

2002

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)
BRION D EGAN)

ORDER AUTHORIZING
TEMPORARY CHANGE

WHEREAS, a drought emergency has been declared for CLARK 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 5/17/2002, BRION D. EGAN 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). 32-00043
32-00025 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) 32-00043
32-00025 are limited to the irrigation of a total of 293 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. 32-C is authorized to administer the temporary change approval.
10. This temporary change approval expires on 9/30/2002 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 20th day of May, 2002.


AUTHORIZED PERSON
IDWR

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 Brion D Egan Phone 208 374 5460
Post Office Address HC 61 Box 10600 Dubois Id. 83423

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 Pat McGarry will dry his ground up and I will use his water to supplement my water so that I can irrigate existing ground already permitted under my water right. No New Ground will be irrigated. This is due to the drought

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>32-00025</u>	<u>10/01/1883</u>	<u>3.36 cfs</u>	<u>Irrigation</u>	<u>4/1</u> to <u>10/31</u>
	<u>32-00043</u>	<u>10/15/1884</u>	<u>2.00 cfs</u>	<u>Irrigation</u>	<u>4/1</u> to <u>10/31</u>

Priority *
is already
off

2. Total amount of water being transferred 3.36 cubic feet per second and/or _____ acre-feet per annum.
3. Source of water Medicine Lodge Creek tributary to none (water does not
4. Point(s) of Diversion: tribut any where)

Ident No.	Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion
			NW	SW	8	10 N	35 E	Clark	Egan Diversion Medicine Lodge Creek

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	
10 N	35 E	17									X			X		X	X		156
											40			39		39	38		

Total Acres 156

6. General Information:

- a. Who owns the water right to be changed? Pat Mc Garry
- b. Describe the arrangement allowing use of the right I will pay them for the use of the water. (225 ton hay or cash equivalent) * See Attached Agreement
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
It will be Dried up
- d. Has the water right sought to be transferred been used this year? yes If yes, explain. they are using it for Stockwater and some irrigation
- e. Absent the changes, how would the right be used for the remainder of the year? Same
- f. Describe other water rights used for the same purpose.
I am using my water right for some purpose
- g. Remarks: See Attached Water Master Comments
We Are doing this because of Drought

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.

Brian Egan
(Signature of applicant)

FOR DEPARTMENT USE ONLY

Received by EMC Date 5/17/2002 Fee 50.00
Receipted EMC # E027763 Recommend: ☒ approve ☐ deny
Watermaster recommendation Approve

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 20th day of May, 2002.

Ralph P. Carl
For the Director

WATER DIST. #32-C
GREGORY A. SHENTON – WATERMASTER
BRETT G. MURDOCK – DEPUTY WATERMASTER
P.O. BOX 33
DUBOIS, IDAHO 83423
(208) 374-5274 -5389
(208) 374-5696 fax

Idaho Department Of Water Resources

May 16, 2001

As you are aware, our county has declared it's self as a drought emergency county. Brian Egan has come to our office and has asked us about transferring the McGarry Ranch decreed water rights, "32-025" to his diversion for the purpose of irrigation of his crops. We do not see a problem with this, as long as McGarry Ranch no longer diverts water out of his diversion and Egan agrees to a 6%, "six percent" channel seepage loss. We also see no injury to other senior water right holders by the temporary transfer of this water for this year. Therefore we do endorse approval of this temporary transfer.

Below are the decreed water right in which we believe to be part of this agreement.

Right number	priority	amount	6% loss	total diverted
0032-025	10-01-83	3.36 cfs	.20 cfs	3.16 cfs

Sincerely;

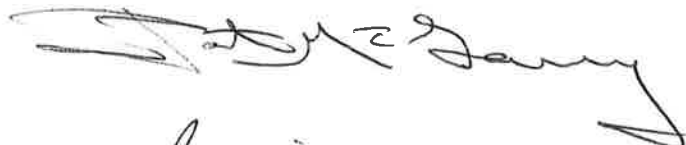

Brett G. Murdock
Deputy Water master

AGREEMENT FOR TEMPORARY WATER TRANSFER

This agreement entered into this 16th day of May, 2002, between Pat McGarry, McGarry Ranch, and Brion Egan for the purpose of a temporary transfer of water owned by McGarry's to Brion for the summer of 2002, May to September 30.

The conditions of the agreement are as follows.

1. McGarrys will deliver water to Brion as soon as water resources approves transfer. Water will revert back to McGarry's Sept. 30, 2002.
2. Payment will be made in hay or an equivalent of cash, at McGarrys option. Cash price will be determined by fair market price of good hay at time of settlement in fall. For the delivery of 1.58 inches of water for the above season, Brion agrees to pay 225 ton hay or equivalent in cash. This equates to 1.42 ton per inch of water.
3. If water is cut back through the season the payment will be prorated in the following manner. 6/1/02 to 9/30/02 equals 122 days divided into 1.42 ton equals 23.28 lbs. Per inch per day. Each day an inch is lost off of the water right, 23.28 lbs will be deducted from 225 ton. If no water is lost payment will be made in fall at McGarrys request.
4. If hay is used for payment Egan agrees to load hay but not to transport it. Hauling can be arranged for additional cost.


Brion Egan

Idaho Department of Water Resources Receipt

Receipt ID E027763

Payment Amount Date Received Region Status
Payment Type Check Number

Payer Comment

Fee Detail

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



Signature Line (Dept. Representative)