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AUG 08 2007

DEPARTMENT OF
WATER RESOURCES

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

In Re SRBA

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SUBCASE: 63-31808

STANDARD FORM 5

Case No. 39576

STIPULATED ELEMENTS OF A WATER
RIGHT

This form is used to report the stipulated elements of one water right acquired under state law. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that the elements of this water right should be decreed as described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT/OBJECTOR:

Ballentyne Ditch Company Ltd
C/O Joe King
170 N. Sierra Way
Eagle, ID 83616

OBJECTOR:

Boise Project Board of Control, *et. Al.*

Bryce Farris
BRYCE FARRIS

7/30/07
Date

Albert P. Barker
Albert P. Barker

7/31/07
Date

IDWR CONCURRENCE:

OBJECTOR:

Bureau of Reclamation

Jan Spurte
Date

7-18-07
Date

[Signature]
Date

8/3/07
Date

Mike Spencer
Date

7-24-07
Date

RESPONDENT:

State of Idaho

David J. Borla
Date

8/6/2007
Date

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. **FAX filings will not be accepted.**
You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on August 7, 2007, I mailed the original and copies of this objection, including all attachments, to the following persons, by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

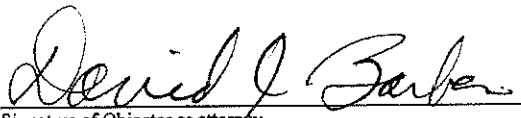
Name: Ballentyne Ditch Company Ltd
Address: C/O Joe King
170 N. Sierra Way
Eagle, ID 83616

3. Copies to:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho (Not Applicable)
P.O. Box 44449
Boise, ID 83711-4449

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

United States Department of Justice
Environment and Natural Resource Division
General Litigation Section
550 West Fort Street, MSC 033
Boise, ID 83724


Signature of Objector or attorney
mailing on Objector=s behalf

05/01/2007

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

RIGHT NUMBER: 63-31808

NAME AND ADDRESS: BALLENTYNE DITCH CO LTD
C/O JOE KING
170 N SIERRA WAY
EAGLE ID 83616

SOURCE: BOISE RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 9.670 CFS

This right authorizes the diversion rate of 0.14 cfs and an annual diversion volume of 24.9 af for ground water recharge as replacement of losses caused by evaporation from the five ponds associated with Right 63-12598.

This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and preceding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and preceding to the earliest, shall be reduced to 60 percent of their decreed quantities.

PRIORITY DATE: 06/01/1888

POINT OF
DIVERSION: T04N R01E S16 NWNESE Lot 8 Within ADA County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
GROUND WATER RECHARGE	03/01 11/15	0.140 CFS 24.90 AFY
IRRIGATION	03/01 11/15	9.530 CFS

Diversion ~~for irrigation~~ under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoir dated April 1985 and any future amendments or revisions made thereto for the purposes of flood control pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.

PLACE OF USE: GROUND WATER RECHARGE in ADA County

T04N R01E S16 NWNW T04N R01E S16 Lot 4 SWNW
T04N R01E S16 Lot 3 SENW

741 ACRES TOTAL

The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

This right is limited to the irrigation of 741 acres within the boundary of the Ballentyne Ditch Company Limited in a single irrigation season.

Handwritten notes:
NBS
DL
2/B

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

The right holder shall accomplish the changes authorized by Transfer 70262 within one (1) year of the date of approval of the transfer.

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.

The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.

The following rights are also diverted through the point of diversion described above: 63-195, 63-198AA, 63-258A, 63-260B, 63-264, 63-285 & 63-31937.

Failure of the right holder to comply with the conditions of approved Transfer 70262 is cause for the Director to rescind the transfer.

This right is also known as Numbers 98, 99, 100, 101, 102 and 103 in the Boise River Water Master Records.

WATER IS DELIVERED THROUGH THE BALLENTYNE CANAL.

RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.

THIS RIGHT IS A COMBINATION OF OLD RIGHT NOS. 63-234, 63-235, 63-236, 63-237, 83-238 & 63-239.

2/B