

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 63-260B
Date Received: 5/5/1989
Receipt No: C006611
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: 05/01/1883

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	3/15	11/15	0.756	

7. Total Quantity Appropriated is:
0.756 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	NE SW	IRRIGATION	40
			SW NW	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	SE	SW		IRRIGATION	35
			NE	SE		IRRIGATION	40
			NW	SE		IRRIGATION	40
			SW	SE		IRRIGATION	40
			SE	SE		IRRIGATION	30
			SE	NW		IRRIGATION	40
			NE	SW		IRRIGATION	40
			NE	NE		IRRIGATION	10
			NW	NE		IRRIGATION	10
			SW	NE		IRRIGATION	40
			SE	NE		IRRIGATION	40
			NE	NW		IRRIGATION	10
			SW	NW		IRRIGATION	35
			NW	SW		IRRIGATION	40
			SW	SW		IRRIGATION	40
						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:

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☐ The attorney formerly representing me has withdrawn and I/we will be representing myself/ourselves.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

63-3618 ALL WATER RIGHTS AND WATER RIGHT MATTERS IN THE SRBA.

63-3618P

For Individuals:

Authorized signature(s) Date _____

For Organizations:

I am PRESIDENT of BALLENTYNE DITCH COMPANY, and I

have signed the foregoing document in the space below as

PRESIDENT of BALLENTYNE DITCH COMPANY.

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

Affidavit for Change of Point of Diversion of Decreed Water Right



STATE OF IDAHO,

County of Ada

ss.

Chas H Schmucker, being first duly sworn, deposes and says: That his postoffice address is; That he is the owner of and using a certain water right, bearing date of priority of May 15, 1883, for 06 cubic feet per second of the waters of Boise River (Water Dist 12A) County of Ada, State of Idaho, decreed to Chas H Schmucker by decree of Judge Ed L. Bryan of the Seventh Judicial District of the State of Idaho, in and for the County of Canyon, in the case of Farmer Corp Ditch Co vs. Rainbow Irrigation Ditch Co, and decree bearing date of, for the purpose of irrigating the following described lands, situate, lying and being in Water Dist. No. 12A, in the County of Ada, and State of Idaho, to-wit: SW 1/4 NW 1/4 Sec 9, T 4 N, R 1 E.

That he is the person (or representative of the corporation) to whom such right was issued, (or has become the owner thereof in the following manner: By Decree of Court, Intervenor

That said waters are now diverted from said stream in the SW 1/4 NE 1/4 of Sec. 16, Twp. 4 N, Range 1 E, and conducted to the above described lands through the Ballantine ditch, as per map filed herewith and of this affidavit made a part;

That affiant desires to change the point of diversion of said water from the point above described to a point located in SW 1/4 NE 1/4, Sec. 23, Twp. 4 N, Range 1 E, and thereafter conduct same to the above described land through the New Dry Creek ditch, as per map above referred to:

That his reasons for desiring to make such change are as follows:

Land is too high for Ballantine Ditch

That no one will be injured by such change and that such change will be made at Affiant's own risk.

Charles H Schmucker
Affiant.

Subscribed and sworn to before me this 11th day of April, 1934

Edw L. Ryan
Notary Public, Residing at Eagle, Idaho.

NOTE:—If this water right has heretofore been carried jointly in a ditch with other water, affiant should secure written consent of other owners or users to removal from its original carrier and file such consent with this affidavit.

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: A63-00260B

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: MAY 01, 1883

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	0.756		

7. Total Quantity Appropriated is:
0.756 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

A63-00260B

Page 1

Date: 05/01/89

MICROFILMED

AUG 17 1992

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	9.5
						Section Acres	9.5
		16	NW	NW		IRR	40.0
			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

OTHER RIGHTS: 63-00195, 63-00198AA, 63-00234, 63-00235,
63-00236, 63-00237, 63-00238 (PARTIAL), 63-00239D, 63-00264,
63-00265, 63-00289, 63-00258A, 63-00285, 63-15238

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

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

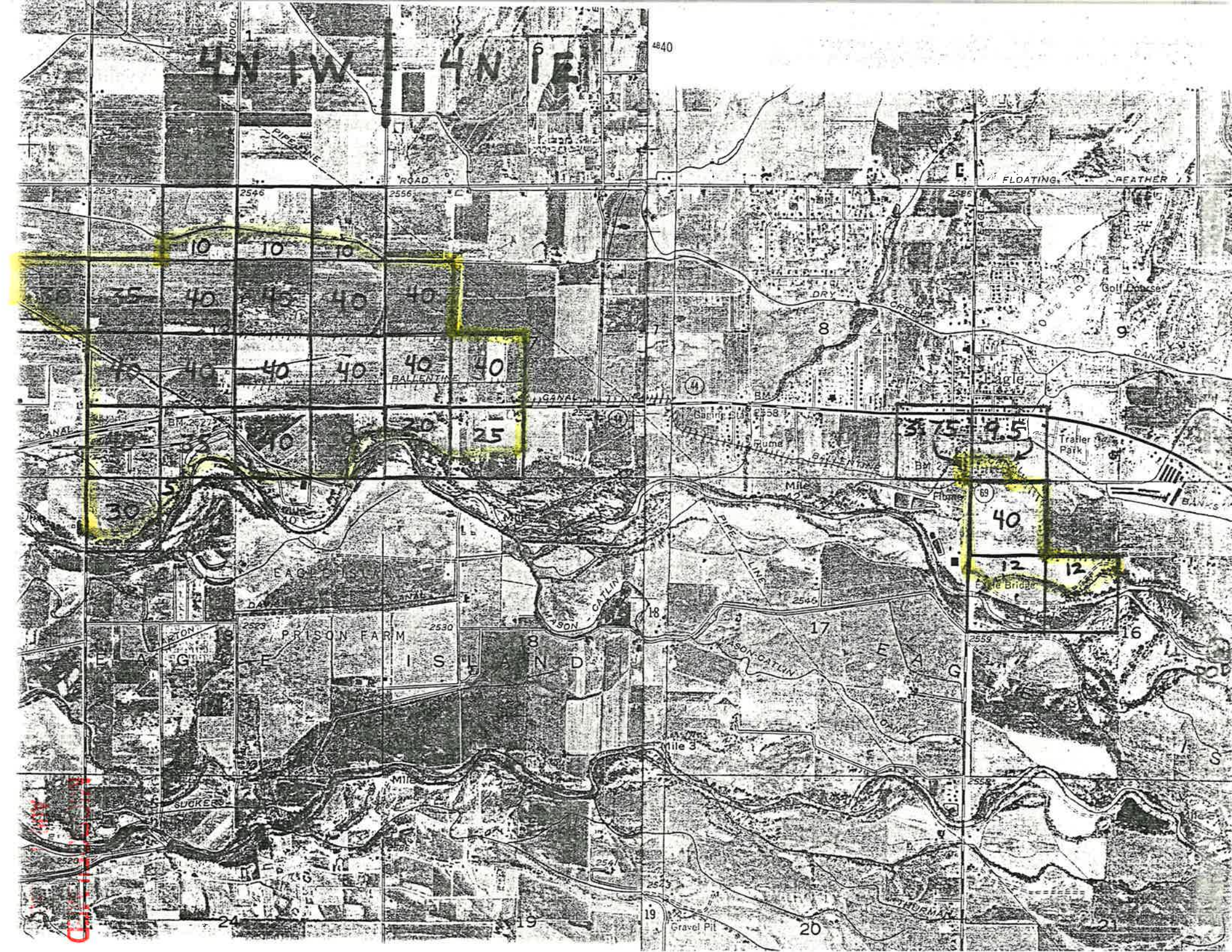
Decree Plaintiff

vs

Decree Defendant

(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.

MICROFILMED
AUG 17 1982



BALLENTYNE DITCH

TOTAL - 14.8126 CFS

COMBINE
AS
A63-00234
9.67 CFS

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

COMBINE
AS
A63-00264
3 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

ALSO B/U RIGHT A63-15238
DEFAULT TO 63-02406
3.08 CFS APR. 1, 1923

MICROFILMED

AUG 17 1982

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: 63-260B

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

06/01/2005

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-260B

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: 0.756 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.

PRIORITY DATE: 05/01/1883

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>
IRRIGATION	03/01 11/15	0.756 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:

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 BALLENTYNE DITCH COMPANY.

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

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

WATER IS DELIVERED THROUGH THE BALLENTYNE CANAL.

THIS RIGHT IS DESIGNATED AS 85D IN THE BOISE RIVER WATER MASTERS RECORDS

THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 63-198AA, 63-258A, 63-195, 63-264, 63-285, 63-31808, 63-31937

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 63-260B V1

WATER RIGHT NUMBER: 63-260B V1

<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	RINGERT CLARK CHARTERED DAN STEENSON / S BRYCE FARRIS 455 S 3RD ST PO BOX 2773 BOISE, ID 83701 (208)342-4591

Priority Date: 05/01/1883

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	0.756 CFS	
<u>Total Diversion:</u>		0.756 CFS	

Location of Point(s) of Diversion

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

1. 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.
2. 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.
3. C03 RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-260B V1

4. 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.
5. 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.

Remarks:

1. Explanatory THIS RIGHT IS DESIGNATED AS 85D 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 AT THE FIELD HEADGATE.
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, 63-195, 63-264, 63-285, 63-31808, 63-31937
5. Place of Use - Irrigation THIS RIGHT IS LIMITED TO THE IRRIGATION OF ⁷⁴¹733.9 ACRES WITHIN THE BOUNDARY OF BALLENTYNE DITCH COMPANY.

Comments:

1. mcase 7/21/2004 POD
Comment: Correlated PODID 618366 from SpatialDataID 342569 to SpatialDataID 305307
2. mcase 7/21/2004 POD
Comment: Correlated PODID 618366 from SpatialDataID 342569 to SpatialDataID 305307
3. mcase 7/21/2004 POD
Comment: Correlated PODID 618366 from SpatialDataID 342569 to SpatialDataID 305307

Water Supply Bank:

**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) 63-260BOwner: Ballentyne 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? _____

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: 5-1-1883 = 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? _____

DIVERSION AND DELIVERY SYSTEM

Points of Diversion:

ID #	Govt Lot #	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks GPS ID
	8	NW	NE	SE	16	4N	1E	Ada	USGS topo map.

Description of diverting works

See 63-195

OVERLAP REVIEW

Other water rights with the same point of diversion:

See 63-195

Does overlap add acres or uses to existing system, increase rate of flow or volume, or other? Explain:

WATER USES

☒ No change

☐ Different Uses

Use Irrigation From 3-1 To 11-15 Amount .756 CFS _____ AFA _____
 Use _____ From _____ To _____ Amount _____ CFS _____ AFA _____
 Use _____ From _____ To _____ Amount _____ CFS _____ AFA _____

TOTAL VOLUME - Groundwater only NA

- ☐ Incomplete on claim, the total is, Amount _____ CFS _____ AFA _____
- ☐ Changes found, the new total is, Amount _____ CFS _____ AFA _____
- ☐ More than 1" per Acre? Yes _____ (claimant must complete excess flow sheet)

NON-IRRIGATION USES:

☒ No change

☐ Changes Exam found: Domestic # of homes _____ Stock # _____

Types _____ Additional comments: _____

PLACE OF USE:

☐ No Change

☒ Changes shown below:

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

FLOW MEASUREMENTS:

Attach appropriate documents

NARRATIVE/REMARKS/COMMENTS

See 63-195

AFTER EXAM THE FILE SHOULD CONTAIN:

- ☐ Completed claim checklist
- ☐ Photographs of POD's and POU
- ☐ GPS readings
- ☐ Completed map and or GIS layout showing POD's and POU

DATE EXAM CONDUCTED: _____

~~FIELD~~ EXAMINER: Mel Schulte

Recorded

63-260

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL
DISTRICT OF THE STATE OF IDAHO, IN AND FOR
CANYON COUNTY.

C. H. Schmeltzer

Plaintiff

vs.

JUDGMENT
and Decree,

A. V. Wallman, as Watermaster having
charge of the Distribution of the
Waters of Boise River.

Defendant.

This cause came on for hearing in open court, on the
26th day of January, 1920 Martin & Cameron appearing for the
plaintiff and neither the defendant, nor any one else, appear-
ed either in person or by attorney, in opposition to the
plaintiff; the Court having heard all of the evidence, and
proof adduced herein, and having examined the files, and duly
considered the same, and being fully advised in the premises,
and it appearing therefrom to the satisfaction of the Court;

1. That the summons in this action, together with a copy
of the complaint herein was duly and personally served upon the
defendant in this action, and that said defendant has been duly
and regularly summoned to answer the plaintiffs complaint in this
action; that the time within ^{which} the said defendant may appear here-
in has expired and that the defendant has made default in that
behalf, and that the default of said defendant for not appear-
ing and answering under plaintiffs complaint has been duly and
regularly entered herein; that the plaintiff has caused to be
published for four weeks a notice of the pendency and purpose
of this action in a newspaper, to-wit: The Caldwell Tribune as
ordered by the Judge of this court which notice contained the
title of this court and of this cause and the name of the stream,

C.H. Schmelzer

The particular lands of plaintiff for which a water right is herein granted is that portion of the above described lands owned by plaintiff situated in the SW $\frac{1}{4}$ of Section 9, aforesaid, in the following amount from the following date; 41 inches from May 1st, 1883.

82 cfs
63 0260
T-P.O. 1140

That the plaintiff shall pay all costs arising under this action.

That the said waters shall be distributed to the plaintiff in the same manner as though they had had their rights included in that decree adjudicating the waters of Boise River dated January 18, 1906, in that action in the District Court of the Third Judicial District of the State of Idaho in and for Canyon County, entitled "Farmers Co-operative Ditch Company (a corporation) Plaintiff Vs. Riverside Irrigation District Limited, a corporation et als. Defendants."

Decree
I
Stewart
Decree

That the number of inches of water per acre required for irrigation and hereby decreed, and the corresponding total number of inches of water hereby awarded shall be in accordance with the duty of water for Boise River Bottom lands as the same shall be hereafter determined in a suit for that purpose now pending in this court entitled "Farmers Co-operative Ditch Company, a corporation Plaintiff, vs. Riverside Irrigation District, Limited, a corporation et als. Defendants". and when the duty of water is so determined in said suit, on motion of plaintiff, the blanks left in this decree for the insertion of the number of inches shall be filled and completed to accord with the duty of water as found in said suit.

Dated Feb. 6th, 1920.

Ed L. Bryan, District Judge.

Filed and Entered 11.30 A.M.

Feb. 6, 1920

L. C. Knowlton, Clerk

B. L. Newell, Deputy

I hereby Certify that the foregoing is a full, true, and correct copy of the original decree filed in the above entitled action.

L. C. Knowlton Clerk.

compared

B. 7-P. 810

Received 11:30 AM Feb 6 1920
Ed L. Bryan
L. C. Knowlton
B. L. Newell

STATE OF IDAHO,

County of Canyon,

I, L. C. Knowlton, Clerk of the District Court and Ex-officio Recorder of the County of Canyon, State of

Idaho, do hereby certify that the foregoing copy of Judgment and Decree

(Book 7 page 310) has been compared by me with the original, and that

it is a correct transcript therefrom, and of the whole of such original.

Judgment and Decree as the same appears

on file in my office.

IN TESTIMONY WHEREOF I have hereunto set my hand and affixed my seal this 18th

day of May 1921

Rose Edwards

Clerk of the District Court and Ex-Officio Recorder.

By Evalina Hollick Deputy.

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-260

WATER RIGHT NUMBER: 63-260

Owner TypeName and Address

Priority Date:

Basis:

Status: See Remarks

SourceTributaryBeneficial Use

From To

Diversion RateAnnual VolumeTotal Diversion:Location of Point(s) of DiversionPlace of UseConditions of Approval:Remarks:

1. General SPLIT INTO 63-0260A & 63-0260B BY TRANS. 140.

Comments:Dates and Other Information:

63-260 as decreed = .82 cfs.
-260 A = .06 cfs
T140 -260 B = .76 cfs

63-260 A claimed with 259
by New Dry Creek (see 63-259)

63-260 B claimed by Ballentynes
Ditch Co.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-260A

WATER RIGHT NUMBER: 63-260A

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	NEW DRY CREEK DITCH CO C/O ERMA FULLER 826 W STATE ST EAGLE, ID 83616 (208)939-6302
Original Owner	CHAS H SCHMELZER

, ID

Priority Date: 05/01/1883

Basis:

Status: See Remarks

<u>Source</u>	<u>Tributary</u>
---------------	------------------

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	3/15 to 11/15	0.070 CFS	
	<u>Total Diversion:</u>	0.070 CFS	

Location of Point(s) of DiversionPlace of UseIRRIGATION Within ADA County

T04N R01E S07	NENE	25.0	T04N R01E S07	NWNE	36.0
T04N R01E S07	SWNE	39.0	T04N R01E S07	SENE	39.0
T04N R01E S07	NENW	38.0	T04N R01E S07	NWNW	39.0
T04N R01E S07	SWNW	40.0	T04N R01E S07	SENE	40.0
T04N R01E S07	NESW	36.0	T04N R01E S07	SESW	25.0
T04N R01E S07	NESE	38.0	T04N R01E S07	NWSE	40.0
T04N R01E S07	SWSE	38.0	T04N R01E S07	SESE	39.0
T04N R01E S08	NWNE	1.0	T04N R01E S08	SWNE	17.0
T04N R01E S08	SENE	5.0	T04N R01E S08	NWNW	2.0
T04N R01E S08	SWNW	37.0	T04N R01E S08	SENE	20.0
T04N R01E S08	NESW	31.0	T04N R01E S08	NWSW	39.0
T04N R01E S08	SWSW	36.0	T04N R01E S08	SESW	36.0
T04N R01E S08	NESE	28.0	T04N R01E S08	NWSE	31.0
T04N R01E S08	SWSE	38.0	T04N R01E S08	SESE	32.0
T04N R01E S09	SWNW	5.0	T04N R01E S09	NWSW	8.0
T04N R01E S09	SWSW	6.0	T04N R01E S09	SESW	7.0
T04N R01E S09	NESE	18.0	T04N R01E S09	NWSE	25.0
T04N R01E S09	SWSE	24.0	T04N R01E S09	SESE	37.0
T04N R01E S10	NWSW	8.0	T04N R01E S10	SWSW	39.0
T04N R01E S10	SESW	27.0	T04N R01E S10	SWSE	6.0
T04N R01E S15	NWNE	28.0	T04N R01E S15	SWNE	24.0
T04N R01E S15	NENW	18.0	T04N R01E S15	NWNW	10.0
T04N R01E S15	SENE	2.0	T04N R01E S16	NENE	3.0
T04N R01E S17	NENE	9.0	T04N R01E S17	NWNE	8.0
T04N R01E S17	NENW	10.0	T04N R01E S17	NWNW	5.0
T04N R01W S01	SWNE	18.0	T04N R01W S01	NENW	27.0

T04N R01W S01	NWNW	38.0	T04N R01W S01	SWNW	38.0
T04N R01W S01	SENW	37.0	T04N R01W S01	NESW	38.0

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-260A

T04N R01W S01	SENW	37.0	T04N R01W S01	NESW	38.0
T04N R01W S01	NWSW	38.0	T04N R01W S01	SWSW	40.0
T04N R01W S01	SESW	40.0	T04N R01W S01	NWSE	39.0
T04N R01W S01	SWSE	38.0	T04N R01W S01	SESE	38.0
T04N R01W S02	NENE	38.0	T04N R01W S02	NWNE	38.0
T04N R01W S02	SWNE	35.0	T04N R01W S02	SENE	39.0
T04N R01W S02	NENW	26.0	T04N R01W S02	SWNW	35.0
T04N R01W S02	SENW	39.0	T04N R01W S02	NESW	40.0
T04N R01W S02	NWSW	40.0	T04N R01W S02	SWSW	26.0
T04N R01W S02	SESW	16.0	T04N R01W S02	NESE	39.0
T04N R01W S02	NWSE	38.0	T04N R01W S02	SWSE	39.0
T04N R01W S02	SESE	40.0	T04N R01W S03	NENW	5.0
T04N R01W S03	SENW	28.0	T04N R01W S03	NESW	37.0
T04N R01W S03	SWSW	18.0	T04N R01W S03	SESW	19.0
T04N R01W S03	NESE	40.0	T04N R01W S03	NWSE	40.0
T04N R01W S03	SWSE	23.0	T04N R01W S03	SESE	22.0
T04N R01W S04	SESE	17.0	T04N R01W S10	NENE	38.0
T04N R01W S10	NWNE	40.0	T04N R01W S10	SENE	40.0
T04N R01W S10	NENW	40.0	T04N R01W S10	NWNW	40.0
T04N R01W S11	NENE	37.0	T04N R01W S11	NWNE	6.0
T04N R01W S11	NWNW	33.0	T04N R01W S11	SWNW	40.0
T04N R01W S12	NENE	30.0	T04N R01W S12	NWNE	26.0
T04N R01W S12	NENW	30.0	T04N R01W S12	NWNW	40.0
T05N R01W S35	NESE	33.0	T05N R01W S35	NWSE	1.0
T05N R01W S35	SWSE	11.0	T05N R01W S35	SESE	30.0
T05N R01W S36	SWSW	35.0	T05N R01W S36	SESW	16.0

Total Acres: 2964

Conditions of Approval:Remarks:

1. General NOTE: THIS WATER RIGHT IS COMBINED WITH A63-00261 AND A63-00259 AND IS FILED ON UNDER CLAIM NO. A63-00259.
OTHER WATER RIGHTS USED: 63-00205, 63-00206, 63-00207, 63-00286, 63-00288B, 63-00263, 63-00259, 63-00261, 63-00258B, 63-00124B, 63-00125B, 63-00126B, 63-00124D, 63-00125D, 63-00126D, 63-00238, 63-00260A, 63-00239B, 63-00239C, 63-00161L.

Comments:Dates and Other Information:

Claim Received Date: 6/16/1989
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 State or Federal: S
 Owner Name Connector:
 Water District Number: 63
 Generic Max Rate Per Acre:
 Generic Max Volume Per Acre:
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Carey Act Number:
 Mitigation Plan: False

Element Reviewed/Verified Dates:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-260A

WATER RIGHT NUMBER: 63-260A

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	CHAS H SCHMELZER
	, ZZ
Current Owner	CHAS H SCHMELZER
	, ZZ

Priority Date: 05/01/1883

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 /	0.060 CFS	
	<u>Total Diversion:</u>		0.060 CFS	

Location of Point(s) of Diversion

BOISE RIVER	SW1/4NE1/4	Sec. 23, Twp 04N, Rge 01E, B.M.
ADA County		

Place of UseIRRIGATION Within ADA County

T04N R01E S09 SWSW

Conditions of Approval:Remarks:

1. General FROM BALLENTYNE CANAL TO NEW DRY CREEK CANAL.
TRANS. 140 CHANGE IN P/D ONLY.

Comments:Dates and Other Information:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-260A

Dates and Other Information:

Licensed Date:
Decreed Date: 2/6/1920
Water Supply Bank Enrollment Accepted:
Water Supply Bank Enrollment Removed:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal:
Owner Name Connector:
Water District Number: 63
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Decree Defendant:
Decree Plaintiff:
Civil Case Number:
Judicial District:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
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Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
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IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-260B

WATER RIGHT NUMBER: 63-260B

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	C H SCHMELZER
	, ZZ

Priority Date: 05/01/1883

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 /	0.760 CFS	
	<u>Total Diversion:</u>	0.760 CFS	

Location of Point(s) of Diversion

BOISE RIVER

Place of Use

IRRIGATION Within ADA County

T04N R01E S09	NESW	T04N R01E S09	NWSW
T04N R01E S09	SWSW	T04N R01E S09	SESW
T04N R01E S16	NWNW		

Conditions of Approval:Remarks:

1. General P/D INCOMPLETE IN DECREE.

Comments:Dates and Other Information:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-260B

Dates and Other Information:

Licensed Date:
Decreed Date: 2/6/1920
Water Supply Bank Enrollment Accepted:
Water Supply Bank Enrollment Removed:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Formal Action Date:
State or Federal:
Owner Name Connector:
Water District Number: 63
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Decree Defendant:
Decree Plaintiff:
Civil Case Number:
Judicial District:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-260B

WATER RIGHT NUMBER: 63-260B

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	BALLENTYNE DITCH COMPANY LTD C/O KEITH RICKS 1001 SHOSHONE ST BOISE, ID 83705 (208)344-1126

Priority Date: 05/01/1883

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	3/15 to 11/15	0.756 CFS	
	<u>Total Diversion:</u>	0.756 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

Total Acres: 797.3

Conditions of Approval:Remarks:

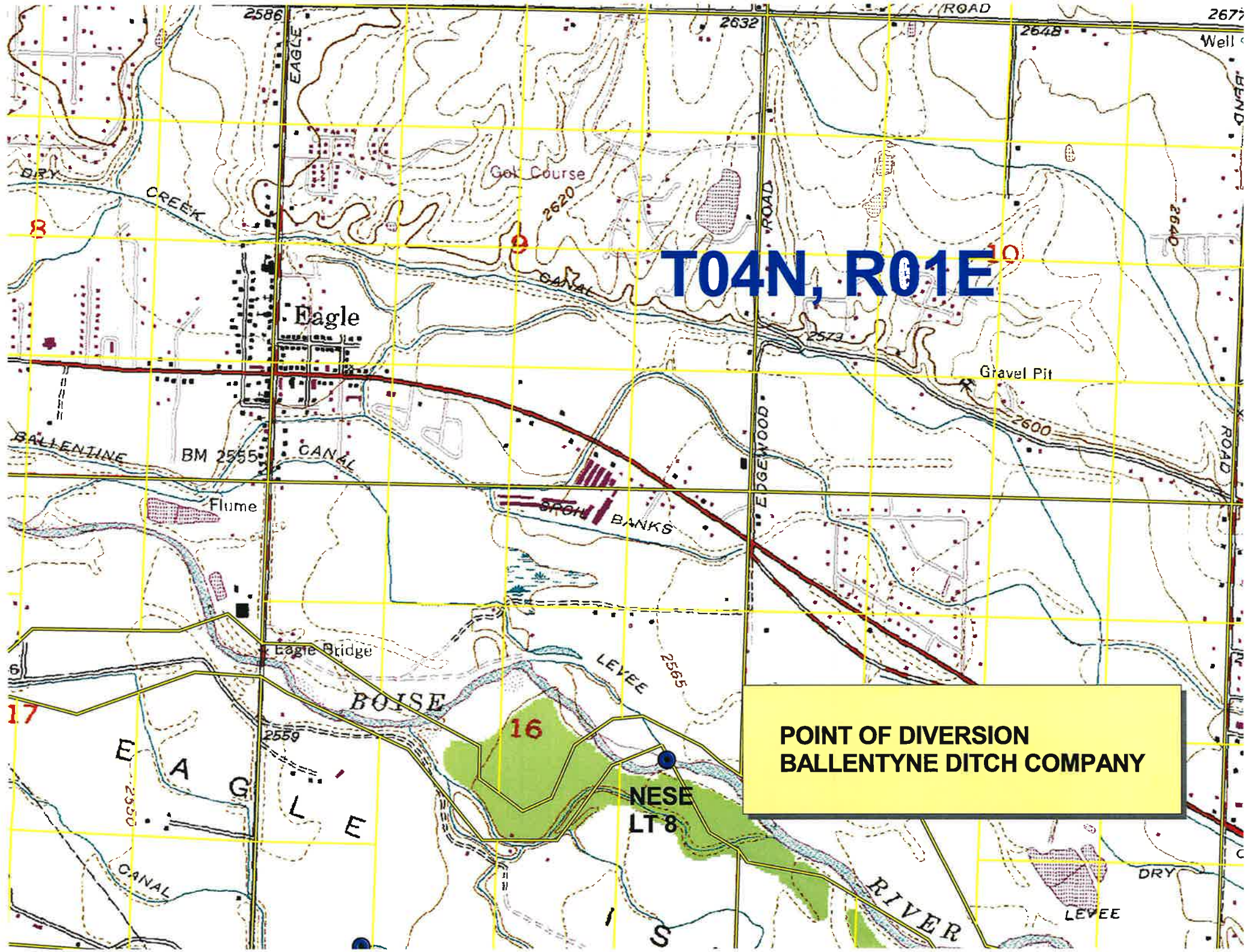
- General ACTUAL IRRIG. ACRES = 797.25 OTHER RIGHTS: 63-00195, 63-00198AA, 63-00234, 63-00235, 63-00236, 63-00237, 63-00238 (PARTIAL), 63-00239D, 63-00264, 63-00265, 63-00289, 63-00258A, 63-00285, 63-15238 PLACE OF USE IS WITHIN SERVICE AREA OF BALLENTYNE DITCH CO.

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Claim Report 63-260B

Comments:

Dates and Other Information:

Claim Received Date: 5/5/1989
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal: S
Owner Name Connector: AND
Water District Number: 63
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False



T04N, R01E

**POINT OF DIVERSION
BALLENTYNE DITCH COMPANY**

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

T04N, R01W

T04N, R01E

T04N, R01E

16

POD

7

12

18

13

1

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

1

12

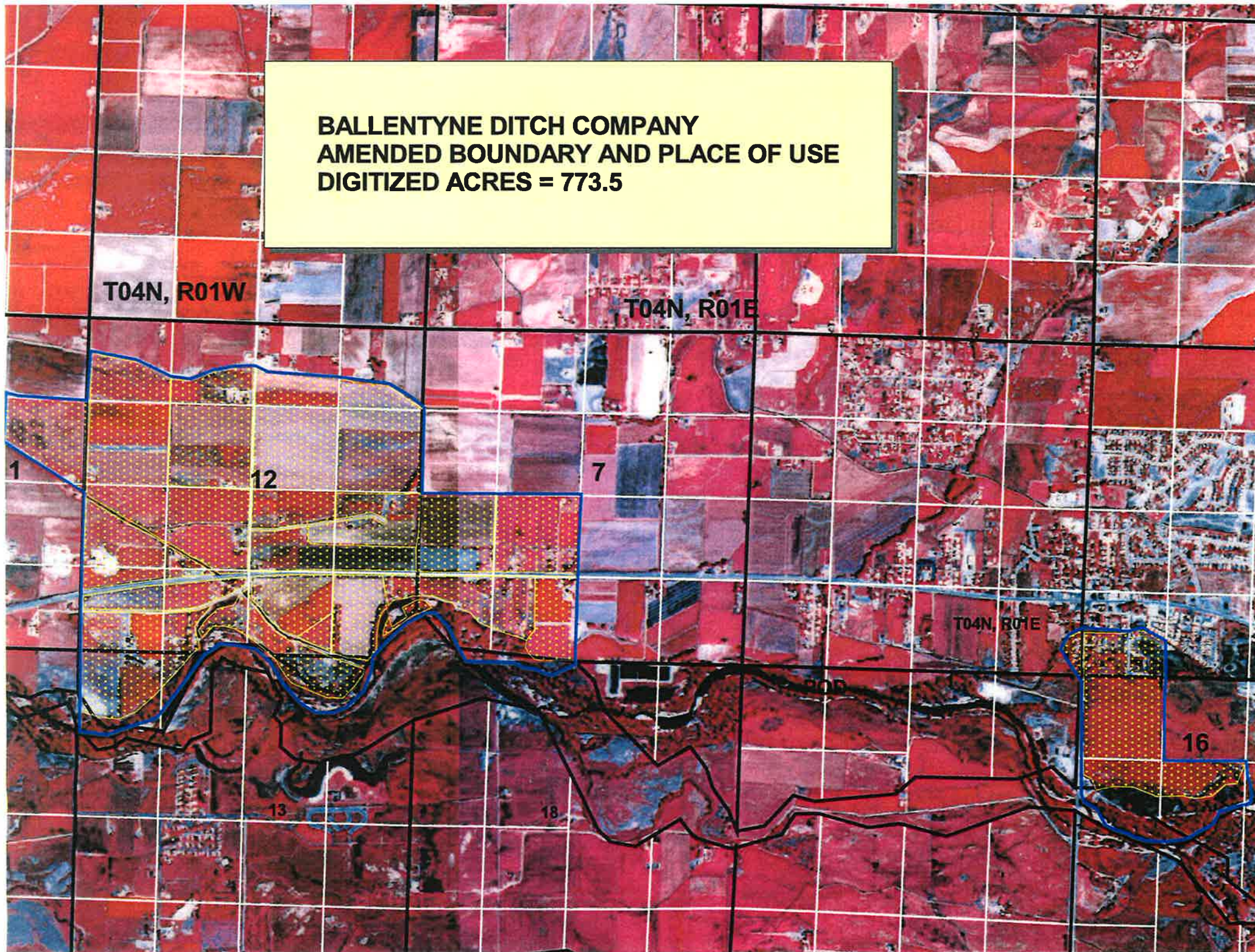
7

T04N, R01E

16

13

18



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 " } 9580
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 "
UBB (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 "
GAHAM-GILBERT	200 "	SIEBENBERG	646 "
GRASS	367 "	THURMAN MILL	1719 "
HART-DAVIS	453 "	UPPER CENTER POINT.....	641 "
		WARM SPRINGS DITCH	494 "
		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

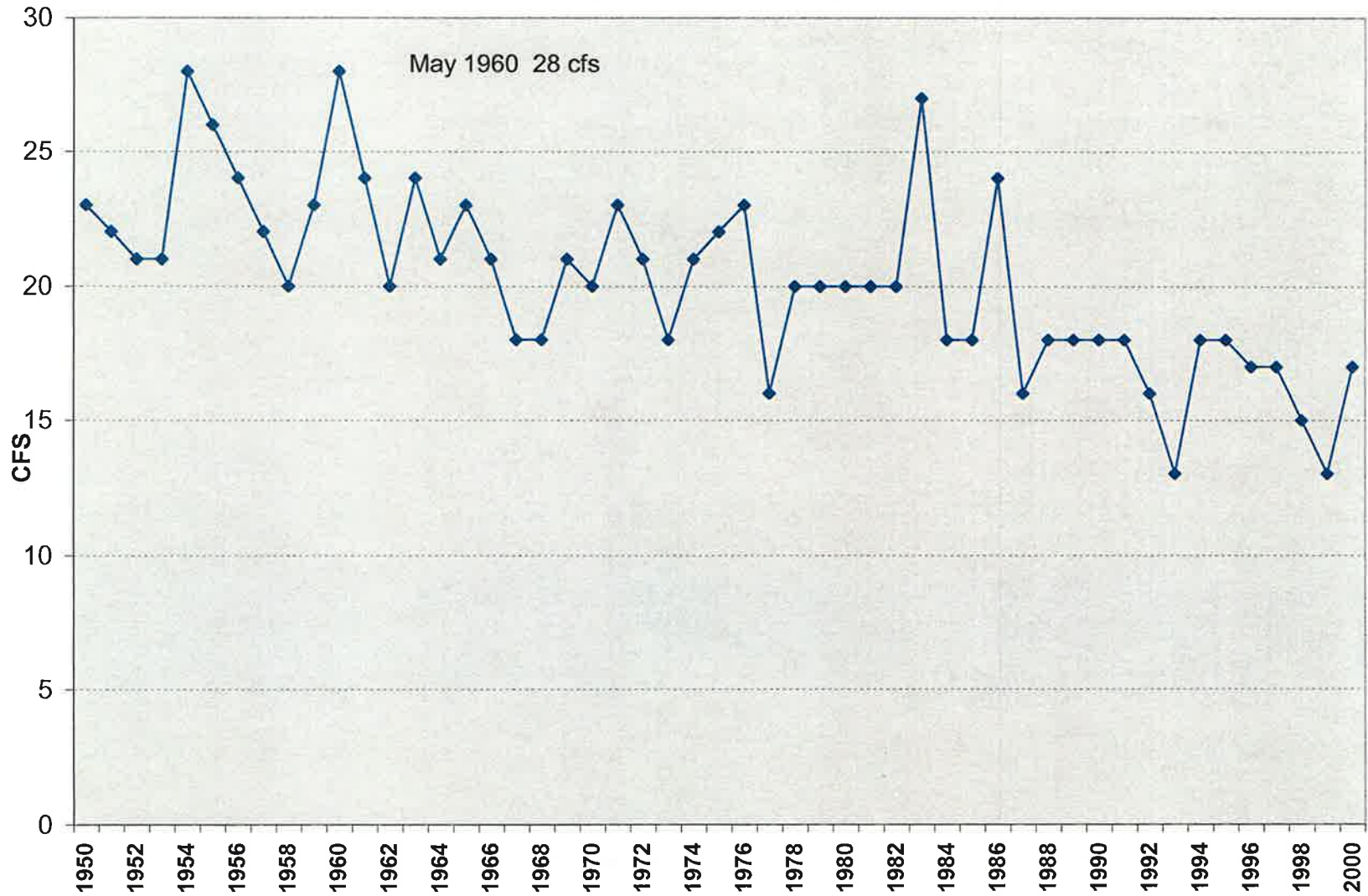
THIS ACREAGE IS BASED, IN SOME INSTANCES, UPON ACTUAL SURVEYS, AND IN OTHER CASES UPON THE ACREAGE DETERMINED AT THE TIME OF THE STEWART DECREE, AND IS THE BEST INFORMATION AVAILABLE AT THE PRESENT TIME. IT WAS ORIGINALLY COMPUTED FEBRUARY 14, 1941, BUT HAS BEEN REVISED SEVERAL TIMES, PARTICULARLY TO 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.

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

Basin	Sequence	Suffix	Basis	Priority Date	Rate(cfs)	Source	Water Use(s)	Source Table	Source Ta 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

$14.82 \div .02 = 741 \text{ acres needed at } 1''/\text{acre}$

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

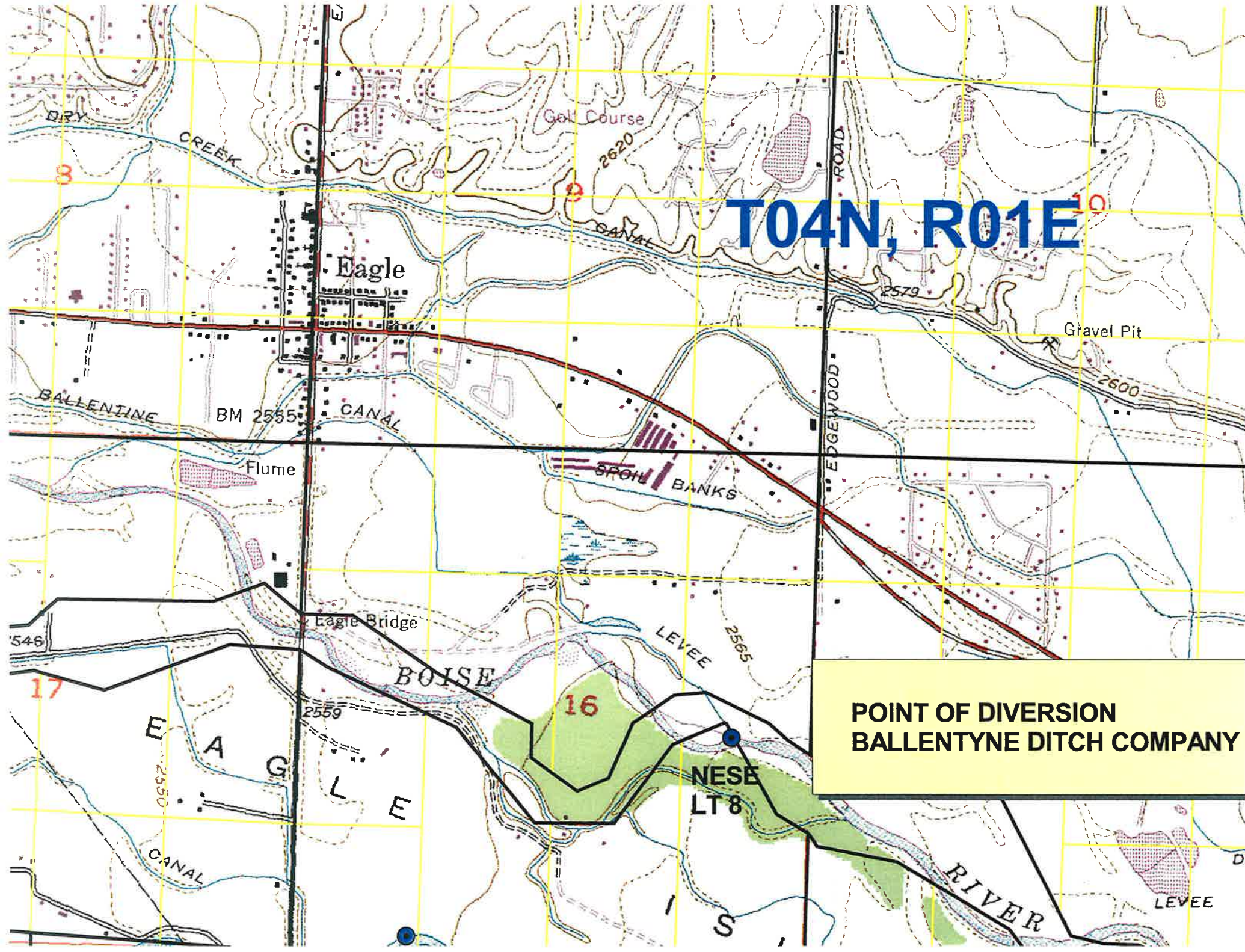
The Application proposes to change the nature of use of that portion of Ballentyne Ditch Company, Limited's water rights represented by seven shares of Ballentyne Ditch Company, Limited ("Ballentyne") stock owned by Eagle River LLC ("Eagle River"). Each Ballentyne share represents the right to delivery 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

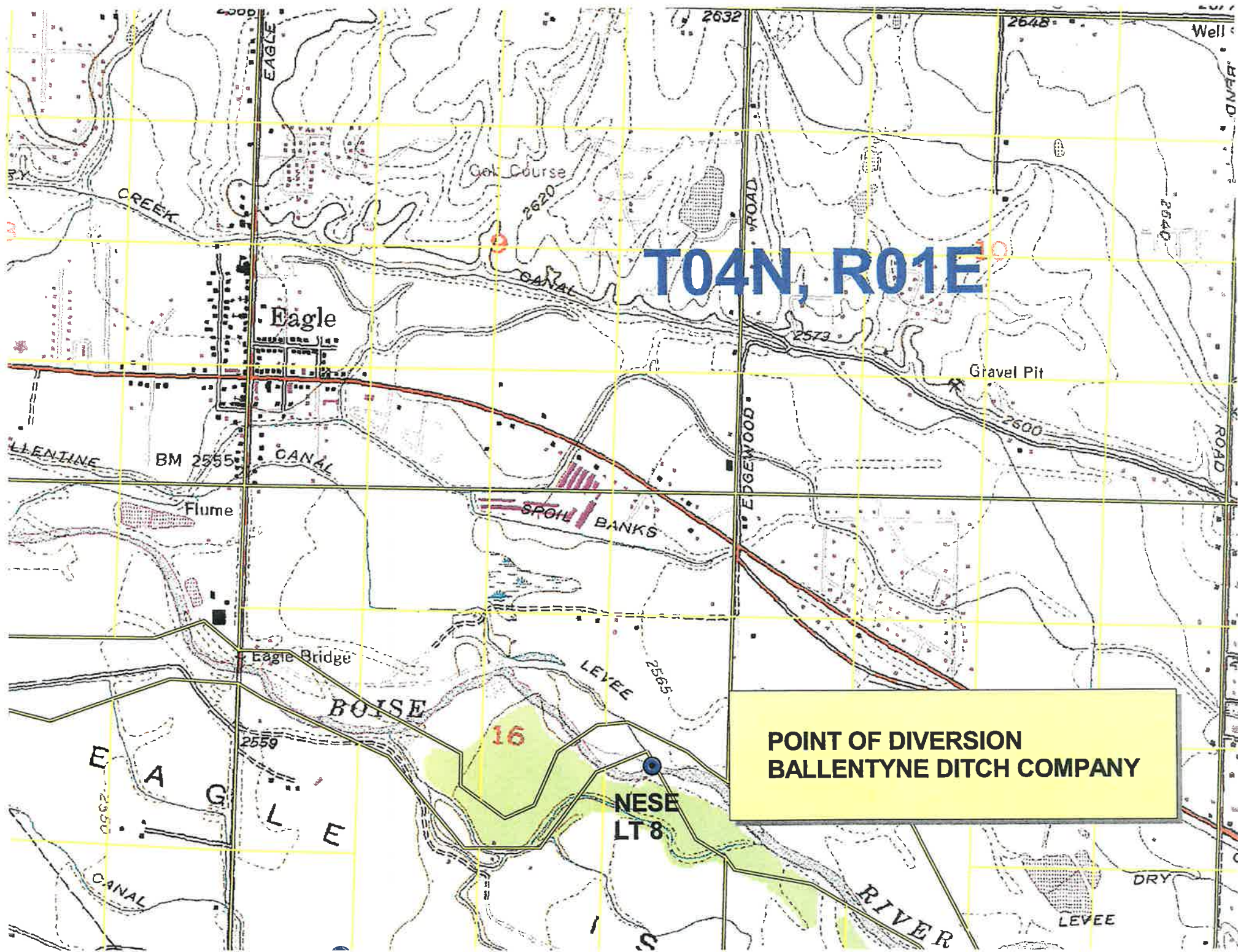
¹ Expected evaporative loss from the 1.3 acre pond located within the New Union Ditch Company service area is proposed by Eagle River to be addressed by a separate transfer using a portion of Eagle River's water right shares in that company.



T04N, R01E

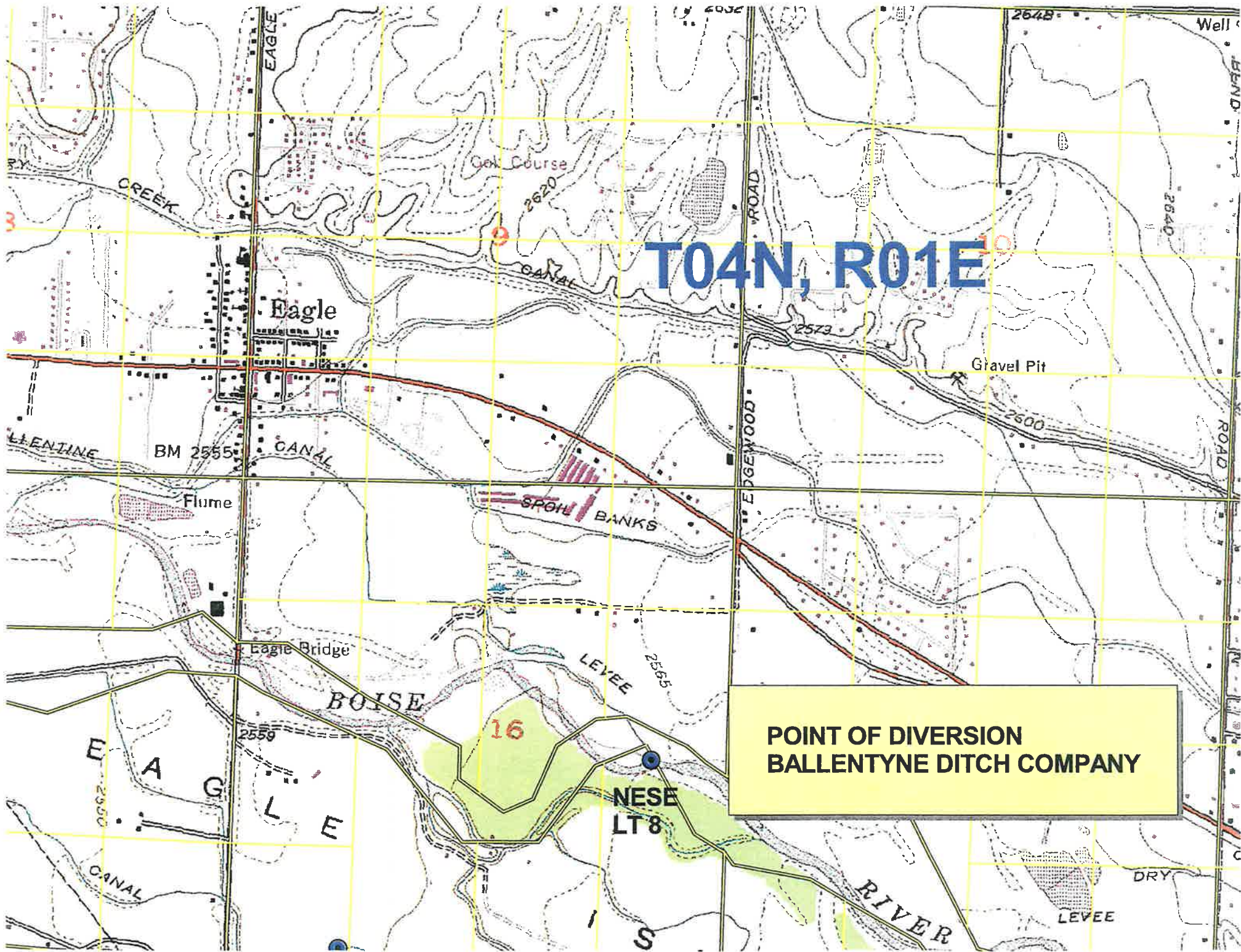
**POINT OF DIVERSION
BALLENTYNE DITCH COMPANY**

Basin	Sequence	Suffix	Basis	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	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	
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



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 <u>3-18-03</u>
Data Entry <u>3-24-03</u>

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

Page 1 of 10

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

8-6-98 **PART 1**

AUG 11 1998

changed approval by

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
(cfs/ac-ft) | Nature
of Use | Period of Use |
|-----------------|----------|-----------------------|------------------|---------------|
|-----------------|----------|-----------------------|------------------|---------------|

See Attachment B

(pg. 9 of Application)

to

to

10

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	
								lot 3											

See attached notes

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, clarified from decree

AJ claims c Ballentyne Ditch Co.
(no recommendations yet)

4/8/02

	Sequence	Split								
BASIN	Number	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	198	AA	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	258	A	Decreed	Active	1893-05-01	0.14	BOISE RIVER	IRRIGATION	BALLENTYNE DITCH COMPANY LTD (Current)	wrAdjudicationClaim
✓ 63	260	B	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
w other ditch company claims.

Appval xfer should ~~not~~ affect AJ Record per
our new system, although was originally processed on
WR Record 63-289

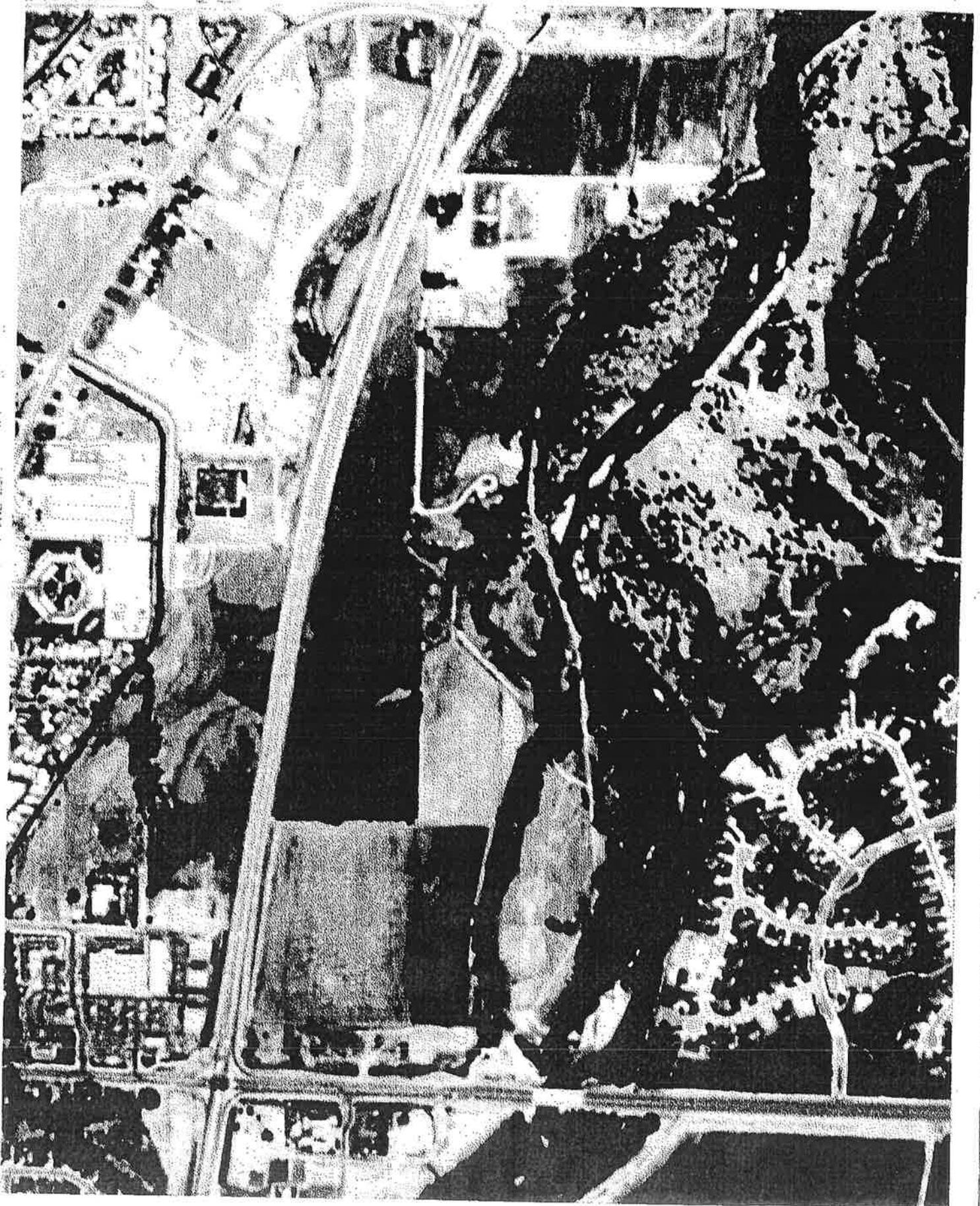
deemed to occur between March 15 and November 15th of each year. Historical consumptive use of the Ballentyne water right during the irrigation season due to evapotranspiration also is estimated to be 3.5 acre-feet per acre per year. The transfer would maintain the place of use of the water right by 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.

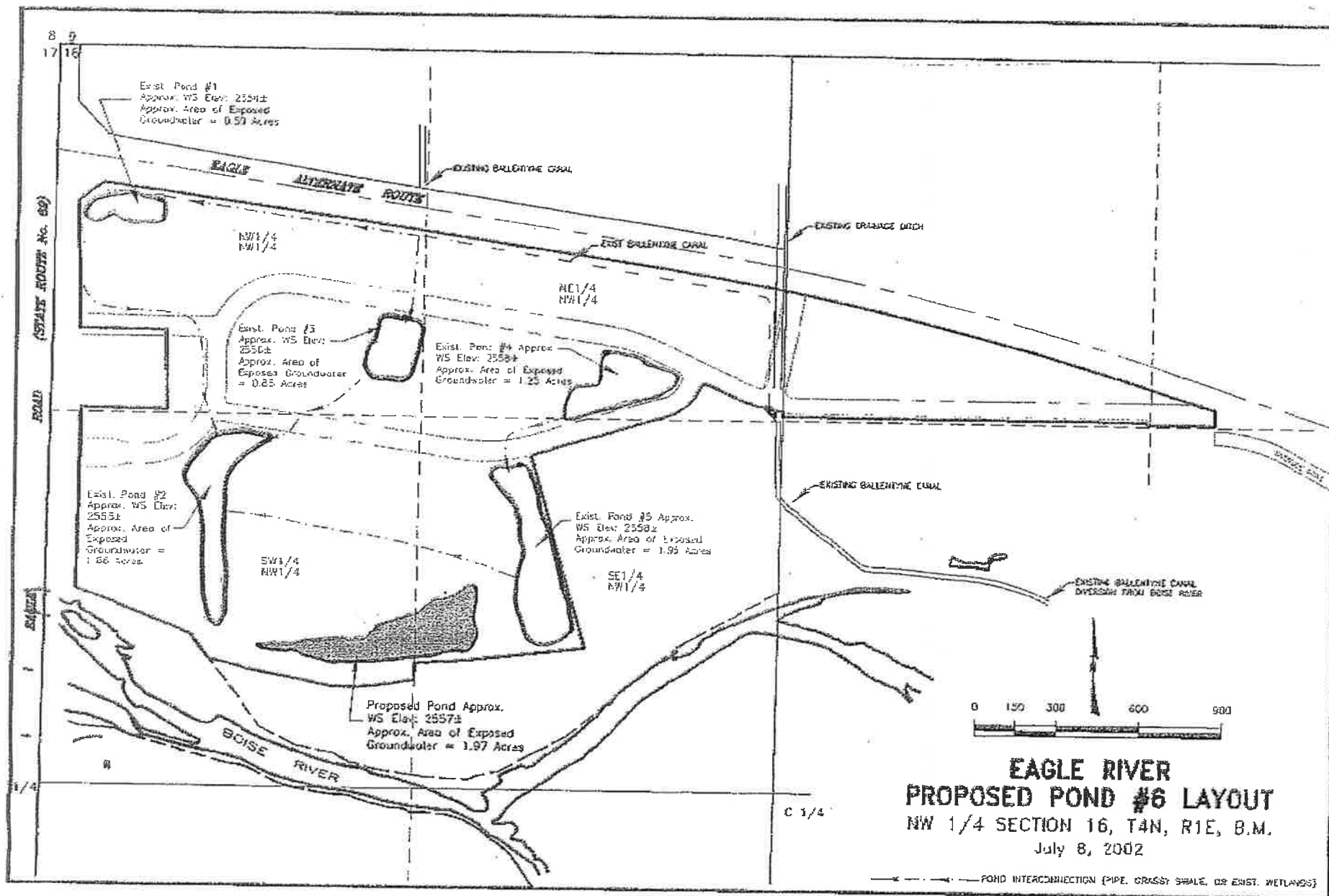
The lands to which the rights are appurtenant have been continuously irrigated through the 1999 irrigation season. *See* attachment D (1999 ASCS aerial photo). Extensive grading, excavation and other construction activities began on the Eagle River property in 2001, precluding subsequent irrigation until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

J. D. FIVE AND
BOISE ID.

PIONEER TITLE

94 DEC 23 PM 12:50

FEE 6.00
RECORDED IN QUESTION

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

1521000514

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

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.

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 7703884 AND 7850844.

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 A
 DISTANCE OF 1498.62 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 184.74 FEET TO A POINT;
 THENCE NORTH 6 DEGREES 34' WEST A DISTANCE OF 276.41 FEET TO AN IRON PIN;
 THENCE NORTH 88 DEGREES 26' 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 15, T4N, R1E, BOISE MERIDIAN, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 15;
 THENCE SOUTH ALONG THE WEST LINE OF SAID SECTION 15 A DISTANCE OF 578.18 FEET;
 THENCE SOUTH 57 DEGREES 37' 10" EAST A DISTANCE OF 2844.36 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 103.50 FEET;
 THENCE NORTH 65 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 38' 44" EAST A DISTANCE OF 452.57 FEET;
 THENCE SOUTH 85 DEGREES 48' 15" WEST A DISTANCE OF 432.77 FEET;
 THENCE SOUTH 82 DEGREES 08' 18" WEST A DISTANCE OF 83.00 FEET;
 THENCE NORTH, A DISTANCE OF 495.13 FEET TO THE REAL POINT OF BEGINNING.

END OF LEGAL DESCRIPTION

ADA COUNTY RECORDER
J. DAVID NAVARRO
BOISE, IDAHO

2000 NO -9 PM 12:39

RECORDED-REQUEST OF

FEE 9.00
DEPUTY *Morgan*
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
#330

Dated this 8th day of November, 2000.

EAGLE GRAVEL, INC.

By *Clark Magstad*
Clark Magstad
Vice-President

STATE OF IDAHO)
 : ss.
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 Magstad, 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 Lynn Engum
Notary Public for Idaho
Residing at *Caldwell*, Idaho
My Commission Expires: *10/8/2004*

EXHIBIT A

Parcel I

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 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, 2640.78 feet from an aluminum cap monument marking the West Quarter corner of said Section 16; thence South 00 degrees 55' 47" West, 1320.36 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, 15.81 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.

#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

97025978
ADA CO. RECORDER
J. DAVID HAYARRO
BOISE ID

ALLIANCE TITLE

'97 APR 4 AM 10 42
FEE 15.00 DLF *J. Hooper*
RECORDED AT THE REQUEST OF

REVIEWED AND APPROVED AS TO FORM:

By:

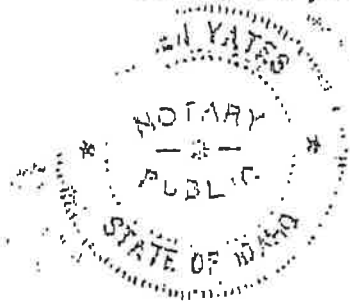
Stephen M. Parry
Stephen M. Parry, Chief Legal-Counsel,
State of Idaho, Idaho Department of
Transportation

WARRANTY DEED - 1
3906114WDEED.IDT

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.



James L. Yates
Notary Public for Idaho
Residing at: Boise
My commission expires: 11-21-99

STATE OF IDAHO)
) ss.
County of Ada)

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.



James L. Yates
Notary Public for Idaho
Residing at: Boise
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+12.80, 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.

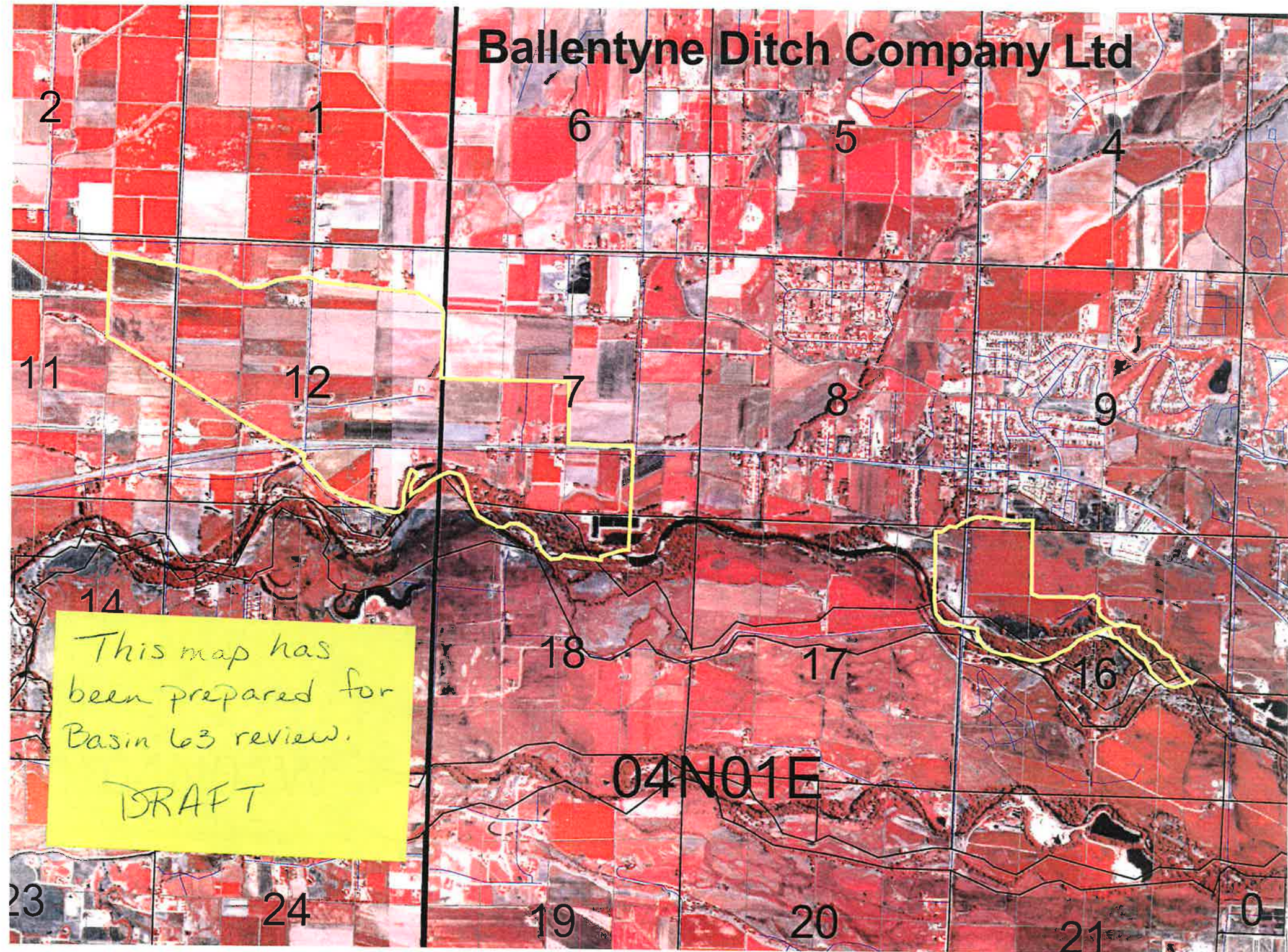
If you have questions or need assistance in completing the review of your map please call me at the number below. If you have questions about the withholding of your transfer application please call Pam Skaggs at 327-7943.

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

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.