

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

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF)
WATER RIGHT NO.: 22-195 & 22-196)
)
_____)

**ORDER AUTHORIZING
TEMPORARY CHANGE**

TC-22-18

A drought emergency has been declared for Fremont and Madison Counties to allow administrative actions to lessen the severe impacts of the drought conditions in the counties; and

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 Idaho Code §42-222A; and

On May 12, 2022, Canyon Creek Canal Co. 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. Diversion and use of Right No(s). 22-195 and 22-196 is authorized only at the points of diversion and place of use described on the application.
2. This temporary change approval does not authorize construction of a new well or diversion works as a new point of diversion.
3. 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.
4. 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.

5. Right(s) 22-195 and 22-196 are limited to the irrigation of a combined total of 10,615 acres in a single irrigation season. Place of use is within the area served by Canyon Creek Canal Company.
6. No more water may be diverted from Canyon Creek and the Teton River under this right than is actually available and could have been diverted by the Canal Company at its original point of diversion in T5N R43E S6 Lot 4, as demonstrated by the record of the required measuring devices.
7. The right holder shall install a permanent measuring device in Canyon Creek at the point of diversion located in T5N R43E S6 Lot 4. The right holder shall also install a permanent measuring device in Canyon Creek Canal and at each additional point of diversion.
8. This right is subject to all prior and intervening water rights which would otherwise be injured by the approval of transfer 1985.
9. 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.
10. 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.
11. 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.
12. The watermaster of Water District No. 1 is authorized to administer the temporary change approval.
13. 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 25th day of May, 2022.



James Cefalo
Eastern Region Manager

RECEIVED

MAY 20 2022

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Print Form

Department of Water Resources
Eastern Region

TEMPORARY CHANGE APPLICATION

AMENDED

(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.)

TC-22-18

Name of Applicant Canyon Creek Canal Company, Inc. (CCCC)
Mailing Address Dave Schwendiman, President - 2552 N 15000 E, Newdale, ID 83436Phone 208-313-7515
Email dave7515@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.

CCCC wishes to add 2 points of diversion to its water rights. The 2 PODs are owned by CCCC shareholders (Schwendiman and Ricks), and will allow these 2 shareholders to divert their CCCC shares at PODs located on the Teton River, thereby avoiding the conveyance loss associated with diversion of the shares at the uppermost POD located on Canyon Creek. This will, in turn, serve to delay reliance on storage water delivery.

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
22-195	06/01/1900	16	Irrigation	4/15 to 10/31
22-196	06/01/1902	54	Irrigation	4/15 to 10/31
				to
				to

2. Total amount of water being transferred Canyon Creek cubic feet per second and/or Teton River acre-feet per annum.

3. Source of water Canyon Creek tributary to Teton River

4. Point(s) of diversion:

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag number
07N	42E	23		SE	NW	SE	Fremont	Canyon Creek	V Schwendiman Pump
07N	42E	21		NW	SW	NW	Madison	Canyon Creek	R B Ricks Pump

5. Lands irrigated or place of use:

C. Land Acquired or Proposed																			
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	
2001 will remain unchanged																			

Total Acres 10615

RECEIVED

MAY 12 2022

DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Print Form

TC-22-18

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 Canyon Creek Canal Company, Inc. (CCCC)Phone 208-313-7515Mailing Address Dave Schwendiman, President - 2552 N 15000 E, Newdale, ID 83436Email dave7515@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. _____

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22-196	06/01/1902	54	Irrigation	4/15 to 10/31
				to
				to

See attachment - 2022 water allocation

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

3. Source of water Canyon Creek tributary to Teton River

4. Point(s) of diversion:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag number
07N	42E	23		SE	NW	SE	Fremont	Teton River & Groundwater	V Schwendiman Pump
07N	42E	21		NW	SW	NW	Madison	Teton River & Groundwater	R B Ricks Pump

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	
POD will remain unchanged																			

Total Acres 10615

SUPERCEDED

MAY 19 2022

Ident. No. _____

Department of Water Resources Eastern Region	Point of Diversion/Place of Use Supplement
	TEMPORARY

☐ Adjudication Claim
☐ Statutory Claim

[illegible]

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below.

[illegible]

Page _____

6. General Information:

- a. Who owns the water right to be changed? Canyon Creek Canal Company (CCCC)
The CCCC water rights will continue to irrigate the same historic POU identified on the Water Right Reports.
- b. Describe the arrangement allowing use of the right.
A portion of the water rights will simply be diverted at these two additional PODs.
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
No change.
- d. Has the water right sought to be transferred been used this year? ☒ Yes ☐ No If yes, explain. _____
That portion of the CCCC water right, owned by other shareholders, has been diverted at PODs identified on the water rights located on Canyon Creek and the Teton River.
- e. Absent the changes, how would the right be used for the remainder of the year? _____
It would be used for irrigation by other shareholders in the CCCC.
- f. Describe other water rights used for the same purpose. See attachment.
- 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.

David Schwendman
Signature of Applicant

5-5-22
Date

FOR DEPARTMENT USE ONLY

Received by Megan Jenkins Date 5/12/22 \$50 fee received by Megan Jenkins Receipt No. C112761
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

May 6, 2022

Mr. Tony Olenichak
Watermaster
State of Idaho
Water District #1
900 North Skyline Dr. STE A
Idaho Falls, Idaho 83402

Re: Canyon Creek Canal Company 2022 water right measurement

Dear Mr. Olenichak

On behalf of the Canyon Creek Canal Company (CCCC), I'd like to update you of our 2022 irrigation plans. As you are aware, our canal system experienced a landslide failure during the summer of 2019, and we have since been collaborating with Friends of Teton River on changing updating our irrigation system with future investment in our irrigation infrastructure.

As we continue with this irrigation planning, we would like to notify you and Water District #1, that the CCCC Canal point of diversion (POD) located on Canyon Creek at approximate river mile 10.25 (RM) will again not be utilized during this 2022 irrigation season. We (the CCCC) would like to respectfully request that our water rights/shares be fully allocated per Table 1 below at locations identified in Figure 1 Map. As a result of Governor Little's Drought Declaration order this past week, we seek to assign some of these CCCC water shares temporarily to existing Teton River POD's owned by the respective CCCC water-users for 2022.

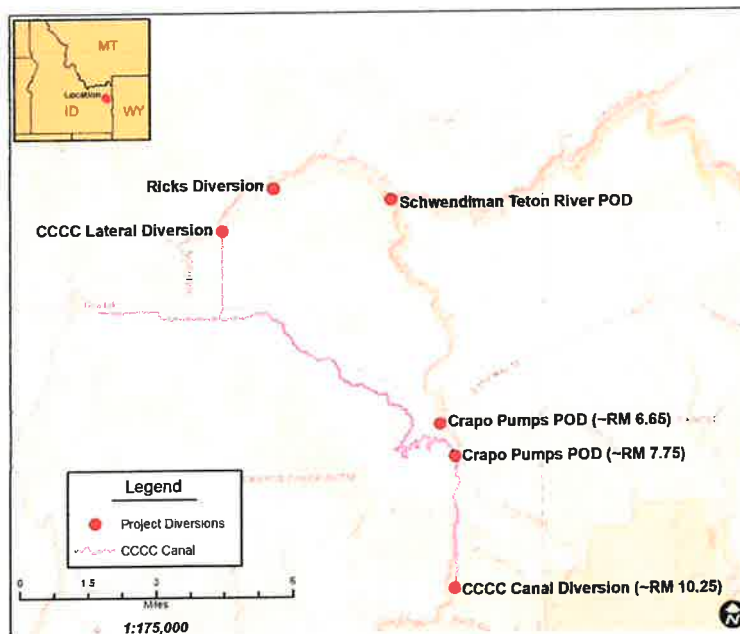


Figure 1. Overview CCCC PODs and Teton River PODs.

The Canyon Creek Canal Company owners, water shares and associated flow rates within the company recognized by Idaho Department of Water Resources (IDWR) are identified in Table 1.

CANYON CREEK CANAL COMPANY
13289 E. Hwy 33
NEWDALE, ID. 83436

Again, it is our request that water shares be allocated to identified pump locations shared in Figure 1 and Table 1 respectively.

Table 1.

Owners	CCCC shares	GPM	CFS	CCCC Lateral (POD 4)	Schwendiman (POD) Teton River	Ricks (POD) Teton	Crapo Pumps (PODs 2 and 3)
Walters	128	2530.00	5.64	5.64			
Lerwill	3	59.00	0.13				0.13
Little	136	2688.17	5.99	5.99			
Norvue Farms	276.5	5465.29	12.18				12.18
Brent Ricks	37.5	741.22	1.65			1.65	
Shane Harris	35	691.81	1.54	1.54			
Dwight Little	60	1185.96	2.64	2.64			
Val Schwendiman	432	8538.90	19.03		19.03		
Skyline Farms	318.5	6295.46	14.03				14.03
David Schwendiman	112.5	2223.67	4.95		4.95		
Wayne Harris	50.5	998.18	2.22	2.22			
TOTAL	1589.5	31,418.00	70.00	18.03	23.98	1.65	26.34

Please review and let us know if you have any additional comments or areas with which we may be able to assist with this request, processing and moving forward.

Sincerely,

David Schwendiman
President
Canyon Creek Canal Company
208.313.7515

CANYON CREEK CANAL COMPANY
13289 E. HWY 33
NEWDALE, ID. 83436

F. Describe other water rights used for the same purposes:

POD Description	Water Source	Other Water Rights Diverted at this POD
V Schwendiman Pump: SENWSE, Section 23, Township 07 N, Range 42 E, Fremont County	Teton River and Groundwater	22-7210 22-7271 22-7313A 22-7313B
R B Ricks Pump: NWSWNW, Section 21, Township 07 N, Range 42 E, Madison County	Teton River and Groundwater	22-7247 22-7286 22-13830



Officers of the Board

Jeff Raybould-Chairman
Scott Neville-Vice Chairman
George Crapo-Treasurer
Aaron Dalling-Executive Director

Fremont-Madison Irrigation District

350 North 6th West

PO Box 15

St. Anthony, Idaho 83445

Phone: (208) 624-3381 Fax: (208)624-3990

Email: fmid@myidahomail.com



Board Members

Douglas Hillam
Mark Ricks
Dennis Fransen
Cleve Bagley

November 3, 2021

Dear Grant Review Committee,

Fremont-Madison Irrigation District (FMID) holds the contract with the Bureau of Reclamation (Reclamation) for the storage water in Island Park and Grassy Lake Reservoirs. FMID is charged with delivering this supplemental storage water to over 160 river diversions within the Henry's Fork Watershed including Canyon Creek Canal Company (CCCC).

FMID strongly supports the proposed project that Friends of the Teton River (FTR) and CCCC are collaborating on. We believe this project will not only benefit the fishery and CCCC shareholders, but that it will also benefit all irrigators on the Teton River.

CCCC has suffered significant seepage loss since it came into operation. We believe by closing the canal and transferring the associated water to pumps on the lower portion of Canyon Creek and the Teton River these seepage losses will be eliminated and there will be a reduction in overall diversion. This will result in more water being available to lower Teton River irrigators.

Additionally, conflicts among Teton River irrigators have been identified in several planning efforts conducted by FMID as one of the most significant issues within our irrigation District. Most notably, this was identified as an issue in a Conservation Plan completed in 2009 with the assistance of Reclamation.

We believe this project helps address this issue and will result in reduced conflict in future years between irrigators in the Teton Canyon area and irrigators on the lower Teton River.

There are many other benefits to this project that we see but are difficult to explain in a letter of recommendation. Suffice it to say, we strongly encourage Reclamation fund this project based on its merits.

Sincerely,

Aaron Dalling

Aaron Dalling

Holliday, Michael

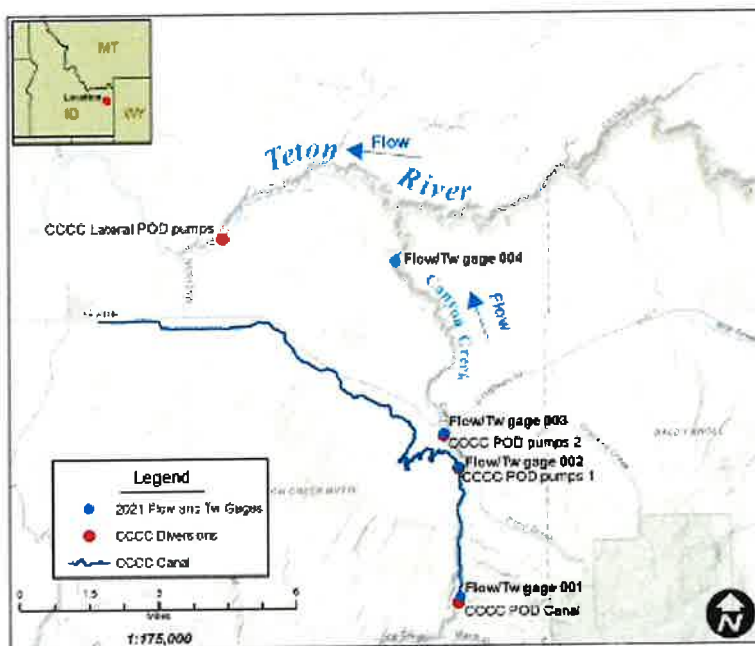
From: Sarah Lien <sarah@tetonwater.org>
Sent: Friday, May 20, 2022 1:39 PM
To: Holliday, Michael
Subject: Re: Canyon Creek Canal Company Temporary Change Application
Attachments: Amended Page 1.pdf

Hi Michael,

The changes you made to the diversion names on the supplement page look good. Thanks for fixing my errors.

Please find, attached, an amended page 1 that changes the source of water to Canyon Creek.

As for monitoring, FTR and the CCCC are actively monitoring flows and temperature at several locations on the creek. The map, below, depicts the 4 locations monitored in 2021. In 2022, flow monitoring will be conducted at the 3 sites upstream of the HWY 33 bridge, identified as Flow TW gage 001, 002, and 003 on the map. For water right accounting purposes, WD01 is interested in the information relevant to the Flow TW gage 001, in accordance with condition 13 on the water rights which specifies that CCC shall install a measuring device on Canyon Creek. The measuring devices that are being used are instantaneous flow loggers, calibrated annually through individual flow measurements at each site. Let me know if you have more questions about that. CCCC and FTR have provided that information to WD01 on an annual basis.



Thanks again,
Sarah

From: Holliday, Michael <Michael.Holliday@idwr.idaho.gov>
Sent: Thursday, May 19, 2022 6:04 PM

To: Sarah Lien <sarah@tetonwater.org>

Subject: RE: Canyon Creek Canal Company Temporary Change Application

Sarah,

I changed a couple of the diversion names on the supplement page. See attached and let me know if that works for you.

After talking with you I noticed a problem with page 1 of the application. The source for the 2 additional pumps should be Canyon Creek even though the pumps are located on the Teton River. Ground water should also be removed as a source. Please send me an amended page 1. Sorry I didn't catch that earlier. Feel free to call if you have questions.

During our conversation you mentioned something about monitoring the flows at the outlet of Canyon Creek. How are you doing that, and how is it being quantified? Is there some kind of measuring device in place?

Thanks.

Michael

From: Sarah Lien <sarah@tetonwater.org>

Sent: Thursday, May 19, 2022 4:27 PM

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

Subject: Canyon Creek Canal Company Temporary Change Application

Michael - Thanks for your time today. It is greatly appreciated.

I've attached the POD Supplement, describing all of the existing legal POD's listed on the Canyon Creek Canal Company water rights. Additionally, I've attached the letter of support FMID provided in support of the WaterSMART grant application. And I'm sure that Aaron Dalling would be happy to talk to you if you have additional questions about how FMID perceives things related to Canyon Creek Canal Company water delivery/allocation this year, or in the future.

Please don't hesitate to reach out if you have any additional thoughts or questions.

Best,
Sarah

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

RECOMMENDATION OF WATERMASTER

Application No: TC-22-18

Applicant's Name: CANYON CREEK CANAL 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: _____

c) ☐ I oppose approval of this application for the following reasons: _____

d) ☐ Additional Comment: _____

Dated this 20th day of MAY, 2022.

Water District No: 1

Tony Olewick
Watermaster's Signature

Use reverse side of page if you need more space.