

2005

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
TEMPORARY CHANGE OF A)
WATER RIGHT 01-138)
_____))
_____))

ORDER AUTHORIZING
TEMPORARY CHANGE

TC-01-69

WHEREAS, a drought emergency has been declared for Jefferson 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 2, 2005, North Right Irr. & Canal Co submitted the attached Temporary Change Application TC-01 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). 01-138 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.

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5. Right(s) 1-138 are limited to the irrigation of a total of 1212 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. 01 is authorized to administer the temporary change approval.
12. This Temporary change approval expires on August 10, 2005 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 Aug^{2nd} day of Aug, 2005.



Ronald D. Carlson
Eastern Regional Manager

DEPARTMENT OF WATER RESOURCES

TEMPORARY CHANGE APPLICATION

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

Name of Applicant NORTH RIGBY IRRIGATION & CANAL CO.
c/o Jesse Byram 454 N 3900 E RIGBY ID Phone 208 745 7881
83442

Post Office Address _____

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 Putting our 1883 water into Burgess
Canal from 8/3 (6 AM) until 8/10 (6 AM) while demurring canal after which
water right will revert back to the North RIGBY

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>01-138</u>	<u>6/10/1883</u>	<u>50.00 cfs</u>	<u>IRRIGATION</u>	<u>4/1</u> to <u>11/1</u>
				to
				to
				to

2. Total amount of water being transferred 50.00 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water SNAKE RIVER tributary to COLUMBIA

4. Point(s) of Diversion:

Ident No.	Lot	¼	¼	¼	Sec	Twp	Rge	County	Local name for diversion
		SE	SW		20	4N	40E	Jefferson	DRY BED

5. Lands irrigated or place of use: SEE ATTACHED POA FOR BURGESS CANAL

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	

Total Acres 1212

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6. General Information:

- a. Who owns the water right to be changed? NORTH RIGBY CANAL
- b. Describe the arrangement allowing use of the right SEE AGREEMENT BETWEEN CANALS
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
NORTH RIGBY CANAL WILL BE SHUT OFF FOR DEMOSSING. NO IRRIGATION FROM 8/3 (6AM) until 8/10 (6AM)
- d. Has the water right sought to be transferred been used this year? YES If yes, explain. USED ON SHAREHOLDERS LAND
- e. Absent the changes, how would the right be used for the remainder of the year? USED ON SHAREHOLDERS LAND
- f. Describe other water rights used for the same purpose.
SEE ATTACHED LIST FOR BURGER CANAL
- 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.

James Bynum - President
(Signature of applicant)

FOR DEPARTMENT USE ONLY

Received by Kaw Date 8/3/2005 Fee \$50.00
Receipted Kaw 8/3/05 # F031127 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 2nd day of August, 2005.

Paul D. Clark
For the Director

**Temporary Change Application
Drought Emergency**

Identification Number TC - 01 - 69

The Burgess Canal Co. accepts the natural flow water right 01-138 from the North Rigby Irrigation & Canal Co. in the amount of 50 cfs for the period starting August 3 (6AM), to August 10 (6AM) (Period of 10 days) while the North Rigby Irrigation & Canal Co. completes de-mossing canal.

The North Rigby Irrigation & Canal Co. will assign a portion of their water rights to the Burgess Canal Co. in the amount of 99.175 af per day for 50.00 cfs from the natural flow right of 01-138 that the Burgess Canal Co. uses during this period of time.

It is the understanding of the Burgess Canal Co. that any leakage of the head gate of the North Rigby Irrigation & Canal Co. will be charged to the North Rigby Irrigation & Canal Co.


Signature & Title
NORTH RIGBY Irrigation & Canal
Printed Name & Canal Co.

8-2-05
Date


Signature & Title
Burgess Canal Co Inc
Printed Name & Canal Co.

8/2/05
Date


Witness Signature

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 1-138

WATER RIGHT NUMBER: 1-138

Owner Type Name and Address

Current Owner NORTH RIGBY IRRIGATION CO

Priority Date: 06/10/1883

Basis: Decreed

Status: Active

SourceTributary

DRY BED

SNAKE RIVER

Beneficial UseFrom ToDiversion RateAnnual Volume

IRRIGATION

/ to /

50.000 CFS

Total Diversion: 50.000 CFSLocation of Point(s) of Diversion

DRY BED

SW1/4NW1/4

Sec. 9,Twp 04N,Rge 39E, B.M.

JEFFERSON County

Place of UseConditions of Approval:

1. P/U INCOMPLETE.

P/D INCOMPLETE FROM USGS MAP.

Remarks:Comments:Dates and Other Information:

Licensed Date:

Decreed Date: 12/16/1910

Water Supply Bank Enrollment Accepted:

Water Supply Bank Enrollment Removed:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

State or Federal:

Owner Name Connector:

Water District Number: 01

Generic Max Rate Per Acre:

Generic Max Volume Per Acre:

Decree Defendant: Teton Irrigation Canal Co, et al

Decree Plaintiff: Rexburg Irrigation Co

Civil Case Number:

Judicial District: Sixth District

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Carey Act Number:

Mitigation Plan: False

Combined Use Limits:Water Supply Bank:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 1-138

WATER RIGHT NUMBER: 1-138

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	NORTH RIGBY IRRIGATION & CANAL CO INC C/O JESSE BYRAM 454 N 3900 E RIGBY, ID 83442 (208)745-7722

Priority Date: 06/10/1883

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
DRY BED	SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/01 to 11/01	50.000 CFS	

Total Diversion: 50.000 CFSLocation of Point(s) of Diversion

DRY BED	SE1/4SW1/4NW1/4	Sec. 9,Twp 04N,Rge 39E, B.M.	JEFFERSON County
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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	
04N 38E 1									15.0	30.0	40.0	40.0	20.0	25.0	40.0	40.0	250.0
04N 38E 2			10.0	5.0			20.0	35.0					30.0	40.0	40.0	40.0	220.0
04N 38E 12	40.0	40.0	40.0	40.0													160.0
04N 39E 6											38.0				15.0		53.0
											L 7						
04N 39E 7	38.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0									318.0
						L 1	L 2										
04N 39E 8			18.0	1.0	40.0	29.0	40.0	40.0	12.0	10.0			1.0	20.0			211.0

Total Acres: 1212

Conditions of Approval:

1. P/U INCOMPLETE IN DECREE. P/D INCOMPLETE IN DECREE.

Remarks:Comments:Dates and Other Information:

Claim Received Date: 11/15/1988

State or Federal: S

Water District Number: 01

Combined Use Limits:Water Supply Bank: