

2005

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR )  
TEMPORARY CHANGE OF A )  
WATER RIGHT 01-42 )  
\_\_\_\_\_) )  
\_\_\_\_\_)

ORDER AUTHORIZING  
TEMPORARY CHANGE

TC-01-68

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 July 26, 2005, Clark & Edwards Canal 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). 01-42 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) 01-42 are limited to the irrigation of a total of 1735.5 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 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 16, 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 26<sup>th</sup> day of July, 2005.

  
Ronald D. Carlson  
Eastern Regional 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 Clark-Edwards Canal  
% Dale Mortimer Phone 745-7779  
Post Office Address 4242 E 400 N, Rigby, ID 83442

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 1885 water into the  
ENTERPRIZE Canal from 8/10 (Midnight) to 8/16 (Midnight) after  
which it will revert back to Clark-Edwards Canal

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

1. Right Number 01-42 Priority 2/27/1885 Amount (cfs/ac-ft) 70.00cfs Nature of Use IRRIGATION Period of Use 8/10 to 8/16  
to  
to  
to

2. Total amount of water being transferred 70.00 cubic feet per second and/or \_\_\_\_\_ acre-feet per annum.

3. Source of water SNAKE RIVER tributary to COLUMBIA RIVER

4. Point(s) of Diversion:

| Ident No. | Lot | 1/4 | 1/4 | 1/4 | Sec | Twp | Rge | County    | Local name for diversion |
|-----------|-----|-----|-----|-----|-----|-----|-----|-----------|--------------------------|
|           |     |     | SW  | SE  | 36  | 4N  | 40E | Jefferson | 13037985 Enterprize      |
|           |     |     |     |     |     |     |     |           |                          |
|           |     |     |     |     |     |     |     |           |                          |
|           |     |     |     |     |     |     |     |           |                          |

5. Lands irrigated or place of use: STOCK HOLDERS ENTERPRIZE CANAL

| 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 |        |
|     |     |     |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |        |
|     |     |     |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |        |
|     |     |     |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |        |
|     |     |     |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |        |
|     |     |     |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |        |

Total Acres 1735.5 ac

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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 Agreement between Canals
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:  
Clark- Edwards will be dried up until August 16, 2005 (Midnight)  
If less time is needed WDOI will be notified 24hrs in advance.
- d. Has the water right sought to be transferred been used this year? Yes If yes, explain. Stockholders land
- e. Absent the changes, how would the right be used for the remainder of the year? would be used on stockholders land
- f. Describe other water rights used for the same purpose.  
SEE ENTERPRIZE CANAL RIGHTS
- g. Remarks: SEE ATTACHED AGREEMENT

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.

SEE AGREEMENT

(Signature of applicant)

FOR DEPARTMENT USE ONLY

Received by KCW Date 7/26/05 Fee 50<sup>00</sup>  
 Receipted KCW # E031094 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-01-68

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

Witness my hand this 26<sup>th</sup> day of July, 2005

For the Director

**Temporary Change Application  
Drought Emergency**

Identification Number TC-01-68

The Enterprize Canal Co. accepts the natural flow water right 01-0042 for 70.00 cfs from the Clark & Edwards Canal Co. for the period 8/10 to 8/16, while the Clark & Edwards completes Demossing.

The Enterprize Canal Co. will assign a portion of their storage water rights to the Clark & Edwards Canal Co. in the amount of 70.0 af per day for 70.00 cfs from the natural flow right of 01-0042 that the Enterprize Canal Co. uses during this period of time.

It is the understanding of the Enterprize Canal Co. that if the Clark & Edwards Canal Co. completes the proposed project prior to the ending date of this agreement, the Clark & Edwards Canal Co. will give the Enterprize Canal Co. and Water District 01 a twenty-four hour notice prior to re-diversion of this water right.

  
\_\_\_\_\_  
Signature & Title

Printed name & Title – Enterprize Canal Co.

7-26-05  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Signature & Title

Printed Name & Title – Clark & Edwards Canal Co.

7-26-05  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Witness Signature

## IDAHO DEPARTMENT OF WATER RESOURCES

## Adjudication Claim Report 1-42

WATER RIGHT-NUMBER: 1-42

Owner Type                      Name and Address  
 Current Owner                  CLARK & EDWARDS CANAL CO  
                                          4378 E 300 N  
                                          RIGBY, ID 83442  
                                          (208)745-7567

Priority Date: 02/27/1885

Basis: Decreed

Status: Active

Source                                      Tributary  
 DRY BED                                      SNAKE RIVER

Beneficial Use                      From    To                      Diversion Rate                      Annual Volume  
 IRRIGATION                              4/01 to 11/01                      70.000 CFS

Total Diversion: 70.000 CFSLocation of Point(s) of Diversion

DRY BED                                      SW1/4SW1/4                                      Sec. 20, Twp 04N, Rge 40E, B.M.  
                                          JEFFERSON 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   |        |
| 04N 39E 10  |      |      |      |      |      |      |      |      | 37.0 | 39.0 |      |    | 23.0 | 6.0  |      |      | 105.0  |
| 04N 39E 13  |      |      |      |      |      |      |      | 10.0 | 39.0 | 38.0 |      |    | 9.0  | 23.5 |      |      | 119.5  |
| 04N 39E 14  |      |      |      |      | 6.0  | 26.5 | 20.5 | 40.0 | 39.0 | 34.0 | 37.0 |    | 29.0 | 35.0 | 39.0 | 39.5 | 345.5  |
| 04N 39E 15  | 36.0 | 35.5 | 40.0 | 39.5 | 39.5 | 39.0 | 39.5 | 40.0 |      |      |      |    | 39.5 | 40.0 | 39.5 | 39.0 | 467.0  |
| 04N 39E 16  | 39.0 | 39.5 | 40.0 | 39.5 |      |      |      |      |      |      |      |    |      |      |      |      | 158.0  |
| 04N 39E 23  | 38.5 | 39.5 |      |      | 3.0  |      |      |      |      |      |      |    |      |      |      |      | 81.0   |
| 04N 39E 24  | 38.5 | 39.5 | 39.0 | 39.0 | 39.0 | 38.5 | 39.0 | 39.5 | 9.0  | 5.5  |      |    | 38.5 | 39.0 |      |      | 404.0  |
| 04N 40E 19  |      |      |      |      | 5.0  | 37.0 | 13.5 |      |      |      |      |    |      |      |      |      | 55.5   |

Total Acres: 1735.5

Conditions of Approval:Remarks:Comments:Dates and Other Information:

Claim Received Date: 11/29/1988  
 Enlargement Use Priority Date:  
 Enlargement Statute Priority Date:  
 State or Federal: S  
 Owner Name Connector:  
 Water District Number: 01  
 Generic Max Rate Per Acre:  
 Generic Max Volume Per Acre:  
 Swan Falls Trust or Nontrust:  
 Swan Falls Dismissed:  
 DLE Act Number:  
 Carey Act Number:  
 Mitigation Plan: False