

WITHDRAWN

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Print Form

TEMPORARY CHANGE APPLICATION

RECEIVED

(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.)

JUL 26 2022

Department of Water Resources
Eastern Region

Name of Applicant Mount Oxford Ranch Company c/o Jarin O. Hammer attorney

Phone (208) 557-3207

Mailing Address 955 Pier View Drive, Idaho Falls, Idaho 83402

Email hammer@beardstclair.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.

The watermaster has curtailed Applicant's use of junior water rights on Marsh Creek. The proposed transfer water rights have senior priority rights compared to other water rights on Marsh Creek.

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

1. Right Number Priority Amount Nature of Use Period of Use
29-595D 1879-09-01 1.56 Irrigation April 1 to October 31
to
to
to

2. Total amount of water being transferred 1.56 cubic feet per second and/or acre-feet per annum.

3. Source of water Marsh Creek tributary to Portneuf

4. Point(s) of diversion:

Twsp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag number
12S	37E	11			NE	SE	Bannock	Springs	

5. Lands irrigated or place of use:

Twsp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12S	37E	11			36					38									74

Total Acres 74

AMENDED

RECEIVED

JUL 20 2022

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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Department of Water Resources
Eastern Region

TEMPORARY CHANGE APPLICATION

TC-29-21

(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 Mount Oxford Ranch Company c/o Jarin O. Hammer attorney Phone (208) 557-5207
 Mailing Address 955 Pier View Drive, Idaho Falls, Idaho 83402 Email hammer@beardstclair.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. _____

The watermaster has curtailed Applicant's use of junior water rights on Marsh Creek. The proposed transfer water rights have senior priority rights compared to other water rights on Marsh Creek.

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

1.

Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
29-595D	1879-09-01	1.86	Irrigation	April 1 to October 31
				to
				to
				to
2. Total amount of water being transferred 1.86 cubic feet per second and/or _____ acre-feet per annum.
3. Source of water Marsh Creek tributary to Portneuf
4. Point(s) of diversion:

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag number
12S	37E	11			NE	SE	Bannock	Springs	
12S	37E	3			NW	SW	Bannock	Marsh Creek	

5. Lands irrigated or place of use:

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12S	37E	11		7	40	11				38									103
12S	37E	3											40	40					80
12S	37E	10						23										37	60

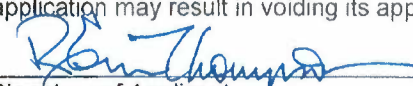
SUPERCEDED

Total Acres 243

6. General Information:

- a. Who owns the water right to be changed? Barnes Family Farmland LLC
- b. Describe the arrangement allowing use of the right. The Barnes Family Farmland sent a written consent through email allowing use of the water right on a temporary basis. See attached email.
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
The land is in fallow this year.
- d. Has the water right sought to be transferred been used this year? ☐ Yes ☒ No If yes, explain. _____
- e. Absent the changes, how would the right be used for the remainder of the year? _____
The water right would remain unused this year because the land is in fallow this year.
- f. Describe other water rights used for the same purpose. Water Right Nos. 29-491A, 29-419B, and 29-2293.
- g. Remarks: These water rights are junior too many of the water rights on Marsh Creek.

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

7/19/2022
Date

FOR DEPARTMENT USE ONLY

Received by MP Date 7/21/22 \$50 fee received by MP Receipt No. E048332
Recommend: ☐ approve ☐ deny Watermaster recommendation _____

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:

Temporary Change Expiration Date _____

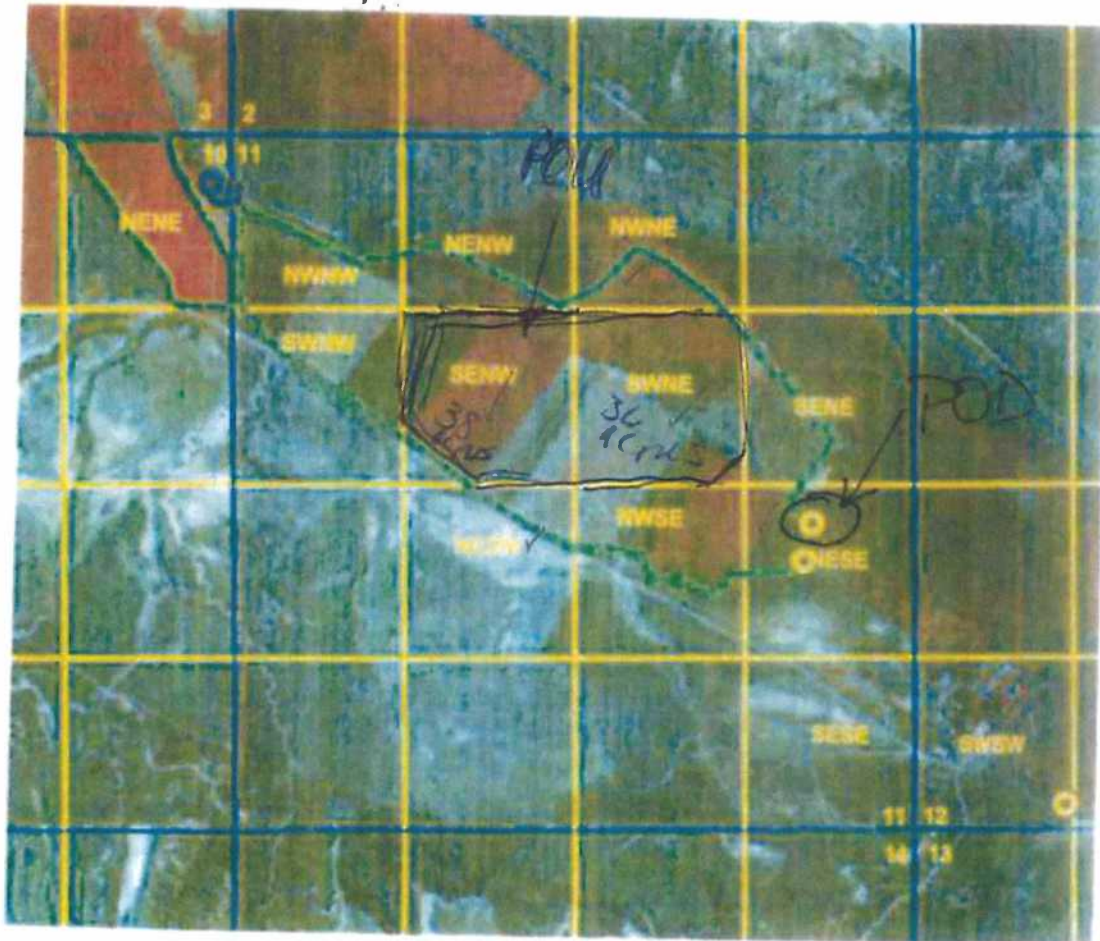
Signed this _____ day of _____

For the Director

IDAHO DEPARTMENT OF WATER RESOURCES

29-00491A, 29-00491B

T12S, R37E SEC. 10, 11



ACRES IRRIGATED: 134

-  POINT OF DIVERSION
-  PLACE OF USE

GIS: PLACE OF USE
POINT OF DIVERSION
1987/1988 NAPP PHOTOS
DAVE CARLSON

From: Pete Volk petevolklaw@gmail.com
Subject: Water right number 29-595D
Date: July 18, 2022 at 5:08 PM
To: hammer@beardstclair.com, Eric Thompson Eric@thompsonmichie.com



Jarin,

I have conferred with my client, Barnes Family Farmland, L.L.C, about the temporary transfer of water right 29-595D to Mount Oxford Ranch Company and the temporary transfer has been approved.

Please proceed with the application of temporary transfer of water right 29-595D for the 2022 irrigation season.

Thanks,

Pete

Volk Law PLLC
Peter Volk, attorney
PO Box 9264
Moscow Idaho 83843
208-301-1265 - cell

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Holliday, Michael

From: Kristin Evans <watermaster29h@gmail.com>
Sent: Tuesday, July 26, 2022 12:00 AM
To: Visosky, Steven
Cc: Holliday, Michael
Subject: Re: Koester Extension including 29-595D

Micheal,

I have spoken with Steve Visosky in regards to the temporary transfer regarding application tc-29-21 Mount Oxford Ranch, and here is my conclusion.

- I can administer the proposed 2 points of diversions listed in the application.
 - I can verify that Water Right 29-595D has not been used during my time as the Watermaster.
 - I am concerned with disputes between Water Users due to previous disputes and believe conditions should be met to ensure there is no injury to any upstream or downstream water users.
- Please contact me if you have any questions.

Thank you,
Kristin Evans
Watermaster 29H

On Mon, Jul 25, 2022 at 5:25 PM Visosky, Steven <Steven.Visosky@idwr.idaho.gov> wrote:

Michael,

I spoke with watermaster Kristin Evans and she will be sending you her comments regarding the temporary transfer before tomorrow AM.

I also spoke to Kristin about the Extension of Time for the POD where water right 29-595D is currently authorized to divert. She reminded me the request was put in by Koester Farms, one of the other water right owners authorized to divert at the shared POD. Kristin visited the diversion last year with one of the water right owners authorized to divert at the POD (I don't know which one) and she was shown the POD which was washed out and not being used. Kristin spoke with water right owner and she told them that they needed to fill out an extension of time to install a measuring device. Attached is a copy of what we received. Going from my limited memory of the case, I believe I called the applicant to confirm the information as the application was very incomplete. Also attached is a copy of the approval letter granting an extension of time to install the measuring device as the diversion "has not been used in years". The extension includes water right 29-595D.

Unfortunately, I don't know exactly how many years the ditch has been blown out.

Holliday, Michael

From: Jarin Hammer <hammer@beardstclair.com>
Sent: Wednesday, August 17, 2022 3:02 PM
To: Holliday, Michael
Subject: [EXTERNAL] Re: Koester Extension including 29-595D

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Michael:

Please withdraw our application for an emergency transfer.

Thank you.

Jarin Hammer

Jarin Hammer | Attorney
955 Pier View Drive | Idaho Falls, ID 83402
DIRECT (208) 557-5207 | MAIN (208) 523-5171
520 First American Circle, Rexburg ID | 203 S Garfield, Pocatello ID | 20 Cedron Rd, Victor ID



This e-mail is sent by a law firm and contains information that may be privileged and confidential. If you are not the intended recipient, please delete the e-mail and notify us immediately.

On Jul 26, 2022, at 2:56 PM, Holliday, Michael <Michael.Holliday@idwr.idaho.gov> wrote:

Jarin,

Thanks for the amended page 1. I noticed that the start date is 4/1. However, the temporary change can't be any earlier than the date the application is received. Let me know if you would like me to make the correction in ink, or you can send me another page 1 if you prefer.

Also, one of my associates brought to my attention the attached approval of a request for extension of time to install an approved measuring device. This extension applies to the current point of diversion for water right 29-595D. Please take a look. Whenever someone seeks to change a point of diversion or place of use through an application for transfer or temporary change, we must review the water right to determine if it is valid. The Koester Farms 2021 request for extension says that the ditch was washed out

and has not been used in years. Please provided us with evidence that the water right has not undergone a period of 5 or more consecutive years of nonuse, or in the alternative, a valid defense to forfeiture.

Feel free to call me if you have questions. After today I will be out of the office through August 2.

Michael

From: Visosky, Steven <Steven.Visosky@idwr.idaho.gov>

Sent: Monday, July 25, 2022 5:26 PM

To: Holliday, Michael <Michael.Holliday@idwr.idaho.gov>

Cc: Kristin Evans (watermaster29h@gmail.com) <watermaster29h@gmail.com>

Subject: Koester Extension including 29-595D

Michael,

I spoke with watermaster Kristin Evans and she will be sending you her comments regarding the temporary transfer before tomorrow AM.

I also spoke to Kristin about the Extension of Time for the POD where water right 29-595D is currently authorized to divert. She reminded me the request was put in by Koester Farms, one of the other water right owners authorized to divert at the shared POD. Kristin visited the diversion last year with one of the water right owners authorized to divert at the POD (I don't know which one) and she was shown the POD which was washed out and not being used. Kristin spoke with water right owner and she told them that they needed to fill out an extension of time to install a measuring device. Attached is a copy of what we received. Going from my limited memory of the case, I believe I called the applicant to confirm the information as the application was very incomplete. Also attached is a copy of the approval letter granting an extension of time to install the measuring device as the diversion "has not been used in years". The extension includes water right 29-595D.

Unfortunately, I don't know exactly how many years the ditch has been blown out.

Steve Visosky

Idaho Department of Water Resources

208-287-4933 | email: steven.visosky@idwr.idaho.gov

<Koester Farms Request.pdf><Approval signed.pdf>