

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

**IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF A)
WATER RIGHT 34-10164)**

**ORDER AUTHORIZING
TEMPORARY CHANGE**

TC-34-157

2015

WHEREAS, a drought emergency has been declared for Custer 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 purposes 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 3, 2015, Vernon Roche submitted the attached Temporary Change Application TC-34-157 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). 34-10164 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 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 conditions. 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) 34-755, 34-757, 34-758, 34-766, 34-10167, 34-363, 34-364, 34-760, 34-764, 34-10166, and 34-14019 are limited to the irrigation of a total of 439 acres in a single irrigation season.
6. Rights 34-10164, 34-14121, 34-14123, 34-10227, 34-10228, and 34-10229 are limited to the irrigation of a total of 206 acres in a single irrigation season.
7. 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.
8. 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.
9. This temporary change does not grant any right-of-way or easement to use the diversion works or conveyance works of another person or entity.
10. The Watermaster of Water District No. 34 is authorized to administer the temporary change approval.
11. This temporary change approval expires on October 15, 2015 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 6th day of August, 2015.

for 

Lyle Swank
Eastern Regional Manager

TC-34-157

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
AUG 03 2015

TEMPORARY CHANGE APPLICATION

Department of Water Resources
Eastern Region

(To change point of diversion, place of use, or purpose of use of a water right upon declaration of a drought emergency in accordance with Section 42-222A, Idaho Code.)

Name of Applicant Vernon Roche DBA: TC Ranch LLC Phone 208-588-2806
Mailing Address 5411 Old Chilly Road Mackay, ID 83251 Email crates@datacnet.net

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 explain the reason(s) they are needed. Drought condition to grow pasture for fall feed. Temporary

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>34-10164</u>	<u>1875</u>	<u>5.2</u>	<u>Irrigation</u>	<u>7-29-15 to 10-15-15</u>
				to
				to
				to

2. Total amount of water being transferred 5.2 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Chilly Canal Big Lost River tributary to Big Lost River Sinks

4. Point(s) of diversion:

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag number
8N	21E	12		NE	NW	NW	Custer	Chilly Canal	Chilly Canal

5. Lands irrigated or place of use:

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08N	22E	6	30																30
08N	22E	6		39	3		40			1									83
09N	22E	31														16	28		44
09N	22E	32			39														39
09N	22E	32														10			10

Total Acres 206

6. General Information:

- a. Who owns the water right to be changed? Herb Whitworth / Eekhorn Ranch
- b. Describe the arrangement allowing use of the right. Contract
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
Dry up pasture
- d. Has the water right sought to be transferred been used this year? ☒ Yes ☐ No If yes, explain. water unable to reach
- e. Absent the changes, how would the right be used for the remainder of the year? will not be used on that pasture
- f. Describe other water rights used for the same purpose. 34-10227, 34-10228, 34-10229
- 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.

Herb Whitworth
Signature of Applicant

7-29-15
Date

FOR DEPARTMENT USE ONLY

Received by sc Date 8/3/15 \$50 fee received by sc Receipt No. E041331

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-34-157, and said application is hereby _____, subject to the following limitations and conditions:

Temporary Change Expiration Date _____

Signed this _____ day of _____, _____.

For the Director

07/29/15

Herb Whitworth Jr.
5425 Hwy 93
Mackay, Idaho 83251

State of Idaho
Department of Water Resources

Re: Temporary Change Application
for Water Right No. 34-10164

Dear Sir,

Please change the place of use for part of water right no. 34-10164 to the described lands shown on the attached application effective 07/29/15. I plan to dry up pasture because my water right is unable to reach my ground as stated in the application. Please see the attached check for \$50. for this temporary change.

Thank you,

Sincerely,

A handwritten signature in blue ink, appearing to read "Herb Whitworth Jr.", written over a faint, illegible printed name.

Herb Whitworth Jr.

12/99

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECOMMENDATION OF WATERMASTER

Application No: TC-34-157

Applicant's Name: VERNON ROCHE dba 7C RANCH LLC

Watermaster's Recommendation:

- a) LY I do not oppose approval of this application.
- b) _____ I do not oppose approval of this application if it is conditioned as follows: _____

- c) _____ I oppose approval of this application for the following reasons: _____

- d) _____ Additional Comment: _____

Dated this 6 day of August, 2015.

Water District No: 34

[Signature]
Watermaster's Signature

Use reverse side of page if you need more space.