

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

RECEIVED

AUG 17 2001

Department of Water Resources
Eastern Region

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF A)
WATER RIGHT No. TC-01-12 IN THE)
NAME OF TWIN FALLS CANAL CO.)
AND NORTH SIDE CANAL CO.)

**ORDER AUTHORIZING
TEMPORARY CHANGE**

WHEREAS, a drought emergency has been declared for Twin Falls, Jerome, Gooding and 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 August 2, 2001 the Twin Falls Canal Company and North Side Canal Company ("applicants") 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). 01-209 and 01-210 is authorized only at the point of diversion and place of use described on the application.
2. The watermaster of Water District No. 01 is authorized to administer the temporary change approval. The watermaster shall regulate and keep a record of the amount of water diverted and accumulated as proposed by the application, including the exchange of contract water rights owned by the applicants.
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. 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.
6. 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.
7. 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.
8. The applicant shall measure the amount of water diverted and shall report the amount of water diverted under this approval.
9. 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.
10. 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.

DATED this 14TH day of AUGUST, 2001.


Norman C. Young, Administrator
Water Management Division

Form 42-222A
12/99

Ident. No.

TC-01-12

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 Twin Falls Canal Company Phone 208-733-6731Post Office Address P.O. Box 326 Twin Falls, Idaho 83303

208-733-1958 fat

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 Due to the lack of storage water for the lands served by the Twin Falls Canal Company, TECC will use storage water owned by North Side Canal Company, NSCC. During late August 27 ± until September 9 ± The TECC will store the natural flow in American Falls Reservoir to repay NSCC for storage rights. NSCC will then divert that water into NSCC canals in September.

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>01-209</u>	<u>Oct. 11, 1900</u>	<u>3,000 cfs</u>	<u>Irrigation</u>	<u>Aug. 27 ± to Sept. 9 ±</u>
				to
				to
				to

2. Total amount of water being transferred 40,000 ± cubic feet per second and/or acre-feet per annum

3. Source of water Snake River tributary to Snake River

4. Point(s) of Diversion:

Ident No.	Lot	%	%	%	Sec	Twp	Rge	County	Local name for diversion
					29	10S	21E	Twin Falls	Milner Dam

5. Lands irrigated or place of use: Twin Falls, Gooding, Elmore, and Jerome Counties

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 _____

6. General Information:

- a. Who owns the water right to be changed? NSCC & TRCC
- b. Describe the arrangement allowing use of the right see attached Agreement
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
Allows continued irrigation
- d. Has the water right sought to be transferred been used this year? yes If yes, explain Both rights used to irrigate lands in Jerome, Gooding, Elmore and Twin Falls Counties
- e. Absent the changes, how would the right be used for the remainder of the year? continue to irrigate lands as assigned
- f. Describe other water rights used for the same purpose.
- g. Remarks: See 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.


(Signature of applicant)

FOR DEPARTMENT USE ONLY

Received by J. Massie Date 8/8/01 Fee 50.00

Receipted # C055423 Recommend: X approve deny

Watermaster recommendation see Attached

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Temporary Change Application No. TC-01-12

And said application is hereby APPROVED, subject to the following limitations and conditions:
see attached ORDER DATED 8/14/2001

Witness my hand this day of

For the Director

Total Acres 161,480

6. General Information:

- a. Who owns the water right to be changed? NSCC & TFCC
- b. Describe the arrangement allowing use of the right SEE ATTACHED AGREEMENT
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
ALLOWS CONTINUED IRRIGATION
- d. Has the water right sought to be transferred been used this year? YES If yes, explain. BOTH RIGHTS USED TO IRRIGATE LANDS IN JEROME, GOODING ELMORE AND TWIN FALLS COUNTIES
- e. Absent the changes, how would the right be used for the remainder of the year? CONTINUE TO IRRIGATE LANDS AS ASSIGNED
- f. Describe other water rights used for the same purpose.
- g. Remarks: SEE 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.

Jed Diehl Manager
(Signature of applicant)
North Side Canal Co.

FOR DEPARTMENT USE ONLY

Received by _____ Date _____ Fee _____

Received _____ # _____ 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 _____ day of _____.

For the Director

AGREEMENT

This Agreement is made and entered into this 30 day of July, 2001, by and between Twin Falls Canal Company ("TFCC"), and North Side Canal Company, LTD ("NSCC") hereinafter collectively referred to as "Companies".

WITNESSETH:

WHEREAS, both Companies are Carey Act non-Profit irrigation water delivery companies with various natural flow and storage water rights appurtenant to the lands of their stockholders; and

WHEREAS, both Companies face shortages and possible shut-offs in irrigation water deliveries in the face of the drought of 2001 as natural flows decline and storage is diverted; and

WHEREAS, the Companies have worked out a plan for the mutual benefit of each company's stockholders including the lease of additional water, exchanging available supplies at agreeable times, and the sharing of supplies of storage and natural flow waters as hereinafter set out;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. Term. This Agreement shall be effective for calendar year 2001 only.
2. Lease of Water. The Companies shall co-operate in securing up to 50,000 A/F by lease from A & B Irrigation District ("A & B") on such terms as are mutually agreeable, it being understood that A & B prefers a private lease with no Water District 01 Water Bank involvement, provided that if necessary to pursue the lease through the Water Bank, the Companies shall pay any administration costs of the Water Bank and the Idaho Water Resource Board. Said leases shall be approximately in the form of Exhibit "A" attached hereto. Each Company shall be responsible for the cash payments and payback of the water to A & B that is leased and diverted by each respectively.
3. Plan. If no extraordinary event occurs prior to August 27, 2001, the Plan is as set out at Exhibit "B" attached hereto. It suggests TFCC supplementing its supplies with NSCC storage water between August 27, 2001 and September 15, 2001. After September 15, 2001, TFCC's natural flow shall be stored in American Falls Reservoir to the credit of NSCC to the extent of the total acre feet of NSCC water diverted by TFCC between August 27, 2001 and September 15, 2001. After September 15, 2001, and after NSCC has been repaid, the Companies will return to use of their own water rights and supplies for any further diversions.
4. Exchange Agreements. The parties will use best efforts to seek approval of exchange agreements to facilitate the Plan of Article 3 hereof, pursuant to I.C. § 42-222(a).
5. Effective Date. This Agreement shall be effective after approved by the Board of

Directors of both TFCC and NSCC and the Exchange Agreements have been approved by the Idaho Department of Water Resources.

6. Termination. This Agreement shall be binding on both Companies for the year 2001, but may be amended, terminated or extended at any time on such terms as are mutually agreed by the parties.

IN WITNESS WHEREOF, the parties have hereunto set their hands on the day and year first set forth above.

TWIN FALLS CANAL COMPANY

By: [Signature]
Authorized Agent

NORTH SIDE CANAL COMPANY, LTD.

By: [Signature]
Authorized Agent

STATE OF IDAHO)
)ss.
County of Twin Falls)

On this 6 day of AUGUST, 2001, before me, a Notary Public, in and for said County and State, personally appeared Vince Alberdi, known or identified to me to be the Authorized Agent of the Twin Falls Canal Company, the corporation that executed the foregoing instrument, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Kay Ruschel
NOTARY PUBLIC FOR IDAHO
Residing at: Twin Falls, ID
My commission expires: 4-28-06

STATE OF IDAHO)
)ss.
County of Jerome)

On this 30 day of July, 2001, before me, a Notary Public, in and for said County and State, personally appeared Ted Diehl, known or identified to me to be the Authorized Agent of the North Side Canal Company, Ltd., the corporation that executed the foregoing instrument, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.


NOTARY PUBLIC FOR IDAHO
Residing at: Glenn, ID
My commission expires: 7-16-03