



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

July 8, 2001

Gem Valley Farms
C/O Chad Neibaur
1550 Central Rd
Bancroft, ID 83217

Re: Order Approving Temporary Change Application: TC-29-02

Dear Mr. Neibaur:

The Department of Water Resources (the department) has approved the enclosed temporary change application. Please note all of conditions of approval in the order. This action has the effect of a preliminary order. Pursuant to Section 67-5243, Idaho Code, it can and will become a final order without further action of the Department unless a party petitions for reconsideration or files an exception and/or brief as described in the enclosed information sheet.

If you have any other questions, please call me directly at (208)327-7864.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tim Luke', is written over a horizontal line.

Tim Luke
Water Distribution Section
Water Allocation Bureau

Enclosures

Cc: Craig Shuler, Watermaster
Easter Regional Office

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

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

**ORDER AUTHORIZING
TEMPORARY CHANGE**

WHEREAS, a drought emergency has been declared for Butte and Custer 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 July 2, 2001 Gem Valley Farms ("applicant") 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). 13-02203 and 29-2352 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) 13-2203B, 29-2352, 29-7000B and 29-7000A are limited to the irrigation of a total of 665.5 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. 13-T is authorized to administer the temporary change approval.
11. This temporary change approval expires on October 15, 2001 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.
12. By Diversion and use of water under this temporary change, the applicant acknowledges and agrees that the Director may terminate diversion of water under this temporary change if the Director determines there is interference with or injury to other water rights.
13. The point of diversion located in T9S, R39E, Section 13, NWSW, shall be physically disconnected from the other points of diversion described on the application at the end of this irrigation season.

DATED this 6th day of July, 2001.


L. GLEN SAXTON, Chief
Water Allocation Bureau

State of Idaho
Department of Water Resources
TEMPORARY CHANGE APPLICATION
(To change point of diversion, place of use or purpose of use)

547-7113 - call

Name of applicant: Gem Valley Farms c/o Chad Neibaur Phone: 208-648-7113
Post Office address: 1550 Central Road, Bancroft, Idaho 83217

- A. Purpose of Transfer:
1. ☐ Change point of diversion ☒ Add diversion points ☐ Change place of use
☐ Change purpose of use ☐ other

2. Describe the proposed change(s) and the reasons therefore:

B. Description of rights or portion thereof, after the requested change:-

1. Right Number	Priority	Amount	Nature	Period of Use
<u>29-02352</u>	<u>7/31/54</u>	<u>2.50 cfs.</u>	<u>Irrigation</u>	<u>4/15 to 10/15</u>
<u>13-02203B</u>	<u>9/9/59</u>	<u>3.10 cfs</u>	<u>Irrigation</u>	<u>4/15 to 10/15</u>

2. Total amount of water being transferred 5.60 cubic feet/second and /or acre-feet annum
3. Source of water Groundwater tributary to
4. Points of Diversion:

Ident No.	Gov't Lot	1/4	1/4	1/4	Sec.	Twp	Rge.	County	Local name for diversion
			SW	SE	18	9S	40E	Caribou	Home Place
			NW	SW	13	9S	39E	Caribou	Stanton
			NE	NW	19	9S	40E	Caribou	Pauls

5. Lands irrigated or place of use:

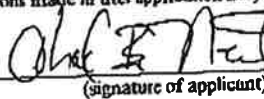
TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
9S	40E	18									30	30	30	30	30	30	30	30	240
9S	39E	13							30	30			30	30					60
9S	40E	19							25	35.5									60.5

Total
acres 360.5

5. General Information:

- a. Who owns the water right to be changed? Gem Valley Farms (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: Because of the early pumping in the valley we have lost pressure on this system to the point that we are unable to run with adequate pressure. If we could be allowed to open the existing valve to the lower system we would be able to finish the year (we think).
- d. Has the water right sought to be transferred been used this year? Yes
- e. Absent the changes, how would the right be used for the remainder of the year?
Without the change we would not be able to adequately water our crops.
- f. Describe other water rights used for the same purpose. _____
- g. Remarks: We would appreciate it if you would allow this temporary transfer. With the current drought condition, we will be unable to finish our potato crop unless we can make this change. Thank you.

I hereby assume all risk in accordance with House Bill No. 4 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 of applicant)

FOR DEPARTMENT USE ONLY

Received by HWJ Date 7-2-01 Fee \$50

Received 7-2-01 # E026882 Recommend: approved deny

Watermaster recommendation see IDW memo of 7/6/01

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES TC-29-02

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. This approval expires October 15 2001 and thereafter the right reverts to the use existing prior to the temporary change.

See Preliminary Order Dated 7-06-01

Witness my hand this

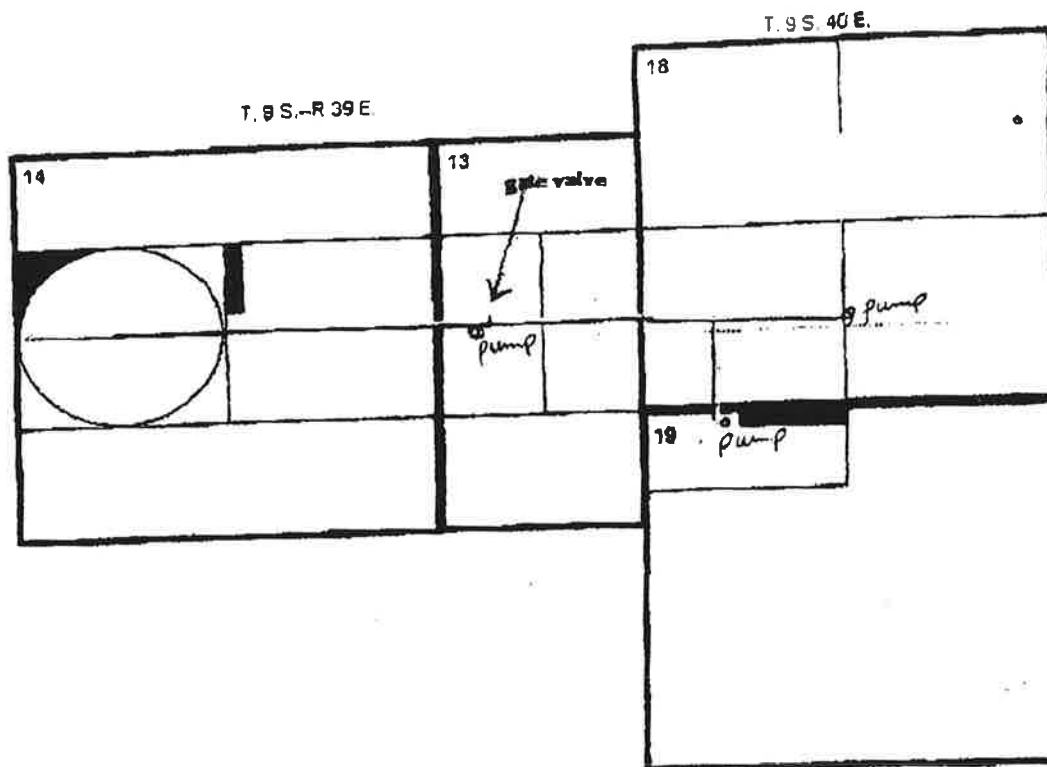
6th day of

July 2001.


Chief, Wtr Alloc. Bur.

FROM : Chad Neibaur:Gem Valley Farms PHONE NO. : 208 648 7110

Jul. 02 2001 07:36AM P4



BEFORE THE DEPARTMENT OF WATER RE
OF THE STATE OF IDAHO

2003

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF A)
WATER RIGHT 29-7080/7358/7173/73520)

29-7419B GORDON YOST)

ORDER AUTHORIZING
TEMPORARY CHANGE TC-29-04

WHEREAS, a drought emergency has been declared for Caribou
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 5/29/03, GORDON YOST submitted the attached
Temporary Change Application TC-29-04 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). 29-7080
29-7358
29-7173
29-73520 & 29-7419B 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.

- 29-7080 29-7352 D
29-7358 29-7419 B
5. Right(s) 29-7173 are limited to the irrigation of a total of 120 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. is authorized to administer the temporary change approval.
 11. This temporary change approval expires on June 19, 2003 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 29th 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 GORDON YOST Cell 547-7886
Phone 208 648 7886
Post Office Address 1681 Lund Rd BANCROFT ID 83217

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 WEST BRANCH WATER HAS NOT REACHED PLACE OF USE WILL USE WATER UNDER PIVOT UNTIL CANAL WATER REACHES PLACE OF USE (MAX 10 DAYS)

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>29-7080</u>	<u>3-20-72</u>	<u>2.53 Total</u>	<u>IRRIGATION</u>	<u>4/15</u> to <u>10/15</u>
<u>29-7358</u>	<u>1-5-1977</u>	<u>0.43 P.53</u>	<u>IRRIGATION</u>	<u>4/15</u> to <u>10/15</u>
<u>29-7173</u>	<u>5-23-1973</u>	<u>2.24 cfs</u>	<u>IRRIGATION</u>	<u>4/15</u> to <u>10/15</u>
<u>29-73520</u>	<u>11-8-1976</u>	<u>6.04 cfs</u>	<u>IRRIGATION</u>	<u>4/15</u> to <u>10/15</u>
<u>29-7419B</u>	<u>8-22-1977</u>	<u>0.38 cfs</u> <u>(5.19 cfs)</u>	<u>IRRIGATION</u>	<u>4/15</u> to <u>10/15</u>

2. Total amount of water being transferred 1.21 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water GROUNDWATER tributary to _____

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>NE</u>	<u>10</u>	<u>9S</u>	<u>39E</u>	<u>CARIBOU</u>	<u>Gordon Yost (Blaine well)</u>

5. Lands irrigated or place of use:

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
9S	39E	10											28	29					57
		15					32	31											63

Total Acres 120 ac

6. General Information:

- a. Who owns the water right to be changed? APPLICANT
- b. Describe the arrangement allowing use of the right OWNER OF RIGHT IS APPLICANT
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
Not watering other acres
- d. Has the water right sought to be transferred been used this year? Yes If yes, explain. Has been used for grain
- e. Absent the changes, how would the right be used for the remainder of the year? Would not use
- f. Describe other water rights used for the same purpose.
PLANTED IN GRAIN
- g. Remarks: WATER HAS BEEN TURNED INTO CANAL FOR A WEEK BUT WATER HAS NOT REACHED APPLICANTS PROPERTY. PLAN TO USE WATER FOR THIS PIVOT FOR A MAXIMUM OF 10 DAYS OR UNTIL CANAL WATER REACHES PLACE OF USE

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.

Gordon Yost
(Signature of applicant)

FOR DEPARTMENT USE ONLY

Received by KCW Date 5/29/03 Fee \$ 50⁰⁰
 Received ^{KCW} E028820 # E028820 Recommend: ☒ approve ☐ deny
 Watermaster recommendation _____

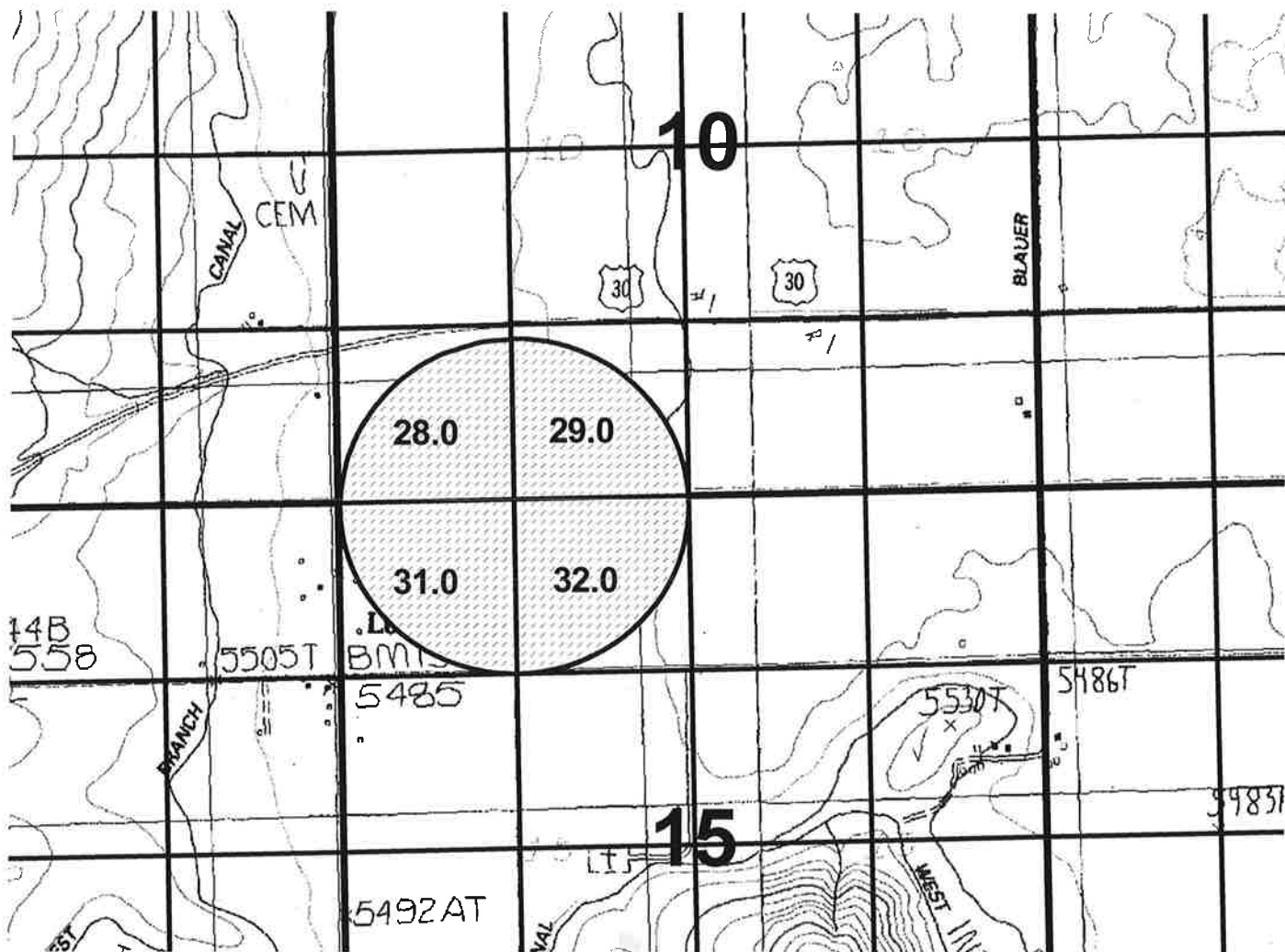
ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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 29th day of May, 2003.

Rachel R. [Signature]
For the Director



-  Yostinters36f.shp
-  Yostinters36d.shp
-  S09s39e.shp
-  T09s39e.shp

STATE OF IDAHO }
County of Caribou } ss.

151772

X

I hereby certify that this instrument was filed at the request

of Caribou Title

at 4:30 o'clock P m this 14 day of

March, 1996 In my office and duly

recorded in Microfilm Records _____

Recorder: Edie Izatt

Ex-Officio Recorder

Jessie Stephens
Deputy 12:00
ET

EXHIBIT A

13869

Caribou County, Idaho:

Township 9 South, Range 39 East of the Boise Meridian:

Section 10: S $\frac{1}{2}$ SW $\frac{1}{4}$, EXCEPT THERFROM, Beginning at a point 1155 feet North of the Southwest Corner of said Section 10, and running
thence North 165 feet; thence East 264 feet;
thence South 165 feet; thence West 264 feet,
to the point of beginning.
ALSO EXCEPT THEREFROM, a parcel of land being on both sides of the centerline of U.S. Highway No. 30, Project No. F-RF-1481(14) Highway Survey as shown on the plans thereof, now on file in the office of the Idaho Transportation Department, Division of Highways, and being a portion of the S $\frac{1}{2}$ SW $\frac{1}{4}$ of said Section 10, described as follows, to-wit:
Beginning at the Northeast Corner of the S $\frac{1}{2}$ SW $\frac{1}{4}$ of said Section 10; thence Southerly along the East line of said S $\frac{1}{2}$ SW $\frac{1}{4}$, a distance of 145 feet, more or less, to a point in a line parallel with and 130 feet Southerly from the centerline of said U.S. Highway No. 30, Project No. F-RF-1481(14) Highway Survey, said point being the TRUE POINT OF BEGINNING, and running thence along said parallel line as follows:
thence South 89°39'57" West 808.0 feet, more or less, to a point opposite Station 392+69.58 of said Highway Survey;
thence Westerly along a 9419.30 foot radius curve left 1840.0 feet, more or less, to a point in the West line of said S $\frac{1}{2}$ SW $\frac{1}{4}$;
thence Northerly along said West line 330.0 feet, more or less, to the Northwest Corner of said S $\frac{1}{2}$ SW $\frac{1}{4}$;
thence Easterly along the North line of said S $\frac{1}{2}$ SW $\frac{1}{4}$, a distance of 2655.0 feet, more or less, to the true point of beginning.

Section 15: N $\frac{1}{2}$ NW $\frac{1}{4}$.

Gordon P. Post

Sherry Post