

2005

Ident. No. TC-34-69Form 42-222A
12/99

DEPARTMENT OF WATER RESOURCES

TEMPORARY CHANGE APPLICATION

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

Name of Applicant DBA: Vernon Roche Ranch LLC Phone 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) thereof. 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 (cfs/ac-ft) 5.2 Nature of Use Irrigation Period of Use 9/9/05 to 10/15/05
 to _____
 to _____
 to _____
2. Total amount of water being transferred _____ cubic feet per second and/or _____ acre-feet per annum.
3. Source of water Chilly Canal tributary to Big Lost River
4. Point(s) of Diversion: Sinks

Ident No.	Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion
3410164		NE	NW	NW	12	8W	21E	Custer	Chilly Canal

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	
08N	22E	6	30																30
08N	22E	6	NE 1/4				40			1									83
09N	22E	31															16	28	44

Total Acres 157

RECEIVED

OCT 03 2005

Department of Water Resources
Eastern Region

General Information:

- a. Who owns the water right to be changed? Heath Whitson Jr
- b. Describe the arrangement allowing use of the right contract
- c. Describe the affect on the land now irrigated if the change is approved 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.
- 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. Heath Whitson Jr

X. Heath Whitson Jr
(Signature of applicant)

FOR DEPARTMENT USE ONLY

Received by KCW Date 10/3/05 Fee 50⁰⁰

Receipted KCW 10/6/05 #EOS1309 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-34-69

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

Witness my hand this 7th day of Oct, 2005

Ronald D. Clark
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 34-10164)
_____)
_____)

**ORDER AUTHORIZING
TEMPORARY CHANGE**

TC - 34 - 69

WHEREAS, a drought emergency has been declared for Custer 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 Oct 3 2005, Vernon Roche DBA 7C Ranch LLC submitted the attached Temporary Change Application TC-34-69 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 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-34-69

5. Right(s) 34-10164 are limited to the irrigation of a total of 260 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. 34 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 7th day of October, 2005.


Ronald D. Carlson
Eastern Regional Manager

State of Idaho
Department of Water Resources
Transfer of Water Rights

Tc-34-69

RECOMMENDATION OF WATERMASTER

Transfer Application No:

Water Right No(s): 34-10164

Transfer Applicant's Name: VerNon Roche / Herb Whitworth
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 9th, day of September, 2005

Water District No: 34


Watermaster's Signature

RECEIVED
OCT 03 2005
Department of Water Resources
Eastern Region

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 34-10164

WATER RIGHT NUMBER: 34-10164

Owner TypeName and Address

TC-34-69

Current Owner

HERB WHITWORTH JR, STAR RT, MACKAY, ID 83251
(208)588-2820

Priority Date: 06/01/1875

Basis: Decreed

Status: Active

SourceTributary

BIG LOST RIVER

SINKS

Beneficial Use

From To

Diversion RateAnnual Volume

STOCKWATER

1/01 to 12/31

0.020 CFS

IRRIGATION

5/01 to 10/15

5.200 CFS

Total Diversion: 5.200 CFSLocation of Point(s) of Diversion

BIG LOST RIVER NE1/4NW1/4NW1/4

Sec. 12,Twp 08N,Rge 21E, B.M.

CUSTER County

BIG LOST RIVER SE1/4SW1/4SE1/4

Sec. 32,Twp 09N,Rge 22E, B.M.

CUSTER 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	
08N 22E 2						31.0	40.0		20.0	37.0	35.0	3.0					166.0
						L 4											
08N 22E 3	39.0	40.0	30.0	29.0	24.0	37.0		30.0					32.0	35.0		35.0	331.0
	L 1	L 2			L 3	L 4											
08N 22E 11						38.0											38.0
09N 22E 33													24.0	2.0	3.0	8.0	37.0
09N 22E 34							23.0	13.0	32.0	40.0	19.0	37.0		32.0	18.0		214.0

Total Acres: 786

STOCKWATER same as IRRIGATIONConditions of Approval:

4. WATER IS DELIVERED THROUGH THE LONGHURST DITCH UNTIL ALL THE 1902 OR LATER PRIORITY DATE WATER IS NO LONGER DELIVERED; AFTER THAT WATER IS DELIVERED THROUGH THE CHILLY CANAL.
5. USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 31.44 CFS.
COMBINED RIGHT NOS.: 34-00755, 34-00757, 34-00758, 34-00766, 34-10164, 34-10167, 34-00363, 34-00364, 34-00760, 34-00764, 34-10166, 34-10165
6. S34 THE PERIOD OF USE FOR IRRIGATION DESCRIBED ABOVE MAY BE EXTENDED IN SEASONS OF UNUSUAL CHARACTERISTICS TO A BEGINNING DATE OF 04-20 AND AN ENDING DATE OF 10-31 AT THE DISCRETION OF THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES.
7. N05 THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.
8. THIS RIGHT IS A COMBINATION OF OLD RIGHT NO. 34-00754 AND 34-00756.
STOCKWATER, 800 CATTLE
10. USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO THE THE IRRIGATION OF A COMBINED TOTAL OF 786 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS.: 34-00755, 34-00757, 34-00758, 34-00766, 34-10164, 34-10167, 34-00363, 34-00364, 34-00760, 34-00764, 34-10166, 34-10165 THIS RIGHT IS LIMITED TO THE IRRIGATION OF 260 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report 34-10164

Remarks:

TC-34-69

Comments:

1. DCARLSON 4/16/1992 NOTICE OF ERROR
Comment: ADDED ACRES STOCKWATER OUTSIDE IRR SEASON
2. CFRITSCH 3/7/1997 COPIED FROM REMARKS
Comment: 0.90 CFS OF 34-00363, 1.6 CFS OF 34-00760, 1.3 CFS OF 34-00764, 2.1 CFS OF 34-00364, 3.2 CFS OF 34-10166 IS LIMITED TO USE FOR CONVEYANCE LOSSES IN DELIVERY OF THIS RIGHT AND THOSE LISTED BELOW. COMBINED RIGHT NOS.: 34-00755, 34-00757, 34-00758, 34-00766, 34-10164, 34-10167, 34-00363, 34-00364, 34-00760, 34-00764, 34-10166, 34-10165
3. AJU10-DS 6/9/2000 AJU10 CONDITION UPDATE
Comment: CONDITION CODE(S) C18 ADDED IF NOT ALREADY PART OF RECORD THRU AJU10.
4. jpeppers 7/8/2004 7:56:07 AM Water Right
Comment: This water right record was updated by decree record from old RightID 385382 to new RightID 420596

Dates and Other Information:

Licensed Date:
Decreed Date: 12/14/2001
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal: S
Owner Name Connector:
Water District Number: 34
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Decree Defendant:
Decree Plaintiff:
Civil Case Number: 39576
Judicial District: FIFTH
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

Combined Use Limits:

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
31.44		
Combined Water Rights: 34-10167 , 34-757 , 34-760 , 34-764 , 34-10166 , 34-363 , 34-364 , 34-755 , 34-758 , 34-766 , 34-10164 , 34-10165		
<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
31.44		786
Combined Water Rights: 34-10167 , 34-757 , 34-760 , 34-764 , 34-10166 , 34-363 , 34-364 , 34-755 , 34-758 , 34-766 , 34-10164 , 34-10165		

Water Supply Bank:

Owner(s) WHITWORTH JR, HERB (Current)
Basis Decreed
Status Active

TC-34-69

Basin	Sequence	Priority Date	Rate(cfs)	Source	Water Use(s)
34	363	5/1/1905	0.90	BIG LOST RIVER	IRRIGATION
34	364	4/1/1908	2.10	BIG LOST RIVER	IRRIGATION
34	625	6/15/1913	3.42	BLR EAST FORK	IRR & STOCK
34	755	1887-06-01	2.40	BIG LOST RIVER	IRRIGATION
34	757	1888-06-01	1.20	BIG LOST RIVER	IRRIGATION
34	758	1898-06-01	2.40	BIG LOST RIVER	IRRIGATION
34	760	6/30/1906	1.60	BIG LOST RIVER	IRRIGATION
34	764	5/8/1907	1.30	BIG LOST RIVER	IRRIGATION
34	766	1885-05-01	7.16	ELKHORN CREEK	DOM, IRR, STOCK
34	10164	1875-06-01	5.20	BIG LOST RIVER	IRR, STOCK
34	10165	4/15/1902	11.20	BIG LOST RIVER	IRRIGATION
34	10166	4/1/1912	3.14	BIG LOST RIVER	IRRIGATION
34	10167	1890-04-15	6.34	THOUSAND SP CK	IRR, STOCK
34	10168	5/1/1948	0.07	SPRING	DOM, IRR
34	12401	3/16/1923	0.02	THOUSAND SP CK	STOCKWATER
34	12402	3/16/1923	0.02	BIG LOST RIVER	STOCKWATER

Idaho Department of Water Resources Receipt

Receipt ID E031309

TC-34-64

Payment Amount \$50.00 Date Received 10/6/2005 11:32:21 AM Region Eastern Status ☐
Payment Type Check Check Number 1187

Payer 7 C RANCH LLC

Comment Temporary Change on 34-10164

Fee Detail

Amount	Description	Fund	FD	PCA	SO
\$50.00	TRANSFERS	0229	21	63105	1155



Signature Line (Dept. Representative)