

2004

Form 42-222A
12/99

Ident. No. TC-29-10

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 Kenneth D or Jim Andrus Phone 208 776-5380

Post Office Address 6948 East Old Oregon Trail Rd, Lava Hot Springs Id 83246

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change purpose of use ☒ Other CHANGE SOURCE

2. Describe the proposed change(s) and the reason(s) thereof drought condition have cut junior water rights. water can be used more beneficially

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

Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>29-13399</u>	<u>5/01/1896</u>	<u>0.56 cfs</u>	<u>IRRIGATION</u>	<u>4/15</u> to <u>9/15</u>
<u>29-13401</u>	<u>7/6/1868</u>	<u>0.72 cfs</u>	<u>IRRIGATION</u>	<u>1/1</u> to <u>10/31</u>
				to
				to

2. Total amount of water being transferred 0.88 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Bob Smith Creek tributary to Portneuf River

4. Point(s) of Diversion:

Ident No.	Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion
		<u>NE</u>	<u>SE</u>	<u>SW</u>	<u>12</u>	<u>9S</u>	<u>37E</u>	<u>Bannock</u>	<u>—</u>

5. Lands irrigated or place of use: 44 acres with in 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>9S</u>	<u>37E</u>	<u>13</u>											<u>17</u>						<u>17</u>
		<u>14</u>																<u>34</u>	<u>34</u>
		<u>23</u>	<u>33</u>																<u>33</u>
		<u>24</u>						<u>31</u>											<u>31</u>

Total Acres 115

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6. General Information:

- a. Who owns the water right to be changed? Applicant
- b. Describe the arrangement allowing use of the right —
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
Dry farmed
- d. Has the water right sought to be transferred been used this year? Yes If yes, explain.
was use prior to applicants purchasing water Rights
- e. Absent the changes, how would the right be used for the remainder of the year? Not Used
- f. Describe other water rights used for the same purpose.
29-187, 29-188, 29-191, 29-193, 29-11678, 29-11681
- g. Remarks: other water rights have 1902 + 1903 priorities

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.

[Signature]
(Signature of applicant)

FOR DEPARTMENT USE ONLY

Received by KCW Date 7/22/04 Fee \$ 50.00

Received KCW 7/22/04 # E030076 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. TC-29-10

And said application is hereby APPROVED subject to the following limitations and conditions:

water can only be diverted if a measuring device found to be satisfactory by the watermaster is installed at the new Point of diversion

Witness my hand this 4th day of August, 2004.

[Signature]
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 29-13399 & 29-13401)
Kenneth or Jim Andrus)

**ORDER AUTHORIZING
TEMPORARY CHANGE**

TC-29-10

WHEREAS, a drought emergency has been declared for Bannock 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 ("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 authorized under 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 July 27, 2004, Kenneth Andrus submitted the attached Temporary Change Application TC-29-10 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). 29-13399 & 29-13401 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 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.

ORDER AUTHORIZING
TEMPORARY CHANGE

TC-29-10

5. Right(s) 29-13399 ; 29-13401 are limited to the irrigation of a total of 44 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 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 Water master of Water District No. 29 is authorized to administer the temporary change approval.
11. This Temporary change approval expires on October 31, 2004 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 4th day of August, 2004.



Ronald D. Carlson
Eastern Regional Manager

12/99

ATTN:

KEITH

WILSON

(208) 525-7177 fax

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECOMMENDATION OF WATERMASTER

Application No: TC-29-10Applicant's Name: Ken or Tim Andrews

Watermaster's Recommendation:

- a) ☒ I do not oppose approval of this application.
- b) ☒ I do not oppose approval of this application if it is conditioned as

follows: I feel there could
be a measuring device
of some legal means at
his point of diversion

- c) ☐ I oppose approval of this application for the following reasons:

- d) ☐ Additional Comment:

Dated this 29 day of July 29, 2004Water District No: 29Steven H. Hobbs
Watermaster's Signature

Use reverse side of page if you need more space.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 29-13399 V1

WATER RIGHT NUMBER: 29-13399 V1

INFO

Owner TypeCurrent Owner
83246Name and AddressKENNETH D & JIM ANDRUS, 6948 E OLD OREGON TRAIL RD, LAVA HOT SPRINGS, ID
(208)776-5380

Priority Date: 05/01/1896

Basis: Decreed

Status: Active

Source

PORTNEUF RIVER

Tributary

SNAKE RIVER

Beneficial Use

IRRIGATION

From To

04/15 to 09/15

Diversion Rate

0.560 CFS

Annual VolumeTotal Diversion: 0.560 CFSLocation of Point(s) of Diversion

PORTNEUF RIVER L4 (SW1/4SW1/4NW1/4)Sec. 20,Twp 09S,Rge 37E, B.M. BANNOCK 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	
09S 37E 19				24.0 L 3													24.0
09S 37E 20							20.0 L 4										20.0

Total Acres: 44

Remarks:

- Quantity USE OF THIS RIGHT WITH RIGHT NO. 29-13401 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.88 CFS.
- Place of Use - Irrigation USE OF THIS RIGHT WITH RIGHT NO. 29-13401 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 44 ACRES IN A SINGLE IRRIGATION SEASON.
- Place of Use - Irrigation THIS RIGHT IS LIMITED TO THE IRRIGATION OF 28 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
- Purpose of Use THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS APRIL 1 AND MAY CONTINUE TO AS LATE AS OCTOBER 31, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE APRIL 15 AND AFTER SEPTEMBER 15 UNDER THIS REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.

Comments:

- aruberry 10/23/2002 SPLIT PORTION HISTORY OF 29-55 AND 29-56 COMBINED TO 29-11253. SEE SPLIT HISTORY.
- aruberry 10/23/2002 POD CLAIMED IN WRONG QQ/SEC.

Dates and Other Information:

Decreed Date:

State or Federal: S

Combined Use Limits:

Rate	Volume	Acres
0.88		44

Combined Water Rights: 29-13399 , 29-13401

SubCase:

SubCase Number: 29-51

Class: 1

SF5 Filed Date:

Special Master Recom Signed Date: 7/20/2004

Attorney Assigned:

Adjudication Agent: Allen Ruberry

Basis of Claim: Decreed

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 29-13401 V1

WATER RIGHT NUMBER: 29-13401 V1

Owner Type Name and Address
 Current Owner KENNETH D & JIM ANDRUS, 6948 E OLD OREGON TRAIL RD, LAVA HOT SPRINGS, ID 83246

Priority Date: 07/06/1868

Basis: Decreed

Status: Active

Source Tributary
 PORTNEUF RIVER SNAKE RIVER

Beneficial Use From To Diversion Rate Annual Volume
 IRRIGATION 04/01 to 10/31 0.720 CFS

Total Diversion: 0.720 CFSLocation of Point(s) of Diversion

PORTNEUF RIVER L4 (SW1/4SW1/4NW1/4)Sec. 20,Twp 09S,Rge 37E, B.M. BANNOCK 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	
09S 37E 19				24.0 L 3													24.0
09S 37E 20							20.0 L 4										20.0

Total Acres: 44

Remarks:

- Quantity USE OF THIS RIGHT WITH RIGHT NO. 29-13399 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.88 CFS.
- Place of Use USE OF THIS RIGHT WITH RIGHT NO. 29-13399 IS LIMITED TO THE IRRIGATION OF A
- Irrigation COMBINED TOTAL OF 44 ACRES IN A SINGLE IRRIGATION SEASON.
- Place of Use THIS RIGHT IS LIMITED TO THE IRRIGATION OF 36 ACRES WITHIN THE PLACE OF USE
- Irrigation DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
- Explanatory THIS RIGHT IS A SPLIT FROM FORMER RIGHT 29-12053.
- Purpose of THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS
Use APRIL 1 AND MAY CONTINUE TO AS LATE AS OCTOBER 31, PROVIDED OTHER
ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE APRIL
15 AND AFTER SEPTEMBER 15 UNDER THIS REMARK IS SUBORDINATE TO ALL WATER
RIGHTS HAVING NO SUBORDINATED EARLY OR LATE IRRIGATION USE AND A
PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR THIS
RIGHT.

Comments:

- aruberry 10/23/2002 SOURCE THIS WATER HAS BEEN DELIVERED AS PORTNEUF RIVER

Dates and Other Information:

Decreed Date:
 State or Federal: S

Combined Use Limits:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 29-13401 V1

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
0.88		44

Combined Water Rights: 29-13399 , 29-13401

SubCase:

SubCase Number: 29-13401

Class: 1

SF5 Filed Date:

Special Master Recom Signed Date: 7/20/2004

Attorney Assigned:

Adjudication Agent: Allen Ruberry

Basis of Claim: Decreed

Date Filed: 11/7/2003 Objection Status: Active