

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

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF)
WATER RIGHT NOS.: 35-14686 &)
35-14688)
_____)

**ORDER AUTHORIZING
TEMPORARY CHANGE**

TC-35-07

A drought emergency has been declared for Madison County to allow administrative actions to lessen the severe impacts of the drought conditions in the county; 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 July 20, 2021, Logan and Whitney McGarry 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 the changed portions of Right No(s). 35-14686 and 35-14688 is authorized only at the point 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 35-14686 is limited to the irrigation of 86 acres within the authorized places of use in a single irrigation season. Rights 35-14686 and 35-14688 when combined shall not exceed a total diversion rate of 2.04 cfs, a total annual maximum diversion volume of 496 af, and the irrigation of 124 acres.
6. 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.
7. 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.
8. 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.
9. The watermaster of Water District No. 120 is authorized to administer the temporary change approval.
10. This temporary change approval expires on October 31, 2021 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 22nd day of July, 2021.



James Cefalo
Eastern Region Manager

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

JUL 20 2021

TEMPORARY CHANGE APPLICATION

Department of Water Resources
Eastern Region

(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 Logan MC Garry; Whitney MC Garry

Phone

208-206-3793

Mailing Address 1038 E Butte Rd. Menan, ID 83434

Email

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.
Change Point of Diversion and Place of Use to Cover property where water right 35-14685 is caught in the Surface Water Coalition water call.

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
35-14686	01/10/1957	~~0.10~~ 0.23	Irrigation	04/01 to 10/31
35-14688	04/07/1958	~~0.23~~ 0.10	Irrigation	04/01 to 10/31
				to
				to

2. Total amount of water being transferred 0.27 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Ground Water tributary to Sinks

4. Point(s) of diversion:

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag number
05N	38E	10			NW	SW	Madison	Ground Water	WMIS # 200460

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	
05N	38E	10										10.5	6.0						16.5

Total Acres 16.5

6. General Information:

- a. Who owns the water right to be changed? Kathleen and Tim MC Garry
- b. Describe the arrangement allowing use of the right. Signature of Temporary Transfer
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
Land 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? To irrigate pasture between pivots.
- f. Describe other water rights used for the same purpose. 35-14685
- g. Remarks: 35-14685 is subject to Surface Water Coalition water call affecting water rights junior to May 30, 1989.

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.

X Tim McGarry X Kathleen McGarry 7-19-21
Signature of Applicant Date
X Tim McGarry X Kathleen McGarry

FOR DEPARTMENT USE ONLY

Received by CxH Date 7/20/21 \$50 fee receipted by CxH Receipt No. E047200
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

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

RECOMMENDATION OF WATERMASTER

Application No: TC-35-07

Applicant's Name: LOGAN + WHITNEY MCGARRY

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 22nd day of July, 2021.

Water District No: 120

Blake Jordan

Blake Jordan
Watermaster's Signature

Use reverse side of page if you need more space.