

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

2015

**IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF)
WATER RIGHT NOS.: 34-14355 and)
34-14361)
_____)**

**ORDER AUTHORIZING
TEMPORARY CHANGE**

TC-34-153

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 June 8, 2015, Bell Smith LLC submitted the attached temporary change application TC-34-153 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:**

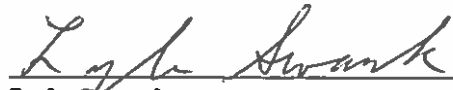
- 1. Diversion and use of right nos. 34-14355 and 34-14361 is authorized only at the point of diversion and place of use described on the application.**
- 2. This temporary change approval does not authorize construction of a new well as a point of diversion.**
- 3. The applicant assumes all risk of 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.**

**ORDER AUTHORIZING
TEMPORARY CHANGE**

TC-34-153

5. Rights 34-14355, 34-14357, 34-14359, 34-14361, 34-14363, and 34-14365 when combined shall not exceed the irrigation of 199 acres.
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 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.
8. 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.
9. The Watermaster of Water District No. 34 is authorized to administer the temporary change approval.
10. 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 9th day of June, 2015.



Lyle Swank
Eastern Regional Manager

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TEMPORARY CHANGE APPLICATION

RECEIVED

JUN 08 2015

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 Bell Smith LLC

Phone 1-208-680-1827

Mailing Address P.O. Box 830 Blackfoot, ID 83221

Email _____

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.

Due to drought conditions transferring water to supplement inadequate irrigation

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>34-14355</u>	<u>5/30/1883</u>	<u>1.90</u>	<u>irrigation</u>	<u>5/1</u> to <u>10/15</u>
<u>34-14361</u>	<u>9/30/1879</u>	<u>0.76</u>	<u>irrigation</u>	<u>5/1</u> to <u>10/15</u>
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____

2. Total amount of water being transferred 2.66 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Antelope Creek tributary to Big Lost River

4. Point(s) of diversion:

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag number
<u>5N</u>	<u>25E</u>	<u>21</u>		<u>NW</u>	<u>SE</u>	<u>NE</u>	<u>CLUSTER</u>	<u>ANTELOPE CR</u>	<u>HANRAHAN</u>

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	
5N	25E	11	32	32	32	32													128
		2															5.1		5.1

Total Acres 133.1

AMENDED

Received Time Jun. 5. 8:00PM



6 General Information:

- a. Who owns the water right to be changed? Marv Berg
- b. Describe the arrangement allowing use of the right. Written Consent
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
There will be no affect. The Land is not in production or irrigated.
- d. Has the water right sought to be transferred been used this year? ☐ Yes ☒ No If yes, explain. _____
- e. Absent the changes, how would the right be used for the remainder of the year? _____
The right would not be used.
- f. Describe other water rights used for the same purpose. _____
- 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.

Signature of Applicant

Colo Ely Adams member
of Bell Smith

Date

6/8/15

FOR DEPARTMENT USE ONLY

Received by se Date 6/8/15 \$50 fee receipted by se Receipt No. E041115

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-34-153, and said application is hereby _____, subject to the following limitations and conditions:

Temporary Change Expiration Date _____

Signed this _____ day of _____

AMENDED

For the Director



Mon Berg
 PO 645
 Ketchikan AK
 99615

STATE OF IDAHO
 DEPARTMENT OF WATER RESOURCES
TEMPORARY CHANGE APPLICATION

(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 Mon Berg Phone 907 441 0183
 Mailing Address PO Box 645 Ketchikan AK 99615 Email mberg@gmafire.com

A. PURPOSE OF TRANSFER

- ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change purpose of use ☐ Other
- Describe the proposed change(s) and explain the reason(s) they are needed. Mon Berg
will let BellSmith LLC use those rights for
the season

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>14355</u>	<u>5/30/83</u>	<u>1.9</u>	<u>irrig</u>	<u>3/1</u> to <u>10/15</u>
<u>14361</u>	<u>1/30/79</u>	<u>1.76</u>	<u>irrig</u>	<u>5/1</u> to <u>10/15</u>

- Total amount of water being transferred 2.66 cubic feet per second and/or _____ acre-feet per annum.
- Source of water Chilco tributary to _____
- Point(s) of diversion: Mon Berg

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag number

5. Lands irrigated or place of use: Mon Berg

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

SUPERCEDED

Total Acres _____

6. General Information

- a. Who owns the water right to be changed? Alon Bery
- b. Describe the arrangement allowing use of the right. Will let Bell Smith use for season and transfer back after Oct 15th
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application: none The land is not in production.
- d. Has the water right sought to be transferred been used this year? ☐ Yes ☒ No If yes, explain _____
- e. Assent the changes, how would the right be used for the remainder of the year? To irrigate Bell Smith LLC
- f. Describe other water rights used for the same purpose _____
- g. Remarks: _____

I hereby assume all risk in accordance with Section 42-222A Idaho Code, and assent 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.

Alon Bery
Signature of Applicant

5-20-15
Date

FOR DEPARTMENT USE ONLY

Received by _____ Date _____ \$50 fee receipted by _____ Receipt No. _____
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.

Temporary Change Expiration Date _____

Signed this _____ day of _____

SUPERCEDED

For the Director

12/99

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

RECOMMENDATION OF WATERMASTER

Application No: TC-34-153

Applicant's Name: BELL SMITH 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 9 day of June, 2015.

Water District No: 34

[Signature]
Watermaster's Signature

Use reverse side of page if you need more space.