

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

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF A)
WATER RIGHT 34-10164)

ORDER AUTHORIZING
TEMPORARY CHANGE

TC-34-90

2008

WHEREAS, a drought emergency has been declared for CUSTER County to all 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 purposes 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 AUGUST 25, 2008, VERNON ROCHE DBA: TC RANCH LLC submitted the attached Temporary Change Application TC-34-90 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:

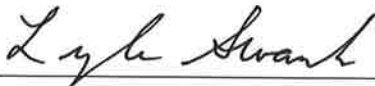
1. Diversion and use of right no(s). 34-10164 is authorized only at the point of diversion and place of use described on the application.
2. This temporary Change approval does not authorize construction of a new well as a point of diversion.
3. The applicant assumes all risk of curtailment or mitigation 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 conditions. 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) 34-10164 are limited to the irrigation of a total of 157 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 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 Watermaster of Water District No. 34 is authorized to administer the temporary change approval.
12. This Temporary change approval expires on OCTOBER 15, 2008 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 27 TH day of AUGUST, 2008.



Lyle Swank
Eastern Regional Manager

07/25/02 11:00

01 200 327 7000

ID WATER RESOURCES - EASTERN

Ident. No. TC-34-90

7/02

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 Ver Non Roche DPA: TC Ranch, LLC Phone 209-588-2806
Post Office address 5411 Old Chilly Rd. Mackay, ID 83251

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion
☐ Change purpose of use

☐ Add diversion point(s)
☐ Other

☒ Change place of use

2. Describe the proposed change(s) and the reason(s) therefor Drought condition to grow
pasture for fall feed. Temporary transfer.

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

1. Right Number 34-10164 Priority 1875 Amount 5.2 Nature Irrigation Period of Use 8-21-08 to 10-15-08
to _____
to _____
to _____

2. Total amount of water being transferred 5.2 cubic feet/second and/or _____ acre-feet per annum.

3. Source of water: Chilly Canal tributary to Big Lost River Sink

4. Point(s) of Diversion:

| Ident No. | Gov't Lot | 1/4 | 1/4 | 1/4 | Sec. | Twp. | Rge. | County | Local name for diversion |
|----------------|-----------|-----------|-----------|-----------|-----------|-----------|------------|---------------|--------------------------|
| <u>3410164</u> | | <u>NE</u> | <u>NW</u> | <u>NW</u> | <u>12</u> | <u>8N</u> | <u>21E</u> | <u>Custer</u> | <u>Chilly Canal</u> |
| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |

5. Lands irrigated or Place(s) 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>08N</u> | <u>22E</u> | <u>6</u> | | | | | | | | | | | | | | | | | <u>30</u> |
| <u>08N</u> | <u>22E</u> | <u>6</u> | | | | | | | | | | | | | | | | | <u>83</u> |
| <u>09N</u> | <u>22E</u> | <u>31</u> | | | | | | | | | | | | | | | | | <u>44</u> |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

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Total acres 157

6. General Information:

- a. Who owns the water right to be changed? Harsh Whitworth / Elk Horn Ranch
- b. Describe the arrangement allowing use of the right Contract
- c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this application:
dry up pasture
- d. Has the water right sought to be transferred been used this year? yes If yes, explain water
unable to reach
- e. Absent the changes, how would the right be used for the remainder of the year? will not be
used on that pasture
- f. Describe other water rights used for the same purpose.
34-10227, 34-10228, 34-10229
- 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.

x Harsh Whitworth

x Kenna Poole
(Signature of applicant)

FOR DEPARTMENT USE ONLY

Received by M. DOWD Date 8/25/2008 Fee \$50
Received MWIT # E034357 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-34-90
And said application is hereby subject to the following limitations and conditions:

Witness my hand this 27th day of Aug., 2008

Lyle Swank

12/99

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
RECOMMENDATION OF WATERMASTER

Application No: TC-34-90Applicant's Name: VERNON ROCHE DBA: TC RANCH LLC

Watermaster's Recommendation:

a) X 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 27 day of AUGUST, _____.Water District No: 34

Robert W. Shaffer
Watermaster's Signature

Use reverse side of page if you need more space.