

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 208-523-0620

Post Office address c/o Holden, Kidwell, Hahn & Crapo, PLLC, P.O. Box 50130, Idaho Falls, Idaho 83405-0130

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 and partial pivots have been installed on the land over the years and the land currently irrigated by the pivots 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 pivots and partial pivots can be operated this season. Because of the drought and the prior excess irrigation, none of the lands under the Sawmill pivot or the Wiper pivot will be irrigated this year.

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

- | 1. | <u>Right Number</u> | <u>Priority</u> | <u>Amount (cfs/ac-ft)</u> | <u>Nature of Use</u> | <u>Period of use</u> |
|----|---|------------------|---------------------------|----------------------|----------------------|
| | <u>74-1067</u> | <u>2/27/1915</u> | <u>1.0 cfs</u> | <u>irrigation</u> | <u>3/15 To 11/15</u> |
| | <u>74-1072</u> | <u>4/1/1965</u> | <u>0.88 cfs</u> | <u>irrigation</u> | <u>3/15 To 11/15</u> |
| | <u>74-1073</u> | <u>7/30/1902</u> | <u>3.44 cfs</u> | <u>irrigation</u> | <u>3/15 To 11/15</u> |
| | | | | | <u>To</u> |
| 2. | Total amount of water being transferred <u>5.32</u> Cubic feet per second and/or _____ Acre-feet per annum. | | | | |
| 3. | Source of water <u>for right no. 74-1067 the source is Hayden Creek, tributary to the Lemhi River; for rights nos. 74-1072 and 74-1073, the source is the East Fork of Hayden Creek, tributary to Hayden Creek, but because of serious erosion problems, water will not be diverted from East Fork.</u> | | | | |

4. Point(s) of Diversion:

[illegible]

5. Lands irrigated or place of use:

TC-74-06

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	
17N	23E	22	29																29
	24E	5									7	8							15
		6										4		12			5		21
		7	1				28												29
18N	24E	31															25		25
		32										7							7

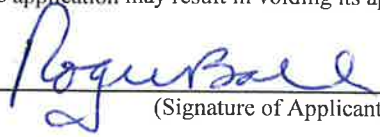
Total Acres: 126

6. General Information:

- Who owns the water right to be changed? Applicant
- Describe the arrangement allowing use of the right: not applicable
- Describe the effect on the land now irrigated if the change is approved pursuant to this application:
126 acres of the land previously irrigated will no longer be irrigated so that the land under the pivots and partial pivots can be irrigated.
- Has the water right sought to be transferred been used this year? No If yes, explain. _____
- 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 operate the pivots to cover all of the land under the pivots.
- Describe other water rights used for the same purpose. 74-373, 74-374, 74-985, 74-1066A, 74-1066B and 74-1068
- Remarks: Apparently most of the pivots were installed subsequent to the entry of the Lemhi River decree from which these water rights are derived. We have attached a map prepared by Roxanne Brown on April 16, 2004, which shows the pivots, together with a memo from Roxanne Brown to Tim Luke showing the acreages not covered within each pivot. For the 2004 irrigation season, none of the land in the Sawmill pivot or the Wiper pivot will be irrigated. Ms. Brown calculated that there is a total of 126 acres within the Little pivot, the Section 6 pivot, the Little Wiper pivot, the Number 1 pivot and the Corner shown on her map that presently do not have water rights appurtenant thereto. This temporary change will transfer rights under the three referenced rights for irrigation of this 126 acres. Because of serious erosion problems that resulted from the 2003 fire, the ditch from the East Fork of Hayden Creek will not be used; rather, the water will be allowed to run into Hayden Creek and will all be diverted from the points of diversion on Hayden Creek.

TC-74-06

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)

FOR DEPARTMENT USE ONLY

Received by: KCW Date 5/12/04 Fee 50⁰⁰
 Received KCW # E029817 Recommend: ✓ Approval ✓ Deny
 Watermaster recommendation NO OPPOSITION TO TEMP CHANGE

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Temporary Change Application No. TC-74-06
 and said application is hereby APPROVED, subject to the following limitations and conditions:

Witness my hand this 13th day of May, 2004:


For the Director

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

IN THE MATTER OF APPLICATION FOR)
TEMPORARY CHANGE OF A)
WATER RIGHT 74-1067, 74-1072, &)
74-1073 for)
Guardian Limited Partnership #2)

**ORDER AUTHORIZING
TEMPORARY CHANGE**

TC-74-06

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 12, 2004, Hal Hawkins for
Guardian Limited Partnership #2 submitted
the attached Temporary Change Application TC-74-06 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:

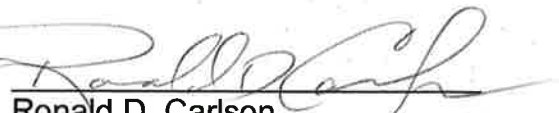
1. Diversion and use of right no(s) 74-1067, 74-1072, & 74-1073 is authorized
only at the point of diversion and place of use described on the application.
2. This temporary Change approval does not authorize construction of a new well as a new point
of diversion.
3. The applicant assumes all risk of 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.

ORDER AUTHORIZING
TEMPORARY CHANGE

TC-74-06

5. Right(s) 74-1067, 74-1072, & 74-1073 are limited to the irrigation of a total of 126 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 shall measure the amount of water diverted and shall report the amount of water diverted under this approval.
10. The Water master of Water District No. 74 is authorized to administer the temporary change approval.
11. This Temporary change approval expires on December 31, 2004 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 13th day of May, 2004.


Ronald D. Carlson
Eastern Regional Manager

TC-74-06

12/99

For SDS-7177 on R12th.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
RECOMMENDATION OF WATERMASTER

Application No: _____

Applicant's Name: Guardian Ltd Partnership #2 (Levick Ranch)

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: _____

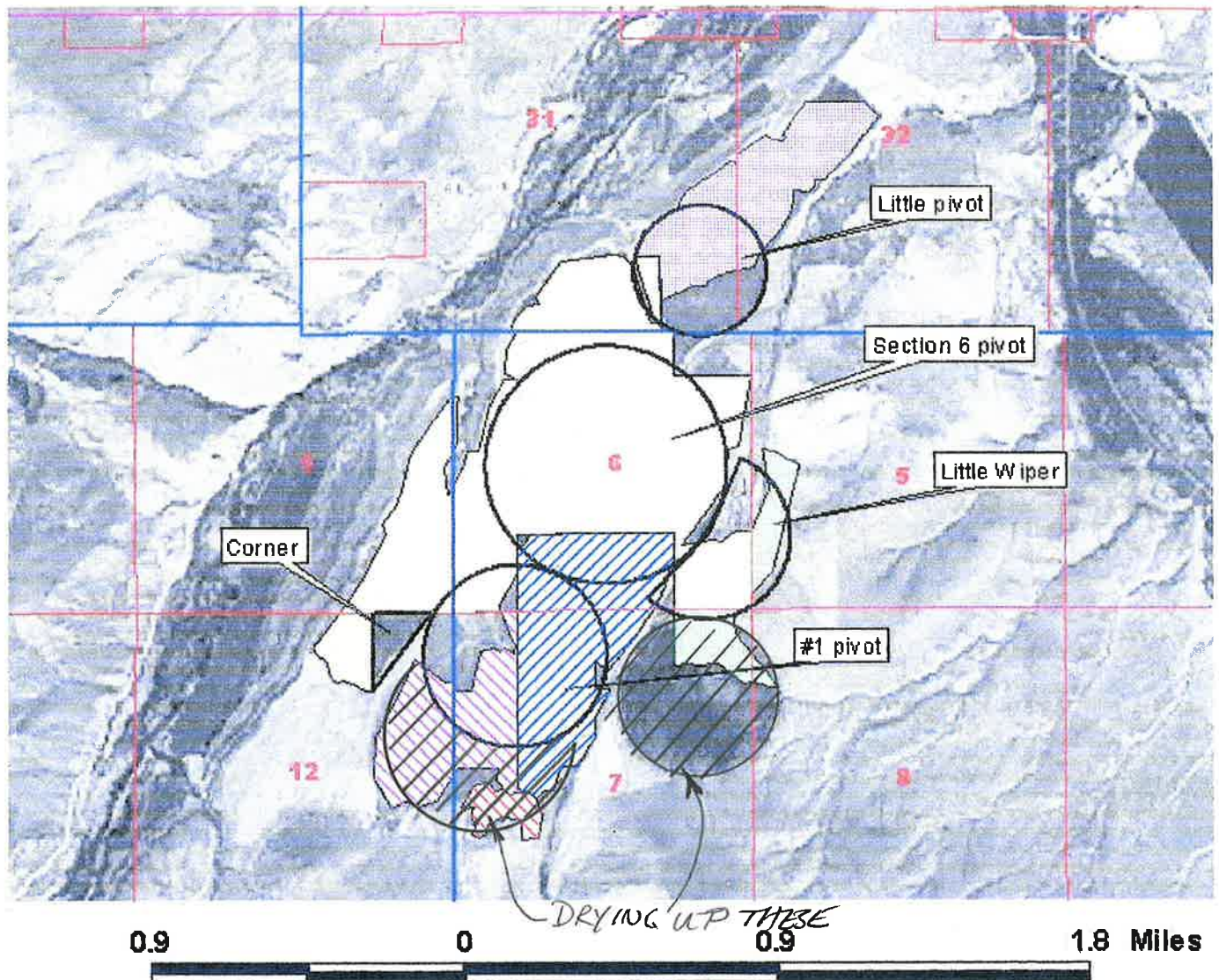
- d) ☐ Additional Comment: _____

Dated this 12 day of May, 2004Water District No: 24

Rich Sager
Watermaster's Signature

Use reverse side of page if you need more space.

TC-74-06



-  74-00985 (Hayden Cr.)
-  74-01066A (Hayden Cr.)
-  74-01066B (Hayden Cr.)
-  74-01067 (Hayden Cr.)
-  74-01068 (Hayden Cr.)
-  74-01072 (EF Hayden Cr.)



TC-74-06

TC-74-06

Idaho Dept. of Water Resources
1301 N. Orchard Boise, ID
April 16, 2004

To: Tim Luke
From: Roxanne Brown
Subject: Guardian Pending NOV (Ball) – Hayden Creek

Tim, Attached are copies of my map and preliminary findings concerning Guardian's irrigation of land not covered by a current valid water right.

It is probably easiest to understand if I reference the map. Jim Dartt, Ranch Manager for Guardian, provided the precise sizes of the pivots, which I was able to layer onto the 2003 satellite photography for the area, with the exception of the pivot labeled "Wiper pivot". Jim indicated a total of 109 acres under this pivot, but the satellite image shows a pivot of approximately 130 acres. I used my calculated size for analyzing the Wiper pivot.

Attachment 1 shows each pivot and the "uncovered" acres under each pivot. Uncovered acres, those without a current valid water right, were calculated using Arcview. The only other uncovered parcel of significant size is labeled "Corner" on the map. This parcel measures approximately 14 acres. The uncovered acres are summarized as follows:

Name of Parcel	Uncovered Acres
Corner	14.0
Little Pivot	32.0
Section 6 Pivot	4.0
Little Wiper Pivot	32.0
Pivot #1	44.0
Sawmill Pivot	118.0
Wiper Pivot	21.0
Total	265.0

I understand the following from conversations with Jim Dartt, Hal Hawkins (CEO of the corporation running this property) and Kent Foster (attorney for Roger Ball, owner of this property):

1. Guardian does not intend to operate the Sawmill or Wiper pivots this season, nor irrigate the land under these pivots
2. Hal Hawkins and Kent Foster are currently working on an application for the IDWR water bank to facilitate irrigation of the other acreage shown on the map (2004 season only).

Little Pivot	Pivot Size (acres)	84.0
	Water Right No.	Place of Use (acres)
	74-985	45.0
	74-1066B	7.0
	Total Covered (acres)	52.0
	Total Uncovered (acres)	32.0

Section 6 Pivot	Pivot Size (acres)	294.0
	Water Right No.	Place of Use (acres)
	74-1066B	248.0
	74-1068	42.0
	74-1073, 74-1074 (complete overlap with 74-1068)	
	Total Covered (acres)	290.0
	Total Uncovered (acres)	4.0

Little Wiper Pivot	Pivot Size (acres)	86.0
	Water Right No.	Place of Use (acres)
	74-1066B	33.0
	74-1067	21.0
	Total Covered (acres)	54.0
	Total Uncovered (acres)	32.0

Pivot #1	Pivot Size (acres)	191.0
	Water Right No.	Place of Use (acres)
	74-1066B	19.0
	74-1068 (complete overlap with 74-1073)	
	74-1073, 74-1074	128.0
	Total Covered (acres)	147.0
	Total Uncovered (acres)	44.0

Sawmill Pivot	Pivot Size (acres)	143.0
	Water Right No.	Place of Use (acres)
	74-1067	25.0
	Total Covered (acres)	25.0
	Total Uncovered (acres)	118.0

Wiper Pivot	Pivot Size (acres)	130.0
	Water Right No.	Place of Use (acres)
	74-374	16.4
	74-1072	18.6
	74-1073, 74-1074	74.0
	Total Covered (acres)	109.0
	Total Uncovered (acres)	21.0

Total 126 ac

1073/1074
107
74-1061
374 (sawmill ck)
139 ac
to work w