

2002

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF A)
WATER RIGHT 34-7035A)
34-7122A)

ORDER AUTHORIZING
TEMPORARY CHANGE
TC-34-11

WHEREAS, a drought emergency has been declared for Butte counties to allow administrative actions to lessen the severe impacts of the drought conditions in the counties; 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 when the director determines that such changes can be accomplished in accordance with the provisions of section 42-222A, Idaho Code; and

WHEREAS, on 5-29-02 Todd Perkes 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;

ORDER

IT IS HEREBY ORDERED that the application is **APPROVED** subject to the following conditions:

1. Diversion and use of right no(s). 34-7035A
34-7122A 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 which 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.

5. Right(s) 34-7035A 34-7122A are limited to the irrigation of a total of 561 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 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.
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.
10. The watermaster of Water District No. 34 is authorized to administer the temporary change approval.
11. This temporary change approval expires on 11/01/02 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 3rd day of June, 2002.


RONALD D. CARLSON
EASTERN REGION MANAGER

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 M. Todd Perkes Phone Am. 527-3157
Post Office Address 2790 North 3325 West Moore Idaho 83255

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
- Perkes leases 40 Acres from Owen Loftus. The Loftus property is normally irrigated with a surface water right from the Big Lost River. Drought condition make this surface right unavailable. Perkes has groundwater rights available and opportuntant to the corners of quarter sections that will not be irrigated due to method inefficecencies. (see shaded corners of map below)

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>34-07035A</u> | <u>4/12/1933</u> | <u>combined portion 0.29</u> | <u>Irrigation</u> | <u>04/01</u> to <u>11/01</u> |
| <u>34-07122A</u> | <u>1/16/1976</u> | <u>combined portion 5 cfs</u> | | |
| | | | | |
| | | | | |

2. Total amount of water being transferred
- 0.29
- cubic feet per second and/or
- 50
- acre-feet per annum

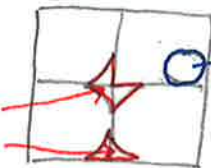
3. Source of water
- groundwater
- tributary to _____

4. Point(s) of Diversion:
- (same) (see Attachment)

Ident No.	Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion
		NE	SE	NW	5	4	26E	Butte	Perkes Well
		NE	NW	NW	8	4	26E	Butte	Perkes Well

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	
<u>4N</u>	<u>25E</u>	<u>25</u>				<u>33</u>													

Corners
not
irrigated

proposed place of use

Sec 25

Total Acres 33

6. General Information:

- a. Who owns the water right to be changed? Todd Perkes
- b. Describe the arrangement allowing use of the right Perkes is leasing the Loftus property involved in this transfer.
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
This corners require inefficient flood irrigation. To conserve water, it is proposed to use the same quantity of water on the Loftus Pivot.
- d. Has the water right sought to be transferred been used this year? yes If yes, explain, It has been part of the co-mingled and diverted water on the balance of Perkes property.
- e. Absent the changes, how would the right be used for the remainder of the year? It would be applied to Perkes pivots.
- 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.

sm Todd Perkes
(Signature of applicant)

FOR DEPARTMENT USE ONLY

Received by HWT Date 2-5-29-02 Fee 50.00
Receipted # E027798 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 _____ day of _____.

Ronald R. Rasmussen
For the Director

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 5661
WATER RIGHT NO(S). 34-07035A/34-07122A

This is to certify that: M TODD PERKES
RT 1 BOX 69
MOORE ID 83255

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
Right No. 34-07035A :			
IRRIGATION	04/01 to 11/01	0.64 CFS	166.3 AF
Priority: 04/12/1973			
Right No. 34-07122A :			
IRRIGATION	04/01 to 11/01	4.31 CFS	754.3 AF
Priority: 01/16/1976			

	TOTAL:	<u>4.95 CFS</u>	<u>920.6 AF</u>
<u>SOURCE</u>			
GROUNDWATER			

LOCATION OF POINT(S) OF DIVERSION:

NESENW , Sec. 5, Township 04N, Range 26E
NENWNW , Sec. 8, Township 04N, Range 26E
BUTTE County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
03N	25E	1	NENE 33	NWNE 33	SWNE 33	
			SENE 33			132
04N	25E	25	NENW 33	NWNW 33	SWNW 33	
			SENW 40	NESW 40	NWSW 33	
			SWSW 33	SESW 39	NESE 33	
			NWSE 40	SWSE 39	SESE 33	429
						Total number of acres irrigated: 561

CONDITIONS OF APPROVAL AND REMARKS

Rights 34-07035A and 34-07122A are subject to the conditions of the Preliminary Order dated 06-06-2000 which has become final in the matter of Application for Transfer 5661.

Dated this 24th day of

August

2000

[Signature]
Chief, Water Allocation Bureau

Adjudication Recommendation Report 34-7122A V3

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	JUEL AIKELE RT 1 BOX 63D MOORE, ID 83255 (208)527-3197
Original Owner	TIMBERLINE BEEF INC RT 1 BOX 63B MOORE, ID 83255
Current Owner	M TODD PERKES RT 1 BOX 69 MOORE, ID 83255 (208)527-3157
Original Owner	RODNEY PEARSON , ZZ
Original Owner	MICHAEL AIKELE PO BOX 63 MOORE, ID 83255 (208)527-3611
Attorney	KENT W FOSTER HOLDEN KIDWELL HAHN & CRAPO 330 SHOUP AVE PO BOX 50130 IDAHO FALLS, ID 834050130 (208)523-0620

Status: Active

GROUND WATER

Location of Point(s) of Diversion

GROUND WATER BUTTE County	NE1/4NW1/4NW1/4	Sec. 8,	Twp 04N,	Rge 26E, B.M.
GROUND WATER BUTTE County	NE1/4SE1/4NW1/4	Sec. 5,	Twp 04N,	Rge 26E, B.M.

IRRIGATION

[illegible]

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 34-7122A V3

		NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
03N 25E	1	33.0	33.0	33.0	33.0													132.0
		L 1	L 2															
04N 25E	25					33.0	33.0	33.0	40.0	40.0	33.0	33.0	39.0	33.0	40.0	39.0	33.0	429.0
									6.5	6.5			6.5		6.5	6.5		

Total Acres: 561

Dried up

Conditions of Approval:

1. 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.
2. R43 The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.

Remarks:

1. Explanatory THIS RIGHT IS SUBJECT TO REGULATION BY THE WATERMASTER OF WATER DISTRICT 34.
2. Quantity USE OF THIS RIGHT WITH RIGHT NO. 34-07035A IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 4.95 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 920.5 AF.
3. Explanatory WATER DELIVERED THROUGH THE TIMBERDOME CANAL.
4. Place of Use - Irrigation THIS RIGHT IS LIMITED TO THE IRRIGATION OF 215.5 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

Comments:

1. DCarlson 2/14/2001 TRANSFER 5661
Comment: TRANSFER CHANGES ADD POD SPLIT 34-7035
2. DCarlson 2/15/2001 transfer 5660
Comment: t 5600 adds two pods to the pou
3. ecarlsen 11/26/2001 Amended T5661
Comment: On 5 Nov 01, the Department issued Amended Transfer #5661 limiting the POU under 34-7122A to 215.5 acres and a combined use limit of 4.29 cfs and 920.5 af for 34-7122A and 34-7035A. The remarks for this right have been modified to reflect these changes.
4. cfritsch 2/7/2002 Revision
Comment: Removed combined POU remark and moved measuring device requirement to explanatory.

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 34-7122A V3

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:
State or Federal:
Owner Name Connector: 0
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre: 754.3
Swan Falls Trust or Nontrust:
Swan Falls Dismissed: False
DLE Act Number:
Carey Act Number:
Mitigation Plan:

Adjudication Recommendation Report 34-7035A V2

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	RODNEY PEARSON , ID
Attorney	KENT W FOSTER HOLDEN KIDWELL HAHN & CRAPO 330 SHOUP AVE PO BOX 50130 IDAHO FALLS, ID 834050130 (208)523-0620
Original Owner	JUEL AIKELE RT 1 BOX 63D MOORE, ID 83255 (208)527-3197
Original Owner	TIMBERLINE BEEF INC RT 1 BOX 63B MOORE, ID 83255
Original Owner	MICHAEL AIKELE PO BOX 63 MOORE, ID 83255 (208)527-3611
Current Owner	M TODD PERKES RT 1 BOX 69 MOORE, ID 83255 (208)527-3157

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	04/01 to 11/01	0.640 CFS	166.30 AF
	<u>Total Diversion:</u>	0.640 CFS	166.30 AF

GROUND WATER BUTTE County	NE1/4NW1/4NW1/4	Sec. 8,	Twp 04N,	Rge 26E, B.M.
GROUND WATER BUTTE County	NE1/4SE1/4NW1/4	Sec. 5,	Twp 04N,	Rge 26E, B.M.

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	

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 34-7035A V2

		NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
03N 25E	1	33.0	33.0	33.0	33.0													132.0
04N 25E	25					33.0	33.0	33.0	40.0	40.0	33.0	33.0	39.0	33.0	40.0	39.0	33.0	429.0

Total Acres: 561

6.5 6.5 6.5 6.5 6.5
Dried up

Conditions of Approval:

1. 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.
2. R43 The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.

Remarks:

1. Explanatory THIS RIGHT IS SUBJECT TO REGULATION BY THE WATERMASTER OF WATER DISTRICT 34.
2. Quantity USE OF THIS RIGHT WITH RIGHT NO. 34-07122A IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 4.95 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 920.5 AF.
3. Explanatory WATER DELIVERED THROUGH THE TIMBERDOME CANAL.
4. Place of Use - Irrigation THIS RIGHT IS LIMITED TO THE IRRIGATION OF 47.5 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

Comments:

1. cfritsch 2/7/2002 Revision
Comment: Removed combined POU remark and moved measuring device requirement to explanatory.

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:
 State or Federal:
 Owner Name Connector: 0
 Water District Number:
 Generic Max Rate Per Acre:
 Generic Max Volume Per Acre: 166.3
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed: False
 DLE Act Number:
 Carey Act Number:
 Mitigation Plan:

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 34-7035A V2

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 34-622A V2

WATER RIGHT NUMBER: 34-622A V2

Owner Type Name and Address

Original Owner ROY C PEARSON

, ZZ

Current Owner OWEN LOFTUS
RT1 BOX 11A
MOORE, ID 83255
(208)554-4672Current Owner GLORIA LOFTUS
RT1 BOX 11A
MOORE, ID 83255
(208)554-4672

Priority Date: 06/01/1896

Basis: Decreed

Status: Active

Source Tributary

BIG LOST RIVER SINKS

Beneficial Use From To Diversion Rate Annual Volume

IRRIGATION 5/01 to 10/15 1.570 CFS

Total Diversion: 1.570 CFSLocation of Point(s) of DiversionBIG LOST RIVER NW1/4SE1/4SE1/4 Sec. 4, Twp 05N, Rge 26E, B.M.
BUTTE CountyPlace of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
04N	25E	25	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
			4.0		37.0	38.0				1.0									80.0

Total Acres: 80

Place of use

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:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 34-622A V2

1. Purpose of Use 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 WATERMASTER FOR WATER DISTRICT 34.
2. Explanatory WATER DELIVERED THROUGH MOORE CANAL TO CROSSOVER DITCH INTO TIMBERDOME CANAL.

Comments:

1. VERNER 5/22/1991 COPIED FROM REMARKS
Comment: TRANS #1801. P/D MOORE CANAL. WATER IS DELIVERED TO THE PLACE OF USE BY TRANSPORTING IT IN THE MOORE CANAL UNTIL IT REACHES THE SW1/4NE1/4, SECTION 18 TWP. 4N, RGE. 26E WHERE IT IS EMPTIED INTO THE BLAINE CANAL AND CONVEYED TO THE PLACE OF USE.
2. CARLSEN 4/15/1992 NOTICE OF ERROR
Comment: CLAIMANT ASKED THAT CONDITION C01 BE OMITTED. REVIEW OF P.O.U. REVEALED THERE WAS NO EXPANSION IN ACREAGE. CONDITION C01 WAS DELETED.
3. AJU10-DS 6/9/2000 AJU10 CONDITION UPDATE
Comment: CONDITION CODE(S) C18 ADDED IF NOT ALREADY PART OF RECORD THRU AJU10.

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: RECEIVED - RECOMMENDATION CHANGED
State or Federal:
Owner Name Connector: 0
Water District Number: 34
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed: False
DLE Act Number:
Carey Act Number:
Mitigation Plan: OR