

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 88836**

This is to certify that: NEW DRY CREEK DITCH CO
C/O BRYCE FARRIS
SAWTOOTH LAW OFFICES PLLC
PO BOX 7985
BOISE, ID 83707-1985

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>
63-28977	WR/DECREED	6/1/1864	0.400 cfs	N/A	2964.0	N/A	BOISE RIVER

Associated Water Rights Also Included in the Transfer Approval (Conditions Updated)

<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>
63-125K	WR/DECREED	6/1/1871	1.010 cfs	N/A	2958.7	N/A	BOISE RIVER
63-126G	WR/DECREED	6/1/1891	0.480 cfs	N/A	2958.7	N/A	BOISE RIVER
63-205	WR/DECREED	6/1/1879	31.320 cfs	N/A	2958.7	N/A	BOISE RIVER
63-161L	WR/DECREED	5/1/1866	0.540 cfs	N/A	2958.7	N/A	BOISE RIVER
63-206	WR/DECREED	6/1/1886	15.220 cfs	N/A	2958.7	N/A	BOISE RIVER
63-258B	WR/DECREED	5/1/1893	0.690 cfs	N/A	2958.7	N/A	BOISE RIVER
63-263	WR/DECREED	6/1/1880	1.816 cfs	N/A	2958.7	N/A	BOISE RIVER
63-286	WR/DECREED	4/1/1897	0.540 cfs	N/A	2958.7	N/A	BOISE RIVER
63-288B	WR/DECREED	4/1/1880	0.440 cfs	N/A	2958.7	N/A	BOISE RIVER
63-31778	WR/DECREED	6/1/1888	8.950 cfs	N/A	2958.7	N/A	BOISE RIVER
63-31806	WR/DECREED	5/1/1883	0.680 cfs	N/A	2958.7	N/A	BOISE RIVER

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>
63-28977	NO	NO	NO	NO	NO	YES

SUPPORT DATA

Summary Of Water Rights After the Approved Change

IN FILE # 63-125K

<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>
63-28977	63-28977	0.400 cfs	14.1 af	2958.7	N/A	N/A	N/A	N/A	N/A	N/A

Transfer No. 88836

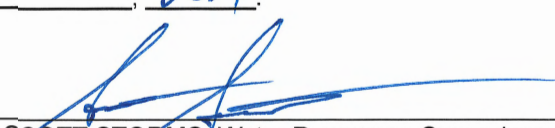
STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 88836

COMBINED TOTALS 0.400 cfs 14.1 af 2958.7 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 16th day of August, 2021.


SCOTT STORMS, Water Resources Supervisor



WATER RIGHT NO. 63-28977

As Modified by Transfer No. 88836

In accordance with the approval of Transfer No. 88836, Water Right No. 63-28977 is now described as follows:

Right Holder: NEW DRY CREEK DITCH CO
C/O BRYCE FARRIS
SAWTOOTH LAW OFFICES PLLC
PO BOX 7985
BOISE, ID 83707-1985

Priority Date: 6/1/1864

Source: BOISE RIVER

Tributary: SNAKE RIVER

BENEFICIAL USE

	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	03/01	to 11/15	0.290 cfs	
DIVERSION TO STORAGE	03/01	to 11/15	0.110 cfs	
AESTHETIC STORAGE	01/01	to 12/31	0.400 cfs	14.1 af
				14.1 af

LOCATION OF POINT(S) OF DIVERSION

BOISE RIVER L7 (NESE) Sec 23 Twp 04N Rge 01E ADA County

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 2958.7 acres within the boundary of New Dry Creek Ditch Co.
2. 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.
3. Use of water under this right may 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.
4. 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.

Transfer No. 88836

WATER RIGHT NO. 63-28977
As Modified by Transfer No. 88836

CONDITIONS OF APPROVAL

5. 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.
6. 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.
7. This right originated as all or part of right no. 3 in the Stewart Decree and the historic Boise River Water Masters records.
8. Water is delivered through the New Dry Creek Ditch.
9. Transfer 88836 authorizes the diversion and delivery of 0.11 cfs and 14.1 af of water to storage for replacement of evaporation losses from three ponds authorized by Right 63-35482.
10. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
11. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
12. Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 63-125K
As Modified by Transfer No. 88836

In accordance with the approval of Transfer No. 88836, Water Right No. 63-125K is now described as follows:

Right Holder: NEW DRY CREEK DITCH CO
PO BOX 430
EAGLE, ID 83616-0362

Priority Date: 6/1/1871

Source: BOISE RIVER

Tributary: SNAKE RIVER

BENEFICIAL USE

IRRIGATION

From

03/01

To

to 11/15

Diversion Rate

1.010 cfs

1.010 cfs

LOCATION OF POINT(S) OF DIVERSION

BOISE RIVER

L7 (NESE)

Sec 23 Twp 04N Rge 01E ADA County

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 2958.7 acres within the boundary of New Dry Creek Ditch Co.
2. 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.
3. Use of water under this right may 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.
4. 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.
5. 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.

Transfer No. 88836

WATER RIGHT NO. 63-125K
As Modified by Transfer No. 88836

CONDITIONS OF APPROVAL

6. 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.
7. This right originated as all or part of right no. 54 in the Stewart Decree and the historic Boise River Water Masters records.
8. Water is delivered through the New Dry Creek Ditch.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 63-126G

As Modified by Transfer No. 88836

In accordance with the approval of Transfer No. 88836, Water Right No. 63-126G is now described as follows:

Right Holder: NEW DRY CREEK DITCH CO
PO BOX 430
EAGLE, ID 83616-0362

Priority Date: 6/1/1891

Source: BOISE RIVER

Tributary: SNAKE RIVER

BENEFICIAL USE

IRRIGATION

From

03/01

To

to 11/15

Diversion Rate

0.480 cfs

0.480 cfs

LOCATION OF POINT(S) OF DIVERSION

BOISE RIVER

L7 (NESE)

Sec 23 Twp 04N Rge 01E ADA County

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 2958.7 acres within the boundary of New Dry Creek Ditch Co.
2. 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.
3. Use of water under this right may 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.
4. 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.
5. 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.

Transfer No. 88836

WATER RIGHT NO. 63-126G
As Modified by Transfer No. 88836

CONDITIONS OF APPROVAL

6. 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.
7. This right originated as all or part of right no. 120 in the Stewart Decree and the historic Boise River Water Masters records.
8. Water is delivered through the New Dry Creek Ditch.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 63-205
As Modified by Transfer No. 88836

In accordance with the approval of Transfer No. 88836, Water Right No. 63-205 is now described as follows:

Right Holder: NEW DRY CREEK DITCH CO
PO BOX 430
EAGLE, ID 83616-0362

Priority Date: 6/1/1879

Source: BOISE RIVER

Tributary: SNAKE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	03/01	to 11/15	31.320 cfs 31.320 cfs

LOCATION OF POINT(S) OF DIVERSION

BOISE RIVER L7 (NESE) Sec 23 Twp 04N Rge 01E ADA County

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 2958.7 acres within the boundary of New Dry Creek Ditch Co.
2. 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.
3. Use of water under this right may 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.
4. 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.
5. 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.

Transfer No. 88836

WATER RIGHT NO. 63-205
As Modified by Transfer No. 88836

CONDITIONS OF APPROVAL

6. 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.
7. This right originated as all or part of right no. 72 in the Stewart Decree and the historic Boise River Water Masters records.
8. Water is delivered through the New Dry Creek Ditch.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 63-161L

As Modified by Transfer No. 88836

In accordance with the approval of Transfer No. 88836, Water Right No. 63-161L is now described as follows:

Right Holder: NEW DRY CREEK DITCH CO
PO BOX 430
EAGLE, ID 83616-0362

Priority Date: 5/1/1866

Source: BOISE RIVER

Tributary: SNAKE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	03/01	to 11/15	0.540 cfs 0.540 cfs

LOCATION OF POINT(S) OF DIVERSION

BOISE RIVER L7 (NESE) Sec 23 Twp 04N Rge 01E ADA County

CONDITIONS OF APPROVAL

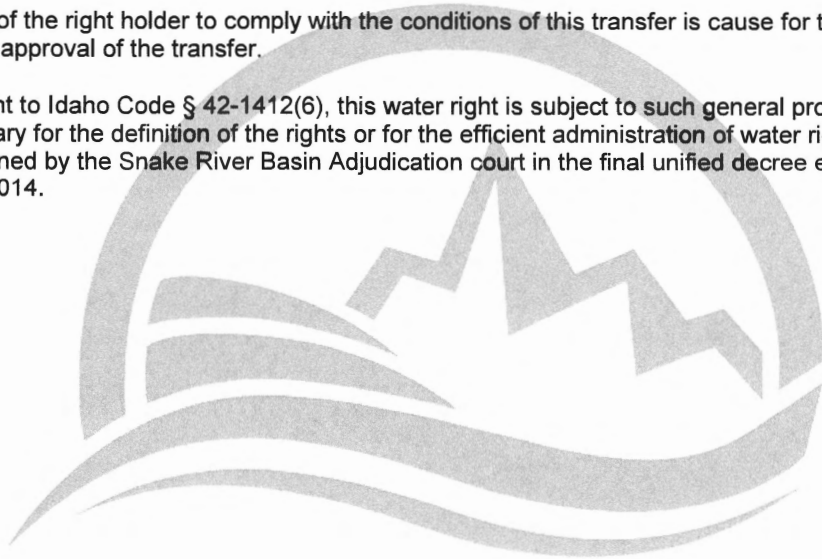
1. This right is limited to the irrigation of 2958.7 acres within the boundary of New Dry Creek Ditch Co.
2. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
3. Use of water under this right may 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.
4. 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.
5. 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.

Transfer No. 88836

WATER RIGHT NO. 63-161L
As Modified by Transfer No. 88836

CONDITIONS OF APPROVAL

6. This right originated as all or part of right no. 30 in the Stewart Decree and the historic Boise River Water Masters records.
7. Water is delivered through the New Dry Creek Ditch.
8. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
10. Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.



WATER RIGHT NO. 63-206
As Modified by Transfer No. 88836

In accordance with the approval of Transfer No. 88836, Water Right No. 63-206 is now described as follows:

Right Holder: NEW DRY CREEK DITCH CO
PO BOX 430
EAGLE, ID 83616-0362

Priority Date: 6/1/1886

Source: BOISE RIVER

Tributary: SNAKE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	03/01	to 11/15	15.220 cfs
			15.220 cfs

LOCATION OF POINT(S) OF DIVERSION

BOISE RIVER L7 (NESE) Sec 23 Twp 04N Rge 01E ADA County

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 2958.7 acres within the boundary of New Dry Creek Ditch Co.
2. 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.
3. Use of water under this right may 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.
4. 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.
5. 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.

Transfer No. 88836

WATER RIGHT NO. 63-206
As Modified by Transfer No. 88836

CONDITIONS OF APPROVAL

6. 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.
7. This right originated as all or part of right no. 93 in the Stewart Decree and the historic Boise River Water Masters records.
8. Water is delivered through the New Dry Creek Ditch.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 63-258B

As Modified by Transfer No. 88836

In accordance with the approval of Transfer No. 88836, Water Right No. 63-258B is now described as follows:

Right Holder: NEW DRY CREEK DITCH CO
PO BOX 430
EAGLE, ID 83616-0362

Priority Date: 5/1/1893

Source: BOISE RIVER

Tributary: SNAKE RIVER

BENEFICIAL USE

IRRIGATION

From

03/01

To

to 11/15

Diversion Rate

0.690 cfs

0.690 cfs

LOCATION OF POINT(S) OF DIVERSION

BOISE RIVER

L7 (NESE)

Sec 23 Twp 04N Rge 01E ADA County

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 2958.7 acres within the boundary of New Dry Creek Ditch Co.
2. 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.
3. Use of water under this right may 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.
4. 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.
5. 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.

Transfer No. 88836

WATER RIGHT NO. 63-258B
As Modified by Transfer No. 88836

CONDITIONS OF APPROVAL

6. 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.
7. This right originated as all or part of right no. 124A in the Stewart Decree and the historic Boise River Water Masters records.
8. Water is delivered through the New Dry Creek Ditch.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 63-263

As Modified by Transfer No. 88836

In accordance with the approval of Transfer No. 88836, Water Right No. 63-263 is now described as follows:

Right Holder: NEW DRY CREEK DITCH CO
PO BOX 430
EAGLE, ID 83616-0362

Priority Date: 6/1/1880

Source: BOISE RIVER

Tributary: SNAKE RIVER

BENEFICIAL USE

IRRIGATION

From

03/01

To

to 11/15

Diversion Rate

1.816 cfs

1.816 cfs

LOCATION OF POINT(S) OF DIVERSION

BOISE RIVER

L7 (NESE)

Sec 23 Twp 04N Rge 01E ADA County

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 2958.7 acres within the boundary of New Dry Creek Ditch Co.
2. 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.
3. Use of water under this right may 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.
4. 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.
5. 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.

WATER RIGHT NO. 63-263
As Modified by Transfer No. 88836

CONDITIONS OF APPROVAL

6. 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.
7. This right originated as all or part of right no. 74A in the Stewart Decree and the historic Boise River Water Masters records.
8. Water is delivered through the New Dry Creek Ditch.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 63-286
As Modified by Transfer No. 88836

In accordance with the approval of Transfer No. 88836, Water Right No. 63-286 is now described as follows:

Right Holder: NEW DRY CREEK DITCH CO
PO BOX 430
EAGLE, ID 83616-0362

Priority Date: 4/1/1897

Source: BOISE RIVER

Tributary: SNAKE RIVER

BENEFICIAL USE
IRRIGATION

From
03/01

To
to 11/15

Diversion Rate
0.540 cfs
0.540 cfs

LOCATION OF POINT(S) OF DIVERSION

BOISE RIVER

L7 (NESE)

Sec 23 Twp 04N Rge 01E ADA County

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 2958.7 acres within the boundary of New Dry Creek Ditch Co.
2. 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.
3. Use of water under this right may 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.
4. Pursuant to a call in times of scarcity, this right is senior to Bryan decreed Right No 63-297 and any future splits of this right.
5. 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.

WATER RIGHT NO. 63-286

As Modified by Transfer No. 88836

CONDITIONS OF APPROVAL

6. 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.
7. 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.
8. This right originated as all or part of right no. 129A in the Stewart Decree and the historic Boise River Water Masters records.
9. Water is delivered through the New Dry Creek Ditch.
10. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
11. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
12. Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 63-288B

As Modified by Transfer No. 88836

In accordance with the approval of Transfer No. 88836, Water Right No. 63-288B is now described as follows:

Right Holder: NEW DRY CREEK DITCH CO
PO BOX 430
EAGLE, ID 83616-0362

Priority Date: 4/1/1880

Source: BOISE RIVER

Tributary: SNAKE RIVER

BENEFICIAL USE

IRRIGATION

From

03/01

To

to 11/15

Diversion Rate

0.440 cfs

0.440 cfs

LOCATION OF POINT(S) OF DIVERSION

BOISE RIVER

L7 (NESE)

Sec 23 Twp 04N Rge 01E ADA County

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 2958.7 acres within the boundary of New Dry Creek Ditch Co.
2. 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.
3. Use of water under this right may 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.
4. 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.
5. 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.

Transfer No. 88836

WATER RIGHT NO. 63-288B
As Modified by Transfer No. 88836

CONDITIONS OF APPROVAL

6. 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.
7. This right originated as all or part of right no. 73A in the Stewart Decree and the historic Boise River Water Masters records.
8. Water is delivered through the New Dry Creek Ditch.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 63-31778

As Modified by Transfer No. 88836

In accordance with the approval of Transfer No. 88836, Water Right No. 63-31778 is now described as follows:

Right Holder: NEW DRY CREEK DITCH CO
PO BOX 430
EAGLE, ID 83616-0362

Priority Date: 6/1/1888

Source: BOISE RIVER

Tributary: SNAKE RIVER

BENEFICIAL USE

IRRIGATION

From

03/01

To

to 11/15

Diversion Rate

8.950 cfs

8.950 cfs

LOCATION OF POINT(S) OF DIVERSION

BOISE RIVER

L7 (NESE)

Sec 23 Twp 04N Rge 01E ADA County

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 2958.7 acres within the boundary of New Dry Creek Ditch Co.
2. 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.
3. Use of water under this right may 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.
4. 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.
5. 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.

Transfer No. 88836

WATER RIGHT NO. 63-31778
As Modified by Transfer No. 88836

CONDITIONS OF APPROVAL

6. 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.
7. This right originated as all or part of right no. 97, 102 and 103 in the Stewart Decree and the historic Boise River Water Masters records.
8. Water is delivered through the New Dry Creek Ditch.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 63-31806

As Modified by Transfer No. 88836

In accordance with the approval of Transfer No. 88836, Water Right No. 63-31806 is now described as follows:

Right Holder: NEW DRY CREEK DITCH CO
PO BOX 430
EAGLE, ID 83616-0362

Priority Date: 5/1/1883

Source: BOISE RIVER

Tributary: SNAKE RIVER

BENEFICIAL USE

IRRIGATION

From

03/01

To

to 11/15

Diversion Rate

0.680 cfs

0.680 cfs

LOCATION OF POINT(S) OF DIVERSION

BOISE RIVER

L7 (NESE)

Sec 23 Twp 04N Rge 01E ADA County

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 2958.7 acres within the boundary of New Dry Creek Ditch Co.
2. 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.
3. Use of water under this right may 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.
4. 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.
5. 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.

Transfer No. 88836

WATER RIGHT NO. 63-31806
As Modified by Transfer No. 88836

CONDITIONS OF APPROVAL

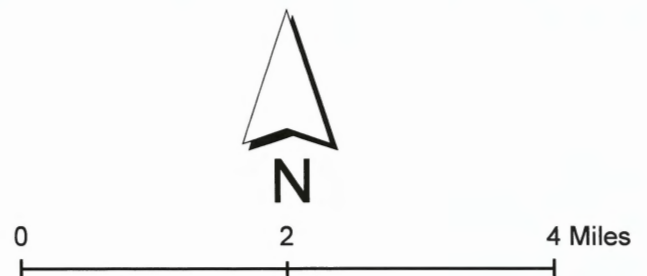
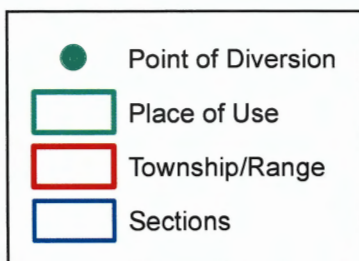
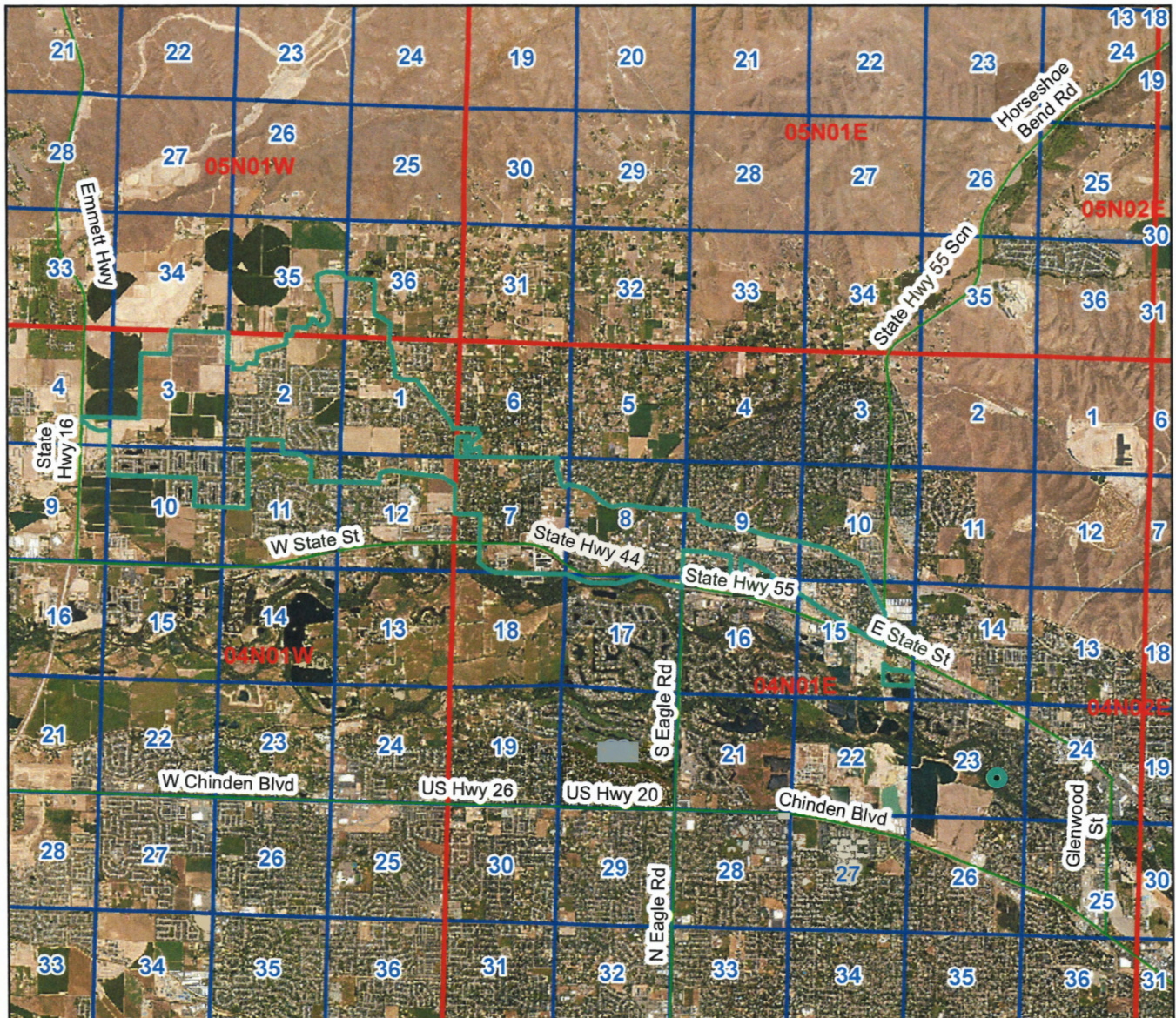
6. This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition 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.
7. This right originated as all or part of right no. 85C, 85D and 85E in the Stewart Decree and the historic Boise River Water Masters records.
8. Water is delivered through the New Dry Creek Ditch.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

State of Idaho
Department of Water Resources

Attachment to Transfer No. 88836

Water Right: 63-28977

This map depicts the IRRIGATION place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.





IDAHO DEPARTMENT OF
WATER RESOURCES

Western Region • 2735 W Airport Way • Boise, ID 83705-5082

Phone: 208-334-2190 • Fax: 208-334-2348 • Email: westerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Mathew Weaver

August 30, 2024

NEW DRY CREEK DITCH CO
C/O BRYCE FARRIS
SAWTOOTH LAW OFFICES PLLC
PO BOX 7985
BOISE ID 83707-1985

Re: Transfer No: 88836
Water Right No(s): 63-125K, 63-126G, 63-161L, 63-205, 63-206, 63-258B,
63-263, 63-286, 63-288B, 63-28977, 63-31778, 63-31806

Transfer Approval Notice

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). 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 cursive script that reads "Marina Bozdog".

Marina Bozdog
Technical Records Specialist I

Enclosure(s)

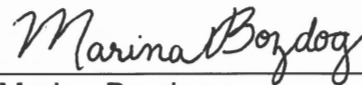
CERTIFICATE OF SERVICE

I hereby certify that on August 30, 2024 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Transfer) to the person(s) listed below:

Re: Transfer No: 88836

Water Right No(s): 63-125K, 63-126G, 63-161L, 63-205, 63-206, 63-258B,
63-263, 63-286, 63-288B, 63-28977, 63-31778, 63-31806

ATTN: LORI GRAVES
HDR INC
412 E PARKCENTER BLVD STE 100
BOISE ID 83706-6659

A handwritten signature in cursive script that reads "Marina Bozdog". The signature is written in black ink and is positioned above a horizontal line.

Marina Bozdog
Technical Records Specialist 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.

MEMORANDUM

TO: Transfer No. 88836 New Dry Creek Ditch Co

FROM: Allen Bradbury

DATE: 07/02/2024

RE: Evaluation of Application for Transfer of Water Right

This transfer proposes changing the nature of use of a portion of water right 63-28977 from irrigation to aesthetic storage to mitigate evaporation losses from ponds proposed in application for permit no. 63-35482 on property owned by BHH Farmstead Holdings LLC (BHH). BHH owns 2.7 shares in New Dry Creek Ditch Company (NDCDC) with each share equivalent to 27 acre/inches of Boise River water. The BHH permit application proposes to use a well near the property to supply the ponds. Due to an insufficient well seal, mitigation to Boise River flows is required to offset consumptive use resulting from evaporation from the proposed ponds. This transfer will convert 0.11 cfs of 63-28977 from irrigation to diversion to storage, and 5.3 acers from irrigation to a volume of 14.2 af for aesthetic storage. The reduction in irrigated acres will be recorded on all the associated NDCDC water rights.

The ponds are located in Eagle, ID, north of West Floating Feather Rd and bounded by Linder Rd on the west and North Park Ln on the east.

Summary of Information Submitted

Authority to File: IDWR records show the applicant is New Dry Creek Ditch Co (NDCDC) which has water rights over the local service area including water right 63-28977. An individual ground water right, 63-31971 owned by SAF LLC, overlaps the place of use. Ada County parcel data shows three parcels owned by BHH Farmstead Holdings LLC, Woodside Avenue Investors LLC, and Sky Mesa Development LLC at the place of use. All three LLC's have a mailing address of 923 S Bridgeway PL, Eagle ID 83616. BHH Farmstead Holdings LLC owns 2.7 shares in NDCDC with each share equivalent to 27 acre/inches. These shares have historically been used for irrigating alfalfa where the ponds are to be located. The application is signed by Roger Foster. The Idaho Secretary of State business search shows that NDCDC is registered with the State of Idaho and lists Roger Foster as the president.

Water Right Validity/Historical Beneficial Use: Water right no. 63-28977 was decreed on 12/10/2007. The associated water rights nos. 63-125K, 63-126G, 63-161L, 63-205, 63-206, 63-258B, 63-263, 63-286, 63-288B, 63-31778, and 63-31806 were decreed on 12/10/2007. New Dry Creek Ditch Co. delivers water for irrigation to a large POU with a combined limit of 2,964 acres on twelve water rights. All rights are presumed to be valid since beneficial use has occurred within the delivery area for the last five years. Beneficial use confirmed by Department aerial imagery, Landsat images, and Google Earth images.

Injury to Other Water Rights: Application for Permit 63-35482 for BHH Farmstead Holdings, LLC proposes to construct three ponds totaling 5.3-acres on land that historically produced alfalfa. The proposed source of water for the ponds is ground water from an existing 16-inch well which is sealed to 28 feet. IDWR considers all surface water and all ground water shallower than 200 feet upstream of the Star Bridge in the Boise River drainage to be fully appropriated during the irrigation season. To avoid appropriating shallow ground water in this area, IDWR requires all new wells for uses beyond those defined in §42-111 to be drilled through the first confining layer below 200 feet and sealed to that confining layer or to mitigate for any consumptive uses.. Due to the insufficient well seal, mitigation to Boise River flows is required to offset consumptive use resulting from the proposed ponds. This transfer

proposes changing the nature of use of a portion of water right 63-28977 from irrigation to aesthetic storage to mitigate evaporation resulting from the proposed ponds. The reduction in irrigated acres will be recorded on all the New Dry Creek Ditch Co. (NDCDC) water rights. The consumptive requirements and subsequent depletion rate to river flows were calculated based on the ET Idaho (<http://data.kimberly.uidaho.edu/ETIdaho/>) precipitation deficit tables for the Emmett climate station using data for alfalfa and shallow ponds. The proposed mitigation amount is based on a 1:1 ratio; 1 acre of irrigation for 1 acre of pond surface area. Based on the calculations provided by the applicant 5.3 acres of pond surface area will annually evaporate 9.9 acre-feet, equivalent to the consumptive use associated with 3.71 acres of alfalfa. During the 60% Stewart Decree cut, 3.71 acres of alfalfa can sufficiently satisfy the ponds' anticipated peak daily consumptive use requirement of 3.96 mm/day. As a result, 5.3 acres of NDCDC water converted from irrigation to aesthetic storage use will adequately offset the consumptive use resulting from development of the ponds. The acre limit will be reduced from 2,964 acres to 2,958.7 acres for all NDCDC rights, and the irrigation rate for 63-28977 reduced accordingly. Legal notice was required for this transfer, however no protests were received. Injury to other water rights is not likely as a result of this transfer. Based on this evidence there is no concern with other users making a call or being injured.

Enlargement of Use: This application for transfer proposes to change the nature of use for a portion of NDCDC water right 63-28977, where the change will result in an equivalent reduction in the irrigation beneficial use under the original right.. The acre limit on all NDCDC rights will also be reduced from 2,964 acres to 2,958.7 acres.. The transfer does not propose an increase in the diversion rate or volume nor any unsubordinated change to the season of use. For these reasons, an enlargement of use is not anticipated as a result of this transfer.

Local Public Interest: There are no anticipated negative impacts to recreation, fish, or wildlife as a result of this transfer. There is no indication that any applicable water or hazardous substance standards designed to protect water resources would be violated. This transfer is compatible with the objectives and policies of the State Water Plan. None of the available information suggests a conflict with the local public interest.

Beneficial Use/Conservation of Water Resources: No issues were identified. The application proposes beneficial use consistent with conservation of water resources in Idaho.

The application is consistent with criteria of I. C. § 42-222 and should be processed.

Additional Information/Analysis

Overlap Analysis:

Point of diversion overlaps include 63-3197 Cloud Berry LLC, 63-31971 SAF LLC, and 63-34784 Legacy Community Association Inc which are overlapping ground water rights for irrigation and stockwater. Place of use overlap only includes 63-31971 SAF LLC in the same QQ, which is an overlapping ground water right for irrigation which overlaps the Boise River water rights through New Dry Creek Ditch Company.

Discussion

If approved the following changes should be made to the conditions of water right no. 63-28977. Modify the acre limit in condition X27. Keep conditions R43, R05, S45, 172, 155, SD1, F01, T07, T08, and T19.

Modify the acre limit in condition X27 for all associated rights including 63-125K, 63-126G, 63-161L, 63-205, 63-206, 63-258B, 63-263, 63-286, 63-288B, 63-28977, 63-31778, 63-31806.

Summary

Assuming no other information contradicts the above analysis, the application can be approved as reflected by the draft approval.