

AMENDED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

AMENDED

TRANSFER OF WATER RIGHT
TRANSFER NO. 78689

This is to certify that: ECHANOVE DRIVE LLC
C/O GAYLON BALL
14180 W BALL MANOR PL
BOISE, ID 83714
AND
GAYLON BALL
14180 W BALL MANOR PL
BOISE, ID 83714

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 Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
63-32416	WR/DECREED	7/14/1959	0.280 cfs	117.0 af	N/A	26.0	GROUND WATER
63-32417	WR/DECREED	7/14/1959	0.100 cfs	45.0 af	N/A	10.0	GROUND WATER

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>
63-32416	NO	YES	NO	NO	NO	NO
63-32417	NO	YES	NO	NO	NO	NO

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>
63-32416	63-32416	0.280 cfs	117.0 af	N/A	26.0	N/A	N/A	N/A	N/A	N/A
63-32417	63-32417	0.100 cfs	45.0 af	N/A	10.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.380 cfs	162.0 af	N/A	36.0		N/A	N/A	N/A	N/A

This water right(s) 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. Detailed Water Right Description(s) attached.

Dated this 23RD day of December, 2013.

SUPPORT DATA

IN FILE # 63-32416


Western Regional Manager

Transfer No. 78689

WATER RIGHT NO. 63-32416
As Modified by Transfer No. 78689

In accordance with the approval of Transfer No. 78689, Water Right No. 63-32416 is now described as follows:

Right Holder: GAYLON BALL
 14180 W BALL MANOR PL
 BOISE, ID 83714

Priority Date: 7/14/1959

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	03/01	to 11/15	0.280 cfs	117.0 af
			0.280 cfs	117.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SWNE Sec 31 Twp 05N Rge 02E ADA County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N	02E	31		24.0	2.0														26.0

POU Total Acres: 26.0

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
2. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
3. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
5. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device of a type acceptable to the Department as part of the diverting works. The measuring device shall record the instantaneous rate of flow and total volume diverted.

Transfer No. 78689

WATER RIGHT NO. 63-32416

As Modified by Transfer No. 78689

CONDITIONS OF APPROVAL

6. After notification by the Department, the right holder shall use the measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
7. For the first five (5) years of irrigation under this right, the right holder shall:
 - (a) During March and prior to initial irrigation for the year, measure water levels in the new irrigation well authorized for this right;
 - (b) Repeat the water level measurement for the well one time during the month of August;
 - (c) Record rate and volume data from the measuring device on some periodic basis and keep records of the data; and
 - (d) Data from a, b and c shall be available to members and officers of the Echanove Ranch Homeowners' Association, Inc., upon request.
8. After notification by the Department, the right holder shall provide the above data to the Department.
9. The right holder shall make full beneficial use of all surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.
10. If the surface water right(s) appurtenant to the place of use is abandoned, forfeited, sold, transferred, leased or used on any other place of use, this right to divert ground water shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
11. Rights 63-32403, 63-31738, 63-32404, 63-32405, 63-32407, 63-32408, 63-32637, 63-32638, 63-32707, 63-32708, 63-32709, 63-32710, 63-33243, 63-33244, 63-32412, 63-31740, 63-32413, 63-32414, 63-32416, 63-32417, 63-32639, 63-32640, 63-32712, 63-32713, 63-32714, 63-32715, 63-33246 and 63-33247 when combined shall not exceed a total diversion rate of 2.78 cfs, and the irrigation of 139 acres.
12. Rights 63-32416 and 63-32407 when combined shall not exceed a total diversion rate of .52 cfs and the irrigation of 26 acres.
13. 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 place of use.
14. The following rights are diverted through point of diversion described above: 63-32416 and 63-32417 .

WATER RIGHT NO. 63-32417
As Modified by Transfer No. 78689

In accordance with the approval of Transfer No. 78689, Water Right No. 63-32417 is now described as follows:

Right Holder: ECHANOVE DRIVE LLC
C/O GAYLON BALL
14180 W BALL MANOR PL
BOISE, ID 83714

Priority Date: 7/14/1959

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	03/01	to 11/15	0.100 cfs	45.0 af
			0.100 cfs	45.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SWNE Sec 31 Twp 05N Rge 02E ADA County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N	02E	31					10.0												10.0

POU Total Acres: 10.0

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
2. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
3. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
5. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device of a type acceptable to the Department as part of the diverting works. The measuring device shall record the instantaneous rate of flow and total volume diverted.

Transfer No. 78689

WATER RIGHT NO. 63-32417
As Modified by Transfer No. 78689

CONDITIONS OF APPROVAL

6. After notification by the Department, the right holder shall use the measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
7. For the first five (5) years of irrigation under this right, the right holder shall:
 - (a) During March and prior to initial irrigation for the year, measure water levels in the new irrigation well authorized for this right;
 - (b) Repeat the water level measurement for the well one time during the month of August;
 - (c) Record rate and volume data from the measuring device on some periodic basis and keep records of the data; and
 - (d) Data from a, b and c shall be available to members and officers of the Echanove Ranch Homeowners' Association, Inc., upon request.
8. After notification by the Department, the right holder shall provide the above data to the Department.
9. The right holder shall make full beneficial use of all surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.
10. If the surface water right(s) appurtenant to the place of use is abandoned, forfeited, sold, transferred, leased or used on any other place of use, this right to divert ground water shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
11. Rights 63-32403, 63-31738, 63-32404, 63-32405, 63-32407, 63-32408, 63-32637, 63-32638, 63-32707, 63-32708, 63-32709, 63-32710, 63-33243, 63-33244, 63-32412, 63-31740, 63-32413, 63-32414, 63-32416, 63-32417, 63-32639, 63-32640, 63-32712, 63-32713, 63-32714, 63-32715, 63-33246 and 63-33247 when combined shall not exceed a total diversion rate of 2.78 cfs, and the irrigation of 139 acres.
12. Rights 63-32417 and 63-32408 when combined shall not exceed a total diversion rate of .2 cfs and the irrigation of 10 acres.
13. 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 place of use.
14. The following rights are diverted through point of diversion described above: 63-32416 and 63-32417 .



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

December 26, 2013

GAYLON BALL
14180 W BALL MANOR PL
BOISE ID 83714

ECHANOVE DRIVE LLC
C/O GAYLON BALL
14180 W BALL MANOR PL
BOISE ID 83714

Re: Transfer No. 78689
Water Right No's: 63-32416, 63-32417

Amended Transfer Approval Notice

Dear Water Right Holders:

The Department of Water Resources has issued the enclosed approved Amended Transfer of Water Rights. Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208)334-2190.

Sincerely,

A handwritten signature in black ink that reads "Rachel Sommer". The signature is written in a cursive, flowing style.

Rachel Sommer
Administrative Assistant
Western Regional Office

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on December 26, 2013 I mailed a true and correct copy, postage prepaid, of the foregoing AMENDED TRANSFER APPROVAL to the persons listed below:

**RE: Transfer No. 78689
 Water Right No's: 63-32416, 63-32417**

**GAYLON BALL
14180 W BALL MANOR PL
BOISE ID 83714**

**ECHANOVE DRIVE LLC
C/O GAYLON BALL
14180 W BALL MANOR PL
BOISE ID 83714**

**GIVENS PURSLEY LLP
ATTN: MICHAEL C CREAMER
601 WEST BANNOCK ST
PO BOX 2720
BOISE ID 83701-2720**

**WAYNE MEULEMAN
5854 W DRY CREEK RD
BOISE ID 83714**

**SPF WATER ENGINEERING
ATTN: TERRY SCANLAN
300 E MALLARD DR STE 350
BOISE ID 83706**



**Rachel Sommer
Administrative Assistant I**

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.