

Page 1 of 7Transfer No. 75023

Should questions arise during the processing of this application please contact:
Ron Howerton or Mary Lucachick -Idaho Department of Parks and Recreation 334-4199

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of applicant Ballentyne Ditch Co LTDPhone (208) 939-4558Post Office address 170 N. Sierra Way 83616, Eagle, Idaho 83616

RECEIVED

A. Purpose of Transfer

AUG 11 2008

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

WATER RESOURCES
WESTERN REGION

2. Describe the reason for the proposed changes: This transfer is proposing to change the irrigation nature of use for a portion of the shares held by a shareholder. The water listed below will be used to mitigate a new groundwater application 63-31415 being submitted by the shareholder. The applicant is proposing to mitigate for this new groundwater appropriation by offsetting it with an existing surface water right 63-31808. The pond has created a storage use for Aesthetic and Wildlife purposes. The pond is located within the digital Ballentyne Ditch Co. LTD Boundary stored on CD-ROM with the SRBA court and IDWR.

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
(POU of old right 63-237 prior to combining rights into SRBA decree 63-31808)
63-31808 06/01/1888 9.47 cfs Irrigation 03/01 to 11/15
0.20 cfs * Groundwater Recharge 03/01 to 11/15

2. Total amount of water being transferred 9.67 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Boise River tributary to Snake River

4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
8	NW	NE	SE	16	04N	01E	Ada	Ballentyne Ditch

5. Lands irrigated or place of use:

SERVICE AREA NOT CHANGED**RETIRED IRRIGATION & NEW NON-IRRIGATION USE IN:**

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	01W	12																X	
																		Lt1	

Total acres 736.5

* (Existing = 0.14 cfs) + (Proposed = 0.06 cfs) = 0.20 cfs

PART 1

6. General Information:

a. Description of diversion system Water is diverted from the Boise River at an existing structure into the Ballentyne Ditch. The subject property receives irrigation deliveries through the ditch and those shares are injected into the pond. The pond is a part of the shareholders' irrigation diversion system.

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

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:
The shareholders' portions of the ponds surface area had 4.5 acres of irrigated ground. They propose to have this portion of their irrigation shares converted to Groundwater Recharge.

d. Remarks:
See Attachment "A" Narrative Remarks: Transfer seeks change to 0.06 cfs portion of right @ \$100 fee, of which \$50 is covered by fee from withdrawn application 63-31414, per receipt W025991.

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 _____

 For the Director

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

1. Right evidenced by:

a. Decree No. 63-31808 Decreed to Ballentyne Ditch Co LTD
in case of SRBA 39576 vs. _____

dated Aug 20, 2007 in Fifth Judicial District county of Twin Falls

b. License No. _____ issued by the Idaho Department of Water Resources.

c. Claim No. _____ on file with the Idaho Department of Water Resources.

d. Transfer No. _____ which produced this right.

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

☐ Tax Notice

☐ Warranty Deed

☐ Other

3. Source of water Boise River tributary to Snake River

4. Date of priority 06/01/1888

5. Water is used for the following purposes:

Amount 9.53 cfs / afa for Irrigation purposes from 03/01 to 11/15
(cfs/ac-ft)

Amount 0.14 cfs / 24.9 afy for Groundwater Recharge purposes from 03/01 to 11/15
(cfs/ac-ft)

6. Total amount of water under right 9.67 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
8	NW	NE	SE	16	04N	01E	Ada	Ballentyne Ditch

8. Lands irrigated or place of use: See Attachment "C" showing digital boundary of Ballentyne Ditch Co LTD.

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Total acres **741**

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

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

PART 2

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

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 0.06 cfs for Irrigation purposes from 3/1 to 11/15
(cfs/ac-ft)

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

2. Points of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
8	NW	NE	SE	16	04N	01E	Ada	Ballentyne Ditch Co LTD

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	01W	12																4.5	4.5
																		L1	

Total acres 4.5**C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)**

1. Amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

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

2. Points of Diversion:

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

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

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 rights described in part 1. Clearly depict the land by section, township and range number.

T04N, R01W, S12, SESE, Lot 1



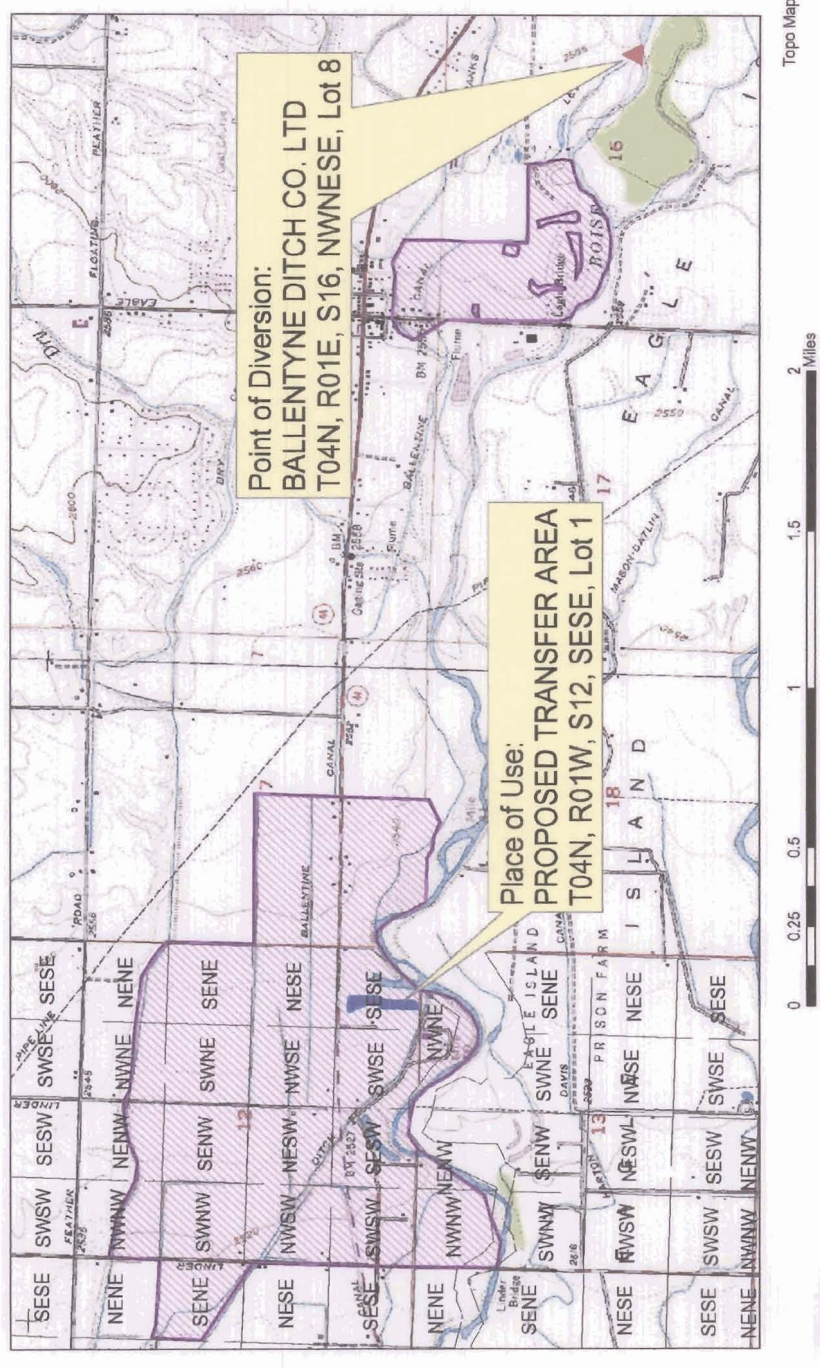
IDPR SURFACE AREA = 4.5 ACRES

LEGEND

 IDPR
 EISP

MAP A

Update: JULY 8, 2008



MAP B

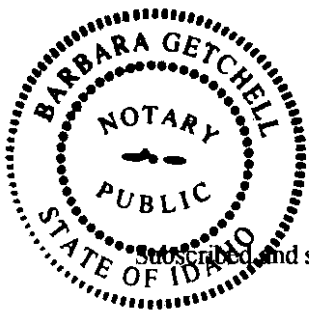
Update: July 8, 2008

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

1.

<u>New Nature of Use</u>	<u>Amount (cfs/ac-ft)</u>	<u>Hours/days/year</u>	<u>Period of Use</u>
Groundwater Recharge	0.06 cfs	To match existing delivery schedule	03/01 to 11/15
2. **Quantity and quality of return flows and location of discharge:**
Quantity unchanged, quality enhanced by wetland function and by taking out cultivated acreage. Discharge location is unchanged. Water returned to Middleton Mill Ditch will be cleaner.
3. **Describe effects on other water uses resulting from the proposed change:**
Transferred water will be utilized as mitigation to offset evaporation losses from a groundwater fed pond. Ballentyne ditch water will continue to flow into the pond as part of both share holders' remaining irrigation delivery system. The historic irrigation consumption of the ponds parcel in question is similar in magnitude to the anticipated consumption of the proposed use.

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.



Joe King

Ballentyne Ditch Co LTD

(Signature of Applicant)

Subscribed and sworn before me this 11th day of AUGUST, 20 08

[Signature]

(Notary Public)

My commission expires 11/17/2012

FOR DEPARTMENT USE ONLY

Transfer contains 7 pages and 1 attachments

Received by SB Date 8-11-08 Protest filed by _____

Prelim. Check by AB Fee \$50- + \$50 from W025991

Received by DB/W036812 Date 8-11-08

Published in _____ Copies of protest forwarded by _____

Pub. Dates _____ Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ received by _____

Copy of transfer sent to lien holder _____

ATTACHMENT "A"

Narrative Remarks

Eagle Island State Park began operation in 1983. Public access to the facility is from the West using Hatchery Road off Linder Road. The real estate necessary to allow a new park entrance from the north along State Highway 44 was acquired in 1995.

Gravel was excavated from the parcels along State highway 44 starting in 1996 to obtain borrow material for a nearby highway construction project. The excavation resulted in a pond filled by the exposed ground water with a surface area of 6.2 acres and a volume of 108 acre feet. This pond was constructed to enhance the aesthetics of the new entryway. The pond overlaps adjacent private property to the south and west of the land held by IDPR for the new entryway.

Approximately 4.5 surface acres and 71 acre-feet of the pond are on IDPR land. IDPR has been paying for shares of Ballentyne Ditch Co LTD that are associated with the land obtained for the entryway. Rose Cottage LLC also has been paying for shares of Ballentyne Ditch Co LTD for 1.7 surface acres and 37 acre-feet of the pond that are on Rose Cottage LLC land. The water available from IDPR shares has been injected into the pond and re-diverted by pumping from the pond to irrigate that part of the entryway area not covered by the pond.

IDPR's intent is to use the shares associated with the land covered by the pond's surface area for mitigation by continuing to retain the shares and pay the associated assessments to the Ballentyne Ditch Co LTD.

An amended application for permit 63-31415 for groundwater is being filed with this transfer to cover aesthetic and wildlife storage. If approved, permit no. 63-31415 would allow diversions from the pond for irrigation purposes when water is available in the Ballentyne Ditch. The Ballentyne Ditch shares associated with the land to be irrigated will be injected into the pond for rediversion under the 24-hour storage policy whenever water is available under the shares.

Because of the close proximity of the pond to the Boise River, the depletion impact on the river of early and late season use will occur during a time period when this reach of river has water available for appropriation.

IDPR does not inject groundwater into the pond and does not plan to in the future. The pond is being used for the distribution system of the surface water, to deliver and apply the ditch water shares for irrigation purposes. A separate right to store water in the pond is not required since the amount stored for this purpose does not exceed what is allowed under IDWR'S 24-hour policy.

Under this long-standing policy, IDPR recognizes that water appropriated for direct application to the authorized beneficial use can be temporarily stored without a separate

right authorizing storage if the amount stored does not exceed the volume accrued under the right over a 24-hour period. Thus, a storage right is not needed to inject the Ballentyne Ditch shares into the pond, and the diversion from the pond for IDPR irrigation use is considered to be from Ballentyne Ditch shares rather than ground water.

Water is pumped from the pond to irrigate the adjacent IDPR land, and since the amount of water diverted from the pond does not exceed that being injected into the pond in accordance with the 24-hour policy, IDPR understands that this irrigation water is Ballentyne Ditch Co LTD water.

CHRONOLOGY OF RIGHTS:

Stewart Decreed Right 63-237 was combined with other rights into right 63-31808 by the SRBA. Decreed Right 63-237 (designated Right No. 101) included a parcel now owned by IDPR and Rose Cottage LLC that was originally decreed to an individual, E. J. Linder with a June 1, 1888 priority date. The right included 73 inches on the E1/2 of the SE1/4 in Section 12 in Township 4N Range 1W.

Thus, the Ballentyne Ditch Co LTD newly decreed right 63-31808 is the right being used for the requested nature of use transfer and used also for mitigation for IDPR amended application for permit 63-31415.

This transfer will retire irrigation for 4.5 acres that have been highly consumptive in the history of this water right 63-237. Applicant's seeks "1:1 pond swap" where retired irrigation mitigates consumptive use from pond evaporation.