

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

WITHDRAWN

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF)
WATER RIGHT 01-113C)
_____)

ORDER AUTHORIZING
TEMPORARY CHANGE
TC-01-90

A drought emergency has been declared for Jefferson County to allow administrative actions to lessen the severe impacts of the drought conditions in the county.

Idaho Code § 42-222A provides that upon declaration of a drought emergency, the director of the Department of Water Resources is authorized to allow temporary changes in the point of diversion, the place of use, and the purpose of use for valid existing water rights when the director determines that such changes can be accomplished in accordance with the provisions of section 42-222A, Idaho Code.

On July 27, 2022, Island Irrigation Company filed the attached Temporary Change Application, seeking to change the point of diversion for water right 1-113C, which is a right held by Long Island Irrigation Company. The application included a letter from Long Island Irrigation Company consenting to the change.

The Department has reviewed the application and has determined the application can be approved with certain conditions.

ORDER

IT IS HEREBY ORDERED that the application is **APPROVED** subject to the following conditions:

1. **Temporary Change TC-01-90 shall only become effective after Island Irrigation Company has fully exhausted its available supply of storage water.**
2. Diversion and use of water right 01-113C is authorized only at the point of diversion described on the application.
3. This temporary change approval does not authorize construction of a new well or diversion works as a new point of diversion.
4. The applicant assumes all risk of curtailment or mitigation should the diversion and use of water under the temporary change approval cause injury to other water rights, constitute an enlargement in use of the original right, be inconsistent with the conservation of water resources within the state of Idaho, or not be in the local public interest.

5. This temporary change approval may only be used to provide a replacement water supply to lands or other uses which normally have a full water supply, except for the drought condition. This temporary change approval may not be used to provide water for new development or to allow expansion of the use of water under existing water rights.
6. Right 01-113C when combined with water rights held by Island Irrigation Company are limited to the irrigation of a total of 3,166 acres within the service boundary of Island Irrigation Company.
7. This temporary approval does not authorize the use of diversion works or a delivery system owned by or managed by a corporation or an irrigation district without the consent of such corporation or irrigation district.
8. The applicant agrees to hold the Director and the State of Idaho harmless from all liability on account of the diversion and use of water under this temporary change approval.
9. This temporary change approval does not grant any right-of-way or easement to use the diversion works or conveyance works of another person or entity.
10. The applicant shall measure the amount of water diverted and shall report the amount of water diverted under this approval.
11. The watermaster of Water District No. 01 is authorized to administer the temporary change approval.
12. This temporary change approval expires on September 15, 2022 unless rescinded or extended by the director. Thereafter, the water right shall revert to the point of diversion, place of use and nature of use existing prior to the temporary change approval.

DATED this 29th day of July, 2022.



James Cefalo
Eastern Region Manager

TC-01-90

RECEIVED

JUL 27 2022

Department of Water Resources
Eastern RegionSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WITHDRAWN

TEMPORARY CHANGE APPLICATION

(To change point of diversion, place of use, or purpose of use of a water right upon declaration of a drought emergency in accordance with Section 42-222A, Idaho Code.)

Name of Applicant Island Irrigation Co.Phone 208.589.4940Mailing Address 3837 E 850 N, Rigby, ID 83442Email jeremyghall1@gmail.com

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change purpose of use ☐ Other

2. Describe the proposed change(s) and explain the reason(s) they are needed. _____

Long Island Canal and Island Canal have common stockholders. Long Island is moving water to Island Canal for benefit of common stockholders.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number Priority Amount Nature of Use Period of Use
(cfs/ac-ft)
1-113C 6/1/1884 46 Irrigation 8-1-22 to 9-15-22
_____ to _____
_____ to _____
_____ to _____

2. Total amount of water being transferred 46 cubic feet per second and/or _____ acre-feet per annum.3. Source of water Snake River tributary to Columbia River

4. Point(s) of diversion:

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag number
4N	39E	10			NE	SE	Jefferson	Snake River	Island Canal

5. Lands irrigated or place of use:

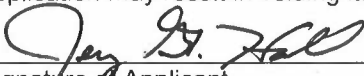
Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Total Acres _____

6. General Information:

- a. Who owns the water right to be changed? Long Island Irrigation Co
- b. Describe the arrangement allowing use of the right. Written water use agreement
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
1000 acres of land within Long Island system will no longer receive Long Island water after approval.
- d. Has the water right sought to be transferred been used this year? ☒ Yes ☐ No If yes, explain. The Snake Rlver watermaster distributes all water rights in priority.
- e. Absent the changes, how would the right be used for the remainder of the year? Diverted through the Long Island system.
- f. Describe other water rights used for the same purpose. 1-81C, 1-82C, 1-83X, 1-117F, 1-118F, 1-4005
- g. Remarks: _____

I hereby assume all risk in accordance with Section 42-222A, Idaho Code, and assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in voiding its approval.


Signature of Applicant

7-27-2022
Date

FOR DEPARTMENT USE ONLY

Received by Cxth Date 7/27/22 \$50 fee receipted by Cxth Receipt No. E048349
Recommend: ☒ approve ☐ deny Watermaster recommendation Approve with conditions.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Temporary Change Application No. _____, and said application is hereby _____, subject to the following limitations and conditions:

See attached order

Temporary Change Expiration Date _____

Signed this _____ day of _____, _____.

For the Director

July 27th 2022

The Island Canal has requested to use and or transfer a portion of water (point of diversion) from the Long Island Canal to the Island Canal. As a member of the board of the long island canal I give permission to transfer said water in accordance with the dates and amounts now predetermined.

Signed Shane Shippen President Long Island Canal

Shane Shippen July 27, 22

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

RECOMMENDATION OF WATERMASTER

Application No: TC-01-90

Applicant's Name: ISLAND IRRIGATION CO.

Watermaster's Recommendation:

- a) ☐ I do not oppose approval of this application.
- b) ☒ I do not oppose approval of this application if it is conditioned as follows: ONLY BECOMES EFFECTIVE AFTER ISLAND CANAL HAS FULLY EXHAUSTED ITS AVAILABLE STORAGE.
- c) ☐ I oppose approval of this application for the following reasons:
- d) ☐ Additional Comment:

Dated this 29 day of JULY, 2022.

Water District No: 01

Tony Olenchak
Watermaster's Signature

Use reverse side of page if you need more space.

Cefalo, James

From: Cefalo, James
Sent: Thursday, August 4, 2022 12:26 PM
To: Jeremy Hall
Cc: Olenichak, Tony; Holliday, Michael
Subject: Re: Approval for Temporary Change TC-01-90

Jeremy,

Your email will suffice. I have copied Tony Olenichak so he knows that the temporary change has been withdrawn.

James

From: Jeremy Hall <jeremyghall1@gmail.com>
Sent: Thursday, August 4, 2022 6:50:59 AM
To: Cefalo, James <James.Cefalo@idwr.idaho.gov>
Subject: Re: Approval for Temporary Change TC-01-90

Mr. Cefalo,

Thank you for your response. We appreciate your consideration and willingness to work with us by approving the transfer with conditions during this transition period. After having discussed the conditions with our canal boards we feel it would be better for us to withdraw our application. I am very grateful for your explanation and time. What and who do I need submit to get the application withdrawn?

thank you
Jeremy Hall

On Mon, Aug 1, 2022 at 7:04 PM Cefalo, James <James.Cefalo@idwr.idaho.gov> wrote:
Jeremy,

I apologize that I couldn't respond to your email earlier. My email access has been inconsistent over the last two days.

Your statement that Long Island would use the 46 cfs if the temporary change were denied is not supported by historical data. As part of my review, I looked at the last twenty years of diversion data for Long Island. Between Aug 1st and Oct 31st Long Island has only used a portion of the 46 cfs on four days in the last twenty years. The four days appear to be an accidental diversion where the river level came up unexpectedly before the head gate could be changed. I am not convinced that Long Island needs or would use the 46 cfs. Therefore, if the temporary change were not approved the water would likely remain in the river, supplying other water rights on the river. Pulling this 46 cfs of water out of the general water supply would injure other water users on the river.

If Long Island truly has a demand for the 46 cfs this year, then the transfer of water to Island Irrigation is simply an attempt to avoid a private lease of storage between the companies. Long Island would use more storage while Island Irrigation would use less. Temporary changes should not be used to circumvent the Rental Pool procedures. If Long Island wants to give Island Irrigation part of its water supply, the transaction should be handled in the Rental Pool with the appropriate last-to-fill penalties applied.

For these reasons, I think there is a sufficient basis to deny the temporary change outright. Because the change has been approved in the past, however, I thought the approval with conditions was a middle ground to allow the companies an adjustment period. In future drought years it is likely that the proposed change will be denied.

If the requirement that Island Irrigation exhaust its storage supply leads to undesirable results, you are always free to withdraw the temporary change. This can be done by letter or by email. You can also request a hearing on the approval. This must be done in writing.

James Cefalo

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From: Jeremy Hall <jeremyghall1@gmail.com>
Sent: Sunday, July 31, 2022 3:06:29 PM
To: Cefalo, James <James.Cefalo@idwr.idaho.gov>
Subject: Re: Approval for Temporary Change TC-01-90

Mr. Cefalo,
thank you for your quick response. I wasn't expecting a reply until monday.
Is there the possibility for an exception? If so, could I plead our case and then ask a couple questions?
We would actually use less water without using the storage, overall. Example: over the next month and a half while we were using up our storage the long island would be using the 46 cfs as regular. Then we would use the 46 cfs. (all the storage used and 46 cfs used all 45 days) If we did the transfer without using the storage first: we were planning on cutting back the long island 46 cfs more than the usual usage and not watering less productive crops like stubble and grasses and pasture. We would then be using the water on more productive crops, corn and alfalfa. (46 cfs used for 45 days and hopefully not all of the storage used) With many common water users on both canals it is easy for us to coordinate and see the benefit of this.

Also the storage is vital to our crop production every year on the Island Canal. On certain days or weeks each year during high water demand we use storage to get us thru these times. By using up all our storage this year to try and finish a crop will put us at high risk next year to be able to maintain a crop. Since this water transfer is only needed on very bad water years it puts us in a dilemma. Do we possibly sacrifice next years crop to finish this years crop. Or possibly have poor crops both years.

Which leads me to my questions.

Will we get more storage over the winter only if the reservoir system fills? I thought that was how it was but we received a little extra storage this past winter and it didn't fill.

next question: If your unable to make an exception for this transfer, I'm assuming that the 46 cfs water right will stay in the long island canal until our storage is used up. At which time the water right would then be transferred to us and we would be able to run 46 cfs more and they would run 46 cfs less. Since the transfer date is tomorrow, Aug 1st, I don't want someone to run that water right in the wrong canal.

thank you for your consideration and patience.

I don't need a reply until tomorrow unless this transfer automatically goes into effect at midnight tonight and will cause the long island canal to use too much water thru the night. If that is the case i need to know ASAP and we may not go ahead with the transfer

Thanks,

Jeremy Hall - Island Irrigation Co.

208-589-4940

On Sun, Jul 31, 2022 at 7:24 AM Cefalo, James <James.Cefalo@idwr.idaho.gov> wrote:

Jeremy,

After the 2012/2013 drought years, IDWR re-evaluated its practices related to the review and approval of temporary changes in systems where water users have storage water. As you know, in a drought year, the natural flow in the Upper Snake is fully allocated. If Island diverts water under the Long Island right (which would otherwise not be diverted by Long Island based on historical diversion records), this would result in less natural flow available to fill other rights causing some of the diversions by other canals to be counted as storage use. To minimize the impact on other canals, IDWR requires a canal to fully exhaust its available water supplies before relying on temporary changes.

I realize that this temporary change between Island and Long Island has been approved in the past without restriction. Other temporary change approvals in the Upper Snake are including the same requirement. If you need to extend the proposed change past September 15th, let me know and I will issue an amended approval.

James

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From: Jeremy Hall <jeremyghall1@gmail.com>

Sent: Saturday, July 30, 2022 6:27:11 PM

To: Cefalo, James <James.Cefalo@idwr.idaho.gov>

Subject: Re: Approval for Temporary Change TC-01-90

Mr. Cefalo,

Thank you for your approval. I have some questions about the use of storage first. Several times in the past 10-15 years we have been able to get this transfer approved. But it has never been a condition that our storage be used completely first. With that understanding from the past we applied this year from august 1st thru sept 15 assuming that if we needed more water after the 15th we could use our storage then if there was some left. Also if we had any storage left over at the end of this year it would benefit us next year. Has the storage system been modified in the last

several years as far as us recieving more storage during the winter even if the system doesn't fill. Please give me a call for some clarification. Thanks Jeremy Hall 208-589-5940

Sent from my iPhone

On Jul 29, 2022, at 3:27 PM, Cefalo, James <James.Cefalo@idwr.idaho.gov> wrote:

Mr. Hall,

Attached is the approval for the temporary change application filed by Island Irrigation Company earlier this week. Please note, the temporary change only becomes effective when Island Irrigation Company has exhausted its available storage water supply. Feel free to contact me with any questions.

James



James Cefalo | Regional Manager

900 N Skyline Drive, Idaho Falls, ID 83402

(208) 525-7161 | www.idwr.idaho.gov

Cefalo, James

From: Cefalo, James
Sent: Friday, July 29, 2022 3:27 PM
To: jeremyghall1@gmail.com
Cc: Water District 1; Olenichak, Tony
Subject: Approval for Temporary Change TC-01-90
Attachments: Order Authorizing TC-01-90.pdf

Mr. Hall,

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WATER RESOURCES
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