

2005

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
TEMPORARY CHANGE OF A)
WATER RIGHT 74-373/374/985/1066A)
74-1066B/1067/1068/1800A/1800B)
74-1072/1073)

ORDER AUTHORIZING
TEMPORARY CHANGE

TC-74-09

WHEREAS, a drought emergency has been declared for Lemhi 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 authorized under water rights when the director determines that such changes can be accomplished in accordance with the provisions of section 42-222A, *Idaho Code*; and

WHEREAS, on May 20, 2005, Hal Hawks Guardian Limited Partnership #2 submitted the attached Temporary Change Application TC-74-09 to the Department; and

WHEREAS, 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). 74-373/374/1066A/1066B/1067/1068/1800A/1800B/1072/1073 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 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 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.

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5. Right(s) 74-373/374/1066A/1066B/1067/1068/1800A/1800B/1072/1073 are limited to the irrigation of a total of 1045.4 acres in a single irrigation season
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 written consent of such corporation or irrigation district.
7. The applicants agree 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 applicant is subject to all conditions and limitations listed on the application under the section titled "ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES"
10. The applicant shall measure the amount of water diverted and shall report the amount of water diverted under this approval.
11. The Water master of Water District No. 74 is authorized to administer the temporary change approval.
12. This Temporary change approval expires on October 31, 2005 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 23rd day of May, 2005.


Ronald D. Carlson
Eastern Regional Manager

Rieth Wilson

Form 42-222A
12/99

Ident. No. TC-74-09

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TEMPORARY CHANGE APPLICATION

(To change point of diversion, place of use or purpose of use)

Name of Applicant Guardian Limited Partnership #2 Phone 208-227-9008
Post Office Address 737 So. Capital Idaho Falls, Id 83402 Ext 107

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 the reason(s) thereof Pivots & wiper pivots have been installed on the land and the land currently being irrigated by sprinklers is not exactly the same as shown under existing water rights. The purpose of this application is to reconfigure the place of use under the water rights so that the current watering system can be used this season. A permanent transfer is being reviewed at this time.

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>See Attachment "A"</u>				to _____
				to _____
				to _____
				to _____

2. Total amount of water being transferred 40.25 cubic feet per second and/or _____ acre-feet per annum.
3. Source of water Little Sawmill tributary to Hayden Creek
4. Point(s) of Diversion: Hayden Creek Lemhi River Hayden Creek East Fork

Ident No.	Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion
<u>See Attachment "B"</u>									

5. Lands irrigated or place of use:

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
<u>See Attachment "C"</u>																			

Total Acres 1042.4

TC-74-09

6. General Information:

- a. Who owns the water right to be changed? Applicant
- b. Describe the arrangement allowing use of the right NA
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
That land with a Right, not under a pivot would not be irrigated. But other ground would be irrigated to facilitate the use of pivots.
- d. Has the water right sought to be transferred been used this year? NO If yes, explain, _____
- e. Absent the changes, how would the right be used for the remainder of the year? The Rights could not be used AND it would be impossible to use the pivots for irrigation this year.
- f. Describe other water rights used for the same purpose.
None
- g. Remarks: A permanent Transfer to facilitate the use of current water Rights HAS been sent to IDWR.

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)

FOR DEPARTMENT USE ONLY

Received by Kaw Date 5/20/05 Fee 50⁰⁰
Received Kaw 5/20/05 # E030899 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. TC-74-09

And said application is hereby approved subject to the following limitations and conditions:

Witness my hand this 23rd day of May, 2005.

[Signature]
For the Director

Attachment A

Part 1.B.1 - Description of Rights

<u>Basin</u>	<u>Sequence</u>	<u>Suffix</u>	<u>Priority Date</u>	<u>Rate(cfs)</u>	<u>Source</u>
74	373		1899-06-15	0.60	LITTLE SAWMILL CREEK
74	374		1899-06-15	0.60	LITTLE SAWMILL CREEK
74	985		1/28/1911	3.58	HAYDEN CREEK
74	1066	A	10/6/1902	0.66	HAYDEN CREEK
74	1066	B	10/6/1902	15.75	HAYDEN CREEK
74	1067		2/27/1915	1.56	HAYDEN CREEK
74	1068		11/5/1908	5.30	HAYDEN CREEK
74	1800	A	1/28/1911	0.28	HAYDEN CREEK
74	1800	B	1/28/1911	0.24	HAYDEN CREEK
74	1072		4/1/1965	0.88	HAYDEN CREEK EAST FORK
74	1073		7/30/1902	10.80	HAYDEN CREEK EAST FORK
Total =				40.25	cfs

Attachment B

Part 1.B.4 - Points of Diversion

Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name of Diversion
		SE	SW	7	17N	24E	Lemhi	Little Sawmill Creek
		NE	SE	22	17N	23E	Lemhi	Hayden Creek
		SW	SW	14	17N	23E	Lemhi	Hayden Creek
7		NE	NW	32	18N	24E	Lemhi	Hayden Creek
	NW	NW	SE	34	17N	23E	Lemhi	East Fork Hayden Creek

Attachment C

Part 1.B.5 - Lands Irrigated or Place of Use

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	SE	SE	SE	SE	SE	SE	SE	SE	
17N	23E	1				9.8									25.8		7.1	39.2	81.9
17N	23E	12	22.6	22.2		28.3									24.2				97.3
17N	24E	5										13.0	11.0						24.0
17N	24E	6		10.3	36.1	13.9	21.7	2.4	14.5	40.0	40.0	25.5	20.8	31.0	34.6	39.0	30.2	35.7	395.7
17N	24E	7	27.6	15.4	14.4	4.6	40.0	36.1	32.3	21.8	7.6	34.7							234.5
17N	24E	8						2.0											2.0
18N	24E	31				2.0								23.0	32.0	4.4	34.8	34.2	130.4
18N	24E	32							24.8	21.5		25.0	5.3						76.6

Total Acres **1042.4**

