

2002

TC-35-01

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF A)
WATER RIGHT IN THE NAME)
OF 35-2408A/35-4102)
KINGSTON PROPERTIES)

ORDER AUTHORIZING
TEMPORARY CHANGE

WHEREAS, a drought emergency has been declared for JEFFERSON 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 (A 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 8/15/2002, David Kingston (Wayne Robison) 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 right no(s) 35-2408A & 35-4102 is authorized only at the point of diversion and place of use described on the application or as otherwise approved in this order.
2. This temporary change approval does not authorize construction of a new well as a new point of diversion.
3. 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.

4. Right(s) 35-24681, 35-4102 are limited to the irrigation of a total of 156 acres in a single irrigation season.
5. 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.
6. 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.
7. 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.
8. The applicant shall measure the amount of water diverted and shall report the amount of water diverted under this approval. (If this condition or a similar one is used, describe the required frequency of measurement and when and where to report the amount of measured water).
9. The watermaster of Water District No. 01 is authorized to administer the temporary change approval.
10. This temporary change approval expires on 11/1/2002 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 16th day of August, 2002


 AUTHORIZED PERSON
 IDWR

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 Kingston Properties Co Wayne Robison Phone 522-2365
Post Office Address 477 Sharp Ave Ste 207 Idaho Falls, ID 83402

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 Water right 01-360 has had
its priority cut & we need to transfer right 35-2408A from
a well to this property to finish off our potatoes. We have
used this right on our wheat.
See claim 01-10023 for original right.

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
<u>35-2408A</u>	<u>3/11/1955</u>	<u>1.92 cfs</u>	<u>Irrigation</u>	<u>3-15</u> to <u>11-15</u>
<u>35-4102</u>	<u>4/1/1962</u>	<u>1.20</u>	<u>IRRIGATION</u>	<u>4/1</u> to <u>10-31</u>
				to
				to

2. Total amount of water being transferred 1.92 3.12 cubic feet per second and/or _____ acre-feet per annum.3. Source of water Groundwater tributary to _____

4. Point(s) of Diversion:

Ident No.	Lot	¼	¼	¼	Sec	Twp	Rge	County	Local name for diversion
			NW	SW	35	4N	37E	Jefferson	

5. Lands irrigated or place of use:

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	37E	35	20	40	10	1	20			2									93
		26											7			20	5		32

Total Acres 125 156

6. General Information:

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- a. Who owns the water right to be changed? Applicant
- b. Describe the arrangement allowing use of the right NA. - Foster Agro is leasing both my properties + will do the farming.
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
Wheat crop will no longer be watered on old ground + potatoes will be finished off on new P.O.U.
- d. Has the water right sought to be transferred been used this year? Yes If yes, explain. Wheat
- e. Absent the changes, how would the right be used for the remainder of the year? to finish wheat crop
- f. Describe other water rights used for the same purpose.
- g. Remarks: C/O Brad Foster 589-6170 cell

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 O. Kingstun
(Signature of applicant)

FOR DEPARTMENT USE ONLY

Received by HWT Date 8-15-02 Fee 50-86
Receipted HWT # E028065 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:

Witness my hand this 16th day of August, 2002:

[Signature]
For the Director

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 35-2408A V1

TC-35-01

WATER RIGHT NUMBER: 35-2408A V1

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	ADOLPH COORS CO, WATER RESOURCES OPERATION
Original Owner	TERRY T UHLING Original Owner D & D INVESTMENTS, C/O DAVID O KINGSTON
Current Owner	KINGSTON PROPERTIES LP 477 SHOUP AVE STE 207 IDAHO FALLS, ID 83402 (208)522-2365

Priority Date: 03/11/1955

Basis: License

Status: Active

SourceTributary

GROUND WATER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/01	10/31	1.920 CFS	

Total Diversion: 1.920 CFSLocation of Point(s) of Diversion

GROUND WATER NW1/4SW1/4 Sec. 35, Twp 04N, Rge 37E, B.M.
JEFFERSON County

Place of Use IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N 37E 35			2.0		17.0	33.0	21.0	34.0	31.0	6.0	5.0						149.0
			L 2					L 3				L 5					

Total Acres: 156

Conditions of Approval:

1. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
2. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

Remarks:

1. RIGHT NO. 35-04102 IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.
2. USE OF THIS RIGHT WITH RIGHT NO. 35-04102 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.12 CFS, A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 624 AF.
3. THIS RIGHT IS LIMITED TO THE IRRIGATION OF 96 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON. USE OF THIS RIGHT WITH RIGHT NO. 35-04102 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 156 ACRES IN A SINGLE IRRIGATION SEASON.

Dates and Other Information:

Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Defendant:
Plaintiff:
Civil Case Number:
Judicial District:
Notice of Error Flag: NONE RECEIVED
State or Federal: S
Owner Name Connector:
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:

Mitigation Plan: False
SubCase:
SubCase Number: 35-2408A
Class: 1
SF5 Filed Date:
Special Master Recom Signed Date: 11/13/2001
Attorney Assigned: SARA C DENISTON
Adjudication Agent:
Basis of Claim:
Date Filed: 6/2/1999 Objection Status: Active
Date Filed: 8/24/1998 Objection Status: Active
Date Filed: 6/2/1999 Objection Status: Active
Date Filed: 8/24/1998 Objection Status: Active

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 35-4102 V1

TC-35-01

WATER RIGHT NUMBER: 35-4102 V1

Owner TypeName and Address

Original Owner

COORS BREWING CO, WATER RESOURCES DEPARTMENT CE 136

Original Owner

LEE MARSHAL & SONS INC

Current Owner

KINGSTON PROPERTIES LP
477 SHOUP AVE STE 207
IDAHO FALLS, ID 83402
(208)522-2365

Priority Date: 04/01/1962

Basis: Beneficial Use

Status: Active

SourceTributary

GROUND WATER

Beneficial Use

From To

Diversion RateAnnual Volume

IRRIGATION

4/01 to 10/31

1.200 CFS

Total Diversion:

1.200 CFS

Location of Point(s) of Diversion

GROUND WATER

NW1/4SW1/4

Sec. 35, Twp 04N, Rge 37E, B.M.

JEFFERSON County

Place of Use

IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N 37E 35			2.0			17.0	33.0	21.0	34.0	31.0	6.0	5.0					149.0
			L 2						L 3			L 5					

Total Acres: 156

Conditions of Approval:

1. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
2. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

Remarks:

1. USE OF THIS RIGHT WITH RIGHT NO. 35-02408A IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.12 CFS, A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 624 AF.
2. THIS RIGHT IS LIMITED TO THE IRRIGATION OF 60 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON. USE OF THIS RIGHT WITH RIGHT NO. 35-02408A IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 156 ACRES IN A SINGLE IRRIGATION SEASON.
3. RIGHT NO. 35-02408A IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.

Dates and Other Information:

Decreed Date:
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 Defendant:
 Plaintiff:
 Civil Case Number:
 Judicial District:
 Notice of Error Flag: NONE RECEIVED
 State or Federal: S
 Owner Name Connector:
 Water District Number:
 Generic Max Rate Per Acre:
 Generic Max Volume Per Acre:
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:

DLE Act Number:
 Carey Act Number:
 Mitigation Plan: False

SubCase:

SubCase Number: 35-4102
 Class: 1
 SF5 Filed Date:
 Special Master Recom Signed Date: 11/13/2001
 Attorney Assigned: SARA C DENISTON
 Adjudication Agent:
 Basis of Claim:
 Date Filed: 8/24/1998 Objection Status: Active
 Date Filed: 6/2/1999 Objection Status: Active
 Date Filed: 8/24/1998 Objection Status: Active
 Date Filed: 6/2/1999 Objection Status: Active

IDAHO DEPARTMENT OF WATER RESOURCES

TC-35-01

Adjudication Claim Report 1-10023

WATER RIGHT NUMBER: 1-10023

Owner Type Name and Address
 Current Owner W E ARRINGTON INC
 BOX 51508
 IDAHO FALLS, ID 83405
 (208)523-0774

Priority Date: 10/16/1890

Basis: Decreed

Status: Active

Source Tributary
 SNAKE RIVER COLUMBIA RIVER

Beneficial Use From To Diversion Rate Annual Volume
 IRRIGATION 4/01 to 11/01 5.800 CFS

Total Diversion: 5.800 CFS

Location of Point(s) of Diversion

SNAKE RIVER SW1/4SE1/4 Sec. 26, Twp 04N, Rge 37E, B.M.
 JEFFERSON County

SNAKE RIVER NE1/4NE1/4 Sec. 35, Twp 04N, Rge 37E, B.M.
 JEFFERSON County

Place of Use IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	37E	26									8.0		30.0	40.0			25.0	5.0	108.0
04N	37E	35	20.0	40.0	2.0		35.0	5.0											102.0

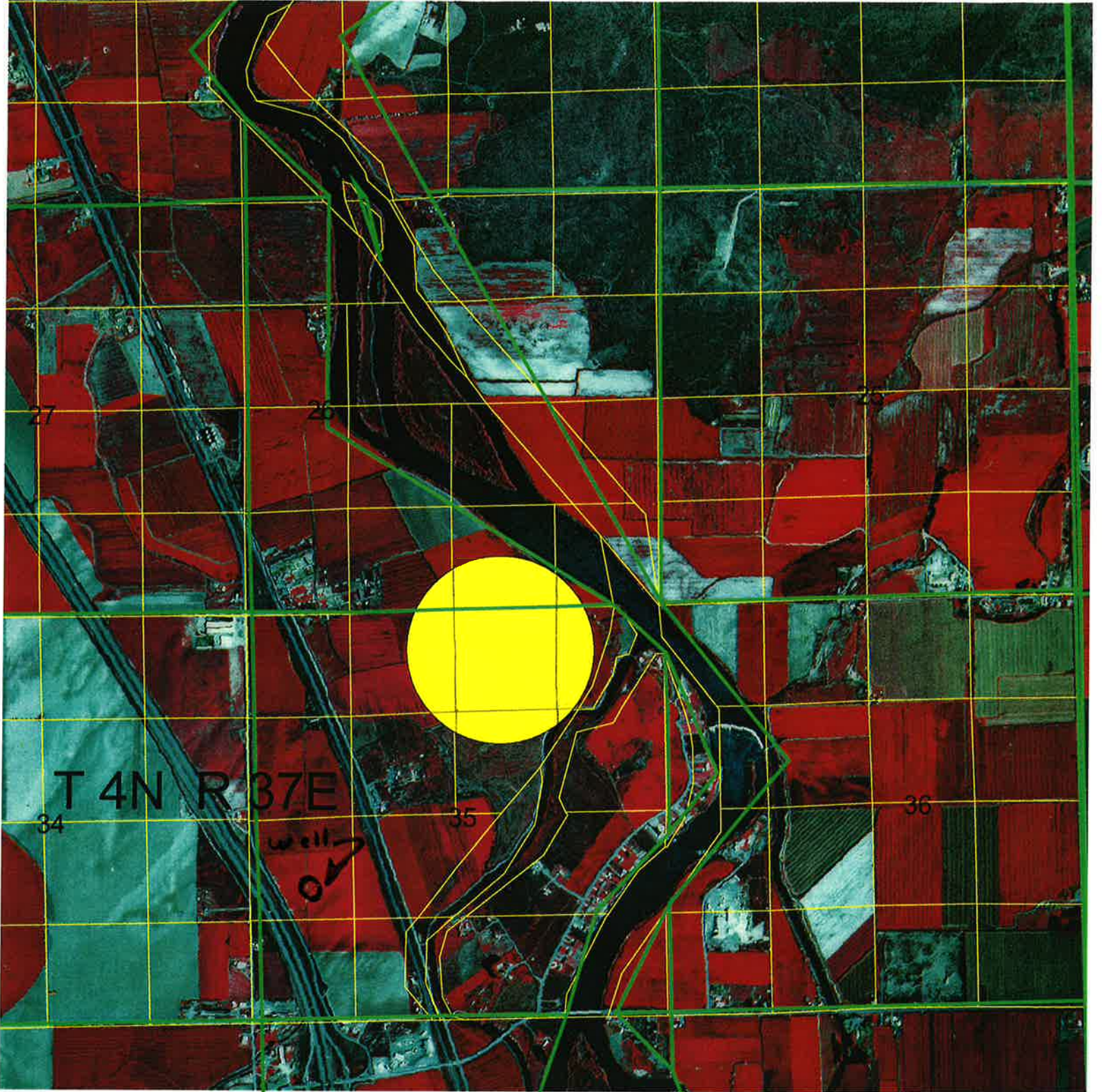
Total Acres: 210

Conditions of Approval:Remarks:

- General THIS CLAIM IS BASED ON PORTIONS OF 01-00036D AND 01-00036F.

Comments:Dates and Other Information:

Claim Received Date: 10/21/1988
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 State or Federal: S
 Owner Name Connector:
 Water District Number:
 Generic Max Rate Per Acre:
 Generic Max Volume Per Acre:
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Carey Act Number:
 Mitigation Plan: False



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