

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

Transfer No. 74508

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Name of applicant South Boise Water Company Phone (208) 467-0079Post Office address P.O. Box 6005, Boise, ID 83707**A. PURPOSE OF TRANSFER**

1. ☐ Change in 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 This transfer application is filed to comply with condition of approval #6 of Permit 63-31878 (Attachment 1).

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
- | | | | | |
|----------------|---------------------|-----------------|-------------------|----------------------------------|
| <u>63-185B</u> | <u>June 1, 1871</u> | <u>0.01 cfs</u> | <u>Mitigation</u> | <u>March 1</u> to <u>Nov. 15</u> |
| | | <u>1.05 cfs</u> | <u>Irrigation</u> | <u>March 1</u> to <u>Nov. 15</u> |
| | | | | to _____ |
| | | | | to _____ |
2. Total amount of water being transferred 0.01 cubic feet per second and/or _____ acre-feet per annum.
3. Source of water Boise River tributary to Snake River

4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
5	NE	NW	SE	24	3N	2E	Ada	Chronic Dam
6	SW	SW	SW	19	3N	3E	Ada	Chatburn Weir

5. Lands irrigated or place of use: irrigation POU per **Attachment 2** (see 6.d); mitigation POU (below) per **Attachment 1**.

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
03N	02E	25	M																
03N	03E	19											lot 6						
03N	03E	30						lot 4	lot 3										

Total acres _____

RECEIVED

JAN 31 2008

WATER RESOURCES
WESTERN REGION

6. General Information:

a. Description of diversion system

Water is delivered through Loggers Creek and the Rossi-Mill Ditch.

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? Yes X No. If yes, please provide a notarized statement from the holder of the Lien, deed of trust, mortgage or contract agreeing to the proposed changes.

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:

d. Remarks:

In conjunction with the change in nature of use proposed by this transfer to provide mitigation as required by condition #6 of Permit 63-31878, the permit holder, Bown Crossing LLC, shall not irrigate one-half (1/2) acre of land within Riverwalk Subdivision that is not currently irrigated and to which water right no. 63-185B is appurtenant.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

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

Witness my hand this _____ day of _____, 20 _____

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED (See Attachment 2)

1. Right evidenced by:

- a. Decree No. _____ Decreed to _____
in case of _____ vs. _____
dated _____ in _____ county of _____
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. _____ on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

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

☐ Tax Notice ☐ Warranty Deed ☐ Other See Attachment 3 (shares for mitigation POU)

3. Source of water _____ tributary to _____

4. Date or priority _____

5. Water is used for the following purpose:

amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

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

7. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____

9. Describe any other water rights used for the same purpose as described above _____

PART 2

Transfer No. 74508

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use? No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

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

1. amount 0.01 cfs for Irrigation purposes from March 1 to Nov. 15
 (cfs/ac-ft) _____
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft) _____
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft) _____

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
5	NE	NW	SE	24	3N	2E	Ada	Chronic Dam
6	SW	SW	SW	19	3N	3E	Ada	Chatburn Weir

3. Lands irrigated or place of use: mitigation POU (below) per Attachment 1.

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
03N	02E	25	M																
03N	03E	19											lot 6						
03N	03E	30						lot 4	lot 3										

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

1. amount 1.05 cfs for Irrigation purposes from March 1 to Nov. 15
 (cfs/ac-ft) _____
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft) _____
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft) _____

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
5	NE	NW	SE	24	3N	2E	Ada	Chronic Dam
6	SW	SW	SW	19	3N	3E	Ada	Chatburn Weir

3. Lands irrigated or place of use: See Attachment 1 and Part 1, 6.d.

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

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

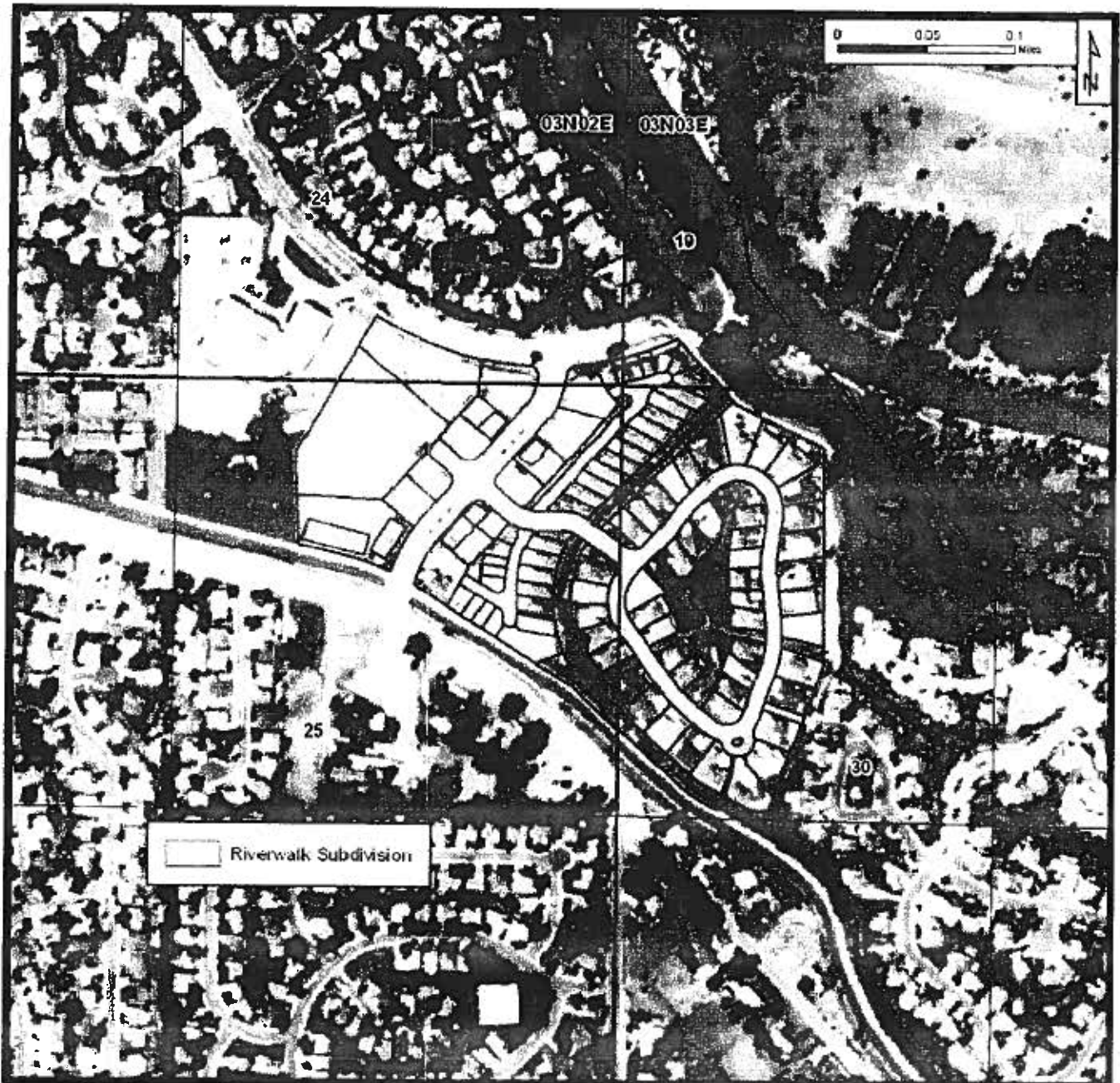


Figure 1 - Mitigation Place of Use

B. CHANGES IN NATURE OF USE

1.

<u>New Nature of Use</u>	<u>Amount</u> (cfs/ac-ft)	<u>Hours/days/year</u>	<u>Period of Use</u>
<u>Mitigation</u>	<u>0.01 cfs</u>		<u>March 1</u> to <u>Nov. 15</u> to
2. Quantity and quality of return flows and location of discharge:
See Attachment 1, condition #6.
3. Describe effects on other water uses resulting from the proposed change:

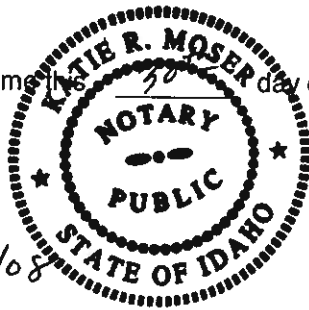
I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

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

Benny J. Chester (President)

(Signature of Applicant)

Subscribed and sworn to before me this 30 day of January, 20 08.



Katie R. Moser

(Notary Public)

May commission expires 2/20/08

FOR DEPARTMENT USE ONLY

Transfer contains 6 pages and 3 attachments.

Received by DB Date 1-31-08 Protest filed by _____

Prelim. check by AG Fee \$100-

Received by DB / W036124 Date 1-31-08

Published in IDAHO STATESMAN DB Copies of protest forwarded by _____

Pub. dates MARCH 5 & 12, 2009 Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

Attachment 1- Permit No. 63-31878

Page 1

State of Idaho
Department of Water Resources**Permit to Appropriate Water**

NO. 63-31878

Priority: August 15, 2003

Maximum Diversion Rate: 4.50 CFS

This is to certify, that BOWN CROSSING LLC
168 N 9TH ST STE 200
BOISE ID 83702

has applied for a permit to appropriate water from:

Source: BOISE RIVER

Tributary: SNAKE RIVER

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
AESTHETIC	01/01 to 12/31	4.50 CFS

LOCATION OF POINT(S) OF DIVERSION:

BOISE RIVER L6 (SW 1/4 SW 1/4) Sec. 19 Twp 03N, Rge 03E, B.M. ADA County

PLACE OF USE: AESTHETIC

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N 02E 25	X																
03N 03E 19																	
03N 03E 30																	

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **February 1, 2007**.
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. 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. This right authorizes diversion of Boise River water flowing in the Loggers Creek Extension only after water is diverted into Loggers Creek from the Boise River under other valid water rights. Water cannot be diverted directly from the Boise River to deliver water to this water right, but delivery is solely dependent on other rights authorizing direct diversion from the Boise River.

Attachment A (2 pgs)

Page 2

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 63-31878

CONDITIONS OF APPROVAL CONTINUED

6. The permit holder shall retain one share of stock of South Boise Water Company authorizing delivery of water for irrigation. The share of stock shall be retained for the purpose of mitigating for evaporation losses in the aesthetic channels authorized by this permit. The water equivalent to one share of irrigation stock shall be delivered by the South Boise Water Company to the permit holder, and the permit holder shall pass the water on to the Boise River through its aesthetic channels. Prior to submittal of proof of beneficial use for this permit, a portion of the South Boise Water Company water right(s) equal to one irrigation share of stock shall be changed from irrigation to mitigation use.
7. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.
8. This right does not grant any right-of-way or easement across the land of another.
9. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening requirements of the Idaho Department of Fish and Game.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 26th day of December, 2005.




KARL J. DREHER, Director

Attachment 2—SRBA Recommendation, Water Right No. 63-185B

12/12/2005

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

RIGHT NUMBER: 63-185B

NAME AND ADDRESS: SOUTH BOISE WATER CO
C/O BARRY ESCHEN PRESIDENT
PO BOX 6005
BOISE ID 83707

SOURCE: BOISE RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 1.060 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: 06/01/1871

POINT OF
DIVERSION: T03N R02E S24 NENWSE Lot 5 Within ADA County
T03N R03E S19 SWSWSW Lot 6 Within ADA CountyPURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	03/01 11/15	1.060 CFS

Diversions 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:

871.78 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 871.78 ACRES WITHIN THE BOUNDARY OF THE SOUTH BOISE WATER 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

THIS RIGHT IS DESIGNATED AS NO. 53 IN THE BOISE RIVER WATER MASTERS RECORDS AND THE STEWART DECREE.

THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINTS OF DIVERSION DESCRIBED ABOVE: 63-149A, 63-150, 63-164C, 63-185A, 63-148C, 63-2392C, 63-2392D, 63-9386B.

THIS RIGHT IS A SPLIT FROM FORMER RIGHT 63-185

WATER IS DELIVERED THROUGH THE ROSSI-MILL DITCH AND AN UNNAMED STREAK KNOWN LOCALLY AS LOGGERS CREEK.

B₂

SOUTH BOISE WATER COMPANY

Share Number: 6086

Number of Shares: 54
(Irrigation shares)

These Certificates represent South Boise Water Association, Inc.

are the registered owner(s) of fifty-four share(s) of capital stock.

Transferable only on the books of the Corporation by the holder hereof in person or by attorney upon surrender of this Certificate properly endorsed.

In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed this
2nd day of April, 2007.



SBWC
PAR \$10.00 VALUE

[Signature] 4-11-07
Signature, President Date

[Signature] 4-11-07
Signature, Secretary Date