Idaho ZIP 83660
Street or Box City State
2. Date of Priority (Only one (1) per claim) March 14, 1944
Month Day Year (YYYY)
3. Source of water supply (Check one) Ground Water () or Other (✓) (a) Meadows Drain
which is tributary to (b) Boise River
4. a. Location of Point of Diversion is: Township 5N, Range 5W, Section 27,
NW, 1/4 of NW, 1/4 Govt. Lot 4, BM., County of Canyon
Parcel (PIN) no. _____
Additional points of diversion if any: _____
If available, GPS Coordinates _____
- b. If instream flow, beginning point of claimed instream flow is:
Township _____, Range _____, Section _____, _____, 1/4 of _____, 1/4
Govt. Lot _____, BM., County of _____
ending point is: Township _____, Range _____, Section _____, _____, 1/4 of _____, 1/4
Govt. Lot _____, BM., County of _____
5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed
and as enlarged and the depth of each well. Ponds cover about 12 acres at an average depth of 2 feet.

6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For Wildlife purposes from 1/1 to 12/31 amount 2.5 or _____

For Diversion to Storage purposes from 1/1 to 12/31 amount 2.5 or _____

For Wildlife Storage purposes from 1/1 to 12/31 amount _____ or 24.0

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 2.5 (cfs) and/or (b) 24.0 (acre feet)

8. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.) _____

9. Description of place of use:

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 use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

Twn	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
5N	5W	22											Lt 5						
													W						
		27						Lt 4											
								W											

Parcel (PIN) no(s). _____

Total number of acres irrigated _____

10. In which county (ies) are lands listed above as place of use located? Canyon

11. Do you own the property listed above as place of use? Yes (✓) No ()

If your answer is No, describe in Remarks below the authority you have to claim this water right.

12. Describe any other water rights used at the same place and for the same purposes as described above.

_____ or None (✓)

13. Remarks: Meadows Drain is a drain that flows through the SESE Section 28, T5N, R5W to a confluence with the "Balldridge and Meadows Drain". The confluence of the two drains is located near the boundary of the SENWNW, Section 27 and the SWNENW, Section 27, T5N, R5W. The point of diversion for this claim is upstream of the confluence of the two drains.

Last Name G. O. Investments, LLC

Identification No. _____

Map of Project: Attach aerial photograph or topographic map showing clearly the point of diversion, place of use, section number, township, and range number, unless unavailable. Otherwise sketch the elements above on the grid below.



14. Basis of Claim (Check One) Beneficial Use (☒) Posted Notice (☐) License (☐) Permit (☐) Decree (☐)

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number _____

15. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notices in the Snake River Basin Adjudication." (b.) I/We do (☐) do not (☐) wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 1 Aerial Photo

For Individuals: I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date: _____

_____ Date: _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am

Manager _____ of G. O. Investments, LLC _____,

Title

Organization

that I have signed the foregoing document in the space below as

Manager _____ of G. O. Investments, LLC _____,

Title

Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____ Date _____

Title and Organization _____

16. Notice of Appearance:

Notice is hereby given that I, Dana L. Hofstetter, Hofstetter Law Office, LLC, will be acting as attorney at law of behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____ Date _____

Address Hofstetter Law Office, LLC

608 West Franklin Street, Boise, ID 83702

EXHIBIT E
Obendorf SRBA Claim - irrigation)

SRBA Form No.42-1409-1 (Internet 2/09)

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

**IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM**

CIVIL CASE NUMBER: 39576

Ident. Number 63-33502 ^{\$}105

Date Received: _____

Receipt No: _____

Received By: _____

**NOTICE OF CLAIM
TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

Please type or print clearly

1. Name of Claimant (s) G. O. Investments, LLC Phone (208) 482-7397

Mailing Address 24034 Batt Corner Road, Parma, Idaho ZIP 83660
Street or Box City State

2. Date of Priority (Only one (1) per claim) March 1, 1940
Month Day Year (YYYY)

3. Source of water supply (Check one) Ground Water () or Other () (a) Waste water
which is tributary to (b) Boise River

4. a. Location of Point of Diversion is: Township 5N, Range 5W, Section 21,
SE, 1/4 of SE, 1/4 Govt. Lot 10, BM., County of Canyon

Parcel (PIN) no. _____

Additional points of diversion if any: _____

If available, GPS Coordinates _____

b. If instream flow, beginning point of claimed Instream flow is:

Township _____, Range _____, Section _____, _____, 1/4 of _____, 1/4

Govt. Lot _____, BM., County of _____

ending point is: Township _____, Range _____, Section _____, _____, 1/4 of _____, 1/4

Govt. Lot _____, BM., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed
and as enlarged and the depth of each well. Waste water collection pond, concrete ditch

6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For Irrigation purposes from 3/1 to 11/15 amount 1.0 or _____

For Diversion to Storage purposes from 3/1 to 11/15 amount 1.0 or _____

For Irrigation Storage purposes from 3/1 to 11/15 amount _____ or 15

For Diversion from Storage purposes from 3/1 to 11/15 amount 1.0 or _____

7. Total quantity claimed (a) 1.00 (cfs) and/or (b) 15 (acre feet)

8. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.) _____

9. Description of place of use:

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 use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

Twn	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
5N	5W	27						Lt 4											
								5											5
		21																stg	

Parcel (PIN) no(s) _____ Total number of acres irrigated 5

10. In which county (ies) are lands listed above as place of use located? Canyon

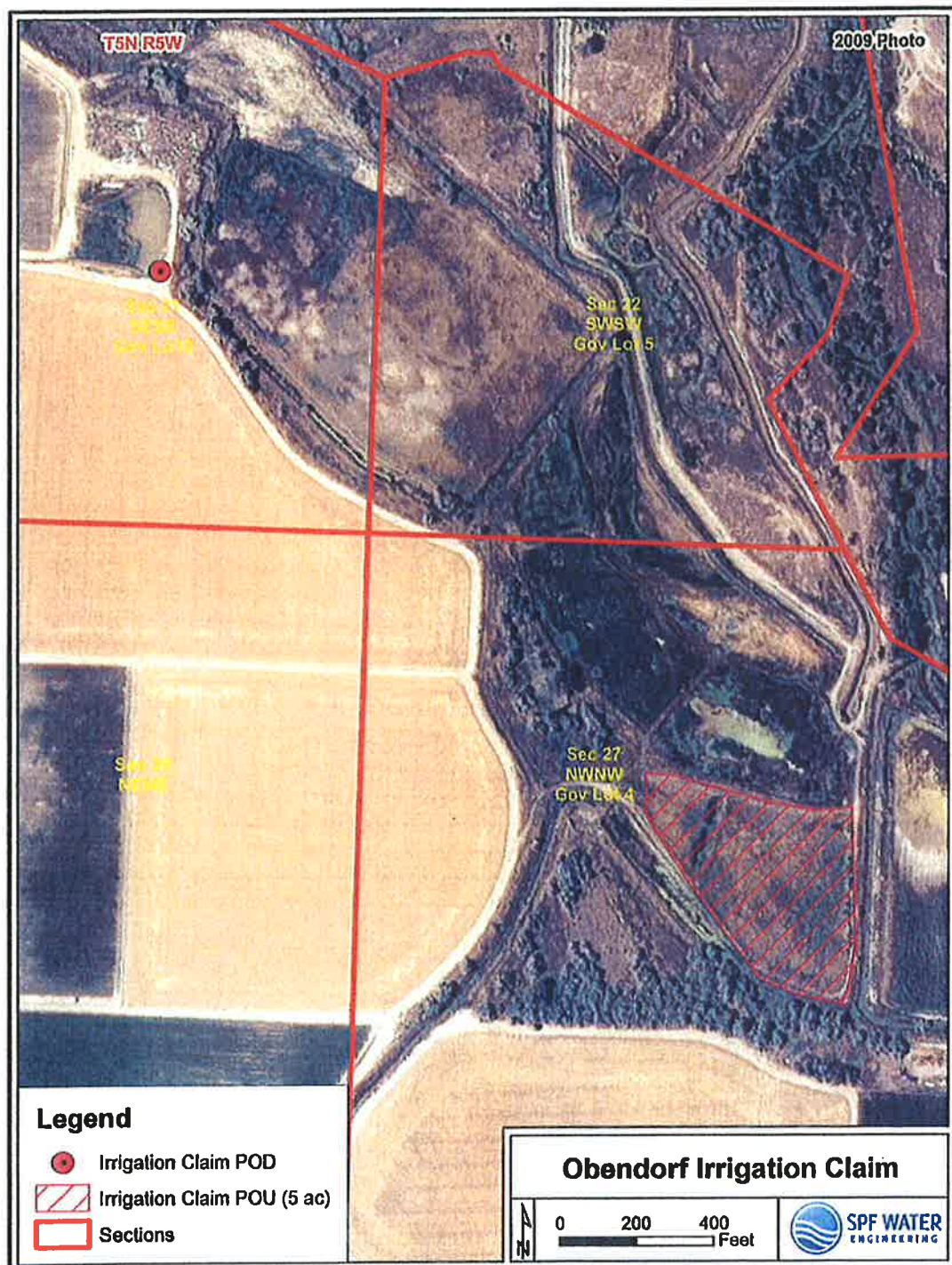
11. Do you own the property listed above as place of use? Yes (✓) No ()
If your answer is No, describe in Remarks below the authority you have to claim this water right.

12. Describe any other water rights used at the same place and for the same purposes as described above.

or None (✓)

13. Remarks: Source of water is waste water from Riverside Irrigation District irrigated lands owned by the claimant that are located west of the place of use and point of diversion for this claim.

Last Name G. O. Investments, LLC Identification No. _____



14. Basis of Claim (Check One) Beneficial Use (☒) Posted Notice (☐) License (☐) Permit (☐) Decree (☐)

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number _____

15. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notices in the Snake River Basin Adjudication." (b.) I/We do (☐) do not (☐) wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 1 Aerial Photo

For Individuals: I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date: _____

_____ Date: _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am

Manager _____ of G. O. Investments, LLC _____,
Title Organization

that I have signed the foregoing document in the space below as

Manager _____ of G. O. Investments, LLC _____,
Title Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____ Date _____

Title and Organization _____

16. Notice of Appearance:

Notice is hereby given that I, Dana L. Hofstetter, Hofstetter Law Office, LLC, will be acting as attorney at law of behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____ Date _____

Address Hofstetter Law Office, LLC

608 West Franklin Street, Boise, ID 83702

Last Name _____ Identification No. _____

EXHIBIT F
(SRBA Irrigation Claim from Upper Haas)

SRBA Form No.42-1409-1 (Internet 2/09)

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

**IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM**

CIVIL CASE NUMBER: 39576

Ident. Number 63-33503 (112)

Date Received: _____

Receipt No: _____

Received By: _____

**NOTICE OF CLAIM
TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

Please type or print clearly

1. Name of Claimant (s) G. O. Investments, LLC Phone (208) 482-7397

Mailing Address 24034 Batt Corner Road, Parma, Idaho ZIP 83660

2. Date of Priority (Only one (1) per claim) March 14, 1944 City Parma State Idaho
Month Day Year (YYYY)

3. Source of water supply (Check one) Ground Water () or Other () (a) Baldrige and Meadows Drain
which is tributary to (b) Boise River

4. a. Location of Point of Diversion is: Township 5N, Range 5W, Section 27,
NW, 1/4 of NW, 1/4 Govt. Lot 4, BM., County of Canyon

Parcel (PIN) no. _____

Additional points of diversion if any: _____

If available, GPS Coordinates _____

b. If instream flow, beginning point of claimed instream flow is:

Township _____, Range _____, Section _____, _____, 1/4 of _____, 1/4

Govt. Lot _____, BM., County of _____

ending point is: Township _____, Range _____, Section _____, _____, 1/4 of _____, 1/4

Govt. Lot _____, BM., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed
and as enlarged and the depth of each well. _____

6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For Irrigation purposes from 3/1 to 11/15 amount 1.00 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 1.00 (cfs) and/or (b) _____ (acre feet)

8. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.) _____

9. Description of place of use:

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 use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

Twn	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
5N	5W	21																L10	
																		1	1
		22											L 5						
													11						11

Parcel (PIN) no(s). _____

Total number of acres irrigated 12

10. In which county (ies) are lands listed above as place of use located? Canyon

11. Do you own the property listed above as place of use? Yes (✓) No ()

If your answer is No, describe in Remarks below the authority you have to claim this water right.

12. Describe any other water rights used at the same place and for the same purposes as described above.

or None (✓)

13. Remarks: This claim includes 0.4 cfs for conveyance loss between the point of diversion and the field headgate.

Last Name G. O. Investments, LLC Identification No. _____

14. Basis of Claim (Check One) Beneficial Use (☒) Posted Notice (☐) License (☐) Permit (☐) Decree (☐)

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number _____

15. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notices in the Snake River Basin Adjudication." (b.) I/We do (☐) do not (☐) wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 1 Aerial Photo

For Individuals: I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date: _____

_____ Date: _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am

Manager _____ of G. O. Investments, LLC _____,
Title Organization

that I have signed the foregoing document in the space below as

Manager _____ of G. O. Investments, LLC _____,
Title Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____ Date _____

Title and Organization _____

16. Notice of Appearance:

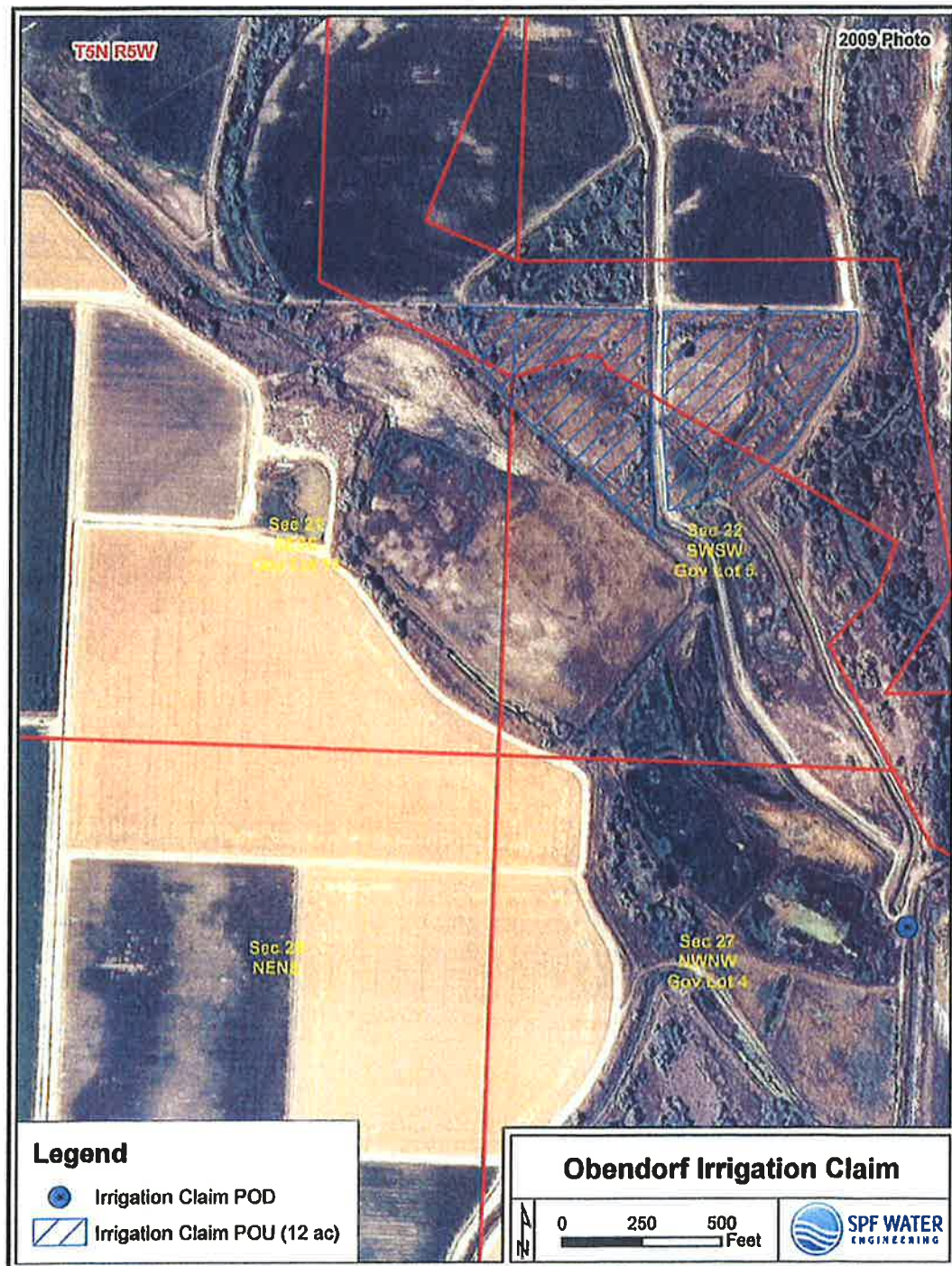
Notice is hereby given that I, Dana L. Hofstetter, Hofstetter Law Office, LLC, will be acting as attorney at law of behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____ Date _____

Address Hofstetter Law Office, LLC

608 West Franklin Street, Boise, ID 83702

Last Name _____ Identification No. _____



WILDLIFE POND-WETLAND APPLICATIONS AT WESTERN

Background/Issue

-Over the last 5 yrs, our region has received a number of applications mainly in the Lower Boise River (Parma) area requesting new appropriations of water for Wildlife ponds /Wetland beneficial uses.

-There are issues with adjacent landowners resulting in civil lawsuits, contested applications, and SRBA objections.

-The applicants request excessive flow rates with no basis or rational.

Explanations: "That's what the ditch will carry"

" The excessive flow is to keep the ice off the ponds"

Examples

No.	Name	Flow	Acreage	Flow/Ac.	Remarks
63-32238	Stout	21.5 cfs	76 ac	.28 cfs/ac	contested
<i>SW BORD. CONDITION</i> 63-32911 & 12	Tree Top	40.0 cfs	63ac	.63cfs/ac	permit
63-32067	Obendorf	90.0 cfs	15 ac	6.0 cfs/ac	permit
63-32462	Tree Top	20.0 cfs	36 ac	.55 cfs/ac	contested

NRCS ASSISTANCE

-Worked with the State Engineer

-Familiar with wildlife/wetland designs and water requirements.

-Evaluated 2 case studies (applications)

-ET rates--utilized Parma Experimental Station ET data

-Infiltration rates --southwest Idaho silt-clay soils

-Ice Free—Parma temperature data

-Summary Calculated Flows

Evapo-transpiration-- .013 cfs/ac

Seepage-- .014 cfs/ac

Ice Free .100 cfs/ac

Total .127 cfs/ac

Recommend .15 cfs/ac *

*The Parma area consumptive rate 3.5 ac/ft/ac & headgate 4.5 ac/ft/ac



Natural Resources Conservation Service
9173 W. Barnes Dr., Ste. C
Boise, Idaho 83709

4/29/2010

To: John Westra
Regional Manager
IDWR Western Regional Office

As requested I have examined the application by Tree Top Ranches L.P. and by Steven Stout. I will demonstrate a methodology using standard sources to calculate flows relating to various parts of the water budget.

Tree Top Ranches L.P. Application for Wildlife Wetlands

Application is for 35.5 acres of wetlands. What water flow is needed by various components?

Evaporation and Transpiration

The ET Idaho site for the Parma Experimental Station was examined. 'Large Stands of Wetlands' and 'Actual ET' parameters were used to obtain:

ET (mm/day)

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
0.28	0.60	0.95	1.18	2.91	6.33	7.70	6.87	4.93	1.93	0.39	0.25

<http://www.kimberly.uidaho.edu/ETIdaho/stcivrstats.php?station=106844&cover=51&stats=Actual>

Converting these to average cfs/acre yields:

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
0.28	0.60	0.95	1.18	2.91	6.33	7.70	6.87	4.93	1.93	0.39	0.25	mm/d
0.00	0.00	0.00	0.00	0.00	0.01	0.01	0.01	0.01	0.00	0.00	0.00	cfs/ac
0.02	0.04	0.06	0.07	0.17	0.37	0.45	0.40	0.29	0.11	0.02	0.01	cfs/35a

1 mm/day = 0.001654 cfs/acre
1 mm/day = 0.0587 cfs/35.5 acres

Infiltration

Infiltration (seepage) is fairly constant in the silts and clays of Southwest Idaho. Laboratory values taken from NRCS holding ponds indicate a high seepage rate of about 0.0001 cm/sec and a low of about 0.000001 cm/sec. Using 0.00001 as an average, this translate to about 0.014 cfs per acre or about 0.51 cfs per day for 35.5 acres.

The application suggests that the flow through rate is required to keep the ponds from icing. Cooling of lakes results in convective mixing until the water temperature hits 39 degrees F, at which water obtains its maximum density. The surface layer then cools (and becomes lighter, floating on the denser water below. The water cools at a rate proportional to the average air temperature (ignoring convection losses from wind). The average air temperature (deg. F) at Parma is:

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
27.9	34.5	42.9	50.7	58.8	65.8	73.3	71.4	61.7	50.7	38.2	30.3

<http://www.wrcc.dri.edu/cgi-bin/cliMAIN.pl?idparma>

Flow to Keep Ice-Free

Ice thickness can be predicted using freezing degree days. Using the above data December has about -53 freezing degree-days and January has about -127 freezing degree-days. Assuming an ice-air resistance of about $1 \text{ hr ft}^2 \text{ F} / \text{BTU}$, this creates about 6 inches of ice, or about 1,240,000 pounds of ice per acre¹. Converting that to pounds per day over 62 days yields 20,000 pounds of ice formed per day per acre. An inflow of 1 cfs at 40 degrees equates to 5,400,000 pounds per day and lowering 8 degrees would provide 43,000,000 BTUs. Therefore inflow at 40 degrees F would need to be 0.07 cfs to melt 20,000 pounds of ice (144 BTU per pound to melt), so inflow required would be about 0.1 cfs per acre.

The above analysis assumes perfect mixing. Reference is Cold Regions Engineering Short Course, University of Washington, January 9-13th, 2003.

Another way to examine the needed flow rate is to look at fresh water turnover. This application is for 91.5 acre-feet of storage. Each cfs of flow provides 2 acre-feet of volume each day. For 91.5 acre feet of storage, 6.5 cfs would provide one water turnover each week.

Recommended flows:

1. The flow required to counteract evapotranspiration in the summer is 0.5 cfs for 35.5 acres.
2. The flow required to counteract seepage year around is 0.5 cfs for 35.5 acres.
3. The flow required to keep 35.5 acres ice free in December and January is 3.6 cfs, assuming perfect mixing.

Recommendations:

1. It is probably not feasible to keep a completely open water surface during freezing months.

Steven Stout Application for Wildlife Wetlands

Application is for 76 acres of which 13 acres are open water. What water flow is needed by various components? This application is near the one cited above, so the same meteorological data can be applied.

Evaporation and Transpiration

It appears from the application that the fields and ponds will be provided water simultaneously. Using the same ET parameters derived above, and scaling the numbers up to 76 acres:

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
0.28	0.60	0.95	1.18	2.91	6.33	7.70	6.87	4.93	1.93	0.39	0.25	mm/d
0.00	0.00	0.00	0.00	0.00	0.01	0.01	0.01	0.01	0.00	0.00	0.00	cfs/ac
0.04	0.06	0.12	0.15	0.37	0.80	0.97	0.87	0.62	0.24	0.05	0.03	cfs/76a

1 mm/day = 0.001654 cfs/acre
1 mm/day = 0.1257 cfs/76 acres

The above analysis assumes the 'fields' are flooded in the summer.

Infiltration

Infiltration will be a similar steady state value calculated using 0.00001 cm/sec. This results in 1.06 cfs for 76 acres.

Flow to Keep Ice-Free

Given similar temperatures, the ice thickness will be the same, 6". The same amount of daily flow will be needed to melt that same amount of ice, 0.1 cfs/acre, assuming perfect mixing.

Keeping the 'fields' ice free with what is assumed to be a relatively shallow water cover will be very difficult, so flow required to remove ice will be very dependent on the number of acres desired to keep ice free. 13 acres (the area of the ponds) would require 1.3 cfs. The entire 76 acres would require a flow of 7.6 cfs.

Recommended flows:

1. The flow required to counteract evapotranspiration in the summer is 1.0 cfs for 76 acres.
2. The flow required to counteract seepage year around is 1.1 cfs for 76 acres.
3. The flow required to keep 13 acres ice free in December and January is 1.3 cfs, while the flow to keep 76 acres ice free is 7.6 cfs, assuming perfect mixing.

Recommendations:

1. It is probably not feasible to keep a completely open water surface during freezing months.



Rob Sampson, P.E.
State Conservation Engineer

¹ the equation to calculate ice thickness is:

$$\frac{FI}{\rho_i L} = R (X_2 - X_1) + (X_2^2 - X_1^2) / 2k_i$$

Where

FI is the freezing index (number of degree days average below freezing)

ρ_i is the density of ice, taken as 57 # / ft³

L is the latent heat of fusion, taken as 144 BTU / #

R is the thermal resistance above growing ice, taken as 1 hr ft² °F / BTU

X_1 is the initial thickness of ice, taken to be 0 feet

X_2 is the final thickness of ice, feet

k_i is the thermal conductivity of ice, taken as 1.4 BTU / (hr ft °F)

HOFSTETTER LAW OFFICE

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Boise, Idaho 83702

Dana@IdahoWaterLaw.com

Dana L. Hofstetter
Attorney at Law

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

October 25, 2005

RECEIVED

OCT 27 2005

WATER RESOURCES
WESTERN REGION

Via Facsimile and U.S. Mail

Lori Graves
Senior Water Resource Agent
Western Region
Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705-5082

Re: Ray Obendorf Applications for Permit

Dear Ms. Graves:

This letter responds to your September 27, 2005 letter requesting additional information about the two Applications for Permit submitted on behalf of Ray Obendorf in April 2005.

One of the Applications proposes a non-irrigation season wildlife use of Boise River water from the Haas Ditch, while the other Application describes a year round wildlife use of water from a drain. Since the Haas Ditch use is during the non-irrigation season, whether local water delivery organizations retain control of the water is not an issue. However, to the extent the drain water is used during the irrigation season, you have indicated that the approvals of two local water delivery organizations, the Haas Ditch Company and the Riverside Irrigation District, are necessary. After discussing this matter with my client, it appears that it was intended that both Applications cover only the non-irrigation season. Therefore we would request amendment of the waste water Application to cover the non-irrigation season from November 16 to February 28, except for the pond storage components on both Applications which you indicated could be year

Lori Graves
October 25, 2005
Page 2

round. Also, we have determined that this Application should be amended to cover 5 ponds, not just 4, and the wildlife storage capacity increased to 50 Acre Feet. The fifth pond will be located in the SW1/4SW1/4 of Section 22, Township 5 North, Range 5 West, as depicted on the enclosed aerial photograph. I also note that the drain at issue is on the boundary of Ray Obendorf's property and the diversion works and ditches are on Ray Obendorf's property. Therefore, no right of way approvals involving the lands of others are necessary.

While the two Applications have points of diversion in close proximity, they actually are different. One Application utilizes the Haas Ditch's diversion from the Boise River, while the other Application utilizes a drain that flows into the Boise River. The diversion from the drain in the Application occurs near the Haas Ditch in close proximity to the Boise River. Further, these drains, ditches and diversion works already exist and have adequate capacity to cover the uses in the Applications.

Additionally, I have better depicted on the enclosed aerial photographs where the water travels past the exit point on Ray Obendorf's property. The water exits the property in an existing drain that presumably ultimately discharges to the Boise River.

If you have any further questions or need additional information, please contact me. Thank you.

Sincerely,

HOFSTETTER LAW OFFICE, LLC

A handwritten signature in black ink, reading "Dana Hofstetter", with a long horizontal flourish extending to the right.

Dana L. Hofstetter

cc: Greg Obendorf
D:4027.2/6659



Photo 1: Diversion from the Boise River (NENW Section 27, T5N, R5W Canyon County)



Photo 2: Headgates to the Haas Canal (24-inch)



Photo 3: Discharge from the 24-inch Headgates into the Haas Canal



Photo 4: Haas Canal looking downstream



Photo 5: Location of Proposed Headgate to take Water from Haas Canal (foreground) to the East End Drain (center of picture).



Photo 6: At the beginning of the East End Drain, looking upstream.



Photo 7: Unnamed Drain (Meadows Drain) looking up stream.



Photo 8: Upper Ditch where it crosses over the Haas Canal.



Photo 9: Headgate from Upper Ditch to East Ponds



Photo 10: Outlet Structure for East Ponds (63-32460)



Photo 11: Siphon taking water from ponds across Haas Canal toward East End Drain

Attachment A
1986 Diversion to Haas Canal
Station 13212938,
source: IDWR online electronic database.

20070416

13212938 HAAS CANAL
DISCHARGE, CUBIC FEET PER SECOND, IRRIGATION YEAR NOVEMBER 1985 TO OCTOBER 1986
MEAN VALUES

DAY	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT
1	---	---	---	---	---	0.0	8.0	10	10	7.0	14	0.0
2	---	---	---	---	---	0.0	8.0	10	10	7.0	14	0.0
3	---	---	---	---	---	0.0	8.0	10	10	7.0	12	0.0
4	---	---	---	---	---	0.0	8.0	10	10	7.0	12	0.0
5	---	---	---	---	---	0.0	8.0	10	10	7.0	12	0.0
6	---	---	---	---	---	0.0	8.0	24	10	8.0	12	0.0
7	---	---	---	---	---	0.0	18	24	10	8.0	12	0.0
8	---	---	---	---	---	0.0	18	24	10	8.0	12	0.0
9	---	---	---	---	---	0.0	18	24	12	8.0	12	0.0
10	---	---	---	---	---	0.0	18	24	12	8.0	8.0	0.0
11	---	---	---	---	---	0.0	18	22	12	8.0	8.0	0.0
12	---	---	---	---	---	0.0	18	22	12	8.0	8.0	0.0
13	---	---	---	---	---	0.0	18	22	12	12	8.0	0.0
14	---	---	---	---	---	0.0	0.0	22	12	12	8.0	0.0
15	---	---	---	---	---	0.0	0.0	22	12	12	8.0	0.0
16	---	---	---	---	---	0.0	0.0	22	11	12	8.0	---
17	---	---	---	---	---	0.0	0.0	22	11	12	14	---
18	---	---	---	---	---	0.0	0.0	22	11	12	14	---
19	---	---	---	---	---	0.0	0.0	22	11	12	14	---
20	---	---	---	---	---	0.0	0.0	22	11	11	14	---
21	---	---	---	---	---	0.0	7.0	22	11	11	14	---
22	---	---	---	---	---	0.0	7.0	22	11	11	14	---
23	---	---	---	---	---	0.0	7.0	22	8.0	11	14	---
24	---	---	---	---	---	0.0	7.0	22	8.0	11	14	---
25	---	---	---	---	---	0.0	7.0	10	8.0	11	14	---
26	---	---	---	---	---	0.0	7.0	10	8.0	11	14	---
27	---	---	---	---	---	8.0	7.0	10	8.0	14	14	---
28	---	---	---	---	---	8.0	10	10	8.0	14	14	---
29	---	---	---	---	---	8.0	10	10	8.0	14	14	---
30	---	---	---	---	---	8.0	10	10	7.0	14	14	---
31	---	---	---	---	---	---	10	---	7.0	14	---	---
TOTAL						32	263	538	311	322	364	
MEAN						1.1	8.5	18	10	10	12	
MAX						8.0	18	24	12	14	14	
MIN						0.0	0.0	10	7.0	7.0	8.0	
AC-FT						63	522	1067	617	639	722	

IRRIGATION YEAR 1986

TOTAL 1830

MEAN 5.0

AC-FT 3630

Attachment B
Comment Letters Sent to Interested Parties

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 25, 2007

Canyon County Commissioners
1115 Albany
Caldwell, Idaho 83605

Re: Application for Water Right Permit Nos. 63-32459 and 63-32460

Dear Commissioners:

I write on behalf of Ray Obendorf who has filed two water right Applications for Permit. As part of the application process, the Idaho Department of Water Resources requires that the applicant seek comments on the Applications from certain other parties.

The Applications propose non-consumptive water uses to cover and expand an existing wildlife habitat project utilizing existing ditches during the non-irrigation season. I enclose copies of the two Applications for your reference. If you have any comments on these Applications, please submit them to: Steve Lester, Water Rights Supervisor, Idaho Department of Water Resources, 2735 Airport Way, Boise, Idaho 83705-5082. If you do not have any comments on these Applications, there is no need to reply. Thank you for your attention to this matter.

Sincerely,

HOFSTETTER LAW OFFICE, LLC



Dana L. Hofstetter

Enclosures

cc: Steve Lester w/ enclosures

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

January 25, 2006

Raymond Abbott
Haas Ditch Company
26948 Stephen Lane
Parma, Idaho 83660

Re: Applications for Water Right Permit

Dear Mr. Abbott:

I write on behalf of Ray Obendorf who recently filed two water right Applications for Permit. As part of the application process, the Idaho Department of Water Resources requires that the applicant seek comments on the Applications from certain other parties.

The Applications propose non-consumptive water uses to cover and expand an existing wildlife habitat project utilizing existing ditches during the non-irrigation season. I enclose copies of the two Applications for your reference. If you have any comments on these Applications, please submit them to: Lori Graves, Senior Water Resource Agent, Idaho Department of Water Resources, 2735 Airport Way, Boise, Idaho 83705-5082. If you do not have any comments on these Applications, there is no need to reply. Thank you for your attention to this matter.

Sincerely,

HOFSTETTER LAW OFFICE, LLC



Dana L. Hofstetter

Enclosures

cc: Lori Graves w/ enclosures

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

January 25, 2006

Matt Howard
U. S. Bureau of Reclamation
1150 North Curtis Road, Suite 100
Boise, Idaho 83706

Re: Applications for Water Right Permit

Dear Mr. Howard:

I write on behalf of Ray Obendorf who recently filed two water right Applications for Permit. As part of the application process, the Idaho Department of Water Resources requires that the applicant seek comments on the Applications from certain other parties.

The Applications propose non-consumptive water uses to cover and expand an existing wildlife habitat project in Canyon County utilizing existing ditches during the non-irrigation season. I enclose copies of the two Applications for your reference. If you have any comments on these Applications, please submit them to: Lori Graves, Senior Water Resource Agent, Idaho Department of Water Resources, 2735 Airport Way, Boise, Idaho 83705-5082. If you do not have any comments on these Applications, there is no need to reply. Thank you for your attention to this matter.

Sincerely,

HOFSTETTER LAW OFFICE, LLC



Dana L. Hofstetter

Enclosures

cc: Lori Graves w/ enclosures

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

January 25, 2006

Idaho Department of Environmental Quality
1410 North Hilton
Boise, Idaho 83706

Re: Applications for Water Right Permit

Dear Sir/Madam:

I write on behalf of Ray Obendorf who recently filed two water right Applications for Permit. As part of the application process, the Idaho Department of Water Resources requires that the applicant seek comments on the Applications from certain other parties.

The Applications propose non-consumptive water uses to cover and expand an existing wildlife habitat project in Canyon County utilizing existing ditches during the non-irrigation season. I enclose copies of the two Applications for your reference. If you have any comments on these Applications, please submit them to: Lori Graves, Senior Water Resource Agent, Idaho Department of Water Resources, 2735 Airport Way, Boise, Idaho 83705-5082. If you do not have any comments on these Applications, there is no need to reply. Thank you for your attention to this matter.

Sincerely,

HOFSTETTER LAW OFFICE, LLC



Dana L. Hofstetter

Enclosures

cc: Lori Graves w/ enclosures

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

January 25, 2006

Greg Martinez
U. S. Army Corps of Engineers
304 North 8th Street, Room 140
Boise, Idaho 83702

Re: Applications for Water Right Permit

Dear Mr. Martinez:

I write on behalf of Ray Obendorf who recently filed two water right Applications for Permit. As part of the application process, the Idaho Department of Water Resources requires that the applicant seek comments on the Applications from certain other parties.

The Applications propose non-consumptive water uses to cover and expand an existing wildlife habitat project in Canyon County utilizing existing ditches during the non-irrigation season. I enclose copies of the two Applications for your reference. If you have any comments on these Applications, please submit them to: Lori Graves, Senior Water Resource Agent, Idaho Department of Water Resources, 2735 Airport Way, Boise, Idaho 83705-5082. If you do not have any comments on these Applications, there is no need to reply. Thank you for your attention to this matter.

Sincerely,

HOFSTETTER LAW OFFICE, LLC



Dana L. Hofstetter

Enclosures

cc: Lori Graves w/ enclosures

APP. FOR
PERMIT #

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

January 25, 2006

RECEIVED
JAN 26 2006
WATER RESOURCES
WESTERN REGION

Raymond Abbott
Haas Ditch Company
26948 Stephen Lane
Parma, Idaho 83660

Re: Applications for Water Right Permit

Dear Mr. Abbott:

I write on behalf of Ray Obendorf who recently filed two water right Applications for Permit. As part of the application process, the Idaho Department of Water Resources requires that the applicant seek comments on the Applications from certain other parties.

The Applications propose non-consumptive water uses to cover and expand an existing wildlife habitat project utilizing existing ditches during the non-irrigation season. I enclose copies of the two Applications for your reference. If you have any comments on these Applications, please submit them to: Lori Graves, Senior Water Resource Agent, Idaho Department of Water Resources, 2735 Airport Way, Boise, Idaho 83705-5082. If you do not have any comments on these Applications, there is no need to reply. Thank you for your attention to this matter.

Sincerely,

HOFSTETTER LAW OFFICE, LLC



Dana L. Hofstetter

Enclosures

cc: Lori Graves w/ enclosures

IDAHO DEPARTMENT OF WATER RESOURCES

Water Permit Report 63-32176

WATER RIGHT NUMBER: 63-32176

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	JOHN HAUCK PO BOX 2137 MC CALL, ID 83638 (208)634-4837
Attorney	JON C GOULD RINGERT CLARK PO BOX 2773 BOISE, ID 83701 (208)342-4657

Priority Date: 02/24/2005

Basis:

Status: Active

<u>Source</u>	<u>Tributary</u>
POND	BOISE RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/01 to 11/15	0.150 CFS	
<u>Total Diversion:</u>		0.150 CFS	

Location of Point(s) of Diversion

POND	L4 (NE1/4NW1/4NW1/4)	Sec. 26, Twp 05N, Rge 05W, B.M.
CANYON County		

Place of Use

IRRIGATION

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	26						7.5											7.5
								L 4											

Total Acres: 7.5

Conditions of Approval:

1. R65 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
2. 01H Prior to diversion of water under this right, the right holder shall install a lockable device, subject to the approval of the Department, in a manner that will provide the watermaster suitable control of the diversion.
3. R05 Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 63.

IDAHO DEPARTMENT OF WATER RESOURCES

Water Permit Report 63-32176

4. 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.
5. 01R When notified by the Department, the right holder shall install and maintain a measuring device of a type acceptable to the Department as part of the diverting works.

Remarks:

Comments:

1. skeen 11/18/2005 POD
Comment: Updated shape
2. skeen 11/18/2005 POU
Comment: Updated Shape

Water Supply Bank:

New Applications

Pending Wildlife Apps. Basin 63

<u>Basin</u>	<u>Sequence</u>	<u>Source</u>	<u>Tributary</u>	<u>Priority Date</u>	<u>Twp</u>	<u>Range</u>	<u>Sec</u>	<u>QQQ</u>	<u>Rate(cfs)</u>	<u>Water Use(s)</u>	<u>Owner(s)</u>	<u>Combined</u>
63	11988	BOISE RIVER	SNAKE RIVER	18/02/1993	02N	03E	3	NWSW	2	DIVERSION TO ST MAALOUF, KARLO (Cur		
63	32226	UNNAMED DRAI ROSS EAST END DR.		23/09/2005	05N	05W	17	SESW	1.03	DIVERSION TO ST PARMA PONDS LLC (Cl		
63	32238	BOISE RIVER	SNAKE RIVER	09/06/2005	05N	04W	31	SENE	10	RECREATION, WILSTOUT, CHRIS L (Curre		
63	32458	UNNAMED DRAI BOISE RIVER		12/09/2006	05N	05W	27	NENW	4.6	DIVERSION TO ST W & H PARTNERSHIP L		
63	32459	BOISE RIVER	SNAKE RIVER	05/04/2005	05N	05W	27	NWNENW	24	WILDLIFE	G O INVESTMENTS LLC	
63	32460	UNNAMED DRAI BOISE RIVER		05/04/2005	05N	05W	27	NENWNW	6	DIVERSION TO ST G O INVESTMENTS LLC		
63	32461	SAND RUN GULC BOISE RIVER		19/12/2005	05N	05W	8	SENE	30	DIVERSION TO ST J F WATSON FARMS CC		
63	32462	SAND HOLLOW (SNAKE RIVER		28/12/2005	05N	05W	23	NWNW	20	DIVERSION TO ST TREE TOP RANCHES		
63	32562	UNNAMED DRAI ROSS EAST END DR.		23/10/2006	05N	05W	17	SESW	1	DIVERSION TO ST MERGES, DOUG (Curre		
63	32608	UNNAMED DRAI ROSS EAST END DR.		21/11/2006	05N	05W	17	SESW	2.8	DIVERSION TO ST PARMA PONDS LLC (Cl		
63	32946	ALLEN DRAIN	SNAKE RIVER	30/11/2007	04N	06W	14	SWNE	2.5	AESTHETIC, AEST DEL MONTE MEAT CO		
63	32947	ARENA LAKE DR/ SNAKE RIVER		30/11/2007	04N	06W	11	SESW	2.5	AESTHETIC, AEST DEL MONTE MEAT CO		
63	32992	CURRENT CREEK DRY CREEK		06/03/2008	05N	02E	32	NWNW	0.1	AESTHETIC, RECR MINER, SUSAN D (Curr		
63	33265	UNNAMED DRAI BOISE RIVER		24/08/2009	05N	04W	31	NENE	5	WILDLIFE	STOUT, CHRIS L (Currel	

APPROVED PERMITS

63 CFS 63-32911 TREE TOP RANCHES 63 ACRES 11/15/TO 08/01 COMPLIMENTS SURFACE WATER DURING IRRIGATION
63-32912 SEASON

Basin 51 Wildlife Applications

<u>Basin</u>	<u>Sequence</u>	<u>Source</u>	<u>Tributary</u>	<u>Priority Date</u>	<u>Twp</u>	<u>Range</u>	<u>Sec</u>	<u>QQQ</u>	<u>Rate(cfs)</u>	<u>Water Use(s)</u>	<u>Owner(s)</u>	<u>Combined</u>
51	12999	UNNAMED DRAIN	JACKS CREEK	03/02/2006	07S	04E	12	NESE	2	DIVERSION TO OBENDORF, GREG (Cur		
51	12999	UNNAMED DRAIN	JACKS CREEK	03/02/2006	07S	04E	12	SESE	2	DIVERSION TO OBENDORF, GREG (Cur		
51	12999	UNNAMED DRAIN	JACKS CREEK	03/02/2006	07S	05E	7	NWSW	2	DIVERSION TO OBENDORF, GREG (Cur		
51	13000	UNNAMED DRAIN	JACKS CREEK	03/02/2006	07S	05E	7	SWNW	2	DIVERSION TO OBENDORF, GREG (Cur		
51	13001	UNNAMED DRAIN	JACKS CREEK	03/02/2006	07S	05E	7	NESW	2	DIVERSION TO OBENDORF, GREG (Cur		
51	13001	UNNAMED DRAIN	JACKS CREEK	03/02/2006	07S	05E	7	NWSW	2	DIVERSION TO OBENDORF, GREG (Cur		
51	13001	UNNAMED DRAIN	JACKS CREEK	03/02/2006	07S	05E	7	SWSW	2	DIVERSION TO OBENDORF, GREG (Cur		
51	13040	GROUND WATER		28/07/2008	10S	02E	9	NWNW	0.05	STOCKWATER, US DEPT OF INTERIOR		

Shurte, Jan

From: Spencer, Nick
Sent: Wednesday, April 07, 2010 4:42 PM
To: Dana Hofstetter
Cc: Shurte, Jan; Williams, Ray
Subject: RE: 63-32910

Hi Dana.

Tomorrow will not work for a meeting because [REDACTED], and there is no guarantee she will be back in the office tomorrow. Moreover, I don't understand the purpose in having such a meeting.

Jan and I met with Mike Creamer and the folks from SPF because Mike had told us that he was putting together a settlement offer to your client and you. His basis for wanting to meet with IDWR was that it made little sense to invest significant effort in negotiating a settlement with your client and you if it would all come to naught because IDWR was unwilling to sign off on an SF-5. Therefore he wanted to show IDWR the information he had collected that he would subsequently share with you. The information that Jan and I were shown can be viewed as supporting a wildlife right; but Jan and I made no commitment about signing off on any settlement agreement that recognized such a right. We would need to carefully evaluate the information provided in support of the claim before that would be possible, which is something that IDWR no longer needs to do.

Basically, since your client is unwilling to even discuss settlement with W & H, the meeting with Mike Creamer and SPF has been a waste of time because it no longer matters what IDWR thinks. At trial IDWR's role will be very limited, viz. explaining that the agent who recommended the claim for disallowance simply had too many questions about the use to be comfortable in recommending the claim. The fundamental questions concerning whether in truth there is or is not a beneficial use here will be litigated by Mike Creamer and you.

So, since IDWR's opinion no longer matters, I don't understand why Greg Obendorf and you feel any need to persuade Jan and me of the correctness of his position. The way the recommendation stands now, your client already has the limited benefit of the prima facie weight of the director's report. IDWR doesn't have the time to revisit this whole matter, conduct an additional investigation, and submit a new recommendation to the Court. Rather, we will leave it to Mike Creamer and you to provide to the court the evidence in support of your respective positions. In short, the court--not IDWR--is the one that will decide whether there is a water right or not. In the unlikely event the court should request, and IDWR should agree to conduct, further investigation and prepare a 706 report detailing the results of that investigation, Jan would of course want both sides to provide any information they had in support of their respective positions. That would be the appropriate time to have the meeting you propose.

So I am left scratching my head about what purpose a meeting now would serve. Please let me know your thoughts regarding my concerns. Thanks. NBS

-----Original Message-----

From: Dana Hofstetter [mailto:Dana@IdahoWaterLaw.com]
Sent: Tuesday, April 06, 2010 6:10 PM
To: Spencer, Nick; Shurte, Jan
Subject: 63-32910

Nick and Jan:

After reviewing the Affidavits provided by the Claimant, it has become clear that my client has a very different perspective than the Claimant on the historical water use asserted under SRBA Claim No. 63-32910. The fact that the Claimant has had an opportunity to meet with IDWR to explain its position was discussed at this morning's Scheduling Conference. My client and I also would like an opportunity to meet with you so that my client who supports the original IDWR recommendation for this Claim can explain his perspective based on almost 50 years of familiarity with the property. Please let me know if you have any availability on Thursday of this week to meet to discuss this matter.

Thank you,
Dana Hofstetter

STATUS CONFERENCE NOTES:

RIGHT NO. 63-32910

DATE: 6-1-10

Amended claim filed yesterday
to add stockwater. 78 ADR based
on info both submitted. Try for
settlement - seems to have failed
in negotiations. Trial set for
October.