

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 63-31808
Date Received: 5/5/1989
Receipt No:
Received By:

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

1. Name of Claimant(s)

BALLENTYNE DITCH CO LTD Phone: (208) 939-4558

C/O JOE KING
170 N SIERRA WAY
EAGLE ID USA 83616

2. Date of Priority: 06/01/1888

3. Source: BOISE RIVER Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
04N	01E	16	NW NE SE 8	ADA	

5. Description of diverting works:

BALLENTYNE DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/01	11/15	9.53	
GROUND WATER RECHARGE			03/01 11/15	0.14
24.9				

7. Total Quantity Appropriated is:
9.67 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
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04N	01E	16	NW	NW		GROUND WATER RECHARGE
			SW	NW	4	GROUND WATER RECHARGE
			SE	NW	3	GROUND WATER RECHARGE

11. Place of use in counties: ADA

12. Do you own the property listed above as place of use? No

13. Other Water Rights Used:

14. Remarks:

This right is limited to the irrigation of 733.9 acres within the boundary of the Ballentyne Ditch Company Limited in a single irrigation season.

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.

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.

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 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 Arrowrock Reservoir, Lucky Peak Reservoir and/or Lake Lowell as decreed in SRBA Case No. 39576.

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.

Rights 63-195, 63-198AA, 63-258A, 63-260B, 63-264, 63-285, and 63-15238 are also diverted through the point(s) of diversion described above.

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.

The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.

Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

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 63-31808
Date Received: 5/5/1989
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

BALLENTYNE DITCH CO LTD Phone: (208)373-0564

C/O JOE KING
170 N SIERRA WAY
EAGLE ID USA 83616

2. Date of Priority: 06/01/1888

3. Source: BOISE RIVER Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
04N	01E	16	NW NE SE	ADA	

5. Description of diverting works:

Ballentyne Ditch.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/15	11/15	9.67	

7. Total Quantity Appropriated is:
9.67 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
04N	01E	7	SW NW	2	IRRIGATION	40
			NE SW		IRRIGATION	40

			NW	SW	3	IRRIGATION	40
			SW	SW	4	IRRIGATION	20
			SE	SW		IRRIGATION	25
						Section Acres	165
04N	01E	8	SE	SE		IRRIGATION	3.8
						Section Acres	3.8
04N	01E	9	SW	SW		IRRIGATION	9.5
						Section Acres	9.5
04N	01E	16	NW	NW		IRRIGATION	40
			SW	NW		IRRIGATION	12
			SE	NW		IRRIGATION	12
						Section Acres	64
04N	01W	11	SE	NE		IRRIGATION	30
						Section Acres	30
04N	01W	12	NE	NE		IRRIGATION	10
			NW	NE		IRRIGATION	10
			SW	NE		IRRIGATION	40
			SE	NE		IRRIGATION	40
			NE	NW		IRRIGATION	10
			SW	NW		IRRIGATION	35
			SE	NW		IRRIGATION	40
			NE	SW		IRRIGATION	40
			NW	SW		IRRIGATION	40
			SW	SW		IRRIGATION	40
			SE	SW		IRRIGATION	35
			NE	SE		IRRIGATION	40
			NW	SE		IRRIGATION	40
			SW	SE		IRRIGATION	40
			SE	SE		IRRIGATION	30
						Section Acres	490
04N	01W	13	NE	NW		IRRIGATION	5
			NW	NW		IRRIGATION	30
						Section Acres	35
						Total Acres	797.3

11. Place of use in counties: ADA

12. Do you own the property listed above as place of use? No

13. Other Water Rights Used:

14. Remarks:

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

15. Basis of Claim: Decreed

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice 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: _____

For Organizations:

I do solemnly swear or affirm that I am _____ of
Title
_____, that I have signed the foregoing
Organization
document in the space below as _____ of
Title
_____ and that the statements contained in the
Organization
foregoing document are true and correct. _____
Signature of Authorized Agent

Title and Organization

Date

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this
of _____ 20__

Notary Public

Residing at _____

My commission Expires _____

Claimant Acknowledgement of Change in Attorney in Snake River Basin Adjudication (SRBA)

RECEIVED
MAR 18 2003
WATER RESOURCES
WESTERN REGION

Name(s) of Claimant (please print):

BALLENTYNE DITCH COMPANY

I/we acknowledge (check one):

☐ The attorney formerly representing me has withdrawn and I/we will be representing myself/ourselves.

☒ I/we are now represented by the attorney at the address below.

RINGERT CLARK CHARTERED LAWYERS
DAN STEENSON OR S. BRYCE FARRIS
455 S. 3RD ST (PO Box 2773)
BOISE, IDAHO
Attorney's Phone (208) 342-4591

The SRBA water right claim notice(s) affected by this change are listed below or on the attached sheet(s).

ALL WATER RIGHTS AND WATER RIGHT MATTERS IN THE SRBA.

63-3618 _____

63-3618P _____

For Individuals:

Authorized signature(s) Date _____

For Organizations:

I am PRESIDENT of BALLENTYNE DITCH COMPANY, and I

Title

Organization

have signed the foregoing document in the space below as

PRESIDENT of BALLENTYNE DITCH COMPANY.

Title

Organization

Signature of Authorized Agent Joe King

Title President Date 28 Feb 2003

Organization Ballentyne Ditch Company

IDWR Use:

Date Received 3-18-03

Data Entry 3-24-03

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 63-234
Date Received: 5/5/89
Receipt No: C006611
Received By:

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

1. Name of Claimant(s): BALLENTYNE DITCH COMPANY LTD Phone: (208)344-1126
C/O KEITH RICKS
1001 SHOSHONE ST
BOISE ID 83705

2. Date of Priority: 06/01/1888

3. Source: BOISE RIVER Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
04N	01E	16	NW NE SE	ADA	

5. Description of diverting works:

BALLENTYNE DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/15	11/15	9.67	

7. Total Quantity Appropriated is:
9.67 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4		Lot	Use	Acres
04N	01E	7	SW	NW	2	IRRIGATION	40
			NE	SW		IRRIGATION	40
			NW	SW	3	IRRIGATION	40
			SW	SW	4	IRRIGATION	20
			SE	SW	IRRIGATION	25	
Section Acres							165
04N	01E	8	SE	SE	IRRIGATION	3.8	
Section Acres							3.8
04N	01E	9	SW	SW	IRRIGATION	9.5	
Section Acres							9.5
04N	01E	16	NW	NW	IRRIGATION	40	
			SW	NW	IRRIGATION	12	
			SE	NW	IRRIGATION	12	
Section Acres							64
04N	01W	11	SE	NE	IRRIGATION	30	
Section Acres							30
04N	01W	12	NE	NE	IRRIGATION	10	
			NW	NE	IRRIGATION	10	
			SW	NE	IRRIGATION	40	
			SE	NE	IRRIGATION	40	
			NE	NW	IRRIGATION	10	
			SW	NW	IRRIGATION	35	
			SE	NW	IRRIGATION	40	
			NE	SW	IRRIGATION	40	
			NW	SW	IRRIGATION	40	
			SW	SW	IRRIGATION	40	
			SE	SW	IRRIGATION	35	
			NE	SE	IRRIGATION	40	
			NW	SE	IRRIGATION	40	
			SW	SE	IRRIGATION	40	
			SE	SE	IRRIGATION	30	
Section Acres							490

04N	01W	13	NE NW	IRRIGATION	5
			NW NW	IRRIGATION	30

Section Acres 35

Total Acres 797.3

11. Place of use in counties: ADA

12. Do you own the property listed above as place of use? No

13. Other Water Rights Used:

14. Remarks:

ACTUAL IRRIG. ACRES = 797.25 THIS CLAIM IS A COMBINATION OF THE FOLLOWING WATER RIGHTS: 63-00234 1.0 4.00 CFS 63-00235 1.30 CFS 63-00236 1.40 CFS 63-00237 1.46 CFS 63-00238 (PARTIAL) 1.00 CFS 63-00239D 0.51 CFS TOTAL 9.67 CFS OTHER RIGHTS: 63-00195, 63-00264, 63-00265, 63-00289, 63-00198AA, 63-00258A, , 63-00260B, 63-00285, A63-15238 PLACE OF USE IS WITHIN SERVICE AREA OF BALLENTYNE DITCH CO
This is a combined right of 63-00235, -00236, -00237, -00238, -00239 and -00239D.

15. Basis of Claim: Decreed

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: A63-00234
Date Received: 5/4/89
Receipt No: C006611
Received By: JP

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: BALLENTYNE DITCH COMPANY, LTD. 208-344-1126
Address: C/O KEITH RICKS
1001 SHOSHONE ST.
BOISE, ID 83705
2. Date of Priority: JUN 01, 1888
3. Source: BOISE RIVER Trib. to: SNAKE RIVER
4. Point of Diversion:
- | Township | Range | Section | 1/4 of | 1/4 of | 1/4 of | Lot | County |
|----------|-------|---------|--------|--------|--------|-----|--------|
| 04N | 01E | 16 | NW | NE | SE | | ADA |
5. Description of diverting works:
BALLENTYNE DITCH
6. Water is used for the following purposes:
- | Purpose | From | To | C.F.S | (or) | A.F.A. |
|------------|-------|-------|-------|------|--------|
| IRRIGATION | 03/15 | 11/15 | 9.670 | | |
7. Total Quantity Appropriated is:
9.670 C.F.S. (and/or) A.F.A.
8. Total consumptive use is 2790.4 Acre Feet Per Annum.
9. Non-irrigation uses:
NONE
10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
04N	01E	7	SW	NW	2	IRR	40.0
			NE	SW		IRR	40.0

A63-00234

Page 1

Date: 05/01/89

MICROFILMED

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
04N	01E	7	NW	SW	3	IRR	40.0
			SW	SW	4	IRR	20.0
			SE	SW		IRR	25.0
					Section Acres		165.0
		8	SE	SE		IRR	3.8
			Section Acres		3.8		
			9	SW	SW		IRR
		Section Acres		9.5			
		16		NW	NW		IRR
			SW	NW		IRR	12.0
			SE	NW		IRR	12.0
					Section Acres		64.0
01W		11	SE	NE		IRR	30.0
			Section Acres		30.0		
		12	NE	NE		IRR	10.0
			NW	NE		IRR	10.0
			SW	NE		IRR	40.0
			SE	NE		IRR	40.0
			NE	NW		IRR	10.0
			SW	NW		IRR	35.0
			SE	NW		IRR	40.0
			NE	SW		IRR	40.0
			NW	SW		IRR	40.0
			SW	SW		IRR	40.0
SE	SW			IRR	35.0		
NE	SE			IRR	40.0		
NW	SE			IRR	40.0		
SW	SE			IRR	40.0		
SE	SE		IRR	30.0			
	Section Acres		490.0				
13	NE	NW		IRR	5.0		
	NW	NW		IRR	30.0		
	Section Acres		35.0				

10. Place of Use: Continued

Total Acres 797.3

11. Place of use in counties: ADA

12. Do you own the property listed above as place of use? NO

13. Other Water Rights Used:
SEE REMARKS

14. Remarks:

ACTUAL IRRIG. ACRES = 797.25

THIS CLAIM IS A COMBINATION OF THE FOLLOWING WATER RIGHTS:

63-00234 4.00 CFS

63-00235 1.30 CFS

63-00236 1.40 CFS

63-00237 1.46 CFS

63-00238 (PARTIAL) 1.00 CFS

63-00239D 0.51 CFS

TOTAL 9.67 CFS

OTHER RIGHTS: 63-00195, 63-00264, 63-00265, 63-00289,
63-00198AA, 63-00258A, , 63-00260B, 63-00285, A63-15238

PLACE OF USE IS WITHIN SERVICE AREA OF BALLENTYNE DITCH CO.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

Decree Plaintiff

vs

Decree Defendant

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice 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: 2

For Organizations:

I do solemnly swear or affirm that I am Secretary-Treasurer of
Title
Ballentyne Ditch Company, Ltd., that I have signed the foregoing
Organization
document in the space below as Secretary-Treasurer of
Title
Ballentyne Ditch Company, Ltd. and that the statements contained in the
Organization
foregoing document are true and correct.

Keith Thomas
Signature of Authorized Agent
Sec-Treas Ballentyne Ditch Co., Ltd.
Title and Organization

5-4-89
Date

State of Idaho)
County of ADA) SS.

Subscribed and sworn (or affirmed) before me this 4TH day
of MAY 19 89

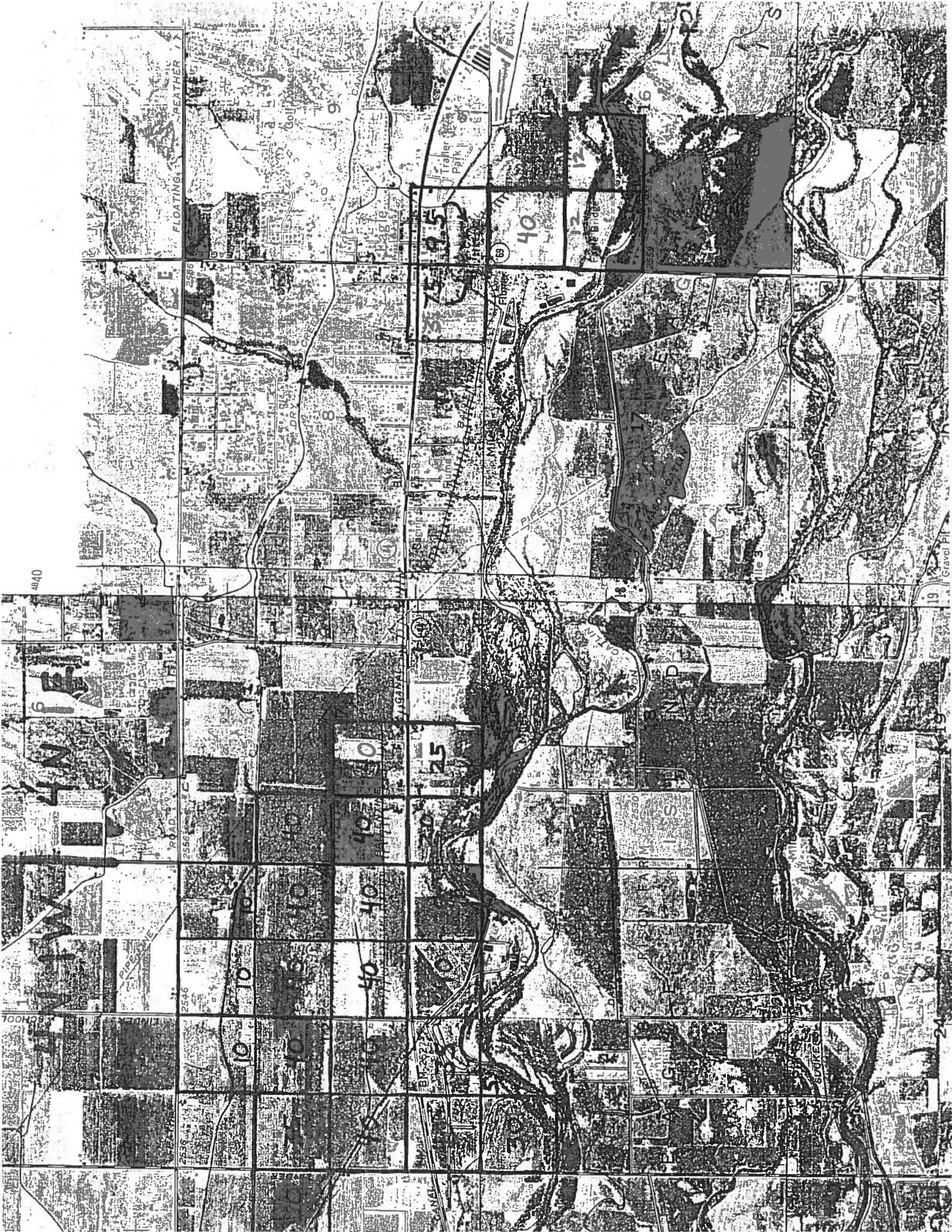
Jeff Peppersack
Notary Public

Seal

Residing at _____

My Commission Expires _____

Jeff Peppersack, Notary Public
Residing at Boise, Idaho
My Commission Expires Nov. 8, 1994



BALLENTYNE DITCH

TOTAL - 14.8126 CF

63-00234

4 CFS

63-00235

1.3 CFS

63-00236

1.4 CFS

63-00237

1.46 CFS

63-00238

ORIGINAL RIGHT 1.2 CFS

TRANS. 64 0.2 CFS OUT

NET 1.0 CFS

63-00239

ORIGINAL RIGHT 1.4 CFS

TRANS. 161 0.65 OUT

TRANS. 174 0.24 OUT

SPLIT D - NET 0.51 CFS

63-00195

0.8 CFS

63-00264

0.8 CFS

63-00265

0.8 CFS

63-00289

1.4 CFS

63-00198

TRANS. 57 0.06 CFS IN

SPLIT AA

63-00258

TRANS. 151 0.135 CFS IN

SPLIT A

63-00260

ORIGINAL RIGHT 0.8256 CFS

TRANS. 140 0.07 CFS OUT

SPLIT B - NET 0.7556 CFS

63-00285

0.392 CFS

MICROFILME

APR 17 1923

COMBINE
AS

A63-00234

9.67 CFS

COMBINE
AS

A63-00264

3 CFS

ALSO

B/U RIGHT A63-15238

DEFAULT TO 63-02406

3.08 CFS

APR. 1, 1923

MEMORANDUM

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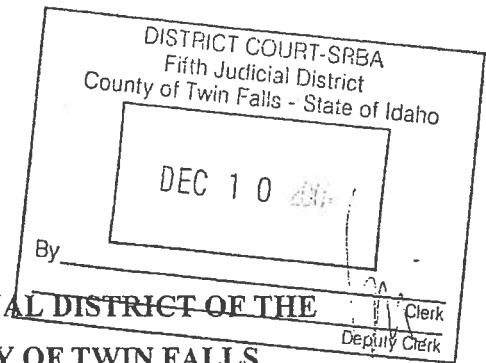
DEC 13 2007

DEPARTMENT OF
WATER RESOURCES

Date: December 11, 2007
From: Julie Murphy, SRBA Deputy Clerk
To: Albert P. Barker, S. Bryce Farris, IDWR, Dept. of Justice
& Attorney General's Office
Subject: Order of Partial Decree for 63-31808

On 12/10/07 I mailed to each of you an *Order of Partial Decree for Irrigation Delivery Entity Using Digital Boundary Description* for water right number 63-31808. Under the water right number in the caption of this document, Pioneer Ditch Co. Ltd. was incorrectly listed instead of Ballentyne Ditch Co. Ltd. Please replace the first page of the order with the attached corrected page. The *Partial Decree* attached to the order was correct.

I apologize for the error and the inconvenience. Thanks.



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

Case No. 39576

) ORDER OF PARTIAL DECREE FOR
) IRRIGATION DELIVERY ENTITY
) USING DIGITAL BOUNDARY
) DESCRIPTION; I.C. §§ 42-202B(2), 42-
) 219(2), 42-1411(2)(h)
)
) For Water Right: 63-31808
) (Ballentyne Ditch Co. Ltd.)
)
)

I.
FINDINGS AND CONCLUSIONS

1. On August 20, 2007, a *Special Master's Report and Recommendation* was filed for the above water right. No Challenges were filed to the *Special Master's Report and Recommendation* and the time for filing Challenges has now expired.
2. The above-captioned water right is for an irrigation purpose of use and satisfy one of the following statutory criteria: (1) used in conjunction with an irrigation project where the canals constructed cover an area of twenty-five thousand (25,000) acres or more; (2) the place of use for the water rights is located within an irrigation district organized pursuant to the laws of the state of Idaho; or (3) the water rights are for an irrigation project developed by an association, company, corporation or the United States to divert and deliver or distribute surface water under any annual charge or rental for beneficial use by more than five (5) water users in an area less than twenty-five thousand (25,000) acres.
3. Effective July 1, 2002, the Idaho Legislature approved the use of a Geographic Information System (GIS) for describing the place of use (digital boundary) for water rights meeting the above-stated criteria. See I.C. §§ 42-219(2)(2003) and 42-1411(2)(h)(2003). The GIS mapping technology allows the geographic area encompassing the place of use for a

RECEIVED

AUG 21 2007

Department of Water Resources
Adjudication Bureau

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

2007 AUG 20 AM 11 54

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

Case No. 39576

) SPECIAL MASTER'S REPORT
) (Digital Boundary)
)
) FINDINGS OF FACT AND
) CONCLUSIONS OF LAW
)
) FOR WATER RIGHT 63-31808

I. FINDINGS OF FACT

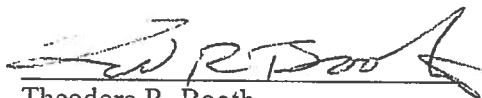
A notice of claim was filed for the above-captioned water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources (IDWR) examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of this water right.

Objections were timely filed by the Boise Project Board of Control, and by the United States of America, Department of Interior, Bureau of Reclamation. On August 8, 2007, the parties to the subcase filed a *Standard Form 5 – Stipulated Elements of a Water Right*, which resolved the objection. The Idaho Department of Water Resources concurred with the stipulation.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein and pursuant to the *Standard Form 5*, IT IS RECOMMENDED that water right 63-31808 be decreed with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*.

Dated August 20, 2007



Theodore R. Booth
Special Master
Snake River Basin Adjudication

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

In Re SRBA)
)
Case No. 39576)
)

PARTIAL DECREE PURSUANT TO FILED
I.R.C.P. 54(b) FOR
Water Right 63-31808 2007 AUG 20 AM 11 54

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: 9.67 CFS

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.
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.

PRIORITY DATE: 06/01/1888

POINT OF DIVERSION: T04N R01E S16 LOT 8 (NWNESE) Within Ada County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-01 TO 11-15	9.53 CFS
	Groundwater Recharge	03-01 TO 11-15	0.14 CFS
			24.90 AFY

Diversion 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: Groundwater Recharge Within Ada County

The boundary encompassing the irrigation 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 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. I.C. SECTION 42-1412(6).

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

RECOMMENDATION

AUG 20 2007

Lawrence B. Smith

SPECIAL MASTER



04N01E

Ballentyne Ditch Co

-  Boundary
-  Townships
-  Sections
-  Quarter/Quarters

1987-88 NAIP Photography
Idaho Dept. of Water Resources

0.2 0 0.2 0.4 0.6 Miles

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

DEC 16 2005

By _____

Clerk

Deputy Clerk

63-195
63-198AA
63-258A
63-260B
63-264
63-285
63-31808

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

2007 AUG 20 AM 11 56

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)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 63-31808

On August 20, 2007, Special Master THEODORE R. BOOTH issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

Failure of any party in the adjudication to pursue or participate in a Motion to Alter or Amend the SPECIAL MASTER'S RECOMMENDATION shall constitute a waiver of the right to challenge it before the Presiding Judge.

DATED August 20, 2007.



DIANA R. DELANEY
Deputy Clerk

DISTRICT COURT
TWIN FALLS CO., ID.
FILED

2007 AUG 20 AM 11:11

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

Case No. 39576

CERTIFICATE OF MAILING

Water Right(s): 63-31808

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on August 20, 2007, with sufficient first-class postage prepaid to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

BOISE PROJECT BOARD OF CONTROL

Represented by:
ALBERT P BARKER
1010 W JEFFERSON, STE 102
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

STATE OF IDAHO

Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449

CERTIFICATE OF MAILING

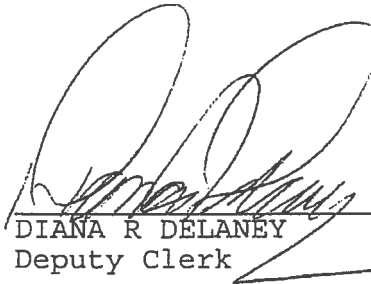
PAGE 1
08/20/07

BALLENTYNE DITCH CO LTD

Represented by:
S. BRYCE FARRIS
455 S THIRD ST
PO BOX 2773
BOISE, ID 83701-2773
Phone: 208-342-4591

USDI BUREAU OF RECLAMATION

Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724



DIANA R DELANEY
Deputy Clerk

COPY

RECEIVED

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

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

RESPONDENT:

State of Idaho

David J. Gola
Date 8/6/2007

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:

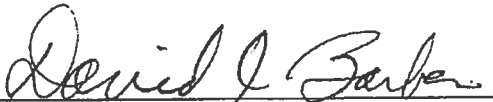
Name: Ballentyne Ditch Company Ltd
Address: C/O Joe King
170 N. Sierra Way
Eagle, ID 83616

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.

586
NBS
DL
2/3

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

RECEIVED

SEP 12 2006

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

Case No. 39576

A. Subcase 63-31808
(Insert water right number)

STANDARD FORM 1
AMENDED OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: United States of America acting through the Department of Interior,
Bureau of Reclamation, Regional Director PN Code-3100
Address: 1150 N. Curtis Rd. Suite 100
Boise, ID 83706-1234
Daytime Phone: (208) 378-5306 E. Gail McGarry

Name & Address of Attorney, if any:
David W. Gehlert (303) 844-1386
Natural Resources Section
Environment and Natural Resource Division
U.S. Department of Justice
1961 Stout Street - 8th Floor
Denver, CO 80294

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTORS REPORT

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

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box (es)).

1. ☐ **Name and Address**
Should be:
2. ☐ **Source**
Should be:
3. ☐ **Quantity**
Should be:
4. ☐ **Priority Date**
Should be:
5. ☐ **Point(s) of Diversion**
Should be:
6. ☐ **Instream Flow Description**
Should be:
7. ☐ **Purpose(s) of Use**
Should be:

8. ☒ **Period of Year**

Should be: Diversion for irrigation and ground water recharge under this 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 the Boise River Reservoir dated April 1985 and any future amendments or revisions made thereto 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.

9. ☐ **Place of Use**
Should be:

10. **I object because:**

- ☐ This water right should not exist.
- ☐ This water right was not recommended, but should be recommended with the elements described.

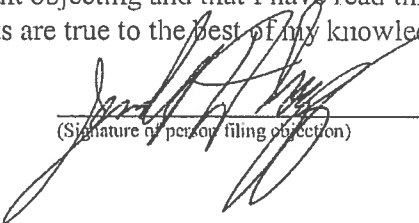
E. **REASONS SUPPORTING EACH OBJECTION(S):** The proposed language is intended to preserve the historical practice of allowing Reclamation's reservoirs to fill until April 1 and after October 31 if necessary.

F. VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

Jerrold D. Gregg, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.


(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on:



9.5.06
Valerie J Shaw
Notary Public for: Idaho
Residing at: Meridian
My Commission Expires: 6.2.2012

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.

G. CERTIFICATE OF MAILING

I certify that on SEP 17. 8, 2006 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
PO Box 2707
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

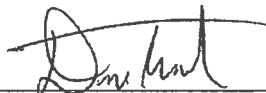
3. Copies to:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

IDWR Document Depository
PO 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

Albert P. Barker
Barker Rosholt & Simpson, LLP
PO Box 2139
Boise, ID 83701-2139



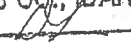
Signature of Objector or attorney
mailing on Objector's behalf

RECEIVED

SEP 12 2006

DEPARTMENT OF
WATER RESOURCES

2006 SEP 13 AM 9:45

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED 

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

Case No. 39576

) Subcase Nos. 63-00146, 63-00183, 63-00192,
) 63-00198AC, 63-00216C, 63-00230M,
) 63-00278, 63-00279B, 63-19425, 63-20041,
) 63-31808, and 63-31832
)
) ORDER GRANTING UNITED STATES'
) MOTION FOR LEAVE TO FILE
) AMENDED OBJECTIONS

On September 11, 2006, the United States of America, Bureau of Reclamation, filed the *United States' Motion for Leave to File Amended Objections* in the above-captioned subcases. Attached thereto were proposed amended objections, which were lodged with the Court. The proposed amended objections seek to correct an error of omission contained in the original objections filed by the United States on April 21, 2006.

Having reviewed the *Motion*, and good causes appearing, the *Motion* is hereby **granted**. The Clerk of the SRBA Court is instructed to file the previously lodged amended objections, which shall replace and supersede the objections originally filed by the United States.

Dated Sept. 12, 2006



THEODORE R. BOOTH
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING UNITED STATES' MOTION FOR LEAVE TO FILE AMENDED OBJECTIONS was mailed on September 13, 2006, with sufficient first-class postage to the following:

Director of IDWR
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Div.
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, Idaho 83711-4449

U.S. Department of Justice
Environment & Natural Resources Div.
550 W Fort St., MSC 033
Boise, ID 83724

Middleton Irrigation Association
c/o Sam Rosti
1460 N Pollard Ln
Star, Idaho 83669

Boise Project Board of Control
Albert Barker
P O Box 2139
Boise, Idaho 83701-2139

Settlers Irrigation District
Scott L Campbell
P O Box 829
Boise, Idaho 83701-0829

Ballentyne Ditch Co Ltd
c/o Joe King
170 Sierra Way
Eagle, Idaho 83616

Boise Valley Irrigation Ditch Co
8750 N Bogart Ln
Boise, Idaho 83714

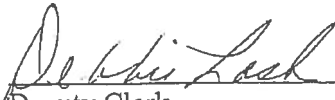
Boise City Canal Co
Bruce M Smith
950 W Bannock Ste 520
Boise, Idaho 83702

Warm Springs Ditch Co
c/o Hoff Companies Inc
1840 N Lakes Ave
Meridian, Idaho 83642

Union Ditch Co Ltd
P O Box 31
Eagle, Idaho 83616

Pioneer Ditch Co Ltd
P O Box 70
Star, Idaho 83669

Riverview Ventures
P O Box 9294
Boise, Idaho 83707


Deputy Clerk



U.S. Department of Justice

Environment and Natural Resources Division

DWG:DAJ

90-6-2-63c

David A. Jarvis
Labat-Anderson, Inc.
1961 Stout Street, 8th Floor
Denver, Colorado 80294

Telephone (303) 844-1485
Facsimile (303) 844-1350
E-mail: David.Jarvis2@usdoj.gov

RECEIVED

September 8, 2006

SEP 12 2006

DEPARTMENT OF
WATER RESOURCES

via FedEx Mail

Diana R. Delaney, Chief Deputy Clerk
Snake River Basin Adjudication
DISTRICT COURT
253 Third Ave., North
Twin Falls, Idaho 83303-2707

Re: SRBA Case No. 39576
Subcase Nos. 63-00146, 63-00183, 63-00192, 63-00198AC, 63-00216C, 63-00230M, 63-00278, 63-00279B, 63-19425, 63-20041, 63-31808, and 63-31892

Dear Ms. Delaney:

Enclosed for filing is the original document and eleven in the above mentioned subcases:

1. **UNITED STATES' MOTION FOR LEAVE TO FILE AMENDED OBJECTIONS**

enclosed are copies of the twelve Amended Objections (one for each subcase) for which the United States is seeking leave to file.

Thank you for your time and attention in this matter.

Sincerely,

David A. Jarvis
Paralegal

Enclosures

RECEIVED

SEP 12 2006

DEPARTMENT OF
WATER RESOURCES

Names of Parties Filing Document:

UNITED STATES OF AMERICA

Attorneys' Names and Addresses:

SUE ELLEN WOOLDRIDGE
Assistant Attorney General
Environment and Natural Resources Division

DAVID W. GEHLERT
Attorney, Department of Justice
Natural Resources Section
Environment and Natural Resources Division
1961 Stout St., 8th Floor
Denver, CO 80294
(303) 844-1386

**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	)	Subcase No.: 63-00146, 63-00183, 63-00192,
	)	63-00198AC, 63-00216C, 63-00230M, 63-00278,
Case No. 39576	)	63-00279B, 63-19425, 63-20041, 63-31808 and
	)	63-31832
	)	
	)	UNITED STATES' MOTION FOR LEAVE
	)	TO FILE AMENDED OBJECTIONS
	)	

The United States, on behalf of the Bureau of Reclamation ("BOR") and pursuant to Idaho Rule of Civil Procedure 15(a), hereby petitions this Court for leave to file amended SF-1 Objections in the above listed subcases.

Standard of Review

Once responsive pleadings have been filed, a party may "amend a pleading only

by leave of court or by written consent of the adverse party.” I.R.C.P. 15(a) (2006). However, “leave shall be freely given when justice so requires.” *Id.* Under the liberal approach to pleading employed by the rule,

In the absence of any apparent or declared reason – such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of the allowance of the amendment, futility of amendment, etc. – the leave sought should, as the rules require, “be freely given.”

Clark v. Olsen, 110 Idaho 323, 326, 715 P.2d 993, 996 (1986), citing *Foman v. Davis*, 371 U.S. 178, 182 (1962).

Factual Background

The United States objected to one aspect of the Director’s determination of the “season of use” for the listed subcases. The question of the appropriate season of use was originally broached in Basin 63, Part I, when the United States challenged the extended season. After negotiation between the United States and the Idaho Department of Water Resources (“IDWR”), a settlement was adopted which subordinated the extended season to storage at BOR reservoirs. The subordination language was used to resolve the United States “season of use” objections in Part I. The same language was then applied in the Director’s Report for Basin 63, Part II; however, the Director’s Report erroneously applied the subordination only to irrigation uses and omitted other extended season uses such as aesthetics and recharge.

Consequently, on April 21, 2006 the United States filed Objections to these twelve subcases so that the season of use language could be conformed to the terms of the settlement agreement and the season of use decreed in Basin 63, Part I. However, the United States’ objections inadvertently applied this subordination to only one of the BOR reservoirs – Lucky Peak Reservoir – rather than to all four BOR reservoirs – Lucky Peak Reservoir, Lake

Lowell, Arrowrock Reservoir, and Anderson Ranch Reservoir – listed on the Director’s Report recommendations for period of use.

Argument

Leave to amend is appropriate here because the United States has not engaged in dilatory actions and amendment will not result in prejudice to the other parties to these subcases.

There cannot be delay here because the initial hearings have not yet been set. Nor there is there prejudice to the other parties. In *Smith v. Great Basin Grain Co.*, 98 Idaho 266, 272, 561 P.2d 1299, 1305 (1977), the Idaho Supreme Court held that where the basic facts at issue will remain unaltered by an amendment, granting a motion to amend does not prejudice the opposing party. Here the basic facts remain unaltered. The United States’ proposed amendment does not substantially alter the United States’ position in these subcases, nor does it seek to modify the Director’s recommendations. Rather, the United States is merely seeking to correct an obvious omission to each of the twelve Objections. Moreover, given the resolution of the season of use in Basin 63, Part I, and the Director’s recommendation that the subordination language from Basin 63, Part I, be applied to all four of the BOR Reservoirs at issue in Basin 63, Part II, the United States’ proposed amendment will not come as a surprise to the other parties.

The Idaho Supreme Court’s decision in *Christensen Family Trust v. Christensen*, 133 Idaho 866, 993 P.2d 1197 (1999) makes it obvious that leave to amend is appropriately granted here. First, in contrast to the United States’ prompt action, in *Christensen* the plaintiff waited almost a year before moving to amend its complaint. Despite that long delay, the court found that the circumstances of the case were such that the amendment would not delay

resolution of the matter.¹ *Christensen Family Trust*, 133 Idaho at 872, 993 P.2d at 872. Such is the case here as well. Second, the court recognized that the opposing party was not prejudiced because basic facts giving rise to the claims were already known. *Id.* Again, that is the case here as well.

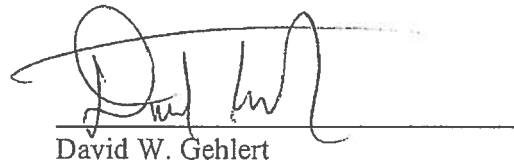
As the Idaho Supreme Court has frequently reminded, “[i]n the interest of justice, district courts should favor liberal grants of leave to amend a complaint.” *Hines v. Hines*, 129 Idaho 847, 853, 934 P.2d 20, 26 (1997). Here, because there is neither prejudice, nor delay nor bad faith, this Court should grant the United States’ motion.

Petition

Thus, the United States now asks the Court’s leave to allow the United States to file amended SF-1 Objections in order to correct its error of omission regarding the desired subordination language in each of these twelve subcases.

Respectfully submitted this 8th day of September, 2006.

Attorney for the United States



David W. Gehlert

¹ The district court had cancelled the original trial setting in favor of a motions hearings. The Idaho Supreme Court found that nothing in the record indicated that considering the allegations in the amended complaint would have delayed the motions hearing. *Christensen Family Trust*, 133 Idaho at 872; 993 P.2d at 872.

CERTIFICATE OF MAILING

I certify that on September 8th, 2006, true and correct copies of the **UNITED STATES' MOTION FOR LEAVE TO FILE AMENDED OBJECTIONS** was served as noted on the following:

By FedEx Mail:

DISTRICT COURT (original + 11 copies)
253 Third Ave., North
Twin Falls, ID 83301
208-736-2121

By First-Class Mail:

New Union Ditch Co., Ltd
P.O. Box 31
Eagle, ID 83616

Pioneer Ditch Co., Ltd.
P.O. Box 70
Star, ID 83669

Warm Springs Ditch Co.
c/o Hoff Companies, Inc.
1840 N. Lakes Avenue
Meridian, ID 83642

Middleton Irrigation Assn., Inc.
c/o Same Rosti
1460 N. Pollard Ln.
Star, ID 83669

Scott L. Campbell
Moffatt Thomas Barrett Rock & Fields
Chtd.
P.O. Box 829
Boise, ID 83701-0829

Riverview Ventures
P.O. Box 9294
Boise, ID 83707

Ballentyne Ditch Co., Ltd.
c/o Joe King
170 N. Sierra Way
Eagle, ID 83616

Boise Valley Irrigation Ditch Co.
8750 N. Bogart Ln.
Boise, ID 83714

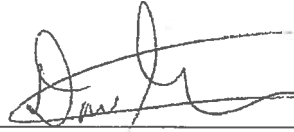
Bruce M. Smith
225 N. Ninth Street, Ste. 420
Boise, ID 83702

Albert P. Barker
Barker Rosholt & Simpson, LLP
P.O. Box 2139
Boise, ID 83701-2139

David J. Barber
State of Idaho
Office of the Attorney General
P.O. Box 44449
Boise, ID 83711-4449

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

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

A handwritten signature in black ink, appearing to read 'David W. Gehlert', is written over a horizontal line.

David W. Gehlert

06/01/2005

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF 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:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
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 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 Within ADA County

T04N R01E S16

NWNW

T04N R01E S16 Lot 4 SWNW

SCANNED
OCT 11 2006

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.

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

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.

State 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

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.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-31808 V1

WATER RIGHT NUMBER: 63-31808 V1

<u>Owner Type</u>	<u>Name and Address</u>
Attorney	RINGERT CLARK CHARTERED DAN STEENSON / S BRYCE FARRIS 455 S 3RD ST PO BOX 2773 BOISE, ID 83701 (208)342-4591
Current Owner	BALLENTYNE DITCH CO LTD C/O JOE KING 170 N SIERRA WAY EAGLE, ID 83616 (208)373-0564

Priority Date: 06/01/1888
Basis: Decreed
Status: Active

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

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
GROUND WATER RECHARGE	03/01 to 11/15	0.140 CFS	24.90 AF
IRRIGATION	03/01 to 11/15	9.530 CFS	
<u>Total Diversion:</u>		9.670 CFS	

Location of Point(s) of Diversion

BOISE RIVER L8 (NW1/4NE1/4SE1/4) Sec. 16, Twp 04N, Rge 01E, B.M.
ADA County

Place of Use

GROUND WATER RECHARGE Within ADA County

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

Conditions of Approval:

1. 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.
2. This right is also known as Numbers 98, 99, 100, 101, 102 and 103 in the Boise River Water Master Records.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-31808 V1

3. 135 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.
4. 155 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.
5. C03 RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.
6. C18 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.
7. 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.
8. R43 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.
9. 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.
10. S45 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 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.
11. T07 The right holder shall accomplish the changes authorized by transfer 70262 within one (1) year of the date of approval of the transfer.
12. T08 Failure of the right holder to comply with the conditions of approved transfer 70262 is cause for the Director to rescind the transfer.
13. X27 This right is limited to the irrigation of ⁷⁴¹23.9 acres within the boundary of the Ballentyne Ditch Company Limited in a single irrigation season.
14. X36 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.

Remarks:

1. Explanatory 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.
2. Explanatory WATER IS DELIVERED THROUGH THE BALLENTYNE CANAL.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-31808 V1

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

Comments:

1. mcase 7/21/2004 POD
Comment: Correlated PODID 618660 from SpatialDataID 342569 to SpatialDataID 305307
2. mcase 7/21/2004 POD
Comment: Correlated PODID 618660 from SpatialDataID 342569 to SpatialDataID 305307
3. mcase 7/21/2004 POD
Comment: Correlated PODID 618660 from SpatialDataID 342569 to SpatialDataID 305307
4. mcase 7/21/2004 POD
Comment: Correlated PODID 618660 from SpatialDataID 342569 to SpatialDataID 305307

Water Supply Bank:

RECEIVED
JUN 12 2003
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)

Case No. 39576)

A. Subcase 63-31808
(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: United States of America acting through the Department of Interior,
Bureau of Reclamation, Regional Director PN Code-3100

Address: 1150 N. Curtis Rd. Suite 100
Boise, Idaho 83706-1234

Daytime Phone: (208) 378-5306 E.Gail McGarry

Name & Address of Attorney, if any:

David W. Gehlert ((303)844-1386)

Trial Attorney, General Litigation Section

Environment and Natural Resource Division

U.S. Department of Justice

1961 Stout Street - 8th Floor

Denver, CO 80294

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTORS REPORT

Name: Ballentyne Ditch Co Ltd

Address: C/O Joe King
170 N Sierra Way
Eagle, ID 83616

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**
Should be:
2. ☐ **Source**
Should be:
3. ☐ **Quantity**
Should be:
4. ☐ **Priority Date**
Should be:
5. ☐ **Point(s) of Diversion**
Should be:
6. ☐ **Instream Flow Description**
Should be:
7. ☐ **Purpose(s) of Use**
Should be:

8. ☒ **Period of Year**

Should be: Diversion for irrigation and ground water recharge under this 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 the Boise River Reservoir dated April 1985 and any future amendments or revisions made thereto 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, as decreed in SRBA Case No. 39576.

9. ☐ **Place of Use**
Should be:

11. **I object because:**

- ☐ This water right should not exist.
- ☐ This water right was not recommended, but should be recommended with the elements described.

E. **REASONS SUPPORTING EACH OBJECTION(S):** The proposed language is intended to preserve the historical practice of allowing Reclamation's reservoirs to fill until April 1 and after October 31 if necessary.

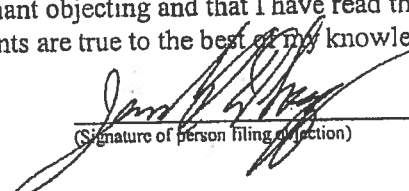
F.

VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

Jerrold D. Gregg, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

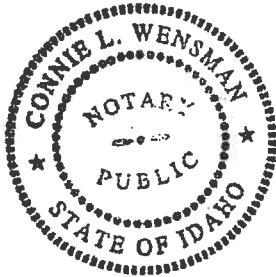
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.


(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on:





Notary Public for: Idaho
Residing at: MERIDIAN
My Commission Expires: 10/06/10

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.

G. CERTIFICATE OF MAILING

I certify that on 4-21, 2006 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
P.O. Box 2707
Twin Falls, ID. 83303-2707

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

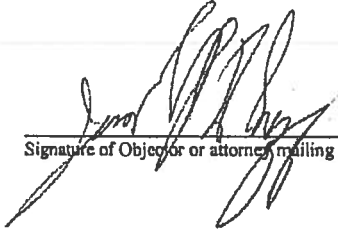
Name: Ballentyne Ditch Co Ltd
Address: C/O Joe King
170 N Sierra Way
Eagle, ID 83616

3. Copies to:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

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

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



Signature of Objector or attorney mailing on Objector's behalf

DEPARTMENT OF
WATER RESOURCES

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**
Should be:
2. ☐ **Source**
Should be:
3. ☐ **Quantity**
Should be:
4. ☐ **Priority Date**
Should be:
5. ☐ **Point(s) of Diversion**
Should be:
6. ☐ **Instream Flow Description**
Should be:
7. ☐ **Purpose(s) of Use**
Should be:
8. ☒ **Period of Year**

Should be: Diversion for irrigation and ground water recharge under this 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 the Boise River Reservoir dated April 1985 and any future amendments or revisions made thereto 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, as decreed in SRBA Case No. 39576.

9. ☐ **Place of Use**

11. **I object because:**

- ☐ This water right should not exist.
- ☐ This water right was not recommended, but should be recommended with the elements described.

E. **REASONS SUPPORTING EACH OBJECTION(S):** The Director's Report recommendation appears to expand the Season of Use beyond a customary maximum of April 1 to November 1, which would allow injury to the objector's water rights and diminution of contract water reliability.

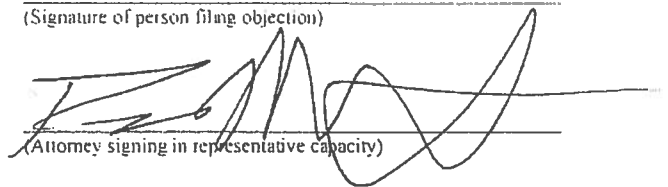
F. VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Twin Falls)

Paul L. Arrington, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing objection)


(Attorney signing in representative capacity)

Subscribed and sworn to before me on: April 20, 2006.





Sharon Hart Strickland
Notary Public for: Idaho
Residing at: Gooding
My Commission Expires: 12-22-09

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.

G. CERTIFICATE OF MAILING

I certify that on April 21, 2006, 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
P.O. Box 2707
Twin Falls, ID. 83303-2707

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

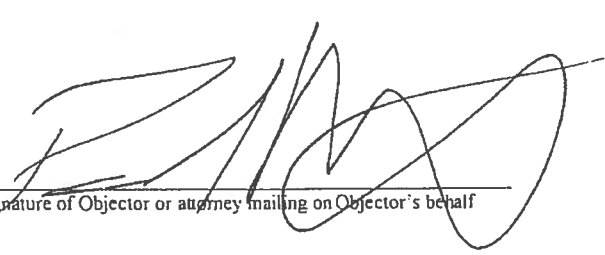
Name: Ballentyne Ditch Co. Ltd.
Address: c/o Joe King
170 N. Sierra Way
Eagle, ID 83616

3. Copies to:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

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

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



Signature of Objector or attorney mailing on Objector's behalf

RECEIVED

JUN 23 2005

WATER RESOURCES
WESTERN REGION

NOTICE OF ERROR

REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: June 24, 2005

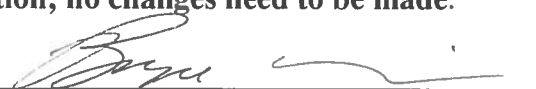
Water Right Number: 63-31808

BALLENTYNE DITCH CO LTD
C/O JOE KING
170 N SIERRA WAY
EAGLE, ID 83616

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):
Place of use:
733.9 ACRES TOTAL
2. Describe the changes you wish to make in the proposed recommendation:
Place of Use: 740.6 ACRES TOTAL
3. Give a brief explanation as to why you disagree with these portions:
Based on an application of one inch of water to the acre, the total irrigated acres for any given season should be 740.6.

_____ I AGREE with this proposed recommendation; no changes need to be made.

DATE: 6/22/05

SIGNATURE: 

Please print your name: S. Bryce Farris

RECEIVED

JUN 23 2005

WATER RESOURCES
WESTERN REGION

**NOTICE OF ERROR
REPLY**

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: June 24, 2005

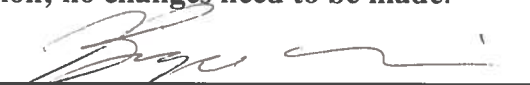
Water Right Number: 63-31808

BALLENTYNE DITCH CO LTD
C/O JOE KING
170 N SIERRA WAY
EAGLE, ID 83616

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):
Place of use:
733.9 ACRES TOTAL
2. Describe the changes you wish to make in the proposed recommendation:
Place of Use: 740.6 ACRES TOTAL
3. Give a brief explanation as to why you disagree with these portions:
Based on an application of one inch of water to the acre, the total irrigated acres for any given season should be 740.6.

_____ I AGREE with this proposed recommendation; no changes need to be made.

DATE: 6/22/05

SIGNATURE: 

Please print your name: S. Bryce Farris

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION FIELD REPORT**

Prior to Field Exam

- ☐ Copy of Claim, claim has been signed, sealed, and dated by notary?
- ☐ Check fees paid
- ☐ Well logs (if needed)
- ☐ Copy of topo or NAPP
- ☐ Check of Govt. Lots, if needed, Govt. Plat/Tax lot information
- ☐ Check POD & POU overlap, see below – include overlapping right for exam
- ☐ Evidence of Priority – if none, talk with claimant

CLAIMANT INFORMATION – verify contact information is completeClaim No(s) 63-31808Owner: Bellmontyne Ditch Co. Phone No. See 63-195

Current Address: _____

- ☒ No change NAME IS THE SAME
- ☐ NEW OWNER _____
- ☒ No change Address
- ☐ NEW ADDRESS _____
- ☐ How long owned property? _____

See 63-195

Accompanied by: _____

PRIORITY DATE

- ☐ No change – Complete evidence submitted or not necessary
- ☐ Incomplete – Claimant should be asked when water was first used and submit proof of date.
- ☐ Priority date is acceptable/within mandatory filing dates?

Priority date, per claimant, is: 6-1-1888 = same as decree

(If priority date, based on your exam, seems questionable, explain below.)

_____Source: Boise River Tributary to Snake River

- ☒ No Change – SAME SOURCE
- ☐ Source found is different than claimed: _____

POINT OF DIVERSION

- ☒ No change
- ☐ POD found is different than claimed: _____
- ☐ If different, when did POD change? _____

<i>Limited to</i> Place of Use			<i>741 acres within the boundary.</i> NE				NW				SW				SE				Totals
TWP	RGE	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Overlap with other water rights: See 63-195

Does overlap increase rate of flow, volume, additional acres, different source for same acres? Explain:

Delivery System Narrative: See 63-195

Well or Diversion Identification No GPS ID	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge size
<i>N4</i>					

FLOW MEASUREMENTS:

Attach appropriate documents

NARRATIVE/REMARKS/COMMENTS

Designated as Trs 98, 99, 100, 101, 102, 103

Combines 63-234, 235, 236, 237, 238 part, 239 part

Based on approved Transfer 70262

1763-31808

(X20) 34

LXXIV.

That the defendant [REDACTED] be, and she is hereby awarded the use of the waters of Boise River, diverted from said river at a point near the center of the SW 1/4 of SE 1/4 of Sec. 15, T. 4 N. R. 1 E. B.M. for use upon the ^{E. 1/2 of} NE 1/4 of Sec. 12, T. 4 N. R. 1 W. B.M., in the following amount and from the following date;

63 0238 T. P.D. 64

1.20 60 inches, from [REDACTED] hereby designated as Right No. 103. And be adjudged to pay \$4.20 costs in addition to the costs incurred by her.

LXXXVI.

That the defendant [REDACTED] be, and he is hereby awarded the use of the waters of Boise River, diverted from said river at a point near the center of Sec. 15, T. 4 N. R. 1 E. B.M., for use upon the N. 1/2 of NW 1/4 and NW 1/4 of NE 1/4 of sec. 12, T. 4 N. R. 1 W. B.M., in the following amount and from the following date;

63 0239 T. P.D. 21, P.D. 161, P.D. 174

1.40 70 inches, from [REDACTED] hereby designated as Right No. 103. And be adjudged to pay \$4.90 costs in addition to the costs incurred by him.

LXXXVII.

That the defendant [REDACTED] be, and he is hereby awarded the use of the waters of Boise River, diverted at a point on the south bank of said river near where such bank is intersected by the line between township 3 north, range 2 east and township 3 north, range 3 east, through what is known as the [REDACTED] canal, for use upon three acres of land situated in the NW 1/4 of sec. 23, T. 3 N. R. 2 E. B.M., in the following amount and from the following date;

63 0240

3 inches, from [REDACTED] hereby designated as Right No. 107. And be adjudged to pay \$0.21 costs in addition to the costs incurred by him.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 70262

This is to certify that: BALLENTYNE DITCH CO LTD

C/O JOE KING
170 N SIERRA WAY
EAGLE ID 83616
(208) 939-4558

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Change

<u>Right</u>	<u>Origin/Basis</u>	<u>Priority</u>	<u>Rate</u>	<u>Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
63-31808	AJC/Decreed	06/01/1888	9.67 cfs	N/A	741.0	N/A	BOISE RIVER

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
63-31808	NO	NO	NO	NO	NO	YES

Summary of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (changed portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
63-31808	63-31808	9.67 cfs	N/A	733.9	N/A		N/A	N/A	N/A	N/A
COMBINED										
TOTALS		9.67 cfs	N/A	733.9	N/A		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this _____ day of _____, 20____

Chief, Water Allocation Bureau

WATER RIGHT NO. 63-31808

As Modified by Transfer No. 70262

In accordance with the approval of Transfer No. 70262, Water Right No. 63-31808 is now described as follows.

Right Holder: BALLENTYNE DITCH CO LTD

C/O JOE KING
170 N SIERRA WAY
EAGLE ID 83616

Priority Date: June 01, 1888

Source: BOISE RIVER

Tributary: SNAKE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/01	to 11/15	9.53 CFS	
GROUND WATER RECHARGE	03/01	to 11/15	0.14 CFS	24.9 AF
TOTAL:			9.67 CFS	

LOCATION OF POINT(S) OF DIVERSION:

BOISE RIVER L8 (NWNESE) Sec. 16 Twp 04N Rge 01E ADA County

PLACE OF USE: GROUND WATER RECHARGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	01E	16						X	X	X									
								L4	L3										

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 733.9 acres within the boundary of the Ballentyne Ditch Company Limited in a single irrigation season.
2. 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.
3. 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.
4. 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.

WATER RIGHT NO. 63-31808
As Modified by Transfer No. 70262

CONDITIONS OF APPROVAL

5. 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 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 Arrowrock Reservoir, Lucky Peak Reservoir and/or Lake Lowell as decreed in SRBA Case No. 39576.
6. 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.
7. Rights 63-195, 63-198AA, 63-258A, 63-260B, 63-264, 63-285, and 63-15238 are also diverted through the point(s) of diversion described above.
8. This right is also known as Numbers 98, 99, 100, 101, 102 and 103 in the Boise River Water Master Records.
9. Water is delivered through the Ballentyne Canal.
10. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
11. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
12. Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 22 day of July, 2000

[Signature]
Chief, Water Allocation Bureau

AUG 06 2002

**APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1**

WATER RESOURCES
WESTERN REGION

Name of applicant Ballentyne Ditch Company, Limited Phone 208-939-6363
Post Office address 325 N. Park Lane, Eagle, ID with copy to Michael C. Creamer, P.O. Box 2720, Boise, ID 83701 (208-388-1200)

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☐ Add diversion point(s) ☐ Change place of use
☒ Change nature of use ☐ Change period of use ☐ Other _____
2. Describe the reason for the proposed changes Portion of Water Right associated with seven (7) shares of Ballentyne stock to be used to offset evaporation from excavated ponds intercepting shallow ground water. The transfer affects only 0.14 cfs of water right 63-234.

B. DESCRIPTION OF RIGHT(S) OR PORTION HEREOF, AFTER THE REQUESTED CHANGE

1.	Right Number	Priority	Amount (cfs / ac-ft)	Nature of Use	Period of Use	
	A63-234 <u>31808</u>	6-1-1888	9.53 cfs	Irrigation	3-15	to 11-15
			0.14cfs	Ground Water Recharge	3-15	to 11-15
						to
						to

2. Total amount of water being transferred 9.67 cubic feet per second and/or _____ acre-feet per annum.
3. Source of water Boise River tributary to Snake River
4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
	NW	NE	SE	16	4N	1E	Ada	Ballentyne Headgate - Boise River

5. Lands irrigated or place of use: See Attachment A.

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SE 1/4	SW 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
4N	1E	16						E	E	E									7.1

Total acres _____

PART 1

6. General Information:

- a. Description of diversion system Boise River headgate diversion to Ballentyne Main Canal and associated laterals. No
change proposed in point of diversion or means of delivery to place of use.
- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes _____ ☒ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.
- c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:
- d. Remarks:
Appurtenant water rights will not be transferred from the lands by this transfer. Purpose of this is to continue beneficial
use of rights on same acres. See Attachment C.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____.

And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this day of _____, 20_____.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. _____

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

Right evidenced by:

- a. Decree No. A63-234 Decreed to _____
in case of Farmers Cooperative Ditch Co. vs. Riverside Irrigation District
dated 1/18/06 in Boise county of Ada
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. _____ on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice☒ Warranty Deed☐ Other _____

3. Source of water Boise River tributary to Snake River

4. Date or priority 6-1-1888

5. Water is used for the following purpose:

amount 9.67cfs for irrigation purposes from 3-15 to 11-15
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

6. Total amount of water under right 1.4cfs cubic feet per second and/or _____ acre-feet per annum

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NW	NE	SE	16	4N	1E	Ada	Ballentyne Headgate - Boise River

8. Lands irrigated or place of use: See Attachment B.

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE¼	NW¼	SE¼	SW¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Total acres 797.3

9. Describe any other water rights used for the same purpose as described above 63-234, 63-235, 63-236, 63-237, 63-238, 63-239D, 63-195, 63-264, 63-265, 63-198AA, 63-260B, 63-285, 63-15238 (combined rights by SRBA Claim A63-234)

PART 2

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe See attachments**B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED** This does not involve a split of right.

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount 0.14 cfs for irrigation purposes from 3-15 to 11-15
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion: No Change

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NW	NE	SE	16	4N	1E	Ada	Ballentyne Headgate - Boise River

3. Lands Irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW¼				SW¼				SE¼				Totals
			NE¼	NW¼	SE¼	SW¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
4N	1E	16						1.4	2.8	2.9									7.1

Total acres 7.1**C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT** (omit if there is no change)

1. amount _____ for Balance of Water Right purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

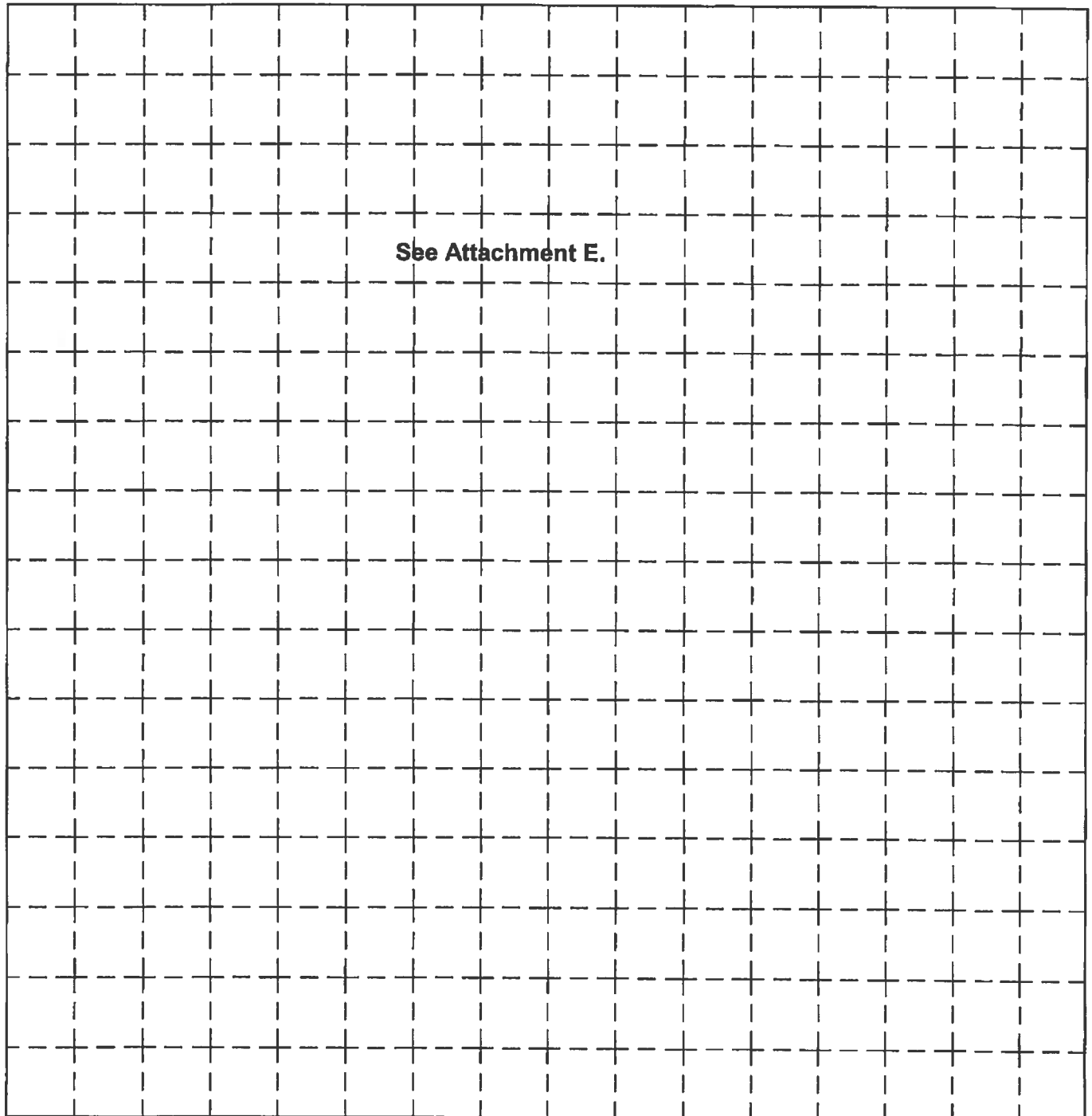
Twp.	Rge.	Sec.	NE ¼				NW¼				SW¼				SE¼				Totals
			NE¼	NW¼	SE¼	SW¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Total acres _____

**APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3**

- A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range numbers.

See Attachment E.



SCALE: 2 inches equal 1 mile. Draw plan in ink.

PART 3**B. CHANGES IN NATURE OF USE**

1.	New Nature of Use	Amount (cfs / ac-ft)	Hours/days/year	Period of Use	
	groundwater recharge	0.14cfs		3-15	to 11-15
					to

2. Quantity and quality of return flows and location of discharge:

See narrative description attached.

3. Describe effects on other water uses resulting from the proposed change:

See narrative description attached.

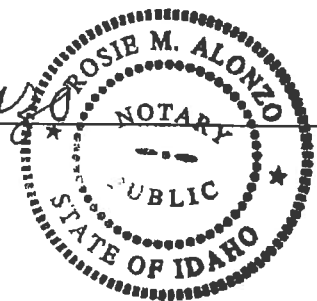
I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

Lee King, President
(Signature of Applicant)

Subscribed and sworn to before me this 5 day of August 2002.

Rosie M. Alonzo
(Notary Public)



My commission expires 1-30-03.

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments

Received by KH Date 8/6/02 Protest filed by _____

Prelim. check by JF Fee no check \$1.00

Receipted by JF Date 6/13/02 W029319

Published in _____ Copies of protest forwarded by _____

Pub. dates _____ Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☒ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

IDAHO DEPARTMENT OF WATER RESOURCES

Transfer AJ Claim Report 63-31808

WATER RIGHT NUMBER: 63-31808

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	BALLENTYNE DITCH CO LTD C/O JOE KING 170 N SIERRA WAY EAGLE, ID 83616 (208) 939-4558
Attorney	GIVENS PURSLEY LLP C/O MICHAEL C CREAMER PO BOX 2720 BOISE, ID 83701-2720 (208)388-1200

Priority Date: 06/01/1888

Basis: Decreed

Status: N/A

<u>Source</u>	<u>Tributary</u>
BOISE RIVER	SNAKE 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	9.530 CFS	
GROUND WATER RECHARGE	03/01 to 11/15	0.140 CFS	24.90 AF
	<u>Total Diversion:</u>	9.670 CFS	

Location of Point(s) of Diversion

BOISE RIVER	L8 (NW1/4NE1/4SE1/4)	Sec. 16, Twp 04N, Rge 01E, B.M.
ADA County		

Place of Use

GROUND WATER RECHARGE Within ADA County

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

Conditions of Approval:

1. 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.
2. This right is also known as Numbers 98, 99, 100, 101, 102 and 103 in the Boise River Water Master Records.
3. Water is delivered through the Ballentyne Canal.

IDAHO DEPARTMENT OF WATER RESOURCES

Transfer AJ Claim Report 63-31808

4. 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.
5. R43 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.
6. 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.
7. S44 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 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 Arrowrock Reservoir, Lucky Peak Reservoir and/or Lake Lowell as decreed in SRBA Case No. 39576.
8. T07 The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
9. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
10. T09 Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.
11. X27 This right is limited to the irrigation of 733.9 acres within the boundary of the Ballentyne Ditch Company Limited in a single irrigation season.
12. X36 Rights 63-195, 63-198AA, 63-258A, 63-260B, 63-264, 63-285, and 63-15238 are also diverted through the point(s) of diversion described above.

Remarks:

Comments:

1. pskaggs 7/13/2004 10:46:53 AM Transferred Right
Comment: This is now an approved transfer, transfer number = 70262

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-31808 V1

WATER RIGHT NUMBER: 63-31808 V1

<u>Owner Type</u>	<u>Name and Address</u>
Attorney	RINGERT CLARK CHARTERED DAN STEENSON / S BRYCE FARRIS 455 S 3RD ST PO BOX 2773 BOISE, ID 83701 (208)342-4591
Current Owner	BALLENTYNE DITCH CO LTD C/O JOE KING 170 N SIERRA WAY EAGLE, ID 83616 (208)373-0564

Priority Date: 06/01/1888

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
BOISE RIVER	SNAKE 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	9.670 CFS	
	<u>Total Diversion:</u>		9.670 CFS	

Location of Point(s) of Diversion

BOISE RIVER	L8 (NW1/4NE1/4SE1/4)	Sec. 16, Twp 04N, Rge 01E, B.M.
ADA County		

Place of Use

Conditions of Approval:

1. C03 RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.
2. C18 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.
3. S44 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 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 Arrowrock Reservoir, Lucky Peak Reservoir and/or Lake Lowell as decreed in SRBA Case No. 39576.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-31808 V1

1. Explanatory THIS RIGHT IS DESIGNATED AS NOS 98, 99, 100, 101, 102 & 103 IN THE BOISE RIVER WATER MASTERS RECORDS
2. Quantity THIS RIGHT WHEN COMBINED WITH ALL OTHER RIGHTS SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE.
3. Explanatory WATER IS DELIVERED THROUGH THE BALLENTYNE CANAL.
4. Explanatory THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 63-198AA, 63-258A, 63-260B, 63-195, 63-285, 63-15238, 63-264
5. Place of Use - Irrigation THIS RIGHT IS LIMITED TO THE IRRIGATION OF 741 ACRES WITHIN THE BOUNDARY OF BALLENTYNE DITCH COMPANY.
6. Explanatory THIS RIGHT IS A COMBINATION OF OLD RIGHT NOS.63-234, 63-235, 63-236, 63-237, 83-238 & 63-239.

Comments:

463-31808

(302) 33

LXXXI.

That the defendant be, and he is hereby awarded the use of the waters of Boise River, diverted at a point near the center of SW 1/4 of SE 1/4 of Sec. 15, T. 4 N. R. 1 E. B.M., for use upon the SW 1/4 of NE 1/4, SE 1/4 of NW 1/4, NE 1/4 of SW 1/4, NW 1/4 of SE 1/4, and lot 2, all in Sec. 12, T. 4 N. R. 1 W. B.M., in the following amount from the following date;

63 0234

200 inches, from June 1, 1888. hereby designated as Right No. 93. and be adjudged to pay \$14.00 costs in addition to the costs incurred by him.

4.0

LXXXII.

That the defendant be, and he is hereby awarded the use of the waters of Boise River, diverted from said river at a point near the center of the SW 1/4 of SE 1/4 of Sec. 15, T. 4 N. R. 1 E. B.M., for use upon the E. 1/2 of SW 1/4 of Sec. 7, T. 4 N. R. 1 E. B.M., in the following amount from the following date;

63 0235

65 inches, from June 1, 1888. hereby designated as Right No. 99. and be adjudged to pay \$4.55 costs in addition to the costs incurred by him.

1.30

LXXXIII.

That the defendant be, and she is hereby awarded the use of the waters of Boise River, diverted from said river at a point near the center of the SW 1/4 of SE 1/4 of sec. 15, T. 4 N. R. 1 E. B.M., for use upon the W. 1/2 of the SW 1/4, otherwise described as lots 3 and 4, Sec. 7, T. 4 N. R. 1 E. B.M., in the following amount from the following date;

63 0236

70 inches, from June 1, 1888. hereby designated as Right No. 100. and be adjudged to pay \$4.90 costs in addition to the costs incurred by her.

1.40

LXXXIV.

That the defendant be, and he is hereby awarded the use of the waters of Boise River, diverted at a point near the center of the SW 1/4 of SE 1/4 of Sec. 15, T. 4 N. R. 1 E. B.M., for use on the E. 1/2 of SE 1/4 of sec. 12, T. 4 N. R. 1 W. B.M., in the following amount and from the following date;

63 0237

73 inches, from June 1, 1888. hereby designated as Right No. 101. and be adjudged to pay \$5.11 costs in addition to the costs incurred by him.

1.46

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-31808

WATER RIGHT NUMBER: 63-31808

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	BALLENTYNE DITCH CO LTD C/O JOE KING 170 N SIERRA WAY EAGLE, ID 83616 (208)373-0564

Priority Date: 06/01/1888

Basis: Decreed

Status: Active

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

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/15 to 11/15	9.670 CFS	
	<u>Total Diversion:</u>	9.670 CFS	

Location of Point(s) of Diversion

BOISE RIVER	NW1/4NE1/4SE1/4	Sec. 16, Twp 04N, Rge 01E, B.M.
ADA County		

Place of UseIRRIGATION Within ADA County

T04N R01E S07 Lot 2 SWNW 40.0	T04N R01E S07 NESW 40.0
T04N R01E S07 Lot 3 NWSW 40.0	T04N R01E S07 Lot 4 SWSW 20.0
T04N R01E S07 SESW 25.0	T04N R01E S08 SESE 3.8
T04N R01E S09 SWSW 9.5	T04N R01E S16 NWNW 40.0
T04N R01E S16 SWNW 12.0	T04N R01E S16 SENW 12.0
T04N R01W S11 SENE 30.0	T04N R01W S12 NENE 10.0
T04N R01W S12 NWNE 10.0	T04N R01W S12 SWNE 40.0
T04N R01W S12 SENE 40.0	T04N R01W S12 NENW 10.0
T04N R01W S12 SWNW 35.0	T04N R01W S12 SENW 40.0
T04N R01W S12 NESW 40.0	T04N R01W S12 NWSW 40.0
T04N R01W S12 SWSW 40.0	T04N R01W S12 SESW 35.0
T04N R01W S12 NESE 40.0	T04N R01W S12 NWSE 40.0
T04N R01W S12 SWSE 40.0	T04N R01W S12 SESE 30.0
T04N R01W S13 NENW 5.0	T04N R01W S13 NWNW 30.0

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Claim Report 63-31808

Conditions of Approval:

Remarks:

1. Explanatory THIS RIGHT IS A COMBINATION OF OLD RIGHT NOS. 63-234, 63-235, 63-236, 63-237, 63-238B & 63-239D.

Comments:

$$\begin{array}{r} 63-234 = 4.0 \text{ cfs.} \\ 235 = 1.30 \\ 236 = 1.40 \\ 237 = 1.46 \\ 238 = 1.0 \text{ (part)} \\ 239 = 1.51 \text{ (part)} \\ \hline 9.67 \text{ cfs} \end{array}$$

Split tree 63-239 reconciliation

63-239 as decreed = 1.40 cfs

(A) = New Dry Creek as 63-207

→ C = .24 cfs

T174 A = Dec 63-31808

→ D = .51 cfs.

T161

(A) - 239B = .65 cfs.

New Dry Creek.
Dec 63-207

63-239B (Dec 63-207) - .65 cfs
63-239C (Dec 63-207) - .24 cfs
63-239D (Dec 63-31808) - .51 cfs

1.40 cfs

63-238 = 1.20 cfs as decreed

- .20 cfs claimed by New Dry Creek Ditch as 63-207
- 1.0 cfs claimed by Ballentyne as 63-31808

63-31808

STEWART AND BRYAN DECREES GROUPED UNDER CANAL HEADINGS

CHART NO. 3

NAME OF CANAL	CHANGE IN P. OF D.	TRANSFER	PRIORITY NO.	DATE	AMOUNT DECREED			INCHES	TOTAL SEC. FT.
					STEWART DECREE	INTERVENORS STEWART DECREE	BRYAN DECREE		
AIKEN			63	6-1-1877	5.20			260	
			73-A	4-1-1880	.10			5	5.30
ANDREWS DITCH			4	6-1-1864	3.30			165	
			29	6-1-1865	6.00			300	
			44	6-1-1869	8.50			425	
			51	5-1-1870	1.30			65	
			104	6-1-1888	.90			45	
			121	6-1-1891	3.50			175	23.50
BALLENTYNE			98	6-1-1888	4.00	-63-234		200	
			99	6-1-1888	1.30	-63-235		65	
			100	6-1-1888	1.40	-63-236		70	
			101	6-1-1888	1.46	-63-237		73	
			102	6-1-1888	1.20	1.0 net = 63-238 part		60	
			103	6-1-1888	.51	1.46 = 63-239		70	
			123	6-1-1891	.80			40	
			66-A	4-1-1878		.80		40	
			66-C	4-1-1878		1.40		70	
			66-D	4-1-1878		.80		40	
			85-D	5-1-1883		.8256		41.29	
			136	5-1-1906		.392		19.6	
	57		65	6-1-1877	.60			30	
	64*		102	6-1-1888	.20*	split from 63-238		10*	
	140*		85-D	5-1-1883		.07*		3.5*	
	151		124-A	5-1-1893		.135		6.75	
	161*		103	6-1-1888	.65*	split from 63-239		32.5*	
	174*		103	6-1-1888	.24*			12*	15.3526
BAXTER			73-B	1880		3.20		150	
	127		20	6-1-1865	.80			40	4.00
BOISE CITY			33	6-1-1866	38.06			1903	
		370*	33	6-1-1866	1.124*			56.2*	
		373*	33	6-1-1866	.374*			18.7*	
		1048*	33	6-1-1866	.0875*			4.375*	
		1059*	33	6-1-1866	.10*			5*	
	3559*	3559*	33	6-1-1866	2.025*			101.25*	34.838

*SUBTRACT

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-234

WATER RIGHT NUMBER: 63-234

Owner Type Name and Address

Current Owner A V LINDER

, ID

Priority Date: 06/01/1888

Basis: Decreed

Status: Active

Source

BOISE RIVER

Tributary

SNAKE RIVER

Beneficial Use

IRRIGATION

From To

/ to /

Diversion Rate

4.000 CFS

Annual Volume

Total Diversion:

4.000 CFS

Location of Point(s) of Diversion

BOISE RIVER

ADA County

SW1/4SE1/4

Sec. 15, Twp 04N, Rge 01E, B.M.

Place of Use

IRRIGATION Within ADA County

T04N R01W S12 SWNE

T04N R01W S12 SENW

T04N R01W S12 NESW

T04N R01W S12 NWSE

T04N R01W S12 Lot 2 SWSE

Conditions of Approval:

Remarks:

Comments:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-235

WATER RIGHT NUMBER: 63-235

Owner Type Name and Address

Current Owner LEVI SMITH

, ZZ

Priority Date: 06/01/1888

Basis: Decreed

Status: Active

Source

BOISE RIVER

Tributary

SNAKE RIVER

Beneficial Use

IRRIGATION

From To

/ to /

Diversion Rate

1.300 CFS

Annual Volume

Total Diversion:

1.300 CFS

Location of Point(s) of Diversion

BOISE RIVER

ADA County

SW1/4SE1/4

Sec. 15, Twp 04N, Rge 01E, B.M.

Place of Use

IRRIGATION Within ADA County

T04N R01E S07 NESW

T04N R01E S07 SESW

Conditions of Approval:

Remarks:

Comments:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-236

WATER RIGHT NUMBER: 63-236

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CHARLOTTE CALHOUN HAILEY, ID 83333

Priority Date: 06/01/1888

Basis: Decreed

Status: Active

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

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	/ to /	1.400 CFS	
	<u>Total Diversion:</u>	1.400 CFS	

Location of Point(s) of Diversion

BOISE RIVER	SW1/4SE1/4	Sec. 15, Twp 04N, Rge 01E, B.M.
ADA County		

Place of Use

IRRIGATION Within ADA County

T04N R01E S07 Lot 3 NWSW	T04N R01E S07 Lot 4 SWSW
--------------------------	--------------------------

Conditions of Approval:

Remarks:

Comments:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-237

WATER RIGHT NUMBER: 63-237

Owner Type Name and Address

Current Owner E J LINDER

, ID

Priority Date: 06/01/1888

Basis: Decreed

Status: Active

Source

BOISE RIVER

Tributary

SNAKE RIVER

Beneficial Use

IRRIGATION

From To

/ to /

Diversion Rate

1.460 CFS

Annual Volume

Total Diversion:

1.460 CFS

Location of Point(s) of Diversion

BOISE RIVER

SW1/4SE1/4

Sec. 15, Twp 04N, Rge 01E, B.M.

ADA County

Place of Use

IRRIGATION Within ADA County

T04N R01W S12 NESE

T04N R01W S12 SESE

Conditions of Approval:

Remarks:

Comments:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-238

WATER RIGHT NUMBER: 63-238

Owner Type Name and Address

Current Owner LIZZIE EVERETT

, ZZ

Priority Date: 06/01/1888

Basis: Decreed

Status: Active

Source

BOISE RIVER

Tributary

SNAKE RIVER

Beneficial Use

IRRIGATION

From To

/ to /

Diversion Rate

1.200 CFS

Annual Volume

Total Diversion:

1.200 CFS

Location of Point(s) of Diversion

BOISE RIVER

SW1/4SE1/4

Sec. 15, Twp 04N, Rge 01E, B.M.

ADA County

Place of Use

IRRIGATION Within ADA County

T04N R01W S12 NENE

T04N R01W S12 SENE

Conditions of Approval:

Remarks:

Comments:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-239

WATER RIGHT NUMBER: 63-239

Owner Type

Name and Address

Priority Date:

Basis:

Status: See Remarks

Source

Tributary

Beneficial Use

From To

Diversion Rate

Annual Volume

Total Diversion:

Location of Point(s) of Diversion

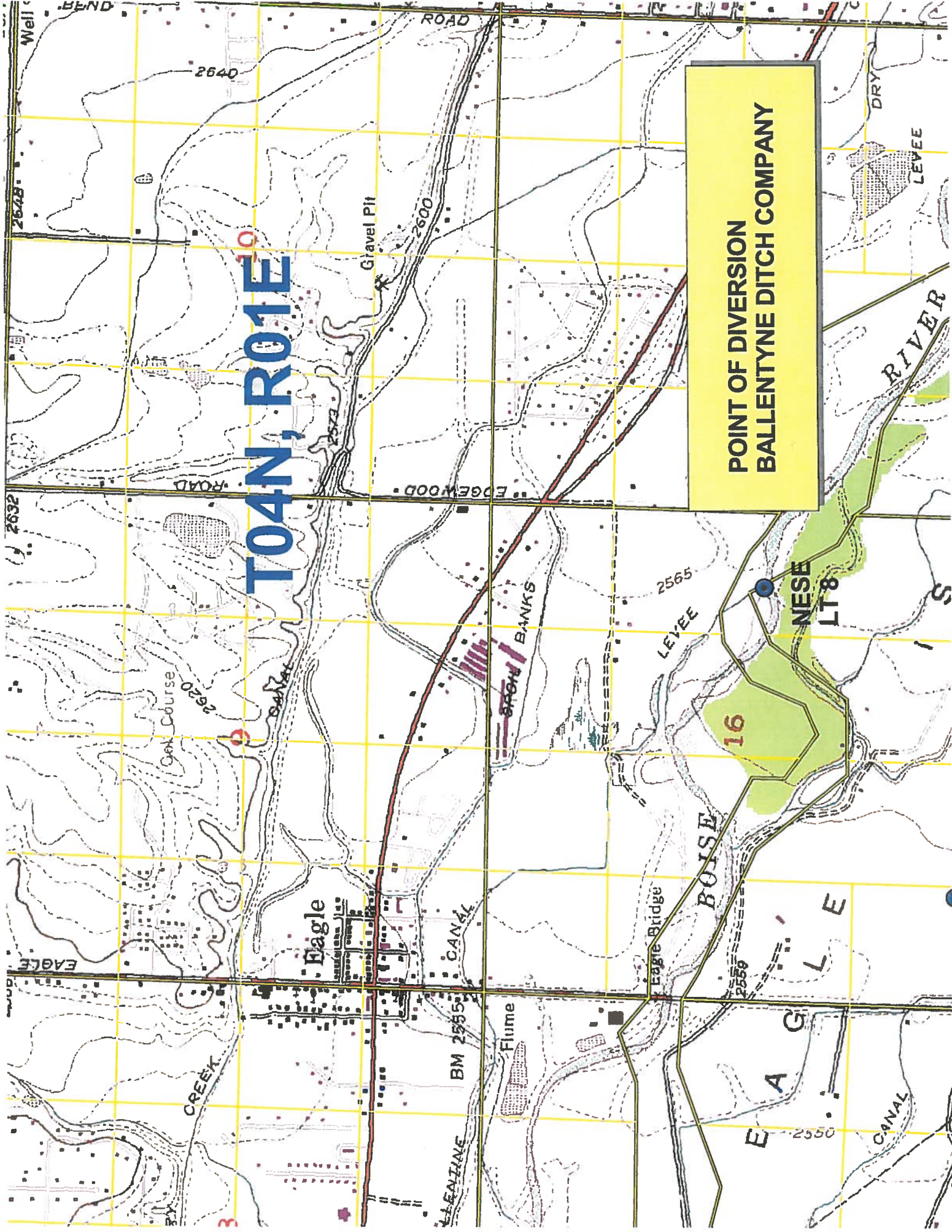
Place of Use

Conditions of Approval:

Remarks:

1. General SPLIT INTO 63-0239A & 63-0239B BY TRANS. 161.

Comments:



T04N, R01E

POINT OF DIVERSION
BALLENTYNE DITCH COMPANY

16

NESE
LT8

Eagle

BM 2555

Flume

Eagle Bridge

BOISE

EAGLE

CANAL

BOISE RIVER

DRY
LEVEE

Gravel Pit

Gravel Banks

EDGEWOOD

Gravel Course

CREEK

EAGLE

Well

BEND

2640

ROAD

2600

LEVEE

2565

2550

2550

**BALLENTYNE DITCH COMPANY
AMENDED BOUNDARY AND PLACE OF USE
DIGITIZED ACRES = 773.5**

T04N, R01W

T04N, R01E

7

12

11

16



From T70262

Exhibit B

Claimed acres

TWNSHP	RGE	SEC	LOT	TRACT	ACRES	LOT	TRACT	ACRES	LOT	TRACT	ACRES	LOT	TRACT	ACRES
04N	01E	7	2	SWNW	40									
				NESW	40	3	NWSW	40	4	SWSW	20		SESW	25
		8		SESE	3.8									
		9		SWSW	9.5									
		16		NWNW	40		SWNW	12		SENE	12			
	01W	11		SENE	30									
		12		NENE	10		NWNE	10		SWNE	40		SENE	40
				NENW	10		SWNW	35		SENE	40			
				NESW	40		NWSW	40		SWSW	40		SESW	35
				NESE	40		NWSE	40		SWSE	40		SESE	30
		13		NENW	5		NWNW	30						

TOTAL ACRES: 797.3

SCANNED
DEC 11 2002

From 770262

Exhibit A

TWNSHP	RGE	SEC	LOT	TRACT	ACRES	LOT	TRACT	ACRES	LOT	TRACT	ACRES	LOT	TRACT	ACRES
04N	01E	7	2	SWNW	40									
		8		NESW	40	3	NWSW	40	4	SWSW	20		SESW	25
		9		SESE	3.8									
				SWSW	9.5									
		16		NWNW	38.6/1.4		SWNW	9.2/2.8		SENW	9.1/2.9			
	01W	11		SENE	30									
		12		NENE	10		NWNE	10		SWNE	40		SENE	40
				NENW	10		SWNW	35		SENW	40			
				NESW	40		NWSW	40		SWSW	40		SESW	35
				NESE	40		NWSE	40		SWSE	40		SESE	30
		13		NENW	5		NWNW	30						

TOTAL IRRIGATED ACRES: 790.2

TOTAL GROUND WATER RECHARGE AS MITIGATION ACRES: 7.1

SCANNED
DEC 11 2002

BALLENTYNE DITCH CO. LTD

RE: ADDITIONAL INFORMATION CONCERNING CLAIMS AND RECOMMENDATIONS

DATE: JUNE 1, 2005

BY: MEL SCHULTE

The company president and main contact is Joe King, 373-0564. He was very cooperative in providing information and attempting to obtain the reviewed boundary and place of use map. The prior contact, Tom Ricks, was very un-responsive to requests for the boundary map draft after it had been reviewed.

There does not appear to be any major issues related to Ballentyne Ditch Company.

The company is represented by the law office of Ringert & Clark, Dan Steenson or Bryce Farris.

The company claimed 797.3 acres, 14.82 cfs of decreed water and 3.08 cfs of credited waste water.

The original boundary and place of use map described 739 digitized acres. During the notice of error period the company added two fields previously omitted which increased the total to 773.5 acres. This number is sufficient to cover their 14.82 cfs decreed water at one inch per acre. Therefore, no delivery loss is included in the total recommended diversion rate of 14.82 cfs. The Boise River water master's records list 763 acres for Ballentyne Ditch Company. The Stewart decree map describes 521 acres for Ballentyne but the Stewart decree map was hard to read and not good data to support the current operation.

Approved transfer 70262 reduced the place of use from 739 acres to 733.9 acres based on the original boundary and place of use. The exact acres dried up by the transfer cannot be determined so the boundary and place of use map still reflects 773.5 digitized acres. The recommended acre limitation of 741 acres is based on the standard one inch per acre historically delivered by the Boise River Watermaster.

The POD was determined by using USGS topo map Eagle, Idaho (X8).

Waste water claim 63-15238 was disallowed in favor of Drainage District No 2 claim 63-31937.

MTS

**BALLENTYNE DITCH COMPANY
AMENDED BOUNDARY AND PLACE OF USE
DIGITIZED ACRES = 773.5**

T04N, R01W

T04N, R01E

T04N, R01E

7

12

1

16

18

13



BOISE VALLEY CANALS AND ACREAGE

CHART NO. 12

AIKEN	236 ACRES	ISLAND HIGH LINE	945 ACRES
ANDREWS	1068 "	LEMP DITCH	300 "
BALLENTYNE	763 "	LITTLE PIONEER	1336 "
BAXTER	200 "	LOWER CENTER POINT.....	880 "
BOISE CITY	1828 "	MACE & CATLIN	536 "
BOISE PROJECT BOARD OF CONTROL		MACE & MACE	80 "
BIG BEND IRRIG. DIST.....	1724 "	MAMMON	468 "
BOISE-KUNA IRRIG. DIST.....	48,629 "	MCCONNEL ISLAND	1600 "
NAMPA & MERIDIAN IRRIG. DIST.....	40,304 "	McMANUS & TEATER	168 "
NEW YORK IRRIG. DIST.....	17,728 "	MIDDLETON MILL	4400 "
WILDER IRRIG. DIST.....	56,535 "	MIDDLETON WATER.....	5180 " } 9570
TOTAL - BOARD OF CONTROL.....	164,920 "	MISCELLANEOUS	838 "
BOISE VALLEY	2729 "	NEW DRY CREEK	3059 "
BOONE	517 "	NEW UNION	688 "
BOWMAN-SWISHER.....	424 "	PARMA DITCH	602 "
BOUG (SOUTH BOISE MUTUAL).....	1057 "	PENITENTIARY	321 "
CALDWELL HIGH LINE.....	11,917 "	PIONEER IRRIG. DIST.....	23,974 "
CAMPBELL (CANYON DITCH).....	802 "	PIONEER DIXIE.....	3000 "
CANYON COUNTY	3957 "	RIDENBAUGH	26,877 "
CAPITAL VIEW	600 "	RIVERSIDE IRRIG. DIST.....	10,645 "
CORNWAY-HAMMING.....	259 "	ROEDEL	160 "
DAVIS & LITTLE DAVIS	634 "	ROSSI MILL	512 "
DEWEKA WATER CO. #1	1300 "	SEBREE.....	15,500 "
DEWEKA DITCH CO. #2	2625 "	SEVEN SUCKERS	70 "
FARMERS UNION	8372 "	SETTLERS	12,322 "
FAHAM-GILBERT	200 "	SIEBENBERG	646 "
FAS	367 "	THURMAN MILL	1719 "
FRT-DAVIS	453 "	UPPER CENTER POINT.....	641 "
		WARM SPRINGS DITCH	454 "
		TOTAL	324,239 ACRES

DRAINAGE WATER (NOT DIVERTED FROM BOISE RIVER)

BLACK CANYON IRRIGATION DISTRICT	6,894 ACRES
CALDWELL IRRIGATION DISTRICT	755 "
MORELAND & VIAL (DIXIE DRAIN)	640 "
	8,289 ACRES

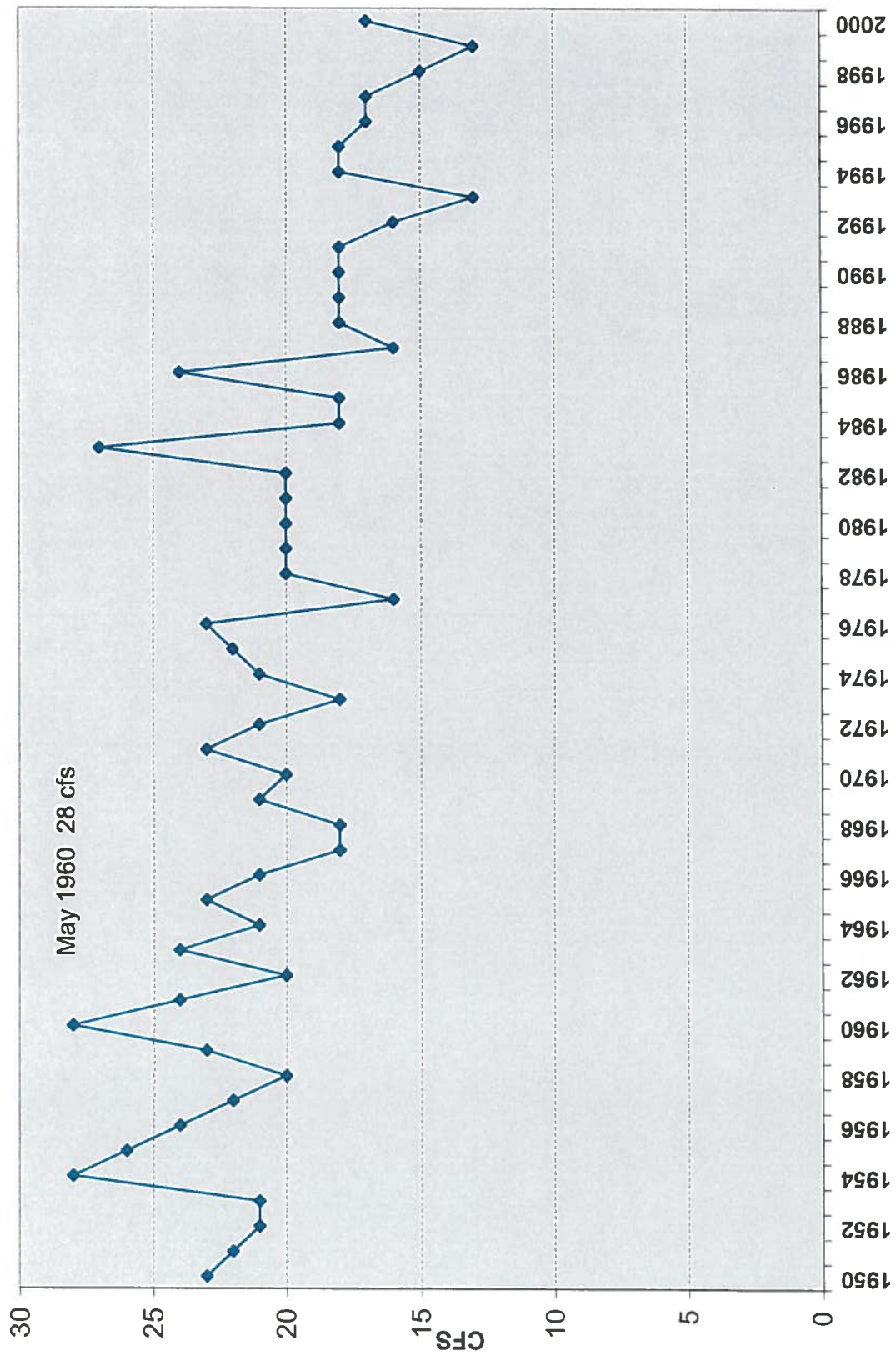
GRAND TOTAL 332,528 ACRES

THE ACREAGE IS BASED, IN SOME INSTANCES, UPON ACTUAL SURVEYS, AND IN OTHER CASES UPON THE ACREAGE DETERMINED AT THE TIME OF THE STEWART DECREE, AND IS THE BEST INFORMATION AVAILABLE AT THE PRESENT TIME. IT WAS ORIGINALLY COMPUTED FEBRUARY 14, 1941, BUT HAS BEEN REVISED SEVERAL TIMES, PARTICULARLY TO REDUCE RIVER BOTTOM ACREAGES TO CONFORM TO STEWART DECREE ACREAGES AS DETERMINED BY SPECIAL COMMITTEE, AND TO ACCOMMODATE TRANSFERS FROM ONE CANAL OR USER TO ANOTHER.

RIDENBAUGH REPRESENTS OLD LANDS WITHIN THE NAMPA & MERIDIAN IRRIGATION DISTRICT THAT ARE WATERED BY THE OLD RIDENBAUGH RIGHTS IN THE STEWART DECREE. THE BALANCE OF THE NAMPA & MERIDIAN IRRIGATION DISTRICT LANDS ARE INCLUDED UNDER THE BOARD OF CONTROL.

50 ACRES ARE WATERED WITH LIVE WATER. THE BALANCE OF THE WATER COMES FROM SEVERAL DRAINS.

MAXIMUM MONTHLY DIVERSION 1950-2000
13206265 BALLENTYNE CANAL



13206265 HISTORIC DIVERSION OF BALLENTYNE CANAL

W-YR	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	(CFS)	JUN	JUL	AUG	SEP	ANN
1950	3	0	0	0	0	0	7	23	17	17	15	18	10	92
1951	3	0	0	0	0	0	7	18	22	22	13	16	13	92
1952	5	0	0	0	0	0	5	21	18	18	15	16	8	89
1953	3	0	0	0	0	0	12	21	17	17	16	18	13	101
1954	5	0	0	0	0	0	12	28	25	25	20	15	15	119
1955	5	0	0	0	0	0	0	13	22	22	26	16	12	94
1956	3	0	0	0	0	0	8	21	24	24	18	16	13	104
1957	3	0	0	0	0	0	2	16	22	22	21	16	13	94
1958	5	0	0	0	0	0	8	20	20	20	13	18	15	99
1959	5	0	0	0	0	0	17	23	18	18	15	16	10	104
1960	2	0	0	0	0	0	12	28	25	25	23	20	13	122
1961	5	0	0	0	0	0	7	24	17	17	13	15	12	92
1962	2	0	0	0	0	0	5	18	17	17	20	20	15	96
1963	11	0	0	0	0	0	2	24	20	20	20	18	17	112
1964	13	0	0	0	0	0	7	21	15	15	21	18	12	107
1965	8	0	0	0	0	0	13	23	20	20	18	18	13	114
1966	7	0	0	0	0	0	15	21	17	17	11	13	7	91
1967	3	0	0	0	0	0	10	18	18	18	16	15	7	87
1968	0	0	0	0	0	0	12	10	18	18	13	10	8	71
1969	5	0	0	0	0	0	8	21	13	13	20	18	15	100
1970	8	0	0	0	0	0	8	16	18	18	20	20	13	104
1971	5	0	0	0	0	0	7	20	18	18	23	18	13	104
1972	7	0	0	0	0	0	8	20	18	18	21	20	12	105
1973	3	0	0	0	0	0	13	18	18	18	18	18	13	102
1974	5	0	0	0	0	0	7	21	20	20	18	18	13	102
1975	7	0	0	0	0	0	5	18	22	22	18	16	13	99
1976	5	0	0	0	0	0	5	23	23	23	18	11	5	89
1977	5	0	0	0	0	0	12	13	13	13	15	16	15	89
1978	5	0	0	0	0	0	8	20	15	15	18	16	12	92
1979	7	0	0	0	0	0	8	20	18	18	18	16	13	101
1980	7	0	0	0	0	0	8	20	18	18	20	16	13	104
1981	5	0	0	0	0	0	3	20	18	18	18	18	15	97
1982	5	0	0	0	0	0	2	15	17	17	20	18	15	91
1983	3	0	0	0	0	0	0	20	27	27	24	23	18	115
1984	8	0	0	0	0	0	7	18	15	15	18	18	10	102
1985	7	0	0	0	0	0	8	16	18	18	18	13	10	91
1986	5	0	0	0	0	0	8	18	24	24	11	20	13	99
1987	3	0	0	0	0	0	8	16	15	15	15	11	12	81
1988	5	0	0	0	0	0	7	18	17	17	13	10	10	81
1989	5	0	0	0	0	0	2	16	18	18	16	10	10	77
1990	3	0	0	0	0	0	12	18	17	17	18	11	10	89
1991	7	0	0	0	0	0	7	18	18	18	18	15	7	89
1992	2	0	0	0	0	0	7	16	12	12	8	8	8	61
1993	3	0	0	0	0	0	0	13	13	13	13	11	10	64
1994	3	0	0	0	0	0	8	18	18	18	16	15	12	91
1995	7	0	0	0	0	0	8	15	18	18	16	13	13	91
1996	5	0	0	0	0	0	5	8	17	17	16	13	12	76
1997	5	0	0	0	0	0	8	13	17	17	16	15	13	87
1998	7	0	0	0	0	0	3	10	15	15	15	13	12	74
1999	7	0	0	0	0	0	2	13	13	13	11	11	10	67
2000	7	0	0	0	0	0	5	15	17	17	13	11	10	77
AVERAGE:														
1950-2000	5	0	0	0	0	0	7	18	18	18	17	16	12	94

Basin	Sequence	Suffix	Basis	Priority Date	Rate(cfs)	Source	Water Use(s)	Source Table	Source To App.ID
63	195		Decreed	1891-06-01	0.8	BOISE RIVER	IRRIGATION	BALLENTYNE DITCH CO LTD (Current)	wrAdjudicationClaim
63	198 AA		Decreed	1877-06-01	0.06	BOISE RIVER	IRRIGATION	BALLENTYNE DITCH CO LTD (Current)	wrAdjudicationClaim
63	258 A		Decreed	1893-05-01	0.14	BOISE RIVER	IRRIGATION	BALLENTYNE DITCH CO LTD (Current)	wrAdjudicationClaim
63	260 B		Decreed	1883-05-01	0.76	BOISE RIVER	IRRIGATION	BALLENTYNE DITCH CO LTD (Current)	wrAdjudicationClaim
63	264		Decreed	1878-04-01	3	BOISE RIVER	IRRIGATION	BALLENTYNE DITCH CO LTD (Current)	wrAdjudicationClaim
63	285		Decreed	5/1/1906	0.39	BOISE RIVER	IRRIGATION	BALLENTYNE DITCH CO LTD (Current)	wrAdjudicationClaim
63	15238		Beneficial Use	4/1/1923	3.08	BOISE RIVER	IRRIGATION	BALLENTYNE DITCH CO LTD (Current)	wrAdjudicationClaim
63	31808		Decreed	1888-06-01	9.67	BOISE RIVER	IRRIGATION	BALLENTYNE DITCH CO LTD (Current)	wrAdjudicationClaim

17.90 cfs
- 3.08

14.82 cfs without waste water credit
14.82 ÷ .02 = 741 acres needed at 1" / acre

**Application for Transfer
In the Name of
Ballentyne Ditch Company, Limited
(Narrative Description)**

The Application proposes to change the nature of use of that portion of Ballentyne Ditch Company, Limited's water rights represented by seven shares of Ballentyne Ditch Company, Limited ("Ballentyne") stock owned by Eagle River LLC ("Eagle River"). Each Ballentyne share represents the right to delivery of 0.02 cfs, or one miners inch per acre, as and when water is available during the irrigation season, subject to conveyance losses and pro rata reductions among Ballentyne shareholders in times of shortage.

The current authorized and claimed use of water right A63-234 is for irrigation of lands within the Ballentyne service area. This application is based on claim A63-234, which consolidates rights 63-234 (1.40 cfs), 63-235 (1.30 cfs), 63-236 (1.40 cfs), 63-237 (1.46 cfs), a portion of 63-238 (1.0 cfs) and 63-0239D (0.51 cfs) all of which were decreed with a priority date of June 1, 1888. Ballentyne also holds the following additional decreed rights for diversion and use by its shareholders on lands within the Ballentyne service area: 63-63-264 (0.80 cfs), 63-265 (0.80 cfs), 63-289 (1.40 cfs) all of which were decreed with a priority date of April 1, 1878 and are consolidated in SRBA claim A63-264; 63-195 (0.80 cfs) decreed with a June 1, 1891 priority date; 63-198AA (0.06 cfs) with a June 1, 1877 priority date; 63-258A (0.14 cfs) with a May 1, 1893 priority date; 63-260B (0.76 cfs) with a May 1, 1883 priority date; 63-285 (0.392 cfs) with a May 1, 1906 priority date; and claim A63-15238 (3.08 cfs). Ballentyne shareholders are entitled to their pro rata share of each of these rights as available. This application has been submitted to effect a change in nature of use of that portion of each of the above rights represented by seven Ballentyne shares held by Eagle River. However because of the number of rights involved and the relatively small fractional quantities involved as to each specific Ballentyne water right, water right claim A63-234 has been designated herein as the representative water right for transfer.

Eagle River has applied to the Department for a permit to appropriate for storage 107 acre-feet of ground water tributary to the Boise River that would accrue to shallow excavated ponds. Accrued ground water will not be diverted from storage. The ponds have a total surface area of 8.4 acres, 7.1 acres of which are within the Ballentyne service area and historically have been irrigated with water delivered by Ballentyne. This transfer application proposes to change the use of the water rights historically used to irrigate the 7.1 acres of land within the Ballentyne service area that are to be converted from irrigated agriculture to excavated ponds.¹

Consumptive use of ground water due to evaporative loss from the ponds is estimated to be 3.5 acre-feet per acre per year, and all but a de minimus amount thereof is

¹ Expected evaporative loss from the 1.3 acre pond located within the New Union Ditch Company service area is proposed by Eagle River to be addressed by a separate transfer using a portion of Eagle River's water right shares in that company.

**POINT OF DIVERSION
BALLETYNE DITCH COMPANY**

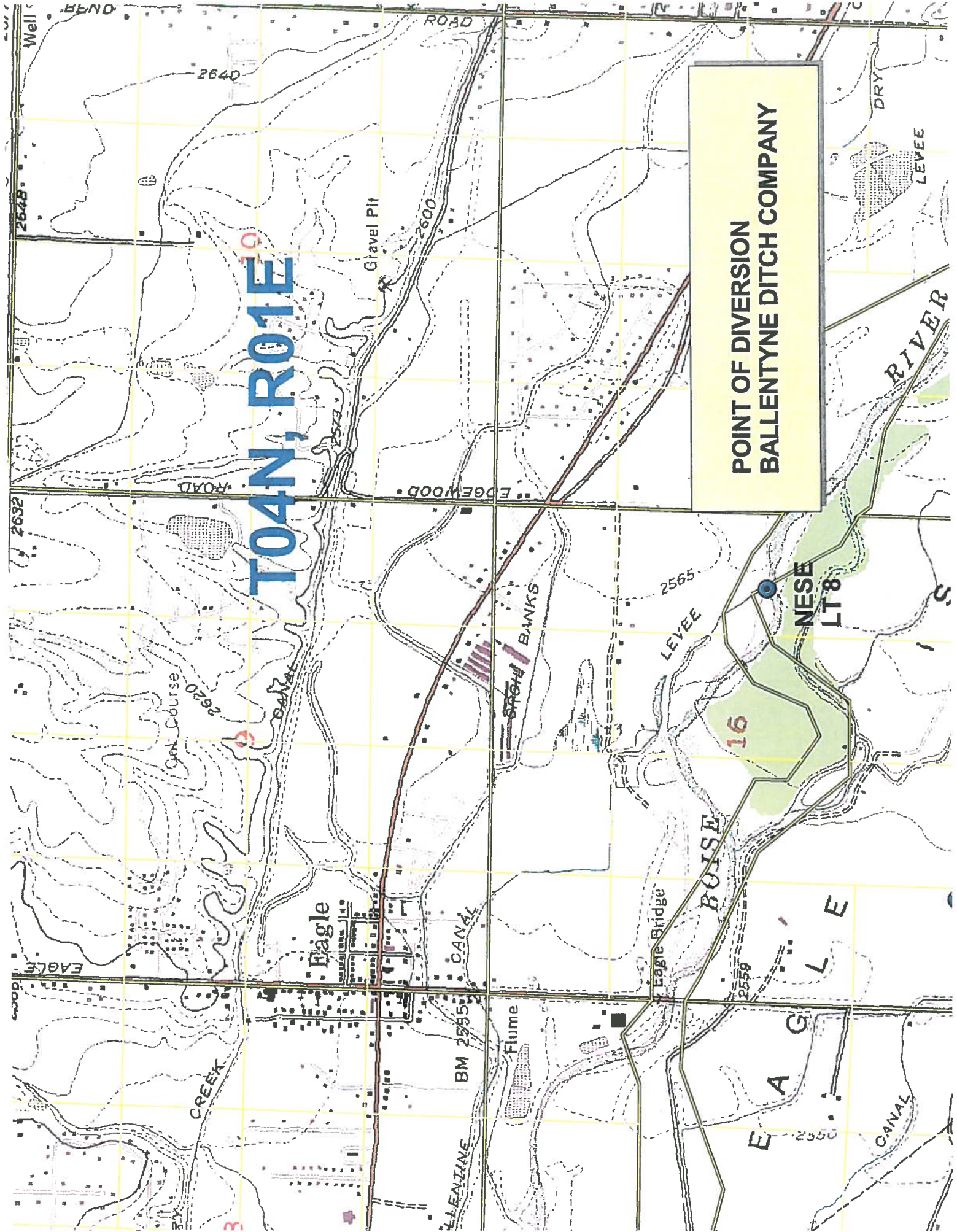
The map shows the Boise River flowing from the top right towards the bottom left. A canal, labeled 'CANAL', runs parallel to the river. A bridge, labeled 'Eagle Bridge', crosses the river. A flume, labeled 'Flume', is located near the center. A yellow box highlights the 'POINT OF DIVERSION' and 'BALLETYNE DITCH COMPANY'. A red circle marks a specific location on the map. The map also shows various landmarks like the Eagle Bridge, Flume, and Ballentine Canal. The map is overlaid with a yellow grid.

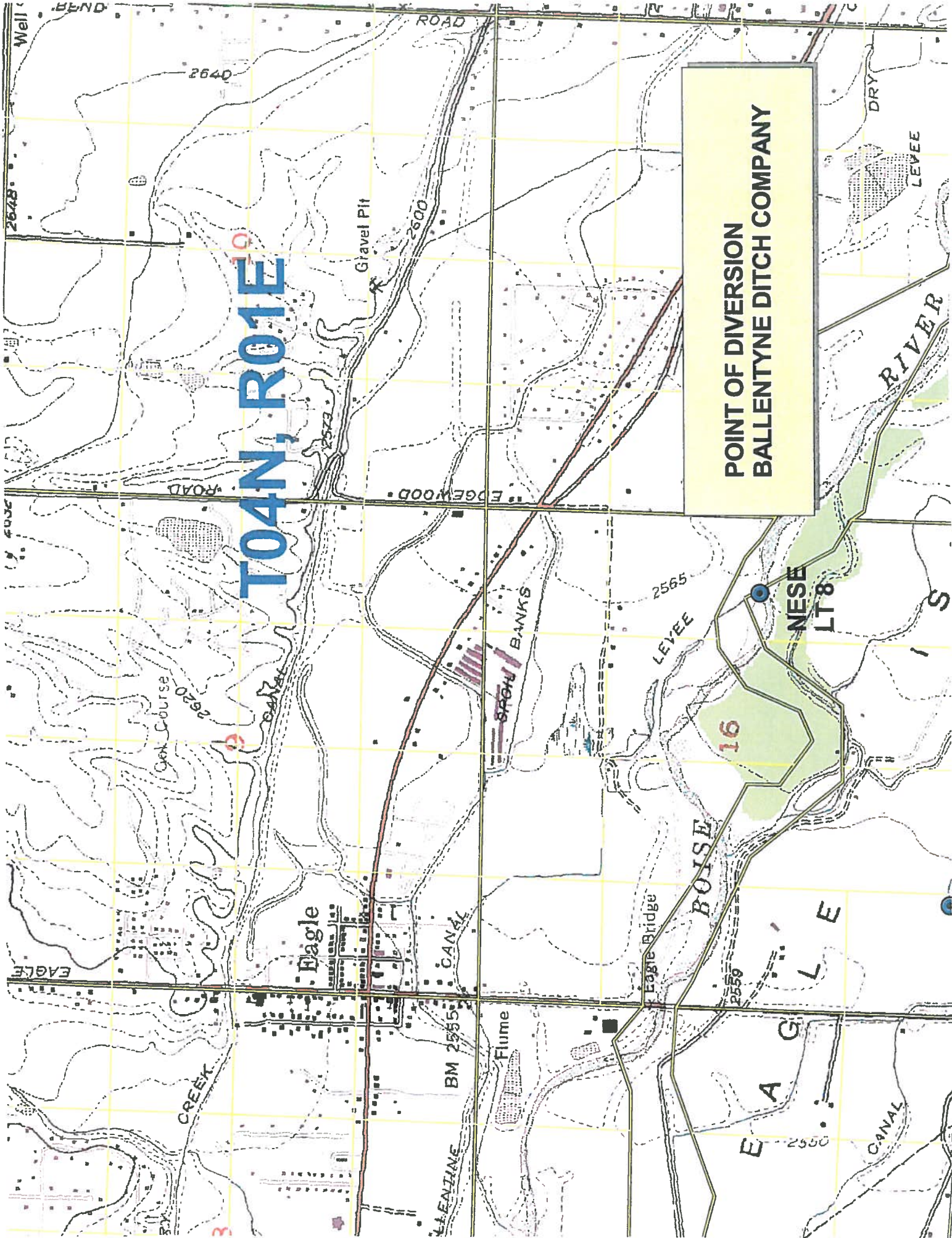
**POINT OF DIVERSION
BALLENTYNE DITCH COMPANY**

Basin	Sequence	Sub	Basin	Priority Date	Rate(cfs)	Source	Water Use(s)	Source Table	Source Table App ID
63	195		Decreed	1891-06-01	0.8	BOISE RIVER	IRRIGATION	BALLENTYNE DITCH CO LTD (Current)	wrAdjudicationClaim
63	198AA		Decreed	1877-06-01	0.06	BOISE RIVER	IRRIGATION	BALLENTYNE DITCH CO LTD (Current)	wrAdjudicationClaim
63	258A		Decreed	1893-05-01	0.14	BOISE RIVER	IRRIGATION	BALLENTYNE DITCH CO LTD (Current)	wrAdjudicationClaim
63	260B		Decreed	1883-05-01	0.76	BOISE RIVER	IRRIGATION	BALLENTYNE DITCH CO LTD (Current)	wrAdjudicationClaim
63	264		Decreed	1878-04-01	3	BOISE RIVER	IRRIGATION	BALLENTYNE DITCH CO LTD (Current)	wrAdjudicationClaim
63	285		Decreed	5/1/1906	0.39	BOISE RIVER	IRRIGATION	BALLENTYNE DITCH CO LTD (Current)	wrAdjudicationClaim
63	15238		Beneficial Use	4/1/1923	3.08	BOISE RIVER	IRRIGATION	BALLENTYNE DITCH CO LTD (Current)	wrAdjudicationClaim
63	31808		Decreed	1888-06-01	9.67	BOISE RIVER	IRRIGATION	BALLENTYNE DITCH CO LTD (Current)	wrAdjudicationClaim
63	234			1888-06-01	9.67	BOISE RIVER	IRRIGATION		xrFromAdjClair 70262
63	234			1888-06-01	9.67	BOISE RIVER	GROUND WATER RECHARGE, IRRIGATION		xrToAdjClaimLI 70262
63	264			1878-04-01	3	BOISE RIVER	IRRIGATION		xrFromAdjClair 66706
63	264			1878-04-01	3	BOISE RIVER	COMMERCIAL FROM STORAGE, COMMERCIAL STORAGE, DIVERSION TO STORAGE, GROUND WATER RECHARGE, IRRIGATION		xrToAdjClaimLI 66706

T04N, R01E

POINT OF DIVERSION
BALLENTYNE DITCH COMPANY





POINT OF DIVERSION
BALLENTYNE DITCH COMPANY

Claimant Acknowledgement of Change in Attorney in Snake River Basin Adjudication (SRBA)

RECEIVED
MAR 18 2003
WATER RESOURCES
WESTERN REGION

Name(s) of Claimant (please print):

BALLENTYNE DITCH COMPANY

I/we acknowledge (check one):

☐ The attorney formerly representing me has withdrawn and I/we will be representing myself/ourselves.

☒ I/we are now represented by the attorney at the address below.

RINGERT CLARK CHARTERED LAWYERS
DAN STEENSON OR S. BRYCE FARRIS
455 S. 3RD ST (PO Box 2773)
BOISE, IDAHO
Attorney's Phone (208) 342-4591

The SRBA water right claim notice(s) affected by this change are listed below or on the attached sheet(s).

ALL WATER RIGHTS AND WATER RIGHT MATTERS IN THE SRBA.

63-3618

63-3618P

For Individuals:

Authorized signature(s) Date _____

For Organizations:

I am PRESIDENT of BALLENTYNE DITCH COMPANY, and I

Title

Organization

have signed the foregoing document in the space below as

PRESIDENT of BALLENTYNE DITCH COMPANY.

Title

Organization

Signature of Authorized Agent Joe King

Title President

Date

28 Feb 2003

Organization

Ballentyne Ditch Company

IDWR Use:

Date Received 3-18-03

Data Entry 3-24-03

Exhibit A

TWNSHP	RGE	SEC	LOT	TRACT	ACRES	LOT	TRACT	ACRES	LOT	TRACT	ACRES	LOT	TRACT	ACRES
04N	01E	7	2	SWNW	40									
				NESW	40	3	NWSW	40	4	SWSW	20		SESW	25
		8		SESE	3.8									
		9		SWSW	9.5									
		16		NWNW	38.6/1.4		SWNW	9.2/2.8		SENW	9.1/2.9			
	01W	11		SENE	30									
		12		NENE	10		NWNE	10		SWNE	40		SENE	40
				NENW	10		SWNW	35		SENW	40			
				NESW	40		NWSW	40		SWSW	40		SESW	35
				NESE	40		NWSE	40		SWSE	40		SESE	30
		13		NENW	5		NWNW	30						

TOTAL IRRIGATED ACRES: 790.2

TOTAL GROUND WATER RECHARGE AS MITIGATION ACRES: 7.1

Exhibit B

TWNSHP	RGE	SEC	LOT	TRACT	ACRES	LOT	TRACT	ACRES	LOT	TRACT	ACRES	LOT	TRACT	ACRES
04N	01E	7	2	SWNW	40									
				NESW	40	3	NWSW	40	4	SWSW	20		SESW	25
		8		SESE	3.8									
		9		SWSW	9.5									
		16		NWNW	40		SWNW	12		SENW	12			
	01W	11		SENE	30									
		12		NENE	10		NWNE	10		SWNE	40		SENE	40
				NENW	10		SWNW	35		SENW	40			
				NESW	40		NWSW	40		SWSW	40		SESW	35
				NESE	40		NWSE	40		SWSE	40		SESE	30
		13		NENW	5		NWNW	30						

TOTAL ACRES: 797.3

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 5289

RECEIVED

APR 20 1998

WATER RESOURCES
WESTERN REGION

208-939-6899

APPLICATION FOR TRANSFER OF WATER RIGHT

Long Hanks 8-6-98 PART 1
changed approval by date

AUG 11 1998

WATER RESOURCES
WESTERN REGION

Name of applicant	Ballentyne Ditch Co. Ltd
Post Office address	325 Park Lane, Eagle, ID 83616

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☐ Add diversion point(s) ☐ Change place of use
☒ Change nature of use ☒ Change period of use ☐ Other _____

2. Describe the reason for the proposed changes To provide for year-around commercial use
outside of the normal ditch delivery season. See Remarks - Attachment A

(pg. 8 of application)

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

- | 1. Right Number | Priority | Amount | Nature | Period of Use |
|-----------------|----------|--------|--------|---------------|
|-----------------|----------|--------|--------|---------------|

See Attachment B

(pg. 9 of application)

to _____

Reconfigure 67-289 but will be in AJ Record in which -289 was
is incorporated

2. Total amount of water being transferred 1.40 cubic feet per second and/or _____ acre-feet per annum.
3. Source of water Boise River tributary to Snake River
4. Point(s) of Diversion: _____

[illegible]

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
4N	1W	12											C						
		12											40						40
		13						C											
		13						28											28
								1st 3											

ATTACHMENT B

Part 1.B.1.: Description of Right(s), or Portion Thereof, After the Requested Change

<u>1. Right Number</u>	<u>Priority</u>	<u>Amount</u>	<u>Nature</u>	<u>Period of Use</u>	
63-00289	4/1/1878	1.36	irrigation	3/15 to 11/15	*
		0.04 cfs	diversion to storage	3/15 to 11/15	}
		0.04 cfs	groundwater recharge	3/15 to 11/15	
		~~7.00 af~~	commercial storage	1/1 to 12/31	
		~~7.00 af~~	commercial from storage	1/1 to 12/31	
Total		1.40 cfs			

make small pond system
for a nursery on shareholder's
land, rest of right remains
as irrigation

* irrig season = standard, classified from decree

AJ claims c Ballentyne Ditch Co.
(was re-named after get)

4/8/02

Sequence Number	Split Suffix	Basis	Status	Priority Date	RATE	Source List	Water Use List	Owner List	Source Table
63	195	Decreed	Active	1891-06-01		0.8 BOISE RIVER	IRRIGATION	BALLENTYNE DITCH COMPANY LTD (Current)	wrAdjudicationClaim
63	198AA	Decreed	Active	1877-06-01		0.06 BOISE RIVER	IRRIGATION	BALLENTYNE DITCH COMPANY LTD (Current)	wrAdjudicationClaim
63	234	Decreed	Active	1888-06-01		9.67 BOISE RIVER	IRRIGATION	BALLENTYNE DITCH COMPANY LTD (Current)	wrAdjudicationClaim
63	258A	Decreed	Active	1893-05-01		0.14 BOISE RIVER	IRRIGATION	BALLENTYNE DITCH COMPANY LTD (Current)	wrAdjudicationClaim
63	260B	Decreed	Active	1883-05-01		0.76 BOISE RIVER	IRRIGATION	BALLENTYNE DITCH COMPANY LTD (Current)	wrAdjudicationClaim
63	264	Decreed	Active	1878-04-01		3 BOISE RIVER	IRRIGATION	BALLENTYNE DITCH COMPANY LTD (Current)	wrAdjudicationClaim
63	285	Decreed	Active	5/1/1906		0.39 BOISE RIVER	IRRIGATION	BALLENTYNE DITCH COMPANY LTD (Current)	wrAdjudicationClaim
63	15238	Beneficial Use	Active			BOISE RIVER	IRRIGATION	BALLENTYNE DITCH COMPANY LTD (Current)	wrAdjudicationClaim

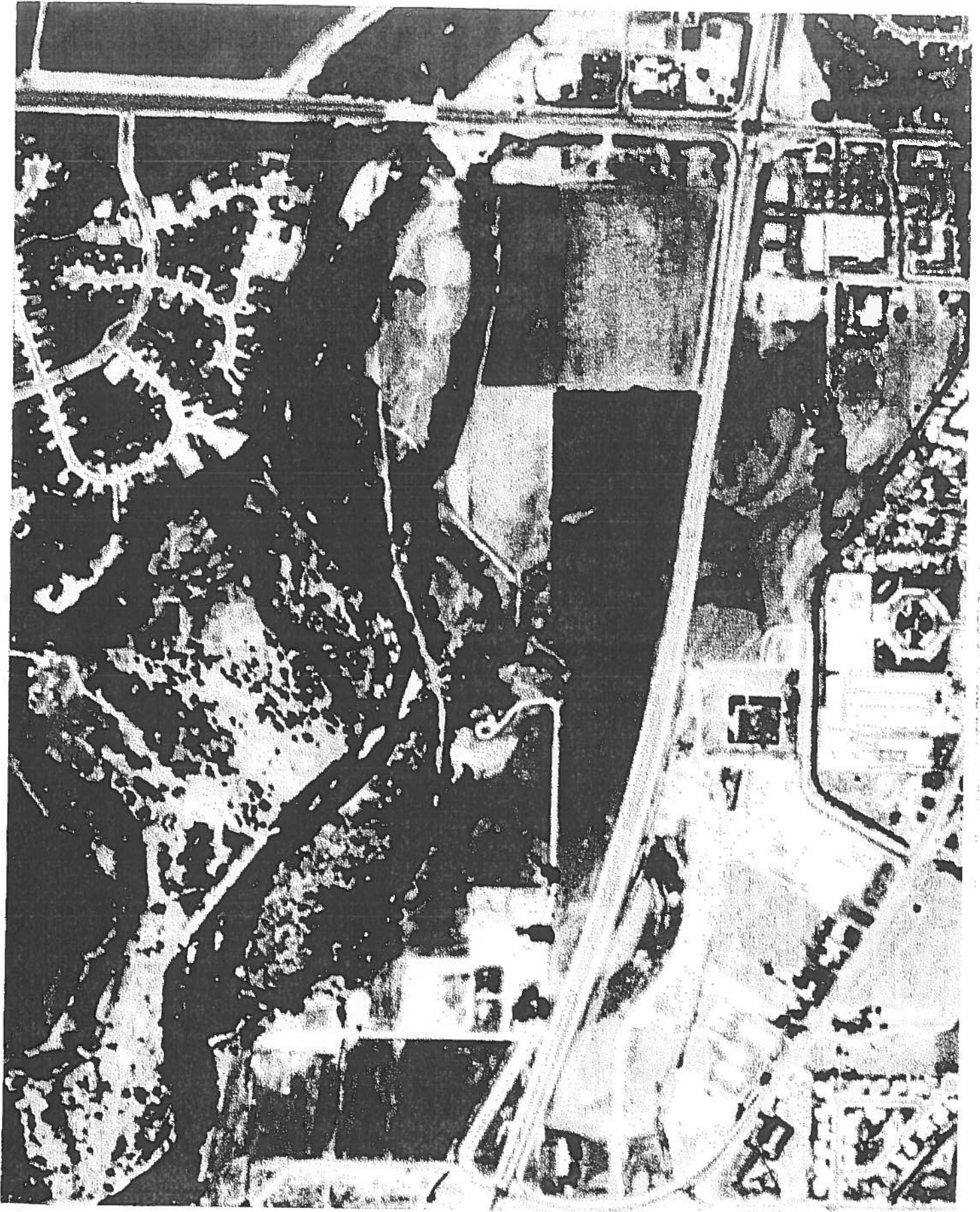
No AJ claim # 63-289 ... those acres included
in other ditch company claims.
Approval letter should be attached AJ Record per
our new system, although was originally processed on
WR Record 63-289

deemed to occur between March 15 and November 15th of each year. Historical consumptive use of the Ballentyne water right during the irrigation season due to evapotranspiration also is estimated to be 3.5 acre-feet per acre per year. The transfer would maintain the place of use of the water right by delivering water into one or more of the ponds during the irrigation season to recharge the ground water source and directly offset evaporation of exposed ground water from the ponds on a one-to-one basis, and without any change in the historical consumptive use of the transferred portion of the water right. Maintaining the historical diversion of the water into the Ballentyne system, and delivery to the existing appurtenant acres, ensures that there will be no potential for enlargement of the transferred portion of the water right due to delivery to different lands, and maintains the timing and location of historical return flows from the canal. Because there will be no net affect on the shallow ground water source, there also will be no net affect on the timing, extent, location or quality of historical return flows or discharges of shallow ground water to the Boise River.

The lands to which the rights are appurtenant have been continuously irrigated through the 1999 irrigation season. *See* attachment D (1999 ASCS aerial photo). Extensive grading, excavation and other construction activities began on the Eagle River property in 2001, precluding subsequent irrigation until landscaping is completed.

Based on the above discussion and assumptions, this transfer will not result in an enlargement of the water right or cause injury to other water rights because the number of acres to which the water right will be applied, and the net consumptive use of water, will not increase.

The transfer proposes to apply all water under the affected portion of the Ballentyne water rights to recognized beneficial uses, and will continue beneficial use of the water right within the Ballentyne service area for its shareholders. The transfer also will facilitate the use of ground water without depleting the resource. For these reasons, the transfer is in the public interest.



Attachment D

Warranty Deeds Eagle River, LLC

When recorded, return to:
M. Virginia Perry
3101 North Central Avenue, Suite 1390
Phoenix, Arizona 85012

BOISE ID

PIONEER TITLE

94 DEC 23 PM 12:50

FEES 6.00

RECORDED BY

QUEST

1521000614

SPECIAL WARRANTY DEED

For Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, CHARING CROSS ASSOCIATES, an Arizona limited partnership ("Grantor"), hereby grants, sells and conveys to EAGLE RIVER L.L.C., an Arizona limited liability company ("Grantee"), located at 3101 North Central Avenue, Suite 1390, Phoenix, Arizona 85012, that real property located in the City of Eagle, in ADA County, Idaho, and legally described on Exhibit "A" attached hereto and incorporated herein by this reference, together with all water, air and mineral rights (including any grandfathered ground water or other groundwater or surface water rights), interests, privileges and easements appurtenant thereto and any and all improvements thereon (the "Property"), SUBJECT TO those matters of record as of this date or observable by inspection or survey.

Notwithstanding any warranty which may otherwise be implied from the use of any word, phrase or clause herein, Grantor warrants title to the Property, subject to the matters referred to above, only against its own acts, but not the acts of any others.

DATED as of this 1st day of May, 1994.

CHARING CROSS ASSOCIATES, an Arizona
limited partnership.

By

Charles Carlise
Its General Partner

STATE OF ARIZONA

County of Maricopa

ss.

The foregoing instrument was acknowledged before me this 15th day of December, 1994, by Charles Carlise, the General Partner of CHARING CROSS ASSOCIATES, an Arizona limited partnership, on behalf of said Partnership.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Deane E. Coughlin
Notary Public

847 E. Rockwell Dr
Residing at

Chandler, Az 85225

My commission expires:



EXHIBIT A

THAT PORTION OF THE WEST HALF OF SECTION 16, TOWNSHIP 4 NORTH, RANGE 1 EAST OF THE BOISE MERIDIAN, IN ADA COUNTY, IDAHO, LYING NORTHERLY OF THE NORTHERLY LINE OF THE NORTH CHANNEL OF THE BOISE RIVER.

EXCEPT THOSE PORTIONS CONVEYED TO THE STATE OF IDAHO BY DEEDS RECORDED UNDER INSTRUMENT NO.'S 7703998 AND 7650844.

AND EXCEPT THAT PORTION LYING WITHIN THE FOLLOWING DESCRIBED PARCEL BEGINNING AT A POINT ON THE SECTION LINE WHICH BEARS SOUTH 88 DEGREES 25' WEST AT A DISTANCE OF 1488.62 FEET FROM THE SECTION CORNER COMMON TO SECTIONS 9, 10, 15 AND 16, T4N, R1E, BOISE MERIDIAN, THENCE SOUTH 28 DEGREES 04 1/4' WEST A DISTANCE OF 530.94 FEET TO THE CENTERLINE OF A CERTAIN DRAIN DITCH, THENCE NORTH 81 DEGREES 50' WEST ALONG SAID CENTERLINE A DISTANCE OF 917.34 FEET TO A POINT, THENCE NORTH 82 DEGREES 25' WEST A DISTANCE OF 194.74 FEET TO A POINT, THENCE NORTH 6 DEGREES 34' WEST A DISTANCE OF 276.41 FEET TO AN IRON PIN, THENCE NORTH 88 DEGREES 25' EAST A DISTANCE OF 1383.08 FEET ALONG THE SECTION LINE TO THE POINT OF BEGINNING.

EXCEPTING THAT PORTION LYING WITHIN THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER.

ALSO EXCEPTING:

A TRACT OF LAND SITUATED IN A PORTION OF SECTION 16, T4N, R1E, BOISE MERIDIAN, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 16, THENCE SOUTH ALONG THE WEST LINE OF SAID SECTION 16, A DISTANCE OF 576.18 FEET, THENCE SOUTH 87 DEGREES 37' 10" EAST A DISTANCE OF 2344.36 FEET TO A POINT, THENCE NORTH 42 DEGREES 15' 40" EAST A DISTANCE OF 290.87 FEET TO THE REAL POINT OF BEGINNING, THENCE CONTINUING NORTH 42 DEGREES 15' 40" EAST A DISTANCE OF 103.60 FEET, THENCE NORTH 85 DEGREES 24' 20" EAST A DISTANCE OF 137.93 FEET, THENCE NORTH 88 DEGREES 33' 00" EAST A DISTANCE OF 290.15 FEET, THENCE SOUTH 00 DEGREES 36' 44" EAST A DISTANCE OF 463.57 FEET, THENCE SOUTH 66 DEGREES 49' 18" WEST A DISTANCE OF 432.77 FEET, THENCE SOUTH 82 DEGREES 08' 18" WEST A DISTANCE OF 80.00 FEET, THENCE NORTH, A DISTANCE OF 495.13 FEET TO THE REAL POINT OF BEGINNING.

END OF LEGAL DESCRIPTION.

ADA COUNTY RECORDER
J. DAVID HAYARRO
BOISE, IDAHO

2000 NO -9 PM 12:39

RECORDED - REQUEST OF

FEE 9.00 DEPUTY *M. J. [Signature]*
100090439

TITLEONE

WARRANTY DEED

For Value Received, Eagle Gravel, Inc., an Idaho corporation, GRANTOR, does hereby grant, bargain, sell and convey unto Eagle River L.L.C., whose present address is c/o Charles Carlise, 1002 Harrison Boulevard, Boise, Idaho 83702, the GRANTEE, the following described premises in Ada County, Idaho, to-wit:

See legal description attached hereto as Exhibit A

TO HAVE AND TO HOLD the said premises, with their appurtenances, unto the Grantee, its successors and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee that it is the owner in fee simple of said premises; that said premises are free from all encumbrances except easements and rights of way recorded or apparent upon visual examination of The Property, exceptions and reservations contained in the United States Patents or State of Idaho deed, restrictions and obligations imposed by governmental regulation, boundary encroachments, the Reciprocal Easement and Development Agreement between Eagle River, LLC, and State of Idaho, Idaho Transportation Board for the Division of Highways recorded April 4, 1997, as Instrument No. 97025980, and that it will warrant and defend the same from all lawful claims whatsoever.

Parcel 6
#350

Dated this 8th day of November, 2000.

EAGLE GRAVEL, INC.

By

[Signature]
Clark Magstadt
Vice-President

STATE OF IDAHO)

: SE.

County of Ada)

On this 8th day of November, 2000, before me, the undersigned, a Notary Public in and for said state, personally appeared Clark Magstadt, known or identified to me to be the Vice-President of Eagle Gravel, Inc., the person who executed the foregoing instrument on behalf of said corporation, and acknowledged to me that Eagle Gravel, Inc. executed the same.

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



Kelli Lyn Engum
Notary Public for Idaho
Residing at Caldwell, Idaho
My Commission Expires: 10/8/2004

EXHIBIT A

Parcel 1

A parcel of land located in the Northwest Quarter of the Northwest Quarter of Section 16, Township 4 North, Range 1 East, Boise Meridian, City of Eagle, Ada County, Idaho, lying Southerly of the Southerly right of way for Eagle Avenue, being described as follows:

Commencing at a brass cap monument in the Eagle Road (State Highway No. 55) marking the Northwest corner of said Section 16, said corner being located North 00 degrees 55' 47" East, 2540.78 feet from an aluminum cap monument marking the West Quarter corner of said Section 16; thence South 00 degrees 55' 47" West, 1320.36 feet along the Westerly line of said Section 16 to the North 1/4 corner common to Sections 16 and 17; thence South 88 degrees 52' 14" East, 110.00 feet along the Southerly line of said Northwest Quarter of the Northwest Quarter of said Section 16 to the Easterly right of way line of Eagle Road; thence North 01 degree 18' 37" West, 15.61 feet along said Easterly right of way line to the POINT OF BEGINNING; thence South 88 degrees 35' 10" East, 300.00 feet; thence North 01 degrees 18' 37" West, 290.54 feet along a line parallel with said Easterly right of way line; thence North 88 degrees 35' 10" West, 300.00 feet to said Easterly right of way line; thence along said right of way line South 01 degrees 18' 37" East 290.54 feet to the POINT OF BEGINNING.

#33'

FOR VALUE RECEIVED

The State of Idaho, by and through the Idaho Transportation Board for the Division of Highways, whose address is 3311 W. State Street, Boise, Idaho 83707-1129, the GRANTOR, does hereby GRANT, CONVEY AND WARRANT unto Eagle River L.L.C., an Arizona limited liability company, GRANTEE, whose address is 118 S. 5th Street, Boise, Idaho 83702, the real property in Ada County, Idaho, described on the attached Exhibit A (the "Property") which exhibit is made a part hereof, together with all other easements, appurtenances and hereditaments benefiting the Property.

This conveyance hereby made is subject to the lien for real property taxes for the year 1997 and each year thereafter and also the following matters described on the attached Exhibit B, which exhibit is made a part hereto.

TO HAVE AND TO HOLD said Property, unto the said Grantee and to the Grantee's heirs and assigns forever. And the said Grantor, for itself, its heirs and assigns, does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said Property; that the Property is free from all encumbrances, except for the matters referenced herein and as described on Exhibit B, that Grantee, its heirs and assigns shall be entitled to the quiet and peaceable possession of said Property; and that Grantor will warrant and defend, including attorneys' fees, the same forever from all other lawful claims whatsoever.

DATED: March 3, 1997.

April

GRANTOR:

STATE OF IDAHO, IDAHO TRANSPORTATION
BOARD FOR THE DIVISION OF HIGHWAYS

By:

Dwight M. Bower
Dwight Bower, Director

ADA CO. RECORDER
J. DAVID NAVARRO
BOISE ID

ALLIANCE TITLE

'97 APR 4 AM 10 42

FEE 15.00 DLN *J. Harper*
RECORDED AT THE REQUEST OF

REVIEWED AND APPROVED AS TO FORM:

By:

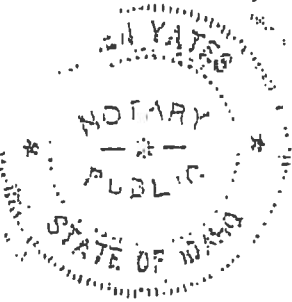
Stephen M. Parry
Stephen M. Parry, Chief Legal Counsel,
State of Idaho, Idaho Department of
Transportation

WARRANTY DEED - 1
3906114(DEED).JDT

County of Ada) ss.

On this 3rd day of March, in the year 1997, before me, a Notary Public in and for the State of Idaho, personally appeared DWIGHT BOWER, known or identified to me to be the Director of the State of Idaho, Idaho Transportation Board for the Division of Highways, that executed the said instrument, and acknowledged to me that the Idaho Transportation Board for the Division of Highways executed the same.

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



[Signature]

Notary Public for Idaho

Residing at: *[Signature]*

My commission expires: 11-21-99

STATE OF IDAHO)

County of Ada) ss.

On this 3rd day of March, in the year 1997, before me, a Notary Public in and for the State of Idaho, personally appeared STEVEN M PARRY, known or identified to me to be the Chief Legal Counsel, State of Idaho, Idaho Transportation Department, that executed the said instrument, and acknowledged to me that the Idaho Transportation Department executed the same.

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



[Signature]

Notary Public for Idaho

Residing at: *[Signature]*

My commission expires: 11-21-99

Legal Description

A parcel of land located in the Northwest Quarter of the Northwest Quarter of Section 16, Township 4 North, Range 1 East, Boise Meridian, City of Eagle, Ada County, Idaho; lying southerly of the southerly Right-of-Way for Eagle Alternate, being described as follows:

COMMENCING at a brass cap monument in Eagle Road (State Highway No. 55) marking the northwesterly corner of said Section 16 as shown on Record of Survey No. 3021 recorded in Ada County as Instrument No. 9498747, said corner being located North 00 degrees 55'47" East, 2640.78 feet from an aluminum cap monument marking the West Quarter corner of said Section 16; thence South 89 degrees 52'48" East, 1325.71 feet along the northerly line of said Section 16 to a brass cap monument marking the West 1/16 corner common to said Sections 16 and 9; thence South 00 degrees 51'29" West, 643.90 feet along the easterly line of said Northwest Quarter of the Northwest Quarter to the southerly right-of-way line of Eagle Alternate Route as shown on Right-of-Way Plans for Eagle Alternate Route, FAP No. STP-F-3271(033), Key

(Continued on Next Page)

...right of Station 935+12.00, and being the POINT
 OF BEGINNING; thence continuing
 South 00 degrees 51'29" West, 676.68 feet along said easterly
 line to the southeasterly corner of said Northwest
 Quarter of the Northwest Quarter; thence
 North 89 degrees 52'14" West, 1217.34 feet along the
 southerly line of said Northwest Quarter of the
 Northwest Quarter to a 5/8 inch rebar marking the
 point of intersection with the easterly right-of-way
 line of Eagle Road as shown on said Eagle Alternate
 Route Plans, located 0.72 feet westerly of a found
 Right-of-Way Monument; thence
 North 01 degrees 18'37" West, 767.55 feet along said easterly
 right-of-way to the point of intersection with the
 southerly right-of-way line of said Eagle Alternate
 Route, said point being 168.30 feet right of Station
 922+67.39; thence
 North 50 degrees 42'37" East, 105.96 feet along said
 southerly right-of-way line to a point located 90.00
 feet right of Station 923+38.79; thence
 South 82 degrees 18'56" East, 861.26 feet along said
 southerly right-of-way line to a point located 80.00
 feet right of Station 931+99.99; thence
 South 81 degrees 39'01" East, 312.81 feet along said
 southerly right-of-way line to the POINT OF BEGINNING.

EXCEPTING THEREFROM the following described 2.00 acre parcel:

COMMENCING at a brass cap monument in Eagle Road (State Highway
 No. 55) marking the Northwest corner of said Section 16, said
 corner being located
 North 00 degrees 55'47" East, 2640.78 feet from an aluminum
 cap monument marking the West Quarter corner of said
 Section 16; thence
 South 00 degrees 55'47" West, 1320.38 feet along the westerly
 line of said Section 16 to the North 1/16' corner
 common to Sections 16 and 17; thence
 South 89 degrees 52'14" East, 110.00 feet along the southerly
 line of said Northwest Quarter of the Northwest
 Quarter of said section to the easterly right-of-way
 line of Eagle Road; thence
 North 01 degrees 18'37" West, 15.61 feet along said easterly
 right-of-way line to the POINT OF BEGINNING; thence
 South 89 degrees 35'10" East, 300.00 feet; thence
 North 01 degrees 18'37" West, 290.54 feet along a line
 parallel with said easterly right-of-way line; thence

North 89 degrees 35'10" West, 300.00 feet to said easterly
 right-of-way line; thence along said right-of-way
 line
 South 01 degrees 18'37" East, 290.54 feet to the POINT OF
 BEGINNING.

Permitted Exceptions

Right-of-way for BALLANTYNE CANAL and the Rights of Access thereto for Maintenance of said canal, as said canal is referenced on Record of Survey No. 3021 recorded in Ada County as Instrument No. 9498747.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

June 30, 2003

BALLANTYNE DITCH COMPANY
325 N. PARK LANE
EAGLE, ID 83616

copy

Re: Transfer 70262

In my recent letter I requested you complete the review of the place of use and boundary map for your organization. One of the purposes of the map is to determine the total number of acres irrigated within your organization's boundary. The water allocation section needs the total number of irrigated acres prior to the final approval of your transfer application #70262. The adjudication section needs the same information prior to completing the review of the claims you filed in the Snake River Basin Adjudication.

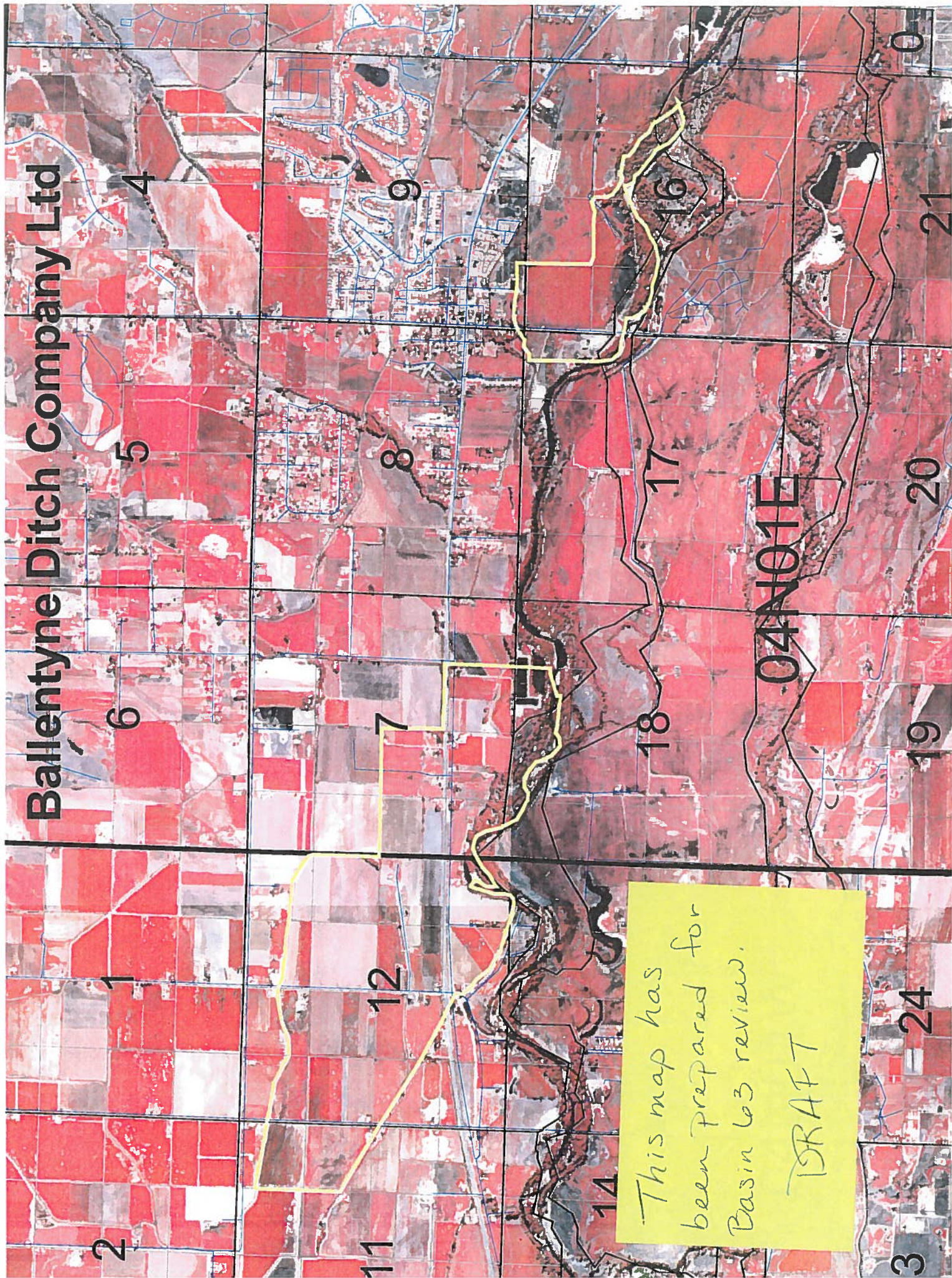
If you have questions or need assistance in completing the review of your map please call me at the number below. If you have questions about the withholding of your transfer application please call Pam Skaggs at 327-7943.

Cordially,

Mel Schulte
Senior Water Rights Agent
208-334-2190

CC: Mike Creamer
Dan Steenson

Ballentyne Ditch Company Ltd



This map has
been prepared for
Basin 63 review.
DRAFT

04N01E

Mel

**Application for Transfer
In the Name of
Ballentyne Ditch Company, Limited
(Narrative Description)**

The Application proposes to change the nature of use of that portion of Ballentyne Ditch Company, Limited's water rights represented by seven shares of Ballentyne Ditch Company, Limited ("Ballentyne") stock owned by Eagle River LLC ("Eagle River"). Each Ballentyne share represents the right to delivery of 0.02 cfs, or one miners inch per acre, as and when water is available during the irrigation season, subject to conveyance losses and pro rata reductions among Ballentyne shareholders in times of shortage.

The current authorized and claimed use of water right A63-234 is for irrigation of lands within the Ballentyne service area. This application is based on claim A63-234, which consolidates rights 63-234 (1.40 cfs), 63-235 (1.30 cfs), 63-236 (1.40 cfs), 63-237 (1.46 cfs), a portion of 63-238 (1.0 cfs) and 63-0239D (0.51 cfs) all of which were decreed with a priority date of June 1, 1888. Ballentyne also holds the following additional decreed rights for diversion and use by its shareholders on lands within the Ballentyne service area: 63-63-264 (0.80 cfs), 63-265 (0.80 cfs), 63-289 (1.40 cfs) all of which were decreed with a priority date of April 1, 1878 and are consolidated in SRBA claim A63-264; 63-195 (0.80 cfs) decreed with a June 1, 1891 priority date; 63-198AA (0.06 cfs) with a June 1, 1877 priority date; 63-258A (0.14 cfs) with a May 1, 1893 priority date; 63-260B (0.76 cfs) with a May 1, 1883 priority date; 63-285 (0.392 cfs) with a May 1, 1906 priority date; and claim A63-15238 (3.08 cfs). Ballentyne shareholders are entitled to their pro rata share of each of these rights as available. This application has been submitted to effect a change in nature of use of that portion of each of the above rights represented by seven Ballentyne shares held by Eagle River. However because of the number of rights involved and the relatively small fractional quantities involved as to each specific Ballentyne water right, water right claim A63-234 has been designated herein as the representative water right for transfer.

Eagle River has applied to the Department for a permit to appropriate for storage 107 acre-feet of ground water tributary to the Boise River that would accrue to shallow excavated ponds. Accrued ground water will not be diverted from storage. The ponds have a total surface area of 8.4 acres, 7.1 acres of which are within the Ballentyne service area and historically have been irrigated with water delivered by Ballentyne. This transfer application proposes to change the use of the water rights historically used to irrigate the 7.1 acres of land within the Ballentyne service area that are to be converted from irrigated agriculture to excavated ponds.¹

Consumptive use of ground water due to evaporative loss from the ponds is estimated to be 3.5 acre-feet per acre per year, and all but a de minimus amount thereof is

¹ Expected evaporative loss from the 1.3 acre pond located within the New Union Ditch Company service area is proposed by Eagle River to be addressed by a separate transfer using a portion of Eagle River's water right shares in that company.

deemed to occur between March 15 and November 15th of each year. Historical consumptive use of the Ballentyne water right during the irrigation season due to evapotranspiration also is estimated to be 3.5 acre-feet per acre per year. The transfer would maintain the place of use of the water right by delivering water into one or more of the ponds during the irrigation season to recharge the ground water source and directly offset evaporation of exposed ground water from the ponds on a one-to-one basis, and without any change in the historical consumptive use of the transferred portion of the water right. Maintaining the historical diversion of the water into the Ballentyne system, and delivery to the existing appurtenant acres, ensures that there will be no potential for enlargement of the transferred portion of the water right due to delivery to different lands, and maintains the timing and location of historical return flows from the canal. Because there will be no net affect on the shallow ground water source, there also will be no net affect on the timing, extent, location or quality of historical return flows or discharges of shallow ground water to the Boise River.

The lands to which the rights are appurtenant have been continuously irrigated through the 1999 irrigation season. *See* attachment D (1999 ASCS aerial photo). Extensive grading, excavation and other construction activities began on the Eagle River property in 2001, precluding subsequent irrigation until landscaping is completed.

Based on the above discussion and assumptions, this transfer will not result in an enlargement of the water right or cause injury to other water rights because the number of acres to which the water right will be applied, and the net consumptive use of water, will not increase.

The transfer proposes to apply all water under the affected portion of the Ballentyne water rights to recognized beneficial uses, and will continue beneficial use of the water right within the Ballentyne service area for its shareholders. The transfer also will facilitate the use of ground water without depleting the resource. For these reasons, the transfer is in the public interest.