

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 88875**

This is to certify that: **SOUTH BOISE WATER CO**
PO BOX 6005
BOISE, ID 83707

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>
63-150	WR/DECREED	6/1/1865	0.800 cfs	N/A	N/A	854.2	BOISE RIVER

Purpose of Transfer (Changes Proposed)

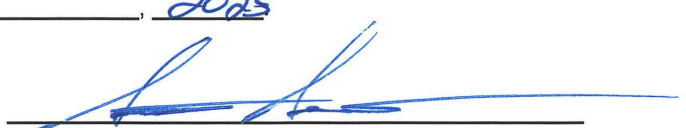
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
63-150	NO	NO	NO	YES	NO	NO

Summary Of Water Rights After the Approved Change

<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>
63-150	63-150	0.800 cfs	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.800 cfs	N/A	854.0	872.0		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 29th day of April, 2025


SCOTT STORMS, Water Resources Supervisor

WATER RIGHT NO. 63-150
As Modified by Transfer No. 88875

In accordance with the approval of Transfer No. 88875, Water Right No. 63-150 is now described as follows:

Right Holder: SOUTH BOISE WATER CO
C/O MIKE HARRISON
PO BOX 6005
BOISE, ID 83707-6005

Priority Date: 6/1/1865

Source: BOISE RIVER

Tributary: SNAKE RIVER

BENEFICIAL USE

IRRIGATION

From

03/01

To

to 11/15

Diversion Rate

0.800 cfs

0.800 cfs

LOCATION OF POINT(S) OF DIVERSION

BOISE RIVER
BOISE RIVER
BOISE RIVER

L12 (SESE)

L5 (NENWSE)

L6 (SWSWSW)

Sec 14 Twp 03N Rge 02E ADA County

Sec 24 Twp 03N Rge 02E ADA County

Sec 19 Twp 03N Rge 03E ADA County

CONDITIONS OF APPROVAL

1. The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2) (h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.
2. 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.
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. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.

Transfer No. 88875

WATER RIGHT NO. 63-150
As Modified by Transfer No. 88875

CONDITIONS OF APPROVAL

5. Transfer 88875 added a point of diversion in the T03N, R02E , S14 Lot 12 (SESE) from a pond intercepting ground water determined to be hydraulically connected to the Boise River to an extent that it constitutes the same source. Diversion of water under this right from this point of diversion is limited to those times when water is available for diversion under the priority of this right at the original point of diversion from the Boise River, located in the T03N, R02E , S24 Lot 5 (NWSE).
6. Any transfer of the point of diversion described under this right will require the right holder to provide evidence that the new point of diversion has a direct and immediate hydraulic connection to the Boise River.
7. This right is limited to the irrigation of 854.18 acres of the 871.78 acres decreed for this right within the place of use described above in a single irrigation season. 0.5 acres has been dedicated to mitigate right no. 63-31878, 2.8 acres has been dedicated to mitigate right nos. 63-34123, 63-7227, 8.3 acres has been dedicated to mitigate right no. 63-34745, 4.0 acres has been dedicated to mitigate right no. 63-35002, and 2.0 acres has been dedicated to mitigate right no. 63-34550.
8. Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoir dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.
9. THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINTS OF DIVERSION DESCRIBED ABOVE: 63-149A, 63-148C, 63-164C, 63-185A, 63-185B, 63-2392C, 63-2392D, 63-9386B.
10. WATER IS DELIVERED THROUGH THE ROSSI-MILL DITCH AND AN UNNAMED STREAM KNOWN LOCALLY AS LOGGERS CREEK.
11. This right originated as all or part of right no. 18 in the Stewart Decree and the historic Boise River Water Masters records.
12. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
13. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
14. Pursuant to 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.88875

Water Right: 63-150

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.



0 0.475 0.95 1.9 Miles

Legend

- Transfer POD
- Transfer POU
- Township/Range
- Sections
- QQ





April 29, 2025

SOUTH BOISE WATER CO
PO BOX 6005
BOISE ID 83707-6005

Re: Transfer No: 88875
Water Right No(s): 63-150

Transfer Approval Notice

Dear Water Right Holder:

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 the IDWR Western Region Office at (208) 334-2190.

Sincerely,

A handwritten signature in blue ink that reads "Marina Bozdog". The signature is written in a cursive, flowing style.

Marina Bozdog
Technical Records Specialist I

Enclosure(s)

CERTIFICATE OF SERVICE

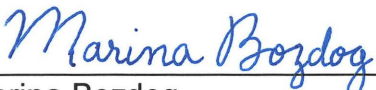
I hereby certify that on April 30, 2025, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Transfer) to the person(s) listed below:

Re: Transfer No.: 88875
Water Right No(s): 63-150

SOUTH BOISE WATER CO
PO BOX 6005
BOISE ID 83707-6005

BRYCE FARRIS
SAWTOOTH LAW OFFICES PLLC
1101 W RIVER ST STE 110
BOISE ID 83702-7067

SOUTH BOISE WATER CO
C/O MIKE HARRISON
PO BOX 6005
BOISE ID 83707-6005



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. 88875
FROM: Marcelina Williams
DATE: February 3, 2025
RE: Evaluation of Application

The purpose of this transfer is to add a point of diversion for water right 63-150. This transfer was submitted based upon a recommendation from the water master in Basin 63.

Summary of Information Submitted

Authority to File:

IDWR records show the applicants South Boise Water Co. as the current owner of water right 63-150. The Secretary of State website shows Barry Eshen as the director of South Boise Water Co. The county assessors also have them as the owner of the parcel associated with water right 63-150.

Water Right Validity:

Water right 63-150 was decreed on 3/24/2009. The water right is presumed to be valid since beneficial use is evident within the last five years as confirmed by Department aerial imagery and Google Earth imagery. Therefore, a defense of forfeiture is not needed.

Injury to Other Water Rights:

Transfer 88875 proposes no changes in nature of use or quantity diverted at the new point of point of diversion. No injury is anticipated.

Local Public Interest:

This transfer is not anticipated to cause potential water quality issues, impact current land use requirements on non-private land or impact fish/wildlife resources. For these reasons this application proposes a change consistent with the local public interest.

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

Discussion

The new point of diversion is from a pond authorized by water right 63-10974. This right is for recreation and aesthetic storage with a source of Pond tributary to Sinks and could not supply water for irrigation. Upon approval this transfer will add a new point of diversion allowing the applicant to provide water to water users near the new POD. The new POD is sourced from a ground water infiltration pond that was found to be hydraulically connected to the Boise River. A Jenkins Stream Depletion Analysis was provided by the applicant that showed the proposed POD has a stream depletion rate of 85.7% and stream depletion volume of 74.3%. These values show the POD has a direct connection of at least 50% depletion within 24 hours and therefore meeting departmental standards.