

2004

Ident. No. TC-34-60

DEPARTMENT OF WATER RESOURCES  
TEMPORARY CHANGE APPLICATION

RECEIVED  
AUG 23 2004

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

Department of Water Resources  
Eastern Region

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 ☐ Add diversion point(s) ☒ Change place of use  
☐ Change purpose of use ☐ Other

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 1975 Amount (cfs/ac-ft) 5.2 Nature of Use Irrigation Period of Use 8/1/04 to 10/15/04  
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	24N	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	
24N	22E	6	30																30
24N	22E	6			39					1									83
24N	22E	31															16	28	44

Total Acres 157

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## 6. General Information:

- a. Who owns the water right to be changed? Herb Whitworth
- 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 Herb Whitworth

X [Signature]

(Signature of applicant)

## FOR DEPARTMENT USE ONLY

Received by Kew Date 8/23/04 Fee 50<sup>00</sup>

Receipted Kew 8/24/04 # E 030170 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-34-60

And said application is hereby \_\_\_\_\_, subject to the following limitations and conditions:

Witness my hand this 24<sup>th</sup> day of August, 2004.

[Signature]  
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-34-60

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 August 23, 2004, Vernon Roche / TC Rand submitted the attached Temporary Change Application TC-34-60 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

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5. Right(s) 34-10164 are limited to the irrigation of a total of 786 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, 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 24<sup>th</sup> day of August, 2004.

  
Ronald D. Carlson  
Eastern Regional Manager

## IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 34-10164

WATER RIGHT NUMBER: 34-10164

Owner Type

Current Owner

Name and Address

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

Priority Date: 06/01/1875

Basis: Decreed

Status: Active

Source

BIG LOST RIVER

Tributary

SINKS

Beneficial Use

STOCKWATER

From To

1/01 to 12/31

Diversion Rate

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

Remarks:

1. Place of Use USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO THE THE IRRIGATION - 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.
2. Explanatory RIGHT IS A COMBINATION OF OLD RIGHT NO. 34-00754 & 34-00756. STOCK, 800 CATTLE
3. Point of WATER IS DELIVERED THROUGH THE LONGHURST DITCH UNTIL ALL THE 1902 OR Diversion LATER PRIORITY DATE WATER IS NO LONGER DELIVERED; AFTER THAT WATER IS DELIVERED THROUGH THE CHILLY CANAL.
4. Quantity 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

Comments:

1CFRITSCH 3/7/1997 REMARKS 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

Dates and Other Information:

Decreed Date: 12/14/2001  
 State or Federal: S  
 Water District Number: 34  
 Civil Case Number: 39576  
 Judicial District: FIFTH

Combined Use Limits:

Rate	Volume	Acres
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

Rate	Volume	Acres
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

State of Idaho  
Department of Water Resources  
Transfer of Water Rights

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 19<sup>th</sup>, day of Aug., 2004

Water District No: 34

  
Watermaster's Signature