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COLUMBIA PORT MGRS

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TC-34-01

**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 Robert A. Unger Phone 503-795-6310
Post Office Address 24121 SW Newlane Wilsonville, Or 97070

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 temporary transfer of water to ground which is currently dry due to connection of river above reservoir

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

1. <u>Roll Number</u>	<u>Exch. No.</u>	<u>Amount (Rs./Paise)</u>	<u>Name of User</u>	<u>Period of Use</u>
<u>34-00626B</u>	<u>9.1.84</u>	<u>1.46 CFS</u>	<u>Irrigation</u>	<u>5/15</u> to <u>10.15</u>
<u>34-00624B</u>	<u>5.1.84</u>	<u>1.18 CFS</u>	<u>irrigation</u>	<u>5/15</u> to <u>10.15</u>

2. Total amount of water being transferred 1.67 cubic feet per second and/or 270 foot per second

3. Source of water: Warm Springs Creek tributary to Big Lost River

4. Point(s) of Diversion:

[illegible]

5. Lands irrigated or place of use:

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			N2	NW	SW	SE	N2	NW	SW	SE	N2	NW	SW	SE	N2	NW	SW	SE	
7N	23E	6					42	41	5	5									93
8N	23E	31												40	40		40		120
														13	13		12		

Total Acres ~~213~~
175

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d. General Information:

- a. Who owns the water right to be changed? Robert A. Unger
- b. Describe the arrangement allowing use of the right NA
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
land will not be irrigated until the river connects again
- d. Has the water right sought to be transferred been used this year? no If yes, explain.
- e. Absent the changes, how would the right be used for the remainder of the year?
- f. Describe other water rights used for the same purpose.
None
- 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.

Robert A. Unger
(Signature of applicant)

FOR DEPARTMENT USE ONLY

Received by HWT Date 5-30-01 Fee 50.00

Received HWT # E02C 758 Recommended: _____ 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 APPROVED subject to the following limitations and conditions:

1. Not effective until application fee has been received
2. Control of the watermaster District 34
3. Expires November 1, 2001
4. Measuring requirement

Witness my hand this 29th day of May, 2001

Leah D. Clark
For the Director

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommended Right Report

WATER RIGHT NO. 34-626B

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	ROBERT UNGER 24121 S W NEWLAND ROAD WILSONVILLE, OR 97070 (503)638-2488

Directors Report Owner	PENCE RANCH INC PO BOX 294 MACKAY, ID 83251 (208)588-3357
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Directors Report Owner	THOMAS DEAN PENCE STAR RT MACKAY, ID 83251 (208)588-2829
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Priority Date: 09/01/1884
Basis: Decreed
Status: Active

<u>Source</u>	<u>Tributary to</u>
BIG LOST RIVER	SINKS

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
IRRIGATION	5/01	10/15	1.46 CFS		
STOCKWATER	1/01	12/31	0.04 CFS		
Total Diversion			1.46 CFS		

Location of Point(s) of Diversion:

BIG LOST RIVER	NENW	Sec. 30	Township 08N	Range 23E	CUSTER County
BIG LOST RIVER	NESE	Sec. 30	Township 08N	Range 23E	CUSTER County
BIG LOST RIVER	SESE	Sec. 30	Township 08N	Range 23E	CUSTER County

IRRIGATION Use:
Acre Limit: 175

Place(s) of use:

Place of Use Legal Description: IRRIGATION CUSTER County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
08N	23E	29		NWSW	7		SWSW	38		SESW	20			
		32		NWNE	32									
				NENW	38		NWNW	40						

Place of Use Legal Description: STOCKWATER same as IRRIGATION

Total Acres: 175

Conditions of Approval:

1. N05 THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.
2. N08 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
3. 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.
4. C03 RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.

Remarks:

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. Place of Use - Irrigation THIS RIGHT IS LIMITED TO THE IRRIGATION OF 73.0 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON. USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 175.0 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 34-00627B, 34-00628B, 34-00629B, AND 34-00630B.
3. Explanatory THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 34-00627B, 34-00628B, 34-00629B AND 34-00630B.
STOCKWATER, 200 CATTLE.

Comments:

Author	Date	Subject	Comment
DCARLSON	2/25/1992	ADDED A POINT OF DIVERSION	ADDED A POINT OF DIVERSION
DCARLSON	5/20/1992	ADDED PARSONS CREEK AS A SOURCE	ADDED PARSONS CREEK AS A SOURCE
DSMITH	1/5/1996	NAME AND/OR ADDRESS CHANGE	THE NAMES OR ADDRESSES IN THE NAME FILE WERE CHANGED WITHOUT THE ABOVE USER NOTING EXACTLY WHAT WAS CHANGED. THE CHANGE FOR A K-OWNER OR ATTORNEY MAY HAVE BEEN MADE WITHOUT A WATER RIGHT OWNER CHANGE. *CONFORMED NAME/ADDRESS TO AVOID DUPLICATE MAILING LABELS.
ARUBERRY	11/18/1996	CHANGE OF OWNERSHIP-SPLIT	34-00626 WAS SPLIT BY CHANGE OF OWNERSHIP AS: 34-00626A 275.5 AC, 1.84 CFS, T. PENCE 34-00626B 203.0 AC, 1.36 CFS, R. UNGER ----- TOTAL 478.5 AC, 3.2 CFS, CLAIMED IN-FULL ***18NOV96,ABR***
ARUBERRY	11/20/1996	STOCKWATER-SPLIT	ORIGINAL OWNER CLAIMED STOCKWATER FOR 600 HEAD. NEW CLAIMANT HAS 200 HEAD. STOCKWATER SPLIT IS BASED ON 1/3, 2/3 X (DIV. RATE). ADDED CONDITIONS N07, N08; DELETED N01 & N02.
ECARLSEN	9/3/1997	CLAIMS MODIFIED FOR SF5.	BASED ON A REQUEST FROM CLAIMANTS ATTORNEY AND FINDINGS DURING A FIELD INVESTIGATION I MODIFIED THE SOURCE, POD, POU AND REMARKS
AJU10-DS	6/9/2000	AJU10 CONDITION UPDATE	CONDITION CODE(S) C18 ADDED IF NOT ALREADY PART OF RECORD THRU AJU10.

Dates:

Licensed Date:
 Claim Received Date:
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 Decreed Date:
 Date Filed with Court:
 Objection Filed Date:
 SF5 Filed:
 Special Master Recom Signed Date:

Other Information:

Receipt Number(s):
 State or Federal: S
 Owner Name Connector: OR
 Water District Number: 34

05/24/2001

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommended Right Report

WATER RIGHT NO. 34-629B

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	ROBERT UNGER 24121 S W NEWLAND ROAD WILSONVILLE, OR 97070 (503)638-2488

Directors Report Owner	PENCE RANCH INC PO BOX 294 MACKAY, ID 83251 (208)588-3357
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Directors Report Owner	THOMAS DEAN PENCE 303 SE 126TH AVE #14 PORTLAND, OR 97233 (503)257-6805
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Priority Date:	05/01/1884
Basis:	Decreed
Status:	Active

<u>Source</u>	<u>Tributary to</u>
BIG LOST RIVER	SINKS

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
IRRIGATION	5/01	10/15	0.18 CFS		
STOCKWATER	1/01	12/31	0.04 CFS		
Total Diversion			0.18 CFS		

Location of Point(s) of Diversion:

BIG LOST RIVER	NENW	Sec. 30	Township 08N	Range 23E	CUSTER County
BIG LOST RIVER	NESE	Sec. 30	Township 08N	Range 23E	CUSTER County
BIG LOST RIVER	SESE	Sec. 30	Township 08N	Range 23E	CUSTER County

IRRIGATION Use:
Acre Limit: 175

Place(s) of use:

Place of Use Legal Description: IRRIGATION CUSTER County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
08N	23E	29		NWSW	7		SWSW	38		SESW	20			
		32		NWNE	32									
				NENW	38		NWNW	40						

Place of Use Legal Description: STOCKWATER same as IRRIGATION

Total Acres: 175

Conditions of Approval:

1. N05 THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.
2. N08 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
3. 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.
4. C03 RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.

Remarks:

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. Place of Use - Irrigation THIS RIGHT IS LIMITED TO THE IRRIGATION OF 9.0 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON. USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 175.0 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 34-00626B, 34-00627B, 34-00628B, AND 34-00630B.
3. Explanatory THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 34-00626B, 34-000627B, 34-000628B AND 34-00630B.
STOCKWATER, 200 CATTLE.

Comments:

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	ASLETT RANCHES PARTNERSHIP PO BOX B TWIN FALLS, ID 83303 (208)734-5333

Priority Date: 11/01/1892
Basis: Decreed
Status: Active

WARM SPRINGS CREEK SWNESE Sec. 34 Township 08N Range 22E CUSTER County

Place of Use Legal Description: IRRIGATION CUSTER County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
07N	23E	6	3	NENW	42	4	NWNW	41	8	SWNW	5		SENW	5
08N		31		NESW	40	4	SWSW	40		SESW	40			

Place of Use Legal Description: STOCKWATER same as IRRIGATION

1.	N15	THE APPROPRIATOR IS ENTITLED TO THE QUANTITY OF WATER DESCRIBED FOR STOCK WATER PURPOSES AT A POINT OF MEASUREMENT WHERE THE DELIVERY DITCH ENTERS THE PLACE OF USE DESCRIBED.
2.	N05	THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.
3.	N08	THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
4.	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:

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. Place of Use - Irrigation USE OF THIS RIGHT WITH RIGHT NO. 34-00471 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 213 ACRES IN A SINGLE IRRIGATION SEASON.
3. Explanatory WATER IS DELIVERED THROUGH UPPER FISH HATCHERY CANAL.
STOCKWATER, 350 RANGE CATTLE

Comments:

Author	Date	Subject	Comment
DCARLSON	4/16/1992	NOTICE OF ERROR	STOCKWATER OUTSIDE IRR SEASON
CFRITSCH	12/18/1995	REVISED RECOMMENDATION	THE RECOMMENDATION OF THIS RIGHT WAS REVISED TO SHOW THE CHANGE OF LOT 5 INTO LOT 8 AS A RESULT OF A NEW SURVEY DATED 3-17-95.
AJU10-DS	6/9/2000	AJU10 CONDITION UPDATE	CONDITION CODE(S) C18 ADDED IF NOT ALREADY PART OF RECORD THRU AJU10.

Dates:

Licensed Date:
 Claim Received Date: 12/20/1989
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 Decreed Date: 10/21/1925
 Date Filed with Court:
 Objection Filed Date:
 SF5 Filed:
 Special Master Recom Signed Date:

Other Information:

Receipt Number(s): S010740
 State or Federal: S
 Owner Name Connector:
 Water District Number: 34
 Generic Max Rate per Acre:
 Generic Max Volume per Acre:
 Civil Case Number:
 Old Case Number:
 Decree Plaintiff:
 Decree Defendant:
 PresumptionFlag:
 Notice of Error Flag: RECEIVED - RECOMMENDATION CHANGED
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Cary Act Number:
 Mitigation Plan: False

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF A)
WATER RIGHT IN THE NAME)
OF 34-6268 + 34-6298)
ROBERT LINGER)

**ORDER AUTHORIZING
TEMPORARY CHANGE**

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 (A 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, as provided in section 42-240, Idaho Code, when the director determines that such changes can be accomplished in accordance with the provisions of section 42-222A, Idaho Code; and

WHEREAS, on May 24, 2001, Robt. Linger 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; and

WHEREAS, The applicant assumes all risk and is the responsible party if diversion and use of water under the temporary change approval causes injury to other water rights or constitutes an enlargement in use of the original right;

ORDER

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

1. Diversion and use of right no(s). 34-6268
34-6298 is authorized only at the point of diversion and place of use described on the application or as otherwise approved in this order.
2. This temporary change approval does not authorize construction of a new well as a new point of diversion.
3. 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.

4. Right(s) 34-626 B
34-629 B are limited to the irrigation of a total of 175 acres in a single irrigation season.
5. 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.
6. 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.
7. 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.
8. The applicant shall measure the amount of water diverted and shall report the amount of water diverted under this approval. (If this condition or a similar one is used; describe the required frequency of measurement and when and where to report the amount of measured water).
9. The watermaster of Water District No. 34 is authorized to administer the temporary change approval.
10. This temporary change approval expires on 10-15-01 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 31st day of May, 2001.


AUTHORIZED PERSON
IDWR

MAY-03-01 THU 11:03 AM

P. 03

6. General Information:

- a. Who owns the water right to be changed? Robert A. Unger
- b. Describe the arrangement allowing use of the right NA
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
land will not be irrigated until the river connects again
- d. Has the water right sought to be transferred been used this year? no If yes, explain _____
- e. Absent the changes, how would the right be used for the remainder of the year? _____
- f. Describe other water rights used for the same purpose.
None
- 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.

Robert A. Unger
(Signature of applicant)

FOR DEPARTMENT USE ONLY

Received by _____ Date _____ Fee _____

Receipted _____ # _____ 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 _____

For the Director