2094

Eastern-Roger W TC-34-45

BEFORE THI

RESOURCESRECEIVED

OF THE STATE OF IDAHO

Department of Water Resources Eastern Region

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE NO.)
TC-34-45 IN THE NAME OF RICHARD)
OR JACQUELINE REYNOLDS)

ORDER REVOKING TEMPORARY CHANGE APPROVAL

Findings of Fact

On May 28, 2004, Richard Reynolds and Jacqueline Reynolds filed an application for temporary change of a water right with the Idaho Department of Water Resources (IDWR). IDWR was authorized to consider the temporary application for change as a result of an emergency drought declaration signed by the Director of IDWR and approved by the Governor of the State of Idaho on April 14, 2004.

The application for temporary change was assigned no. TC-34-45. The application sought to change the place of use for a portion of water right no. 34-7028A. Water right no. 34-7028A was decreed as a partial decree in the Snake River Basin Adjudication (SRBA), and authorizes the following:

Source:

Ground water

Purpose of use:

Irrigation

Flow rate:

4.3 cubic feet per second (cfs)

Point of diversion:

NESESW, Section 34, Township 5 North, Range 26 East NWNWNW, Section 26, Township 4 North, Range 26 East

Point of rediversion:

NWNWNW, Section 26, Township 4 North, Range 26 East

Place of use:

Township 3 North, Range 27 East, Section 10

	Acres
SWNE	39
NENW	29
NWNW	38
SWNW	39
SENW	40
NWSE	39

224 acres

Conditions of water right no. 34-7028A limit the use of water and the number of acres that may be irrigated in combination with ground water right nos. 34-2480A and 34-7234, and surface water right nos. 34-196D, 34-10100, 34-2491B, 34-195C. In particular, no more than the 224 acres listed above can be irrigated by water diverted under water right number ground water

right no. 34-2480A and 34-7028A. In addition, no more than 6.60 cfs and an annual diversion volume of 1071 acre-feet of water can be diverted under water right nos. 34-2080A, 34-7028A, and 34-7234.

Application no. TC-34-45 proposes to change 95 acres of land irrigated with 2.5 cfs of water right no. 34-7028A. The application proposes that the place of use for the portion of the water right be changed to the following lands:

Place of Use:

Township 4 North, Range 26 East, Section 15

	Acres
NENE	10
NENW	35
NESW	38
SESE	12
	95 acre

The application for temporary change locates the point of diversion in the NWSESE, Section 4, Township 5 North, Range 26 East. Typed under the heading "Local name for diversion" is the word "Eastside." Although not described by the application, it implies that water will be diverted from ground water at the decreed point of diversion, will be delivered to the Big Lost River at the decreed point of injection, but will be rediverted from the Big Lost River at the heading for the Eastside Canal, a different location than the rediversion described by the decreed right.

Finally, the application for temporary change stated and associated documents stated that the portion of the water right sought to be transferred was used for field preparation at the original place of use, will be needed later at the original place of use to irrigate a crop of potatoes, but is not presently needed. The purpose of the temporary change application is to move the portion of the water right to another place of use from May 27, 2004 to June 21, 2004. The application for temporary change implies that the approval will end on June 21, 2004, and the portion of water right no. 34-7028A will revert back to the original place of use.

Application for Temporary Change no. TC-34-45 was approved on June 2, 2004.

Conclusions of Law

Idaho Code § 42-222A states that "temporary changes may not be approved . . . to allow expansion of the use of water under existing water rights."

The applicant did not provide any information to show that 95 acres of the acreage limitations for irrigation decreed for this water right and other water rights would not be irrigated.

ORDER REVOKING TEMPORARY CHANGE APPROVAL, Page 2

Application no. TC-34-45 states that, after the 95 acres owned by Richard and Jacqueline Reynolds is irrigated, the water right will be moved back to irrigate a potato crop at the original place of use. This is an expansion of the water right.

Application for temporary change no. TC-34-45 should not have been approved.

Application for temporary change no. TC-34-45 should be revoked.

Order

IT IS HEREBY ORDERED that Temporary Change no. TC-34-45 in the name of Richard Reynolds or Jacqueline Reynolds is **REVOKED**.

IT IS FURTHER ORDERED that irrigation of the 95 acres owned by Richard Reynolds and Jacqueline Reynolds with any portion of water right 34-7028A is **PROHIBITED**.

Dated this _____ day o

day of June, 2004.

L. Glen Saxton, Administrator Water Management Division

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ______ day of June, 2004, the above and foregoing document was served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

RICHARD REYNOLDS JACQUELINE REYNOLDS RT 1 BOX 73 MOORE ID 83255

DARRELL E MC DONALD 2310 W US HWY 93 PO BOX 102 ARCO ID 83213

IDWR - EASTERN REGION 900 N SKYLINE DR STE A IDAHO FALLS ID 83402-1718

Deborah J. Gibson

Administrative Assistant Water Allocation Bureau Form 42-222A

STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

RECEIVED

TEMPORARY CHANGE APPLICATION

MAY 2 8 2004

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

Department of Water Resources
Eastern Region

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-	34–070)28A	<u>8</u>	-1-1	972	_	4.3				-					_ to_		15
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	TC-34-4
	General Information:
	Who owns the water right to be changed? Spencer Toone/New Owner: Darrell E. McDonald
b.	Describe the arrangement allowing use of the right agreement with owner (letter attached) to
	use until June 21, 2004
C.	Describe the affect on the land now irrigated if the change is approved pursuant to this application: NONE
	Crop will not need/until about June 21, 2004
d.	Has the water right sought to be transferred been used this year? yes If yes, explain. To prepare for
	planting potato crop
e.	Absent the changes, how would the right be used for the remainder of the year?to finish potato crop
f.	Describe other water rights used for the same purpose. none due to drought
g.	Remarks: This transfer is needed because starage water has been used and 1
٠.	need additional water to finish alfalfa crop
con	creby 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 estitute 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 liftil misrepresentations made in this application may result in voiding its approval. [Acqueling Remodel]
con	estante an enlargement in use of the original right. The information contained in this application is true to the best of asy knowledge. I understand that any liful misrepresentations made in this application may result in voiding its approval.
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Re Re	FOR DEPARTMENT USE ONLY Control of the continued in this application way result in voiding its approval. Control of the c

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 34-7028A Lichard Rightle	ORDER AUTHORIZING TEMPORARY CHANGE TC-34-45
WHEREAS, a drought emergency has been deto allow administrative actions to lessen the severand	clared for <u>Butte</u> County ere impacts of the drought conditions in the county;
the director of the Department of Water Resource changes in the point of diversion, the place of us rights or temporary exchanges of water authorize that such changes can be accomplished in	des that upon declaration of a drought emergency, es ("Department") is authorized to allow temporary se, and the purpose of use for valid existing water ed under water rights when the director determines cordance with the provisions of section 42-222A,
WHEREAS, on May 28, 2004, the attached Temporary Change Application	Richard ; Jacqueles Reynolds submitted TC-34-45 to the Department; and
WHEREAS, the Department has reviewed the a be approved with certain conditions;	pplication and has determined the application can
ORDEI	₹
IT IS HEREBY ORDERED that the application i	s APPROVED subject to the following conditions:
Diversion and use of right no(s). only at the point of diversion and place of use.	se described on the application.
This temporary Change approval does not a of diversion.	uthorize construction of a new well as a new point
under the temporary change approval ca	or mitigation should the diversion and use of water ause injury to other water rights, constitute an consistent with the conservation of water resources cal public interest.
lands or other uses that normally have a full	be used to provide a replacement water supply to water supply, except for the drought condition. This d to provide water for new development or to allow g water rights.

ORDER AUTHORIZING TEMPORATY CHANGE

	Tc-34-45
5.	Right(s) 34 - 7028 A are limited to the irrigation of a total of 224 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 or 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.
	The Water master of Water District No. 34 is authorized to administer the temporary change approval.
11	This Temporary change approval expires on <u>June 21</u> , <u>2004</u> unless rescinded or extended by the director. Thereafter, the water right shall revert to the point or diversion, place of use, and nature of use existing prior to the temporary change approval
	DATED this day of, 2004.

Ronald D. Carlson
Eastern Regional Manager

Darrell E. & Nancy McDonald 2310 W. U.S. Hwy 93 P.O. Box 102 Arco, Idaho 83213 Phone: 208-527-3413

FAX: (208)527-3414

May 27, 2004

TC-34-45

IDWR Eastern Region 900 N. Skyline Dr., Suite A Idaho Falls, Id 83402-1718

Re: Temporary Water Right Change

To Whom It May Concern:

We would like to temporarily transfer a portion of Water Right #34-07028A to Richard Reynolds. The dates for this temporary transfer are from May 27, 2004 to June 21, 2004.

This water right was used to irrigate pivot pre-plant and will not be needed until the later part of June for the potato crop. Rick has used all his storage and needs a little more time to make 1st cutting alfalfa.

Sincerely,

Darrell E. McDonald

State of Idaho Department of Water Resources Transfer of Water Rights

RECOMMENDATION OF WATERMASTER

Water Right No(s).: 34-7028A

Transfer Application No	Water Right No(s).: 34-7028A
Transfer Applicant's Nan Watermaster's Recomm	ne: Darrell McDonald / Rick Reynolds endation:
a)	l do not oppose approval of this application.
	I do not oppose approval of this application if it is conditioned as follows: The condition that the original place of use is not irrigated during the transfer date and the place of transfer is no longer irrigated after the specified ending date. If irrigation is detected on the original place of use during the transfer date this transfer will be considered null and void.
c)	I oppose approval of this application for the following reasons:
d)	Additional Comment:
Dated	this 2 nd , day of June, 2004
Water District	No: 34
	Watermaster's Signature

TC-34-45

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 34-7028A V2

WATER RIGHT NUMBER: 34-7028A V2

Owner Type

Name and Address

Current Owner

SPENCER W or ELEANOR TOONE

585 LILAC ST

BLACKFOOT, ID 83221

(208)785-4128

Priority Date: 08/01/1972

Basis:

Total Diversion:

Status: Active

Tributary

GROUND WATER

Beneficial Use

From To **Diversion Rate**

License

Annual Volume

IRRIGATION

4/01 to 11/01

4.300 CFS 4.300 CFS

Location of Point(s) of Diversion

GROUND WATER NE1/4SE1/4SW1/4 Sec. 34, Twp 05N, Rge 26E, B.M.

BUTTE County

well injection into pirch

GROUND WATER

NW1/4NW1/4NW1/4

Sec. 26, Twp 04N, Rge 26E, B.M.

BUTTE County (Rediversion), RCCO

GROUND WATER

NW1/4NW1/4NW1/4 Sec. 26,Twp 04N,Rge 26E, B.M.

Place of Use

IRRIGATION

Twp Rge Sec	N	E		N\	Λ			S	W		100				
	NE I NW I	SWIS	E I NE	INW	SW	SE I	NE	NW.	SW J	SE	NE	NW.	SWJ	SE J	Totals
03N 27E 10		39.0	29.0	38.0	39.0	40.0						39.0			224.0

Total Acres: 224

Remarks:

- Explanatory RIGHT NOS. 34-02480A AND 34-07234 ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE. WATER DELIVERED THROUGH ISLAND CANAL AND ARCO CANAL.
 - POINT OF INJECTION INTO AND POINT OF REDIVERSION FROM THE BIG LOST RIVER. Source
- 3. Place of Use USE OF THIS RIGHT WITH RIGHT NO. 34-02480A IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 224 ACRES IN A SINGLE IRR SEASON. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRR OF A COMBINED TOTAL OF 306 ACRES IN A SINGLE IRR SEASON. RIGHTS.: 34-00196D, 34-10100, 34-02491B, 34-00195C, 34-02480A AND 34-07234.
- THIS RIGHT & RIGHT NOS. 34-02480A & 34-07234 ARE LIMITED TO A TOTAL COMBINED Quantity DIVERSION RATE OF 6.60 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 1071 AF. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 9.58 CFS. RIGHTS.: 34-196D//10100/2491B/195C/2480A & 34-07234. Comments:
- MEASURING DEVICES OF A TYPE APPROVED BY THIS DEPARTMENT SHALL BE MAINTAINED AT 1. MEYER 4/8/1991 THE P/D LOCATED WITHIN SE1/4SW1/4, SEC 34, T05N, R26E AND AT THE POD REDIVERSION FROM THE ARCO CANAL LOCATED W/IN SW1/4NE1/4, SEC 10 & NW1/4SW1/4, SEC 4, T03N, R27E. THIS RIGHT WHEN COMBINED WITH LICENSE 34-2480 SHALL PROVIDE NO MORE THAN 0.02 CFS PER ACRE NOR MORE THAN 3.0 AFA PER ACRE FOR THE LANDS ABOVE. PT. OF INJECTION INTO ISLAND DITCH: SESW, S34, T05N, R26E. PT. OF REDIVERSION INTO ARCO CANAL: NWNW, S26, T04N, R26E. PT. OF REDIVERSION FROM ARCO CANAL: SWNE, S10, T3N, R27E.

Dates and Other Information:

Decreed Date:

Notice of Error Flag: NO NOTICE - RECOMMENDATION CHANGED

State or Federal:

Owner Name Connector: OR Water District Number:

Combined Use Limits:

6.6

Rate

Volume

Acres 224

Rate

Volume <u>Acres</u>

Combined Rights: 34-2480A, 34-7028A

Volume

<u>Acres</u>

Combined Rights: 34-2480A/7028A/7234

1071

Rate 9.58

306

Combined Rights: 34-10100/195C/196D/2480A,

34-2491B/7028A, & 34-7234

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 34-2480A V2

WATER RIGHT NUMBER: 34-2480A V2

Owner Type

Name and Address

Current Owner

SPENCER W or ELEANOR TOONE

585 LILAC ST

BLACKFOOT, ID 83221

(208)785-4128

Priority Date: 05/01/1986

Basis: License Status: Active

TC-34-45

Source

Tributary

GROUND WATER

Beneficial Use

From To

Diversion Rate

Annual Volume

IRRIGATION

4/01 to 11/01

0.790 CFS

Total Diversion:

0.790 CFS

Location of Point(s) of Diversion

GROUND WATER

NE1/4SE1/4SW1/4

IRRIGATION

Sec. 34.Twp 05N, Rge 26E, B.M.

BUTTE County

GROUND WATER **GROUND WATER**

NW1/4NW1/4NW1/4 Sec. 26.Twp 04N.Rge 26E, B.M.

BUTTE County (Rediversion)

Place of Use

NW1/4NW1/4NW1/4 Sec. 26.Twp 04N,Rge 26E, B.M.

BUTTE County (Injection)

Twp Rge Sec	NE NE					NV	٧			S	W		<u> </u>				
	I NE	I NW	ISWI	SE	NE	I NW I	SW	SE	NE	I NW I	SWI	SE	NE	INW	SW I	SE	Totals
03N 27E 10	<u> </u>		39.0		29.0	38.0	39.0	40.0				FC		39.0			224.0

Total Acres: 224

Remarks:

- THIS RIGHT & RIGHTS. 34-7028A & 34-7234 ARE LIMITED TO A TOTAL COMBINED 1. Quantity DIVERSION RATE OF 6.60 CFS & TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 1071 AF. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 9.58 CFS. COMBINED RIGHTS.: 34-196D, 34-10100, 34-2491B, 34-195C, 3407028A AND 34-07234.
 - Source POINT OF INJECTION INTO AND POINT OF REDIVERSION FROM THE BIG LOST RIVER. 2.
- Place of Use USE OF THIS RIGHT WITH RIGHT 34-7028A IS LIMITED TO THE IRR OF A COMBINED TOTAL OF 224 ACRES IN A SINGLE IRR SEASON. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRR OF A COMBINED TOTAL OF 306 ACRES IN A SINGLE IRR SEASON. COMBINED RIGHTS: 34-196D, 34-10100, 34-02491B, 34-00195C, 34-07028A AND 34-07234.
- Explanatory RIGHT NOS. 34-07028A & 34-07234 ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE. WATER DELIVERED THROUGH ISLAND CANAL AND ARCO CANAL.

Comments:

1. MEYER 4/8/1991 PT. OF INJECTION INTO ISLAND DITCH: SESW, S34, T5N, R26E, PT. OF REDIVERSION INTO ARCO CANAL: NWNW, S26, T4N, R26E. PT. OF REDIVERSION FROM ARCO CANAL: SWNE, S10, T3N, R27E.

Dates and Other Information:

NO NOTICE - RECOMMENDATION CHANGED Notice of Error Flag:

State or Federal:

Owner Name Connector: OR

Combined Use Limits:

Rate

Volume

Acres

1071

Combined Water Rights: 34-2480A, 34-7028A, 34-7234

Rate

Volume

<u>Acres</u>

224

Combined Water Rights: 34-2480A, 34-7028A Rate

Volume

<u>Acres</u>

9.58

306

Combined Water Rights: 34-10100 , 34-195C , 34-196D , 34-2480A , 34-2491B , 34-7028A, 34-7234

TC-34-45

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 34-7234 V2

WATER RIGHT NUMBER: 34-7234 V2

Owner Type

Name and Address

Current Owner

SPENCER W or ELEANOR TOONE

585 LILAC ST

BLACKFOOT, ID 83221

(208)785-4128

Priority Date: 08/15/1979

Basis:

License

Status: Active

Source

Tributary

GROUND WATER

Beneficial Use

From To

Diversion Rate

Annual Volume

IRRIGATION

4/01 to 11/01

1.660 CFS 1.660 CFS

Total Diversion:

Location of Point(s) of Diversion

GROUND WATER NE1/4SE1/4SW1/4 Sec. 34, Twp 05N, Rge 26E, B.M.

BUTTE County

GROUND WATER

NW1/4NW1/4NW1/4

Sec. 26, Twp 04N, Rge 26E, B.M.

BUTTE County (Injection)

GROUND WATER

NW1/4NW1/4NW1/4

Sec. 26, Twp 04N, Rge 26E, B.M.

BUTTE County (Rediversion)

Place of Use **IRRIGATION**

Twp Rge Sec			1E		NW					S	W			1			
	NE	I NW I	SWI	SE	NE	l NW	SW	SE	NE	NW	SW	SE	NE	INW	I SW I	SE	Totals
03N 27E 10					9.0				40.0	33.0	-110						82.0

Total Acres: 82

Remarks:

- Explanatory RIGHT NOS. 34-07028A AND 34-02480A ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE. WATER DELIVERED THROUGH ISLAND CANAL AND ARCO CANAL.
 - 2. Source
- POINT OF INJECTION INTO AND POINT OF REDIVERSION FROM THE BIG LOST RIVER.
- Place of Use USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRR OF A COMBINED TOTAL OF 306 AC IN A SINGLE IRR SEASON. RIGHTS.: 34-00196D, 34-10100, 34-02491B, 34-00195C, 34-07028A AND 34-02480A.
- Quantity THIS RIGHT AND RIGHT NOS. 34-07028A & 34-02480A ARE LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 6.60 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 1.071 AF. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 9.58 CFS. RIGHTS.: 34-00196D, 34-10100, 34-02491B, 34-00195C, 34-07028A AND 34-02480A.

Comments:

1. MEYER 4/8/1991 PT. OF INJECTION INTO ISLAND DITCH: SESW, S34, T5N, R26E. PT. OF REDIVERSION INTO ARCO CANAL: NWNW, S26, T4N, R26E. PT. OF REDIVERSION FROM ARCO CANAL: SWNE, S10, T3N, R27E.

Dates and Other Information:

Decreed Date:

Notice of Error Flag:

NO NOTICE - RECOMMENDATION CHANGED

State or Federal:

Owner Name Connector:

Water District Number:

Combined Use Limits:

<u>Rate</u>

Volume

Acres

6.6

1071

Combined Rights: 34-2480A, 34-7028A, 34-7234 <u>Volume</u>

9.58

<u>Acres</u>

306 Combined Rights: 34-10100/195C/196D/2480A

34-2491B/7028A, 34-7234