

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EXCHANGE OF WATER

This is to certify that: UNITED WATER IDAHO INC
PO BOX 7488
BOISE ID 83707
(208)362-1300

has requested an exchange of water for the water right(s) listed below. This exchange of water is authorized pursuant to the provisions of Section 42-240, Idaho Code. A summary of the exchange of water is also listed below. A complete description of the water rights involved and the conditions of approval of the exchange are shown on the following pages of this document.

Summary of Water Rights Involved in the Exchange

<u>Right</u>	<u>Basis</u>	<u>Priority</u>	<u>Rate</u>	<u>Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
2-2341	License	12/28/1964	12.52 cfs	2817 af		626.0	SNAKE RIVER
2-2358	License	07/28/1964	14.5 cfs	3262.5 af		725.0	SNAKE RIVER
2-2420	License	12/31/1963	14.08 cfs	3168 af		704.0	SNAKE RIVER
COMBINED			35.21 cfs	9247.5 af		2055.0	
TOTALS							

Summary of Exchange of Water

This exchange of water authorizes United Water Idaho Inc. to divert, for irrigation purposes within its authorized service area, up to 35.21 cfs from the Boise River in exchange for the same amount under water rights 2-2341, 2-2358 and 2-2420 from the Snake River and subject to the conditions of approval of this exchange. The amount of flow made available through non-diversion under the Snake River water rights will remain in the Snake River to and below the mouth of the Boise River to fully replace the exchanged amount diverted from the Boise River. This exchange shall be cross-referenced under water right no. 63-31871 for the purpose of identification of the diversions from the Boise River.

Dated this 26th day of April, 2004



Chief, Water Allocation Bureau

WATER RIGHT NO. 63-31871

Water Right No. 63-31871 describes the authorized Exchange of Water including conditions of approval.

Right Holder: UNITED WATER IDAHO INC
PO BOX 7488
BOISE ID 83707

Source: BOISE RIVER

Tributary: SNAKE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	to 11/15	35.21 CFS	9247.5 AF
			35.21 CFS	9247.5 AF

LOCATION OF POINT(S) OF DIVERSION:

BOISE RIVER	L7 (SENE)	Sec. 14	Twp 03N	Rge 02E	ADA County
BOISE RIVER	L6 (NWNE)	Sec. 4	Twp 02N	Rge 03E	ADA County

PLACE OF USE: IRRIGATION

See Conditions of Approval

CONDITIONS OF APPROVAL

The following approval conditions apply to the Exchange of Water under water right nos. 2-2341, 2-2358, and 2-2420 for water to be diverted from the Boise River pursuant to the provisions of §42-240, Idaho Code. This exchange shall be cross-referenced under water right no. 63-31871 for the purpose of identification of the diversions from the Boise River.

1. The water right holder's diversion from the Boise River under the Exchange shall occur only during times when the United States Bureau of Reclamation (Bureau) is providing flow augmentation water from Boise River reservoirs pursuant to the NOAA Fisheries flow augmentation program. The water right holder shall not divert from the Snake River under water right nos. 2-2341, 2-2358, and 2-2420 during any calendar year it diverts water from the Boise River as authorized by the Exchange. Leaving water in the Snake River that would have been diverted under water right nos. 2-2341, 2-2358, and 2-2420 replaces a like amount of water at the mouth of the Boise River that the water right holder diverts from the Boise River pursuant to this Exchange. The water right holder's Boise River diversions under this Exchange shall be:

- a. used solely for irrigation purposes within the water right holder's service area;
- b. controlled by the Boise River Watermaster. The Boise River and its tributaries are currently designated as Basin 63 in the Department's records. The water right holder shall install controlling works approved by the Department and the Boise River Watermaster;

- c. measured through the use of weirs and totalizing flow meters, as approved by the Department and the Boise River Watermaster, as well as through the use of any additional means of measurement that may be approved or required by the Department and the Boise River Watermaster, and records of such measurements shall accurately document: diversion rate, volume for identifiable time periods, time periods of diversion, and data to confirm that the water diverted was used solely for irrigation purposes; and;
 - d. reported annually to the Department and the Boise River Watermaster on or before November 1, of each year, which reports shall include, at a minimum, the measurement data and records specified in the preceding paragraph, and also shall include any additional data or records specified by the conditions of this Exchange or by a future order of the Department related to measurement and reporting.
2. The water right holder's diversions from the Boise River under this Exchange shall not exceed the lesser of:
 - a. The instantaneous rate or volume of the Bureau's Boise River reservoir releases for the NOAA Fisheries flow augmentation program, or
 - b. The instantaneous rate at which water is available in priority under the Snake River water rights and is being delivered in the Snake River and administered in accordance with Idaho law to the confluence of the Boise and the Snake Rivers, not to exceed 35.21 cfs.
 - c. A total annual diversion volume of 9,247.5 acre-feet of water.
3. At any time when the Exchange would otherwise be in effect, if measured or calculated Boise River flows at either of the water right holder's two alternate points of diversion from the Boise River, are less than 240 cfs, or diversion at either point of diversion would reduce Boise River flows below 240 cfs during the period beginning June 1 and ending February 29, then the Exchange shall be limited to provide for not less than 240 cfs of flow in the Boise River. If measured or calculated Boise River flows at either of the two alternate points of diversion from the Boise River are less than 1,100 cfs, or diversion at either point of diversion would reduce Boise River flows below 1,100 cfs during the period beginning March 1 and ending May 31, then the Exchange shall be limited to provide for not less than 1,100 cfs of flow in the Boise River. Measured or calculated Boise River flows at the points of diversion shall be based on gauged Lucky Peak Dam discharge minus diversion to the New York Canal. If the benchmark stream maintenance flows of 240 cfs (from June 1 to February 29) and 1,100 cfs (from March 1 to May 31) subsequently change, then the water right holder's diversion of Boise River flows will be limited to provide for the new benchmark flows.
4. The Bureau is not expected or required to alter its operations in any way to accommodate the Exchange. The Exchange depends upon the Bureau's release of storage water pursuant only to the Bureau's discretion in fulfilling the terms of Idaho Code § 42-1763B and the NOAA Fisheries flow augmentation program, including the delivery and accounting of such releases by the Boise River Watermaster. The water right holder is not entitled to demand that any of these storage releases occur or that any release occur at any particular time or in any particular amount.
5. The water right holder's diversion and use of water from the Boise River pursuant to this Exchange shall not conflict with applicable water bank rules, including any rules governing the Boise River Rental Pool, and shall not adversely affect the ability of any irrigation entity to rent and receive storage water through the Boise River Rental Pool under such rules, including, without limitation, any irrigation entity's entitlement to benefit from the preference for irrigation uses as specified therein.

6. The water right holder's diversion and use of water from the Boise River pursuant to this Exchange shall be accounted for in the water right holder's portfolio of water rights that may be recognized now or in the future in relation to any approved planning horizon, existing water rights holdings, or future needs volume. The Snake River water rights shall not be diverted from alternate points of diversion for the water right holder's ground water rights.

7. Approval of this Exchange by the Department is not part of and does not support the NOAA Fisheries Program, and shall not be construed to be a part of or to support the NOAA Fisheries Program. However, if NOAA Fisheries or any court determines that this Exchange inhibits the Bureau's ability to comply with the flow augmentation program, then Boise River diversions under the Exchange will terminate until such time, if ever, that NOAA Fisheries or such court determines the Exchange does not inhibit the Bureau's ability to comply with the flow augmentation program.

8. Approval of this Exchange by the Department has no bearing upon the status of claims to Boise River storage water that are or that may be filed in the Snake River Basin Adjudication and has no bearing upon any contract with the Bureau for the storage and use of water in the Boise River reservoirs.

9. The Department monitors the below-Milner Snake River reach at the Murphy gage. At any point the Department, or any future watermaster on this reach, determines all or a portion of the exchanged Snake River water rights are out of priority (i.e. that there is an insufficient amount of flow in the Snake River to fill all or a portion of those water rights), the Department or the watermaster for the below-Milner Snake River reach will immediately notify the Boise River Watermaster. In turn, the Boise River Watermaster will preclude diversion of a comparable amount of Boise River water under this Exchange as is currently unavailable to fill the exchanged Snake River water rights.

10. The water right holder must be a municipal provider under Idaho Law.

11. Points of diversion authorized from the Boise River under this Exchange are described as T3N, R2E, Sec. 14, L7(SENE) (Marden Street Water Treatment Plant) and T2N, R3E, Sec. 4, L6(NWNE) (Columbia Bench Water Treatment Plant).

12. Place of use authorized under this Exchange is within the service area of United Water Idaho Inc. as provided for under Idaho law. The place of use is generally described as within the city limits of Boise and the surrounding service area.

13. The diversion and use of water described in this Exchange may be subject to additional conditions and limitations agreed to by the protestants and the right holder under separate agreement to which the Department is not a party and which may be enforceable by a court of law.

14. Failure of the right holder to comply with conditions of this Exchange is cause for the Director to rescind approval of this Exchange.

Dated this 26th day of April, 2004



Chief, Water Allocation Bureau

WATER RIGHT NO. 2-2341

Water Right No. 2-2341 is described as follows, subject to the conditions of approval of the exchange.

Right Holder: UNITED WATER IDAHO INC
PO BOX 7488
BOISE ID 83707

Priority Date: December 28, 1964

Source: SNAKE RIVER

Tributary: COLUMBIA RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	to 11/15	12.52 CFS	2,817.0 AF
			12.52 CFS	2,817.0 AF

LOCATION OF POINT(S) OF DIVERSION:

SNAKE RIVER L4 (SWNE) Sec. 35 Twp 01S Rge 01W ADA County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S 01W 16	39.0	39.0	40.0	39.0	39.0	37.0	39.0	40.0	40.0	39.0	39.0	39.0	39.0	40.0	39.0	39.0	626.0

Total Acres: 626

CONDITIONS OF APPROVAL

1. This right when combined with rights 2-2358 and 2-2420 shall not exceed 35.21 cfs.

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 26th day of April, 2004



 Chief, Water Allocation Bureau

WATER RIGHT NO. 2-2358

Water Right No. 2-2358 is described as follows, subject to the conditions of approval of the exchange.

Right Holder: UNITED WATER IDAHO INC
PO BOX 7488
BOISE ID 83707

Priority Date: July 28, 1964

Source: SNAKE RIVER

Tributary: COLUMBIA RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	3/15 to	11/15	14.50 CFS	3,262.5 AF
			14.50 CFS	3,262.5 AF

LOCATION OF POINT(S) OF DIVERSION:

SNAKE RIVER L4 (SWNE) Sec. 35 Twp 01S Rge 01W ADA County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S 01W 26					38.0	38.0	38.0	39.0	38.0	40.0							231.0
01S 01W 27	40.0	38.0	39.0	40.0	37.0	37.0	37.0	37.0					29.0				334.0
01S 01W 28	40.0	40.0	40.0	40.0													160.0

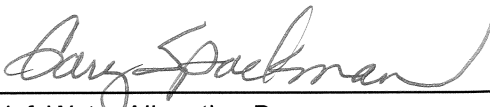
Total Acres: 725

CONDITIONS OF APPROVAL

1. This right when combined with rights 2-2420 and 2-2341 shall not exceed 35.21 cfs.

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 26th day of April, 2004



Chief, Water Allocation Bureau

WATER RIGHT NO. 2-2420

Water Right No. 2-2420 is described as follows, subject to the conditions of approval of the exchange.

Right Holder: UNITED WATER IDAHO INC
PO BOX 7488
BOISE ID 83707

Priority Date: December 31, 1963

Source: SNAKE RIVER

Tributary: COLUMBIA RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	3/15 to	11/15	14.08 CFS	3,168.0 AF
			14.08 CFS	3,168.0 AF

LOCATION OF POINT(S) OF DIVERSION:

SNAKE RIVER L4 (SWNE) Sec. 35 Twp 01S Rge 01W ADA County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S 01W 26	38.0	38.0	39.0	38.0									40.0	40.0			233.0
01S 01W 36	39.0	38.0	39.0	39.0	39.0	39.0	39.0	39.0					40.0	40.0	40.0	40.0	471.0

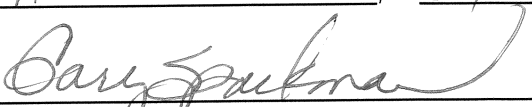
Total Acres: 704

CONDITIONS OF APPROVAL

1. This right when combined with rights 2-2341 and 2-2358 shall not exceed 35.21 cfs.

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 26th day of April, 2004



Chief, Water Allocation Bureau