

BEFORE THE DEPARTMENT OF WATER RI

2003

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF A)
WATER RIGHT)

ORDER AUTHORIZING
TEMPORARY CHANGE TC-32-08

Brian D EGAN)

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 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 5/21/03, Brian Egan submitted the attached
Temporary Change Application TC32-08 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). 32-0025 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) 32-0025 are limited to the irrigation of a total of 156 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 32C is authorized to administer the temporary change approval.
11. This temporary change approval expires on 12/31/03 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 22nd day of May, 2003


 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 Brian Egan Phone 208 374 5460
Post Office Address HC 61 Box 1060 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 up his ground and I will use his water to supplement my water due to 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>32-0025</u>	<u>10/1/1883</u>	<u>3.36 cfs</u>	<u>IRRIGATION</u>	<u>4/1</u> to <u>10/31</u>
				to
				to
				to

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 SINKS

4. Point(s) of Diversion:

Ident No.	Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion
			NW	SW	8	10N	3SE	CLARK	Egan Diversion

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	
10N	3SE	17									40			39		39	38		156

Total Acres 156

6. General Information:

- a. Who owns the water right to be changed? Pat & JACK Mc GARRY
- b. Describe the arrangement allowing use of the right SEE ATTACHED LEASE 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. STOCKWATER !
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.
32-0029 1.00cfs (10-1-1883) 32-30 1.5cfs (2-1-1884) 32-31 1.0cfs (8-1-1886)
- 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.

Bruce Egan
(Signature of applicant)

FOR DEPARTMENT USE ONLY

Received by KCW Date 5/21/03 Fee 50⁰⁰

Received KCW # E028801 Recommend: ☒ approve ☐ deny

Watermaster recommendation APPROVAL

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. Subject to Watermaster Control.
2. _____

Witness my hand this 22nd day of MAY, 2003 :

Ronald J. [Signature]
For the Director

Tc-32-08

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

Idaho Department Of Water Resources

April 23, 2003

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's decreed water rights, "32-0025" to his diversion for the purpose of irrigation of his crops. We do not see a problem with this, as long as McGarry 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 as long as the above conditions are met.

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

Right number	priority	amount	6% loss	total diverted
32-0025	10/1/83	3.36cfs	.20cfs	3.16cfs
TOTAL		3.36cfs	.20cfs	3.16cfs

Sincerely;


Brett G. Murdock
Deputy Water master

AGREEMENT FOR TEMPORARY WATER TRANSFER

This agreement entered into this 16th day of May, 2003, 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 2003, 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, 2003.
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. 6/1/03 to 9/30/03 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.

A handwritten signature in cursive script, appearing to read "Patrick T. McGarry". The signature is written in dark ink and is positioned below the main body of the agreement text.

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 32-25

WATER RIGHT NUMBER: 32-25

Owner Type Name and Address
 Current Owner JACK MC GARRY
 HC 61 BOX 1080
 DUBOIS, ID 83423
 (208)374-5470

Priority Date: 10/01/1883

Basis: Decreed

Status: Active

Source Tributary
 MEDICINE LODGE CREEK SINKS

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER	4/01 to 10/31	0.020 CFS	
IRRIGATION	4/01 to 10/31	3.360 CFS	
		<u>Total Diversion:</u>	3.360 CFS

Location of Point(s) of Diversion

MEDICINE LODGE CREEK	SW1/4NE1/4SE1/4 Sec. 25, Twp 11N, Rge 34E, B.M.	CLARK County
MEDICINE LODGE CREEK	NW1/4SW1/4SE1/4 Sec. 31, Twp 11N, Rge 35E, B.M.	CLARK 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	
10N 35E 6													25.0	38.0	37.0	36.0	136.0
11N 35E 31	40.0	39.0	38.0	40.0													157.0

Total Acres: 293

STOCKWATER same as IRRIGATIONConditions 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. C03 RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.
3. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

Remarks:

1. Place of Use USE OF THIS RIGHT WITH RIGHT NO. 32-00043 IS LIMITED TO THE IRRIGATION OF A
 - Irrigation COMBINED TOTAL OF 293 ACRES IN A SINGLE IRRIGATION SEASON.
2. Explanatory STOCKWATER, 500 CATTLE WATER IS DELIVERED THROUGH MEDICINE LODGE
 25NESE WATER IS DELIVERED THROUGH MEDICINE LODGE 31SWSE-W

Comments:

1. DCARLSON 3/19/1999 COPIED FROM REMARKS
 Comment: STIPULATED AGREEMENT, 9/15/1953. WATER IS DIVERTED BEFORE AND AFTER THE IRRIGATION SEASON, FROM MARCH 1 TO NOV. 31. THE STOCK WATER USE EXTENDS TO THIS PERIOD.
2. AJU10-EC 7/29/1999 AJU10 CONDITION UPDATE
 Comment: CONDITION CODE(S) C18 ADDED IF NOT ALREADY PART OF RECORD THRU AJU10.

Dates and Other Information:

Licensed Date:
 Decreed Date: 10/27/2000
 State or Federal: S
 Water District Number: 32C

Civil Case Number: 39576
 Judicial District: FIFTH

<u>Basin</u>	<u>Sequence</u>	<u>Basis</u>	<u>Priority Date</u>	<u>Rate(cfs)</u>	<u>Source</u>	<u>Owner(s)</u>
32	29	Decreed	1883-10-01	1	MEDICINE LODGE CREEK	EGAN, BRION D or DEANNA
32	30	Decreed	1884-02-01	1.5	MEDICINE LODGE CREEK	"
32	31	Decreed	1886-08-01	1	MEDICINE LODGE CREEK	"
32	4004	Statutory Cla	3/25/1963	4	MEDICINE LODGE CREEK	ROWLAND, KENNETH E (Current)