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DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

DRAFT

TRANSFER OF WATER RIGHT

TRANSFER NO. 66706

This is to certify that: BALLENTYNE DITCH CO LTD

C/O JOE KING
170 N SIERRA WAY
EAGLE ID 83616
(208)373-0564

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

Summary of Water Rights Before the Proposed Change

Right	Origin/Basis	Priority	Rate	Volume	Acre Limit	Total Acres	Source
63-264	WR/Decreed	04/01/1878	3 cfs	N/A	736.5	736.5	BOISE RIVER

Purpose of Transfer (Changes Proposed)

Current Number	Split	POD	POU	Add POD	Period of Use	Nature of Use
63-264	NO	NO	NO	NO	NO	YES

Summary of Water Rights After the Approved Change

Existing Right	New No. (changed portion)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	New No. (remaining portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
63-264	63-264	3 cfs	N/A	735.5	736.5		N/A	N/A	N/A	N/A
COMBINED										
TOTALS		3 cfs	N/A	735.5	736.5		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this _____ day of _____, 20____

Chief, Water Allocation Bureau

Terri Tease
11-18-09

WATER RIGHT NO. 63-264
As Modified by Transfer No. 66706

In accordance with the approval of Transfer No. 66706, Water Right No. 63-264 is now described as follows.

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

Priority Date: April 01, 1878

Source: BOISE RIVER

Tributary: SNAKE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/01	to 11/15	2.98 CFS	
AESTHETIC STORAGE	03/01	to 11/15		3.5 AF
RECREATION STORAGE	03/01	to 11/15		3.5 AF
DIVERSION TO STORAGE	03/01	to 11/15	0.02 CFS	
			3.00 CFS	

LOCATION OF POINT(S) OF DIVERSION:

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

PLACE OF USE: AESTHETIC STORAGE, RECREATION STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
04N 01W 13	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
						X											
						L3											

PLACE OF USE: IRRIGATION (See condition 1 below)

CONDITIONS OF APPROVAL

1. The boundary encompassing the place of use for this water right is described with a digital boundary as authorized by Idaho law. The data comprising the digital boundary are stored in the electronic document management system of the Department and are incorporated into this approval by this reference. A map depicting the place of use is attached to this approval document to illustrate the place of use described by the digital boundary.
2. This right is limited to the irrigation of 735.5 acres within the place of use described above in a single irrigation season.
3. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).

WATER RIGHT NO. 63-264
As Modified by Transfer No. 66706

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

Dated this _____ day of _____, 20____

Chief, Water Allocation Bureau

Tim Ferris
11-18-09

WATER RIGHT NO. 63-264
As Modified by Transfer No. 66706

CONDITIONS OF APPROVAL

4. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 63.
5. The following rights are diverted through point(s) of diversion described above: 63-198AA, 63-258A, 63-260B, 63-195, 63-285, 63-31808, 63-31937.
6. This right is designated as Nos. 66A, 66C, & 66D in the Boise River Water Masters Records.
7. Water is delivered through the Ballentyne Canal.
8. 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.
9. 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.
10. Right(s) 63-264 authorize the diversion of 0.02 cfs an annual total 3.5 acre-feet to be used for the replacement of losses caused by evaporation from the pond(s) authorized under Right(s) 63-12459.
11. This right is a combination of old right nos. 63-264, 63-265, 63-289.
12. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
13. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
14. 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.

[illegible]

State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 63-12459

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **November 01, 2010**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
4. Recreation storage and aesthetic storage uses are for a pond.
5. The pond established by the storage of water under this right shall not exceed a total capacity of 11 acre-feet or a total surface area of 1 acre.
6. To offset the depletion of water resulting from the use of water under this right, the right holder shall, in cooperation with the owner of Right 63-234, divert 0.02 cfs and an annual diversion volume of 3.5 af for recreation storage and aesthetic storage as authorized by Transfer 66706. If the right holder cannot continue to implement this mitigation plan every year for any reason, the right holder shall immediately implement an alternative mitigation plan approved by the Department.
7. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 63.
8. When notified by the Department, the right holder shall install and maintain a measuring device of a type acceptable to the Department as part of the diverting works.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this _____ day of _____, 20_____.

GARY SPACKMAN, Interim Director

Tim Ferris
11-18-09