

Fee \$50.00

2004

Form 40-222A
1298Ident. No. TC 13-08STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TEMPORARY CHANGE APPLICATION

(To change point of diversion, place of use or purpose of use)

Name of Applicant Jay Norman FAINESBECK Phone 747-3295
Post Office Address 6022 W. Hwy 36 WESTON ID 83286

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 TO WATER A PIECE OF RENTED
PROPERTY ADJOINING MINE WHILE FALLOWING OTHER PROPERTY
COVERED UNDER WATER RIGHTS AND ELECTED TO NOT WATER
OTHER PROPERTY WHILE USING IT ON MORE IMPORTANT CROPS/PROPERTY
dry up land in sec. 10 and 11 16S 39E

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

1. Right Number 13-2209 Priority 6/13/60 Amount (cfs/sec-ft) 2.87 Nature of Use IRRIGATION Period of Use April to Oct
to
to
to2. Total amount of water being transferred 2 cubic feet per second and/or _____ acre-feet per annum3. Source of water Well tributary to _____

4. Point(s) of Diversion:

Divert No.	Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion
					NE 36	15S	37E	FRANKLIN	FAINESBECK/BINGHAM Well

3. 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	
16S	39E	8			30	10									40	20		20	120
		9									40	40							80
		16					40	30											70
		17	10																10

Total Acres 280

TC-13-08

6. General Information:

- a. Who owns the water right to be changed? I own ~~1~~ 1/2 of right
- b. Describe the arrangement allowing use of the right PERSONAL OWNERSHIP
- c. Describe the effect on the land now irrigated if the change is approved pursuant to this application:
dry up some to water other
- d. Has the water right sought to be transferred been used this year? yes If yes, explain _____
- 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.
SHARES IN WESTON CREEK IRRIGATION CO.
- g. Remarks: _____

I hereby assume all risk in accordance with Section 42-222A, Idaho Code, and agree 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 misrepresentation made in this application may result in voiding its approval.

[Signature]
(Signature of applicant)

FOR DEPARTMENT USE ONLY

Received by KW Date 8/12/04 Fee \$50.00
Receipted KW # E030133 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. TC-13-08

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

Witness my hand this 24th 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 13-2209)
Jay Fønnerbeck)

**ORDER AUTHORIZING
TEMPORARY CHANGE**

TC-13-08

WHEREAS, a drought emergency has been declared for Franklin 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 August 12, 2004, Jay Fønnerbeck submitted the attached Temporary Change Application TC-13-08 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). 13-2209 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-13-08

5. Right(s) 13-2209 are limited to the irrigation of a total of 403 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 is subject to all conditions and limitations listed on the application under the section titled "ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES"
10. The applicant shall measure the amount of water diverted and shall report the amount of water diverted under this approval.
11. The Water master of Water District No. 11 is authorized to administer the temporary change approval.
12. 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 24th day of August, 2004.


Ronald D. Carlson
Eastern Regional Manager

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report 13-2209

WATER RIGHT NUMBER: 13-2209

Owner Type Name and Address
Current Owner STERLING or VEREEN BINGHAM
 46 S 2 E
 WESTON, ID 83286
 (208)747-3255
Current Owner NORMAN FONNESBECK
 255 E 2 S
 WESTON, ID 83286
Current Owner MYRON FONNESBECK
Current Owner LEE SCHVANEVELDT

Weston Ck IRR
13-948
13-949
770722

Priority Date: 06/13/1960

Basis: License

Status: Active

Source Tributary
GROUND WATER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
DOMESTIC	/ to /			
IRRIGATION	/ to /		2.870 CFS	
<u>Total Diversion:</u>			2.870 CFS	

Location of Point(s) of Diversion

GROUND WATER NE1/4NE1/4 Sec. 36,Twp 15S,Rge 37E, B.M. FRANKLIN 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	
15S 37E 36	4.0																4.0
15S 38E 31							37.0	12.0	6.0								55.0
16S 38E 8	4.0	36.0	39.0	38.0									40.0	20.0		20.0	141.0
16S 38E 9									40.0	39.0							39.0
16S 38E 10													39.0	40.0	40.0		119.0
16S 38E 11											11.0						11.0
16S 38E 16					40.0	30.0	34.0										34.0

Does NOT own

Total Acres: 403

DOMESTIC same as IRRIGATIONConditions of Approval:Remarks:

1. General LIC. INCORRECTLY SHOWS 406 ACRES.

Comments:Dates and Other Information:

Licensed Date: 11/16/1966

Combined Use Limits:

70
41
36
20
157
130
27ac needed
wanted to IRRIGATE

8/12 Jay Fannesbeck faxed a Temporary Change App. for 13-2209
Bob Morrison came in and paid filing fee (E030133)

1518hrs Jay called to explain what he was doing

The Temp Change was filed to reflect how right has been
used for 20+ years. Apparently a neighbor would protest

Jay using the water as it has been done for 20+ years

See Protected Transfer
T 70722 E2 RAY BALLS

According to Jay the Balls' do not have any right to
any portion of this water Right and were supposed to withdraw
their transfer.

Apparently they have been moving the right around without
filing a Transfer