

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF)
WATER RIGHT NO. 37-11821, 37-11822,)
and 37-11823)
_____)

**PRELIMINARY ORDER
AUTHORIZING TEMPORARY
CHANGE TC-37-91**

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

Idaho Code § 42-222A states that upon declaration of a drought emergency, the director of the Department of Water Resources ("Department") 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 Idaho Code § 42-222A; and

On May 5, 2022, Lakeside Industries Inc. submitted the attached Temporary Change Application to the Department; and

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. Use of water pursuant to this approval will be administered by the watermaster of Water District No. 37.
2. Diversion of water pursuant to this approval is authorized only at the following points of diversion:

TWP.	RGE.	SEC	¼	¼	County	Source	Local Name	Type of Diversion
1N	18E	12	SE	SW	Blaine	Big Wood River	Bypass Canal Diversion	Point of Diversion
1N	18E	35	NW	NE	Blaine	Big Wood River	Bypass Canal Return	Point of Injection
1N	18E	35	SE	NW	Blaine	Big Wood River	Graff 62 Diversion	Point of Re-Diversion

3. Diversion of water pursuant to this approval is limited to 4.43 cfs for the irrigation of 82 acres.

4. This temporary change approval does not authorize construction of a new well or diversion works as a new point of diversion.
5. The right holder shall maintain acceptable measuring devices at the authorized point of diversion, point of injection, and point of redirection in accordance with Department specifications to determine and record the amount of water diverted.
6. This temporary change approval does not grant any right-of-way or easement across the land of another or to use the diversion works or conveyance works of another person or entity.
7. This temporary change 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 written consent of such corporation or irrigation district.
8. The quantity of water delivered pursuant to this approval may be subject to reasonable conveyance losses, as determined by the watermaster.
9. This temporary change approval may only be used to provide a replacement water supply to lands or other uses that normally have a full water supply, except for the drought conditions. 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.
10. Irrigation pursuant to this approval shall occur only on 82 acres within the authorized place of use for ground water rights 37-7002, 37-7309, and 37-12089 as shown below for the remainder of the 2022 irrigation season. The rights cannot be moved back to the place of use where they originated for the remainder of this irrigation season.

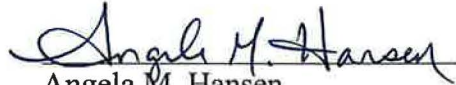
TWP	RGE	SEC	N E				N W				S W				S E				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
1N	18E	35							10			13							23
1N	18E	34			2	22									23	12			59

TOTAL = 82 acres

11. The 82 acres authorized for irrigation under water rights 37-11821, 37-11822, and 37-11823 prior to this temporary change approval may not be irrigated during the 2022 irrigation season.
12. Water shall not be diverted pursuant to this approval when the authorized place of use is not being irrigated pursuant to this approval.

13. 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.
14. 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.
15. This temporary change approval expires on October 31, 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 JUNE, 2022.


Angela M. Hansen
Water Rights Section Manager

CERTIFICATE OF SERVICE

I hereby certify that on June 29, 2022, I mailed a true and correct copy, postage prepaid, of the foregoing **PRELIMINARY ORDER AUTHORIZING TEMPORARY CHANGE TC-3790 & TC-37-91** to the persons listed below:

RE: Temporary change TC-37-90 & TC-37-91

LAKESIDE INDUSTRIES INC
PO BOX 479
BELLEVUE ID 83313-0479

DAVE SHAW
C/O ERO RESOURCES
802 S PLAZA RD
EMMETT ID 83617-9114
dshaw@eroresources.com



Jean Hersley
Technical Records Specialist II

RECEIVED

MAY 05 2022

DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Print Form

TC-37-91

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 LAKESIDE INDUSTRIES INCPhone 208-788-4389Mailing Address PO BOX 479, BELLEVUE, ID 83313-0479Email slee247@mac.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. _____

This transfer proposes to move Big Wood water to land served only by ground water to augment the ground water that has been depleted by drought conditions.

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
<u>37-11821</u>	<u>05/15/1882</u>	<u>3.00</u>	<u>Irrigation</u>	<u>4-15</u> to <u>10-31</u>
<u>37-11822</u>	<u>08/01/1884</u>	<u>1.40</u>	<u>Irrigation</u>	<u>4-15</u> to <u>10-31</u>
<u>37-11823</u>	<u>05/15/1895</u>	<u>1.00</u>	<u>Irrigation</u>	<u>4-15</u> to <u>10-31</u>
				to _____

2. Total amount of water being transferred 5.40 cubic feet per second and/or _____ acre-feet per annum.3. Source of water Big Wood River tributary to Malad River

4. Point(s) of diversion:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag number
1N	18E	35			SE	NW	Blaine	Big Wood River	Graff 62

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	
1N	18E	34			2.2	22.1									26.8	11.9			63
		35							9.8			27.2							37

Total Acres 100

6. General Information:

- a. Who owns the water right to be changed? Applicant
- b. Describe the arrangement allowing use of the right. Internal management decisions
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
The land from which the rights are being removed will not be irrigated
- 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? They would not be used.
- f. Describe other water rights used for the same purpose. 37-7002, 37-7309, 37-11824, 37-11825, 37-11826
- g. Remarks: Continued from f. 37-11827, 37-12089

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]
Signature of Applicant

May 4, 2022
Date

FOR DEPARTMENT USE ONLY

Received by km Date 5-5-22 \$50 fee receipted by km Receipt No. C112696
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

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

June 29, 2022

LAKESIDE INDUSTRIES INC
PO BOX 479
BELLEVUE ID 83313-0479

RE: TC-37-90 & TC-37-91 Temporary Change

Dear Applicant:

Your applications for a temporary change of water rights 37-11811, 37-11813, 37-11814 & 37-11815 (TC-37-90) & 37-11821, 37-11822 & 37-11823 (TC-37-91) has been approved and is enclosed.

Please be advised the approval only authorizes the temporary change of the place of use of water. It does not grant trespass or other activity on public land or on private property.

Please note the conditions of approval to understand the limitations associated with the temporary change. The expiration date cannot be extended under this temporary approval.

If you require additional information regarding this matter, please contact Angela Hansen at (208) 287-4951 or e-mail angela.hansen@idwr.idaho.gov.

Sincerely,

FOR
Angela Hansen
Water Rights Manager

Enclosure(s)

Copy by email: ERO Resources

Nelson, Dan

From: Nelson, Dan
Sent: Tuesday, June 07, 2022 3:26 PM
To: watermanager@wd37.org; watermstr@wd37.org
Subject: Temporary Changes TC-37-90 and TC-37-91
Attachments: TC_37_90 Review Memo for Temporary Changes.docx; TC_37_91 Review Memo for Temporary Changes.docx

Ladies and Gentlemen,

I have attached review memos for 2 temporary changes. These review memos should provide a reasonable understanding of what is being proposed. Please respond within 14 days if you have any questions or concerns. If we don't receive a response from you within the 14 days, we will consider that you have no issues with these filings.

Respectfully,

Daniel Nelson
Water Right Analyst 3
Idaho Department of Water Resources
Telephone (208) 287-4856
Fax (208) 287-6700 (attn: Dan Nelson)

MEMORANDUM

DATE: June 3, 2022

TO: Files 37-11821, 37-11822, and 11823

FROM: Daniel A. Nelson

RE: Temporary Change Application TC-37-91

Background

On April 28, 2022, Director Spackman issued an Order Declaring Drought Emergency for Idaho counties located south of the Salmon River. For additional information, please see [DroughtDeclaration_Signed_20220429.pdf\(idaho.gov\)](#).

On May 5, 2022, Lakeside Industries Inc. file temporary change application TC-37-91 to move 100 acres described in water right 37-11821, 37-11822 and 37-11823 to the S½ of the NE¼ and the N½ of the SE¼ of Section 34 and the SW¼NW¼ and NW¼SW¼ of Section 35 in Township 1 North, Range 18 East, B.M. TC-37-91 proposes to move the point of diversion to the SE¼NW¼ of Section 35 in Township 1 North, Range 18 East, B.M. in Blaine County. The lands where the water will be moved to are lands only served by ground water, which may reduced due to drought conditions in the area.

Receipt number – C112696

Applicant name and signatures:

This application was filed by Lakeside Industries Inc. The application was signed by Sharon Lee, who is listed on the Secretary of State's website as a Director of Lakeside Industry Inc.

Authority to change the proposed water rights:

The temporary transfer was filed by the owner of these rights and moved to lands also owned by the applicant.

On May 31, 2022, I spoke with Dave Shaw of ERO Resources in response to an email I had sent the applicant on May 27, 2022. Mr. Shaw informed me that he had prepared the applications and Ms. Lee asked him to work with me to answer the questions I asked in my May 27th email.

Propose Diversion Rates and Acres:

In the application the original proposal is shown below:

Water Right	Priority Date	Water Source	Diversion Rate Proposed	Acres Proposed
37-11821	5/15/1882	Big Wood River	3.00 cfs	100 ac
37-11822	8/1/1884	Big Wood River	1.40 cfs	100 ac
37-11823	5/15/1895	Big Wood River	1.00 cfs	100 ac
Total			5.40 cfs	100 ac

In the May 31st telephone conversation with Mr. Shaw, I informed him that I found the partial pivot where the water was being moved to was only 82.4 acres rounded to 82 acres. Mr. Shaw told me that they planed to move the remainder of the acres to the filed directly south of the partial pivot. I informed Mr. Shaw that there were already Big Wood River water rights on those acres. Mr. Shaw stated that the applicant would be agreeable to only move the Big Wood rights to just the pivot and leave the remaining 17.6 acres of rights (rounded to 18 acres) at the original place of use. Further review of aerial imagery showed that there is no visible way that the the field below the parital pivot could be reduced or altered to 18 acres. I am recommending that only 82 acres be moved to the partial pivot and the remaining 18 acres stay at the original place of use.

The 82 acres is approximately 82% of the 100 acres ($[82/100] \times 100 = 82\%$). This percentage was used to reduce the acre amounts and diversion rates for each right involved in the temporary change application. Therefore, the diversion rates and acre amounts will be changed as follows:

Water Right	Water Right Diversion Rate in CFS	Water Right Acres	Change Adjusted Acres (Acres X 82%)	Water Right CFS/Acre	Adjusted Change Total Diversion Rate (Water Right CFS/Acre X Adjusted Acres)
37-11821	2.80	100	82	0.03	2.46
37-11822	2.60	100	82	0.014	1.15
37-11823	1.60	100	82	0.01	0.82
TOTALS			82		4.43

Points of diversion:

All of these rights are diverted through the Bypass Canal diversion in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 12 in Township 1 North, Range 18 East B.M. (this is the point of diversion). The proposal is to continue to divert the water into the Bypass Canal Diversion and run it through the canal and inject it back into the Big Wood River at the Bypass Canal Return in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 35 in Township 1 North, Range 18 East B.M. (this is the point of injection). The water will then be rediverted into the Graff 62 Diversion where it will be transported by ditch to a pump station. The Graff 62 diversion is in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 35 in Township 1 North, Range 18 East B.M. (this is the point of rediversion). The application only listed the Graff 62 diversion, but in a telephone conversation with the applicant's consultant, David Shaw, it was confirmed that there will be a point of diversion, point of injection, and a point of rediversion points as described above. Please see the May 31, 2022, telephone conversation memo.

Place of use:

As discussed earlier, Mr. Shaw stated that the applicant would be acceptable to only supplying water to the 82-acre pivot. Since there does not appear to be a way to irrigate only 18 acres in the field south of the partial pivot, then only the 82 acres will be approved in this temporary change. Please see the attached map and also see the map associated with the May 31, 2022 conversation memo.

Discussion:

Aerial imagery of these rights clearly show that the original 100-acre place of use has historically been irrigated. However, I discovered the place of use where the water rights were being moved has a 82-acre partial pivot that could be irrigated and the remaining 18 acres couldn't be confined to a specific field or acres. I discussed this with Mr. Shaw and he agreed that the applicant would be agreeable to only moving 82 acres of to cover the partial pivot.

This would change the amount of water being moved on each right and how much would be left at the original place of use. The adjusted diversion rate is shown above. The following map shows the adjusted place of use and the location of the point of diversion, point of injection, and point of rediversion.

Approval Conditions

In addition to any necessary conditions specific to individual water rights, IDWR will include the following generally applicable conditions of approval on each of the Applications:

1. Use of water pursuant to this approval will be administered by the watermaster of Water District No. 37.

2. Diversion of water pursuant to this approval is authorized only at the following points of diversion:

TWP.	RGE.	SEC	¼	¼	County	Source	Local Name	Type of Diversion
1N	18E	12	SE	SW	Blaine	Big Wood River	Bypass Canal Diversion	Point of Diversion
1N	18E	35	NW	NE	Blaine	Big Wood River	Bypass Canal Return	Point of Injection
1N	18E	35	SE	NW	Blaine	Big Wood River	Graff 62 Diversion	Point of Re-Diversion

3. Diversion of water pursuant to this approval is limited to 4.43 cfs for the irrigation of 82 acres.
4. This temporary change approval does not authorize construction of a new well or diversion works as a new point of diversion.
5. The right holder shall maintain acceptable measuring devices at the authorized point of diversion, point of injection, and point of rediversion in accordance with Department specifications to determine and record the amount of water diverted.
6. This temporary change approval does not grant any right-of-way or easement across the land of another or to use the diversion works or conveyance works of another person or entity.
7. This temporary change 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 written consent of such corporation or irrigation district.
8. The quantity of water delivered pursuant to this approval may be subject to reasonable conveyance losses, as determined by the watermaster.
9. This temporary change approval may only be used to provide a replacement water supply to lands or other uses that normally have a full water supply, except for the drought conditions. 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.

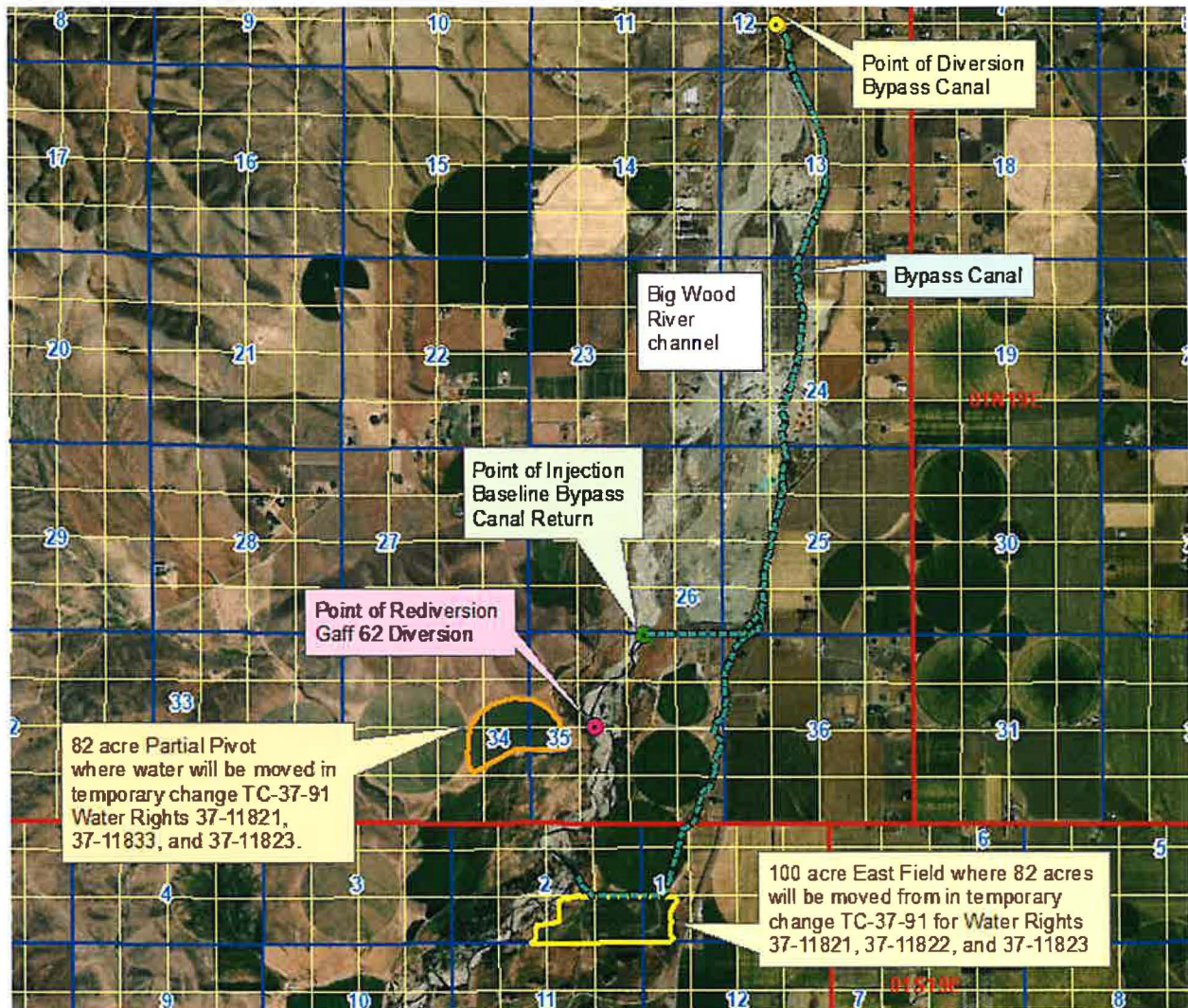
10. Irrigation pursuant to this approval shall occur only on 82 acres within the authorized place of use for ground water water rights 37-7002, 37-7309, and 37-12089 as shown below for the remainder of the 2022 irrigation season. The rights cannot be moved back to the place of use where they originated for the remainder of this irrigation season.

TWP	RGE	SEC	N E				N W				S W				S E				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
1N	18E	35							10			13							23
1N	18E	34			2	22									23	12			59

TOTAL = 82 acres

11. The 82 acres authorized for irrigation under water rights 37-11821, 37-11822, and 37-11823 prior to this temporary change approval may not be irrigated during the 2022 irrigation season.
12. Water shall not be diverted pursuant to this approval when the authorized place of use is not being irrigated pursuant to this approval.
13. 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.
14. 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.
15. This temporary change approval expires on October 31, 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.

Map showing the place of use and points of diversion for temporary change TC-37-91:



MEMORANDUM

DATE: May 31, 2022

TO: File for TC-37-90 and TC-37-91

FROM: Daniel A. Nelson

RE: Telephone Conversation with Dave Shaw the Applicant's Representative

On May 27, 2022, I sent an email to the applicant, Sharon Lee, to answer a few questions regarding temporary change applications TC-37-90 and TC-37-91. Ms. Lee sent the email to Mr. Shaw of ERO Resources who filled out the applications to answer the questions that were asked in the email. I have provided the questions asked in the email below, and my understanding of the answers that Mr. Shaw provided for those questions. Mr. Shaw's answers are shown in red to clearly separate them from the question being asked.

In describing the places of use, I refer to a map sent with the email. Please see the email for that map. I also created a map based on the telephone conversation with Mr. Shaw that shows the points of diversion, injection, and redirection. Please refer to the email map to determine the naming of the different places of use.

Our office received 2 temporary change applications for Lakeside Industries Inc. The first filing is labeled in our office as TC-37-90. TC-37-90 is to move water rights 37-11811, 37-11813, 37-11814, and 37-11815. In the email map, TC-37-90 proposes to move water from the North Pivot (green place of use) to West Pivot (the purple place of use). The second filing is labeled in our office as TC-37-91. TC-37-91 is to move water rights 37-11821, 37-11822, and 37-11823. In the email map, TC-37-91 proposes to move water from the East Field (yellow place of use) to the Partial Pivot (orange place of use).

There are several questions that needed to be addressed on both temporary changes before we could move forward with processing. The questions that affects both applications were addressed first and then the questions for each application's issues were addressed separately.

- 1.) Both temporary changes do not include moving the Upper Wood River Water Users Association water rights that appear to serve the original lands being served prior to approval of the temporary changes. These water rights are 37-892 and 37-891A, and owned by Upper Wood River Water Users Association Inc. These rights have a condition that states the following:

Pursuant to a call in times of scarcity, this right is senior to all other rights that did not result from developed/saved water in the Big Wood River, as established by and subject to the provisions included within In Re Upper Big Wood River Water Users Assn, et. al., plaintiff vs. S. H. Chapman, Watermaster, Defendant in the District Court of Lincoln County dated 8/28/1922.

Since these rights are not included in the temporary change, we need to know your plans for water rights 37-892 and 37-891A assuming you have access to these water rights. The border for these water rights includes both the North Pivot and the East Field, so we need to know what will happen with these rights. We need to know if the North Pivot in Section 26 and the East Field in Sections 1 and 2 will be fallowed this year or if you plan to use 37-892 and 37-891A to irrigate them.

Answer – Mr. Shaw stated that water rights 37-892 and 37-891A, are not going to be used, and haven't been used very much in the past. Mr. Shaw stated that these rights are rarely used by the permit holder, since the rights are spread over a large area. Mr. Shaw pointed out that section 6c states that "(t)he land from which the rights are to be removed will not be irrigated."

- 2.) The water rights in both TC-37-90 and TC-37-91 are being moved to lands that are currently authorized for irrigation by ground water rights 37-7002, 37-7309, and 37-12089. These water rights supply water to 3 pivots. The temporary changes do not provide adequate coverage to provide water for all three pivots. Therefore, how you do you plan to ensure that the water involved in temporary changes TC-37-90 and TC-37-91 will not be used on the Center Pivot (the red border), since the acres irrigated by the Center Pivot are not included in the temporary changes?

Answer – Mr. Shaw informed me that the ranch manager can direct the water individually to the pivots. When the surface water is on the ranch manager informed Mr. Shaw that they will only be irrigating the outside pivots. Mr. Shaw suggested that this would allow the watermaster to perform a visual regulation where the watermaster can look at the pivots and compare whether the ground water or surface water is being diverted/delivered to determine if there is a mixing in the water uses.

- 3.) We also need to know how you will get the Big Wood River water rights to new proposed use on both temporary changes. We especially will need to know how the Big Wood River water involved in TC-37-91 can be moved from the east side of the Big Wood River to the west side of the Big Wood River.

Answer --- There is an existing diversion called the Graff 62 diversion that diverts Big Wood River water into a ditch that runs southwest to a pumping station where it will be pumped to the pivots. Mr. Shaw was not sure where the pumping station was located, but it is plumbed into the irrigation system for the 3 pivots on the west side of the Big Wood River. The ditch also goes along the top of the 17.5-acre field suggested to irrigated by TC-37-91 to be irrigated. Please see the final question concerning the 17.5-acre field. There are a couple of ponds could be used as a pumping station, but Mr. Shaw wasn't positive of the location of the pumping station.

For the East Side water rights (TC-37-91) for the East Field, they will divert the water rights into the Bypass Canal. They will not divert out of the Bypass Canal, but they will inject the water it back into the Big Wood River at Baseline Bypass Canal Return. The water will then flow approximately ½ mile down the Big Wood River to be rediverted out at the Graff 62 diversion. A ditch will divert the water from the Gaff 62 diversion to a pumping station and will also allow wild flooding directly from the ditch.

The West Side water rights (TC-37-90) will be diverted at the Glendale Canal diversion. The water will flow through the canal past the Upper Pivot to inject the water rights into the Big Wood River at the Glendale Canal Return. The water will travel approximately 770 feet down stream to be rediverted at the Graff 62 diversion.

All of the water for TC-37-90 and TC-37-91 will be rediverted through the Graff 62 diversion. Please see the attached map for my understanding how the water will be diverted through the two canals to the Graff 62 diversion.

Question Specific to TC-37-90:

Temporary change TC-37-90 proposes to move 153.9 acres from the North Pivot in Section 26 to the West Pivot in Section 33. The West Pivot that the temporary change proposes to move the water appears to only have irrigate 139 acres since the 1990's. There appears to have been a swing arm on the pivot at one time that hasn't been used in some time. Idaho Code §42-222A(6) which states in part the following:

Temporary changes shall only be approved for the purpose of providing a replacement water supply to lands or other uses which normally have a full water supply except for a drought condition.

Based on the historic use of the West Pivot, there doesn't appear to have been a full water supply for the swing arms to be used on the West Pivot since the 1990's. Do you plan to only irrigate the 139 acres, which appears to be what we could approve in a temporary transfer? Do you want to alter your temporary transfer to only move 139 acres worth of water? This would leave 14.9 acres at the original place of use that you could continue to irrigate.

The North Pivot appears to have a 14.9-acre field on the south side of the North Pivot that has recently been irrigated, so you could also move the 14.9 acres somewhere else or continue to irrigate those 14.9 acres south of the North Pivot. Both the North Pivot and the West Pivot appear to be 139 acres, so that would be a straight across swap of water rights. We simply need to know how you wish to address the 14.9 acres.

Answer – Mr. Shaw stated that they will leave the 14.9 acres on the field south of the North Pivot. The applicant will be satisfied to move only the 139 acres the west pivot.

Question Specific to TC-37-91:

The temporary change proposes to move water from the East Field in Sections 1 and 2 to the Partial Pivot in Sections 34 and 35. The water rights for the East Field where the water will be moved authorizes 100 acres of irrigation. The Partial Pivot is approximately 82.5 acres. As discussed in Idaho Code §42-222A(6) above, we cannot approve a temporary on ground that hasn't had a full water supply.

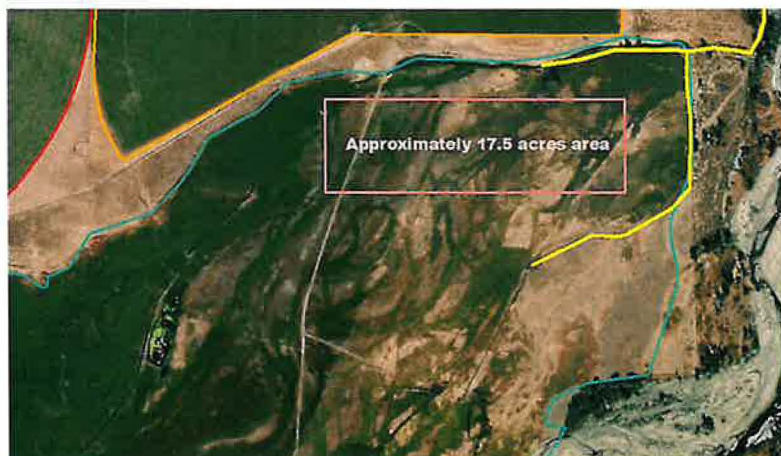
The lands south of the Partial Pivot already has a full array of water rights supplying those fields with Big Wood River irrigation rights. The rights being moved from the East Field have priority dates of 1882, 1884, and 1895. Rights south of the $\frac{1}{2}$ pivot have priorities dates 1883, 1883, 1883, and 1886. There doesn't appear to be a significant difference in the priority dates to warrant moving additional water to the fields below the Partial Pivot, since they appear to have a similar water supply with a reasonably good priority date.

Therefore you need to let us know what you propose to do with the remaining 17.5 acres?

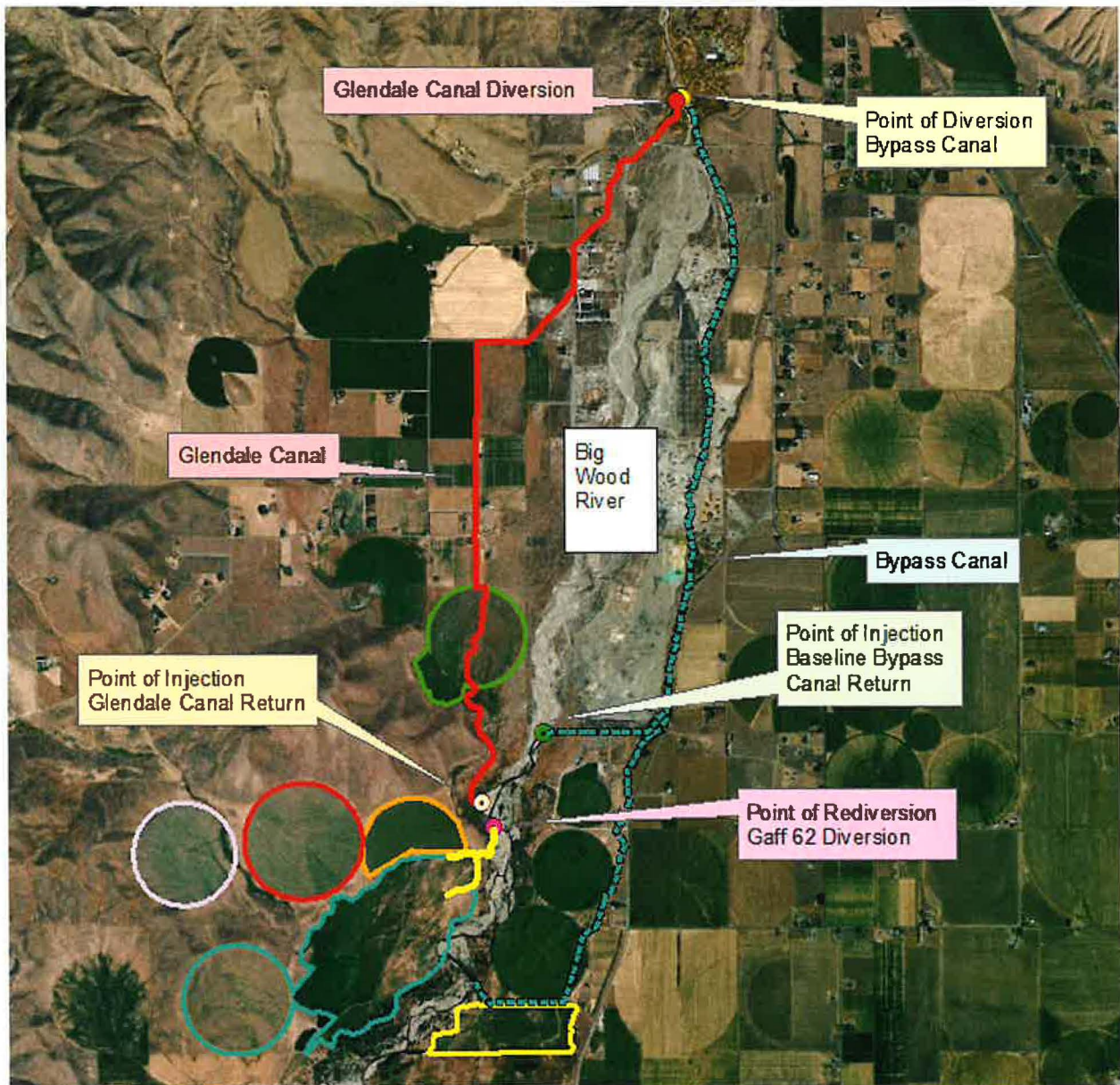
Answer – The applicant originally wanted to irrigate 17.5 acres south of the Partial Pivot. Mr. Shaw stated that the earlier priority date will allow water to be used on those 17.5 acres for a longer period of time. Mr. Shaw also stated that if there is a problem to move the 17.5 acres to the new place of use, the application would be ok with leaving the 17.5 acres on the original place of use.

CONCLUSION:

The above answers to the questions in the May 27, 2022, email appear to provide the information needed to move forward with processing of these temporary changes. The image below shows a random area of approximately 17.5 acres. It doesn't appear from the images that there is a way to separate out 17.5 acres without providing water to a larger area. If there were sprinklers or defined fields, it would make more sense, but by using wild flooding, I don't think we can approve moving the 17.5 acres without enlarging the water right by providing water to additional acres.



Maps showing points of diversion, injection, and rediversion for temporary changes TC-37-90 and TC-37-91.



Nelson, Dan

From: Nelson, Dan
Sent: Friday, May 27, 2022 1:50 PM
To: slee247@mac.com
Subject: Temporary Change Applications
Attachments: TC-37-91.pdf

Dear Ms. Lee,

Our office received 2 temporary change applications for Lakeside Industries Inc. You signed these documents, so I am assuming you are the contact for these filings. I attempted to contact you by telephone sometime between May 20th to the 24th, and again on May 26th. Therefore, I am hoping we can attain the information needed with this email to move forward on these two temporary change applications.

The first filing is labeled in our office as TC-37-90. TC-37-90 is to move water rights 37-11811, 37-11813, 37-11814, and 37-11815. In the attached map, TC-37-90 proposes to move water from the North Pivot (green place of use) to West Pivot (the purple place of use).

The second filing is labeled in our office as TC-37-91. TC-37-91 is to move water rights 37-11821, 37-11822, and 37-11823. In the attached map, TC-37-91 proposes to move water from the East Field (yellow place of use) to the Partial Pivot (orange place of use).

There are several questions that need to be addressed on both temporary changes before we can move forward with processing. I will address the questions that affects both applications first and then I will discuss each application's issues separately.

- 1.) Both temporary changes do not include moving the Upper Wood River Water Users Association water rights that appear to serve the original lands being served prior to approval of the temporary changes. These water rights are 37-892 and 37-891A, and owned by Upper Wood River Water Users Association Inc. These rights have a condition that states the following:

Pursuant to a call in times of scarcity, this right is senior to all other rights that did not result from developed/saved water in the Big Wood River, as established by and subject to the provisions included within In Re Upper Big Wood River Water Users Assn, et. al., plaintiff vs. S. H. Chapman, Watermaster, Defendant in the District Court of Lincoln County dated 8/28/1922.

Since these rights are not included in the temporary change, we need to know your plans for water rights 37-892 and 37-891A assuming you have access to these water rights. The border for these water rights includes both the North Pivot and the East Field, so we need to know what will happen with these rights. We need to know if the North Pivot in Section 26 and the East Field in Sections 1 and 2 will be fallowed this year or if you plan to use 37-892 and 37-891A to irrigate them.

- 2.) The water rights in both TC-37-90 and TC-37-91 are being moved to lands that are currently authorized for irrigation by ground water rights 37-7002, 37-7309, and 37-12089. These water rights supply water to 3 pivots. The temporary changes do not provide adequate coverage to provide water for all three pivots. Therefore, how do you plan to ensure that the water involved in temporary changes TC-37-90 and TC-37-91 will not be used on the Center Pivot (the red border), since the acres irrigated by the Center Pivot are not included in the temporary changes?

- 3.) We also need to know how you will get the Big Wood River water rights to new proposed use on both temporary changes. We especially will need to know how the Big Wood River water involved in TC-37-91 can be moved from the east side of the Big Wood River to the west side of the Big Wood River.

Question Specific to TC-37-90:

Temporary change TC-37-90 proposes to move 153.9 acres from the North Pivot in Section 26 to the West Pivot in Section 33. The West Pivot that the temporary change proposes to move the water appears to only have irrigate 139 acres since the 1990's. There appears to have been a swing arm on the pivot at one time that hasn't been used in some time. Idaho Code §42-222A(6) which states in part the following:

Temporary changes shall only be approved for the purpose of providing a replacement water supply to lands or other uses which normally have a full water supply except for a drought condition.

Based on the historic use of the West Pivot, there doesn't appear to have been a full water supply for the swing arms to be used on the West Pivot since the 1990's. Do you plan to only irrigate the 139 acres, which appears to be what we could approve in a temporary transfer? Do you want to alter your temporary transfer to only move 139 acres worth of water? This would leave 14.9 acres at the original place of use that you could continue to irrigate.

The North Pivot appears to have a 14.9-acre field on the south side of the North Pivot that has recently been irrigated, so you could also move the 14.9 acres somewhere else or continue to irrigate those 14.9 acres south of the North Pivot. Both the North Pivot and the West Pivot appear to be 139 acres, so that would be a straight across swap of water rights. We simply need to know how you wish to address the 14.9 acres.

Question Specific to TC-37-91:

The temporary change proposes to move water from the East Field in Sections 1 and 2 to the Partial Pivot in Sections 34 and 35. The water rights for the East Field where the water will be moved authorizes 100 acres of irrigation. The Partial Pivot is approximately 82.5 acres. As discussed in Idaho Code §42-222A(6) above, we cannot approve a temporary on ground that hasn't had a full water supply.

The lands south of the Partial Pivot already has a full array of water rights supplying those fields with Big Wood River irrigation rights. The rights being moved from the East Field have priority dates of 1882, 1884, and 1895. Rights south of the ½ pivot have priorities dates 1883, 1883, 1883, and 1886. There doesn't appear to be a significant difference in the priority dates to warrant moving additional water to the fields below the Partial Pivot, since they appear to have a similar water supply with a reasonably good priority date.

Therefore you need to let us know what you propose to do with the remaining 17.5 acres?

CONCLUSION:

I know this email is rather long, but there are significant issues that we need to understand before we can move forward with the approval of these two temporary changes.

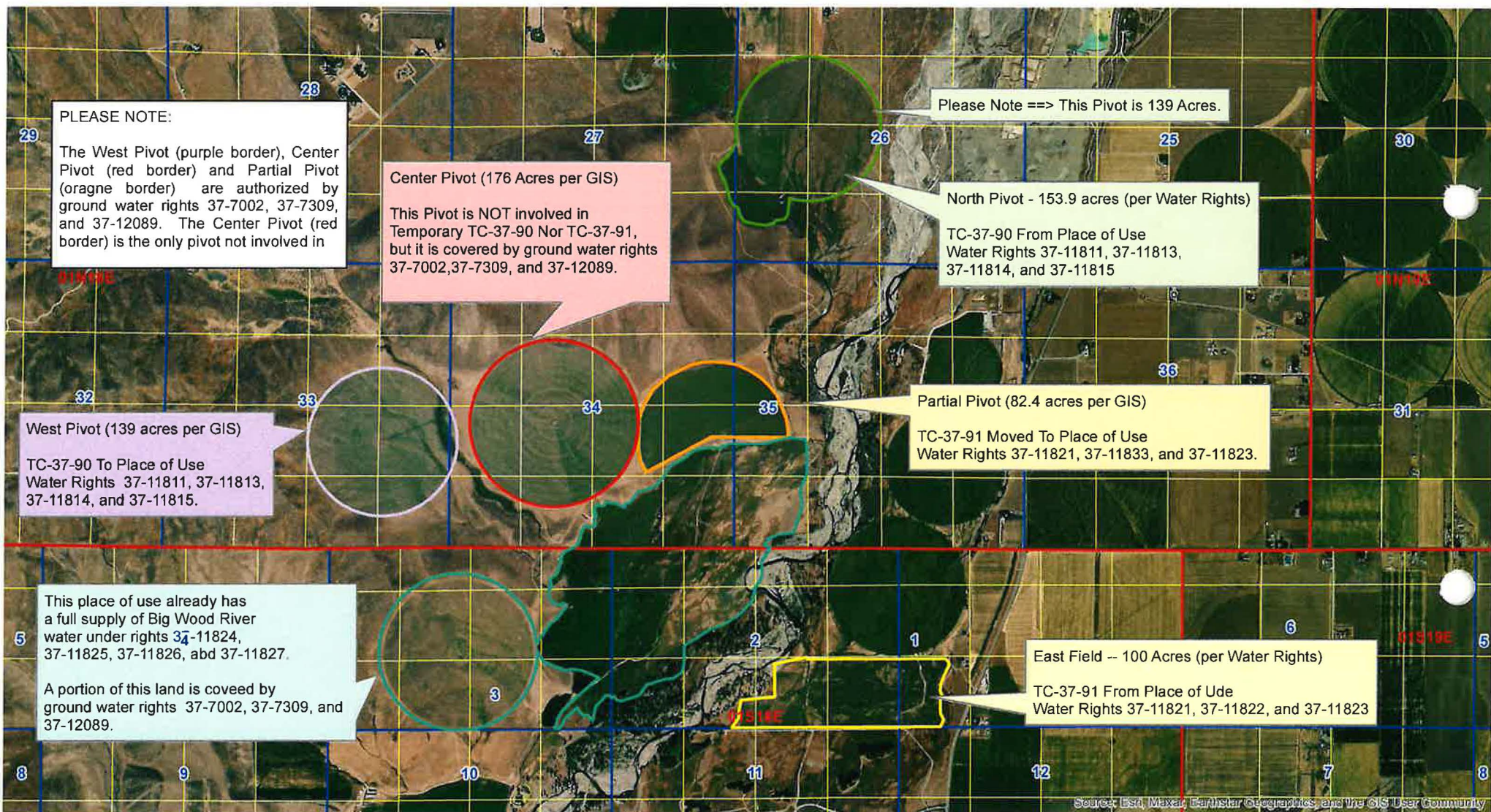
We need to understand what you are planning to do with the ground the water is being moved from, and how you plan to use the water on the new place of use. We can't approve a temporary change for lands that don't normally receive a full allocation of water, so we can't authorize the water being moved to be used on lands that

haven't been irrigated since the 1990's. We also need to understand how you plan to use the overlapping water rights from the areas you are moving the water from and the areas where you are moving the water to.

We just need to understand what you are proposing and make sure it will not enlarge the water use or injure another water users. A telephone call or a reply to this email would be a sufficient response for moving this filing forward.

Respectfully,

Daniel Nelson
Water Right Analyst 3
Idaho Department of Water Resources
Telephone (208) 287-4856
Fax (208) 287-6700 (attn: Dan Nelson)



RECEIVED

MAY 05 2022

DEPARTMENT OF
WATER RESOURCES

Wood River Ranch
PO Box 478
Bellevue, ID 83313

Idaho Department of Water Resources
322 East Front Street
Suite 648
PO Box 83720
Boise, Idaho 83702
Attention: Shelley Keen

May 4, 2022

Dear Shelley,

Attached to this letter you'll find two applications for temporary transfers of water rights under the emergency drought declaration along with a check for \$100.00.

Please contact Dave Shaw at 208-365-7684 if you have any questions about the applications.

Sincerely,

A handwritten signature in black ink, appearing to read "Sharon Lee", with a stylized flourish at the end.

Sharon Lee