

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

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF A)
WATER RIGHT TC-37-92)
IN THE NAME OF FISH CREEK)
RESERVOIR RANCH)
_____)

**ORDER AUTHORIZING
TEMPORARY CHANGE**

WHEREAS, 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

WHEREAS, section 42-222A, Idaho Code, provides 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 or temporary exchanges of water, as provided in section 42-240, Idaho Code, when the director determines that such changes can be accomplished in accordance with the provisions of section 42-222A, Idaho Code; and

WHEREAS, on June 8, 2022, Fish Creek Reservoir Ranch ("applicant") submitted the attached Temporary Change Application ("application") to the Department; and

WHEREAS, the Department has reviewed the application and has determined the application can be approved with certain conditions; and

WHEREAS, the applicant assumes all risk and is the responsible party if diversion and use of water under the temporary change approval causes injury to other water rights or constitutes an enlargement in use of the original right;

ORDER

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

1. Diversion and use of up to 1.60 cfs of right 37-2578 bearing a priority of 8/30/1955 is authorized only at the point of diversion described on the application or as otherwise approved in this order. The remainder of right 37-2578 may be diverted at the other points of diversion described on the right.
2. Use of right 37-2578 for the remainder of the irrigation season is limited to 111.0 acres at its decreed place of use and 132.0 acres at the place of use described on Temporary Change application TC-37-92.
3. The use of right 37-2578 is limited to the historical use limitations locally imposed by the watermaster and may further be limited to account for additional conveyance loss in deliverance of this temporary change.

4. Water from Fish Creek shall be delivered via existing facilities of the proposed place of use in exchange for water from the well associated with right 37-2578 being injected into Fish Creek.
5. This temporary change approval does not authorize construction of a new point of diversion on Fish Creek or construction of a new well.
6. 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 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.
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. To prevent injury to other water rights the Watermaster of Water District No. 37U is authorized to administer the temporary change approval.
11. When this right and others appurtenant to the lands identified on the application are combined, no more than 0.02 cfs per acre may be diverted at any one time at the field headgate.
12. 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.
13. This exchange is subject to a private agreement between Fish Creek Reservoir Ranch (owner of the water right) and Marty Acquistapace (owner of the lands intended to be irrigated under this approval).

DATED this 13th day of June, 2022.



Corey Skinner
Southern Region Manager

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of June, 2022, I mailed a true and correct copy, postage prepaid, of the foregoing **ORDER AUTHORIZING TEMPORARY CHANGE** to the person(s) listed below:

Documents Enclosed: Order Authorizing Temporary Change No. TC-37-92, in the name of Fish Creek Reservoir Ranch LLC; Water Right No. 37-2578

FISH CREEK RESERVOIR RANCH LLC
384 S 2900 E
PAUL ID 83347-5062

WATER DISTRICT 37-U
JERRY WEAVER, WATERMASTER
PO BOXF 186
CAREY, ID 83320-0186



Denise Maline
Administrative Assistant

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

6/13/2022

Water Right 37-2578

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	FISH CREEK RESERVOIR RANCH LLC 384 S 2900 E PAUL, ID 83347-5062 (208) 438-2400

Priority Date: 8/30/1955

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	10/31	2.740 CFS	850.5 AF
	<u>Total Diversion</u>		2.740 CFS	850.5 AF

Source and Point(s) of Diversion:

GROUND WATER	SENE	Sec. 11, Twp 01N, Rge 22E, BLAINE County
GROUND WATER	SESE	Sec. 2, Twp 01N, Rge 22E, BLAINE County
GROUND WATER	SWSW	Sec. 1, Twp 01N, Rge 22E, BLAINE County

Place Of Use:

IRRIGATION within BLAINE County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	22E	1											13.0						13.0
01N	22E	2															24.0	40.0	64.0
01N	22E	11	32.0	40.0			26.0			38.0	17.0								153.0
01N	22E	12						13.0											13.0

POU Total Acres: 243.0

Conditions of Approval:

- 046 Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
- X35 Rights 37-758, 37-760, 37-761A, 37-763, 37-764, 37-1163, and 37-2578 when combined shall not exceed the irrigation of 270 acres.
- R63 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

6/13/2022

- | | | |
|-----|-----|---|
| 4. | 065 | The right holder shall make full beneficial use of all surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right. |
| 5. | 104 | If the surface water right(s) appurtenant to the place of use is abandoned, forfeited, sold, transferred, leased or used on any other place of use, this right to divert ground water shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required. |
| 6. | 214 | Prior to the diversion and use of water under Transfer approval 78392, the right holder shall install and maintain acceptable measuring devices at the authorized points of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device. |
| 7. | 067 | The right holder shall record the quantity of water diverted and annually report diversions of water and/or other pertinent hydrologic and system information as required by Section 42-701, Idaho Code. |
| 8. | T07 | The right holder shall accomplish the change authorized by this transfer within five years of the date of this approval. |
| 9. | T08 | 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. | T19 | Pursuant to Section 42-1412(6), Idaho Code, 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 may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree. |

Dates and Other Information:

Decreed Date: 5/11/2009

State or Federal: S

Owner Name Connector: And

Water District Number: 37U

Generic Max Rate Per Acre: 0.020

Generic Max Volume Per Acre: 3.5

Mitigation Plan: False

TC-37-92

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
JUN 08 2022
DEPT OF WATER RESOURCES
SOUTHERN REGION

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 Fish Creek Reservoir Ranch Phone (208) 438-4200
Mailing Address 3845 2900E Paul, ID 83347 Email _____
Marty: (831) 801-5312 marty@bfcoinc.com

A. PURPOSE OF TRANSFER

- ☐ Change point of diversion
 ☐ Add diversion point(s)
 ☒ Change place of use
 ☐ Change purpose of use
 ☐ Other
- Describe the proposed change(s) and explain the reason(s) they are needed. Water is short at south farm; this will allow for later irrigation.

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

- | Right Number | Priority | Amount
(cfs/ac-ft) | Nature of Use | Period of Use |
|----------------|------------------|-----------------------|-------------------|-----------------------------|
| <u>37-2578</u> | <u>8/30/1955</u> | <u>1.6 cfs</u> | <u>Irrigation</u> | <u>4/15</u> to <u>10/31</u> |
| _____ | _____ | _____ | _____ | _____ to _____ |
| _____ | _____ | _____ | _____ | _____ to _____ |
| _____ | _____ | _____ | _____ | _____ to _____ |
- Total amount of water being transferred 1.6 cubic feet per second and/or _____ acre-feet per annum.
- Source of water Ground water tributary to _____.
- Point(s) of diversion: _____

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag number
<u>01N</u>	<u>22E</u>	<u>11</u>			<u>SE</u>	<u>NW</u>	<u>Blaine</u>	<u>Ground water</u>	

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	
<u>01N</u>	<u>22E</u>	<u>33</u>											<u>2.9</u>				<u>14.0</u>		<u>16.9</u>
<u>01S</u>	<u>22E</u>	<u>3</u>										<u>2.1</u>							<u>2.1</u>
<u>01S</u>	<u>22E</u>	<u>4</u>													<u>18.0</u>	<u>39.0</u>	<u>22.0</u>	<u>34.0</u>	<u>113.0</u>

Total Acres 132.0

6. General Information:

- a. Who owns the water right to be changed? Fish Creek Reservoir Ranch
- b. Describe the arrangement allowing use of the right. Private agreement
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
132 acres will not be irrigated. Only for 2022 season.
- d. Has the water right sought to be transferred been used this year? ☒ Yes ☐ No If yes, explain. Not the portion being transferred.
- e. Absent the changes, how would the right be used for the remainder of the year? It would continue irrigation at its present POU.
- f. Describe other water rights used for the same purpose. 37-758, 37-760, 37-761A, 37-763, 37-764, 37-1163
- 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

Date

FOR DEPARTMENT USE ONLY

Received by SG Date 6/8/22 \$50 fee received by SG Receipt No. 5039283

Recommend: ☒ approve ☐ deny Watermaster recommendation OK 6/9/2022

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Temporary Change Application No. TC-37-92, and said application is hereby approved, subject to the following limitations and conditions:

See attached order dated 6/13/2022

Temporary Change Expiration Date 10/31/2022

Signed this 13th day of June, 2022.

For the Director



CERTIFICATE OF ORGANIZATION LIMITED LIABILITY COMPANY

(Instructions on back of application)

FILED EFFECTIVE

2014 DEC -5 AM 9:04

SECRETARY OF STATE
STATE OF IDAHO

1. The name of the limited liability company is:

Fish Creek Reservoir Ranch, LLC

2. The complete street and mailing addresses of the initial designated office:

c/o Paul Carney, 384 South, 2900 East, Paul, Idaho 83347

(Street Address)

Same

(Mailing Address, if different than street address)

3. The name and complete street address of the registered agent:

Paul Carney

(Name)

384 S., 2900 E., Paul, Idaho 83347

(Street Address)

4. The name and address of at least one member or manager of the limited liability company:

Name

Address

DeAnn Richins

2809 E., 550 S., Paul, Idaho 83347

5. Mailing address for future correspondence (annual report notices):

c/o Paul Carney, 384 S., 2900 E., Paul, Idaho 83347

6. Future effective date of filing (optional): N/A

Signature of a manager, member or authorized person.

Signature

DeAnn Richins

Typed Name: DeAnn Richins

Signature

Typed Name: _____

Secretary of State use only

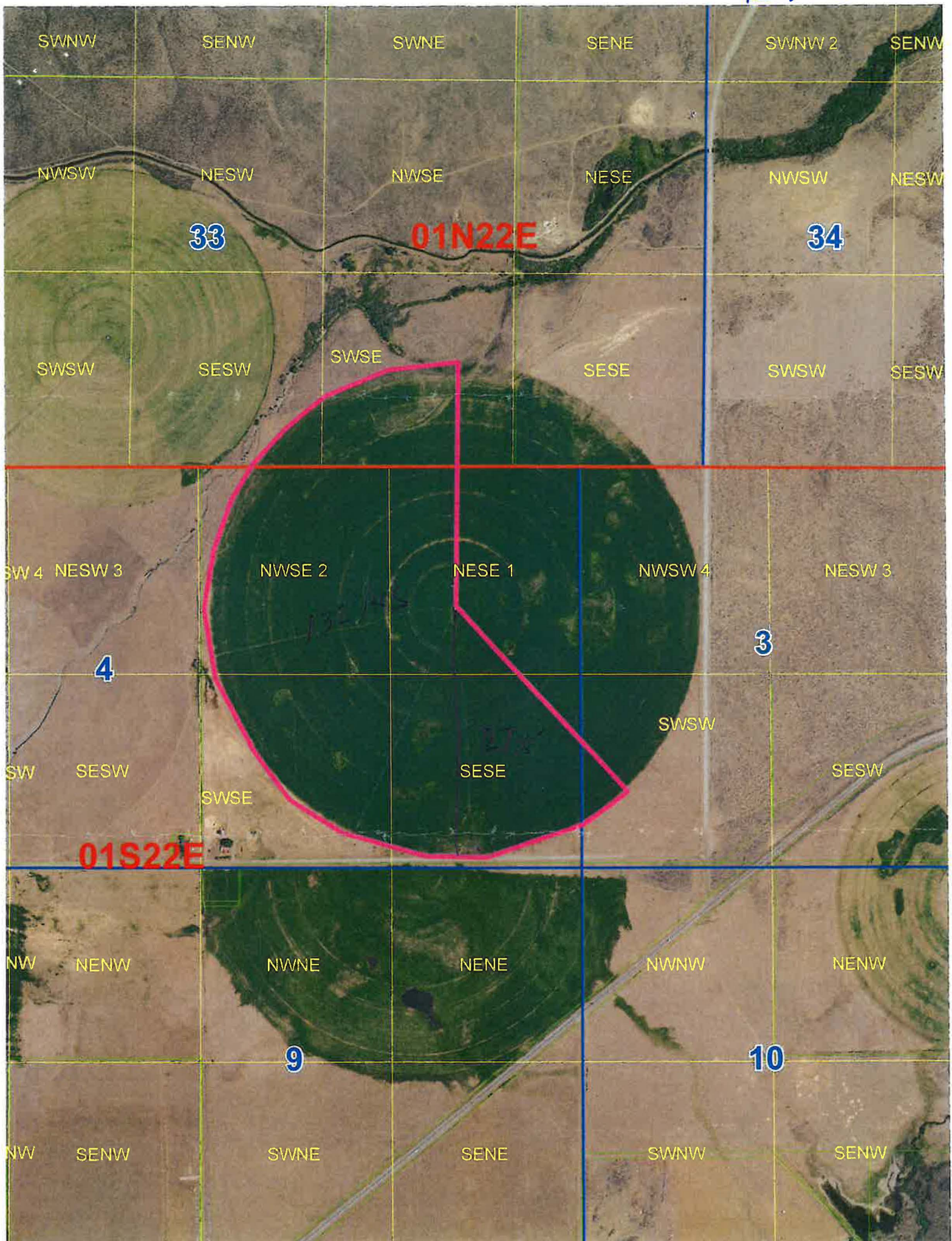
IDAHO SECRETARY OF STATE

12/05/2014 05:00

CK:5053 CT:120589 BH:1451854

1@ 100.00 = 100.00 ORGAN LLC #2

W145012



MEMORANDUM

Date: June 9, 2022
To: Fish Creek Reservoir Ranch Temporary Change Application TC-37-92 File
From: Jim Bitzenburg
Re: Comments from Jerry Weaver, Watermaster of WD-37U

Today I spoke by phone with Jerry Weaver, the Watermaster of Water District 37U about the Fish Creek Reservoir Ranch Temporary Change application TP-37-92. He was aware of the application and told me he was in favor of the proposed change and had no issues with it.