

TC-37-75

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

JUL 14 2014

DEPT OF WATER RESOURCES
SOUTHERN REGION

AMENDED

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 Don McGrath Phone 510-693-5600
Mailing Address 3300 Powell St, Emeryville, CA 94608 Email DonMcGrath@DiamondRealPartners.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. Irrigate 9.5 acres on ground covered by Silver Creek Rights that have been curtailed due to low water. Rights will be injected into Silver Creek from the authorized POD under 37-2609B and rediverted further downstream.

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>37-2609B</u>	<u>10/08/1958</u>	<u>0.18 CFS</u>	<u>Irrigation</u>	<u>4/15 to 10/31</u>
		<u>33.25 AF</u>		<u>to</u>
				<u>to</u>
				<u>to</u>

- Total amount of water being transferred 0.18 cubic feet per second and/or 33.25 acre-feet per annum.
- Source of water Groundwater tributary to _____.
- Point(s) of diversion:

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag number
01S	19E	22		SW	SE	SW	BLAINE	GROUNDWATER	
01S	19E	22		SW	SE	SW	BLAINE	GROUNDWATER (I)	
01S	20E	36		SW	NW	NW	BLAINE	GROUNDWATER (R)	

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	
01S	20E	35																9.5	9.5

Total Acres 9.5

6. General Information:

- a. Who owns the water right to be changed? Stalker Creek Ranch LLC
- b. Describe the arrangement allowing use of the right. Lease
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
9.5 acres will not be irrigated under the right.
- 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? It would not be used.
- f. Describe other water rights used for the same purpose. 37-2618
- g. Remarks: Overlapping portion of 37-2618 is currently not being used and will not be used for the rest of the year.

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

Date

7/11/2014

FOR DEPARTMENT USE ONLY

Received by DM Date 7/3/14 \$50 fee received by DM Receipt No. SD34124
Recommend: ☒ approve ☐ deny Watermaster recommendation 7/21/14

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Temporary Change Application No. TC-37-75, and said application is hereby approved, subject to the following limitations and conditions:

See attached order dated 7/28/14

Temporary Change Expiration Date 11/1/14

Signed this 28th day of July, 2014.

For the Director

Water Right 37-2609B

Priority Date: 10/8/1958
Basis: Deceased
Status: Active

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	10/31	1.410 CFS	265.3 AF
	Total Diversion		1.410 CFS	265.3 AF

GROUND WATER	SWSESW	Sec. 22, Twp 01S, Rge 19E,	BLAINE County(I)
GROUND WATER	SWSESW	Sec. 22, Twp 01S, Rge 19E,	BLAINE County
GROUND WATER	NENESE	Sec. 27, Twp 01S, Rge 19E,	BLAINE County(R)

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
01S	19E	27			15.0	5.8									34.0	21.0			75.8

1.	C18	This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
2.	C03	Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.
3.	P31	The remainder of this right was forfeited for non-use from 1974 to 1987.
4.	E60	Right Nos. 37-2609B and 37-2618 are limited to a total combined diversion rate of 3.26 cfs and to a total combined annual diversion volume of 569.8 AF.
5.	E55	Right Nos. 37-2609B and 37-2618 are limited to the irrigation of a combined total of 162.8 acres in a single irrigation season.
6.	E56	The rights listed below are limited to the irrigation of a combined total of 341.8 acres in a single irrigation season. Combined Right Nos.: 37-2609B, 37-2618, and 37-7800.
7.	E61	The rights listed below are limited to a total combined diversion rate of 6.84 cfs and to a total combined annual diversion volume of 1106.8 AF. Combined Right Nos.: 37-2609B, 37-2618, and 37-7800.

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

8. G03 Water diverted under this right is injected into Silver Creek at the point of injection described above and rediverted from Silver Creek at the point of rediversion described above.
9. G10 The amount of water diverted from Silver Creek shall be reduced when necessary to prevent injury to appropriators of water from Silver Creek downstream from the point of rediversion.

Comments:

1. nvandyke 8/4/2010 SRBA decree
This SRBA decree 37-2609B record supercedes pre- SRBA water right record 37-2609A. This is based off how right was claimed and ultimately recommended/decreed. Basically a swap in the water right number for the same block of water.
2. nvandyke 8/4/2010 Water Right
This water right record was updated by decree record from old RightID 109365 to new RightID 605949
3. djones 3/31/2014 Water Right
Original right was superceded by approved transfer creating parts A (irr) & B (irr, storage). Part B was claimed as 37-2609A in SRBA. Original part A was split and claimed as parts B & C in SRBA.

Dates and Other Information

Decreed Date: 4/16/2008
Civil Case Number: 39576
Judicial District: FIFTH
State or Federal: S
Mitigation Plan: False

Combined Use Limits

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
6.840	1,106.8	341.8
37-2609B ,37-2618 ,37-7800		
<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
3.260	569.8	162.8
37-2609B ,37-2618		

SubCase:

SubCaseNumber: 37-2609B
Class: 1
SF5 Filed Date:
Special Master Recom Signed Date: 2/5/2008
Attorney Assigned:
Adjudication Agent: skeen
Basis of Claim: License
Date Filed: 11/7/2007
Objection Status: Active

Water Supply Bank:

N/A

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Name of Applicant Don Mcgrath Phone 510 693 5600
Mailing Address 3300 Powell st Emeryville ca 94608 Email donmcgrath@diamondbc

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. _____

Irrigate dry pasture

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>37-2609B</u>	<u>October 8, 1958</u>	<u>0.18 cfs/</u>	<u>irrigation</u>	<u>April 15</u> to <u>October 31</u>
_____	_____	<u>33.25 ac-ft</u>	_____	_____ to _____
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____
2. Total amount of water being transferred 0.18 cubic feet per second and/or 33.25 acre-feet per annum.
3. Source of water ground water tributary to _____.
4. Point(s) of diversion: _____

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag number
1S	19E	22		SW	SE	SW	Blaine	ground water	
1S	19E	22		SW	SE	SW	Blaine	injection into Silver Creek	
2S	20E	1	4	NW	NE	NW	Blaine	rediversion from Silver Creek	

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	
1S	20E	36											9.5						9.5

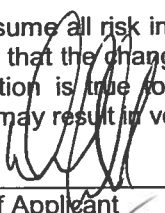
Total Acres 9.5

1
*Superseded
by 7/14 Amended
Temp Change APP*

6. General Information:

- a. Who owns the water right to be changed? Stalker Creek Ranch LLC
- b. Describe the arrangement allowing use of the right. Lease
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
It will not be 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? It would not be used.
- f. Describe other water rights used for the same purpose. 37-2618
- g. Remarks: The portion of 37-2618 appurtenant to the 9.5 acres is not being used and will not be used for the rest of this year.

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

June 30 2014

Date

FOR DEPARTMENT USE ONLY

Received by DM Date 7-3-2014 \$50 fee received by DM Receipt No. S034124
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 _____, _____.

For the Director

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No.: 37-2609B

Current Owner: STALKER CREEK RANCH LLC
Priority Date: 10/8/1958
Origin: Water Right
Status: Active
Basis: Decreed

Source

Tributary

GROUND WATER

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	04/15 to 10/31	1.41 CFS	265.3 AF
	<u>Total Diversion</u>	1.41 CFS	265.3 AF

Location of Point(s) of Diversion

GROUND WATER	SW1/4SE1/4SW1/4	Sec. 22,	Twp 01S,	Rge 19E B.M.
BLAINE County		(Injection)		
GROUND WATER	SW1/4SE1/4SW1/4	Sec. 22,	Twp 01S,	Rge 19E B.M.
BLAINE County				
GROUND WATER	NE1/4NE1/4SE1/4	Sec. 27,	Twp 01S,	Rge 19E B.M.
BLAINE County		(Rediversion)		

Place of Use

IRRIGATION Within BLAINE County

T01S R19E S27	SWNE	15.00	T01S R19E S27	SENE	5.80
T01S R19E S27	NESE	34.00	T01S R19E S27	NWSE	21.00

Total Acres: 75.8

Conditions of Approval:

1. P31 The remainder of this right was forfeited for non-use from 1974 to 1987.
2. G10 The amount of water diverted from Silver Creek shall be reduced when necessary to prevent injury to appropriators of water from Silver Creek downstream from the point of redirection.
3. E55 Right Nos. 37-2609B and 37-2618 are limited to the irrigation of a combined total of 162.8 acres in a single irrigation season.
4. E56 The rights listed below are limited to the irrigation of a combined total of 341.8 acres in a single irrigation season. Combined Right Nos.: 37-2609B, 37-2618, and 37-7800.
5. E60 Right Nos. 37-2609B and 37-2618 are limited to a total combined diversion rate of 3.26 cfs and to a total combined annual diversion volume of 569.8 AF.
6. C03 Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.
7. E61 The rights listed below are limited to a total combined diversion rate of 6.84 cfs and to a total combined annual diversion volume of 1106.8 AF. Combined Right Nos.: 37-2609B, 37-2618, and 37-7800.
8. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
9. G03 Water diverted under this right is injected into Silver Creek at the point of injection described above and redirected from Silver Creek at the point of redirection described above.

Decreed Date: 4/16/2008

Cooper, Jeff

From: Jim Speck [jim@speckandaanestad.com]
Sent: Monday, July 28, 2014 2:09 PM
To: Cooper, Jeff
Cc: 'John Dondero'; Don McGrath
Subject: Re: Stalker Creek Ranch, LLC - Temporary Change of Portion of 37-2609B

Jeff,

The location of the 9.5A that are not being irrigated is:

T1S R19E S27: SWNE – 1.3A
 SENE - 0.2A
 NESE – 2.3A
 NWSE – 5.7A

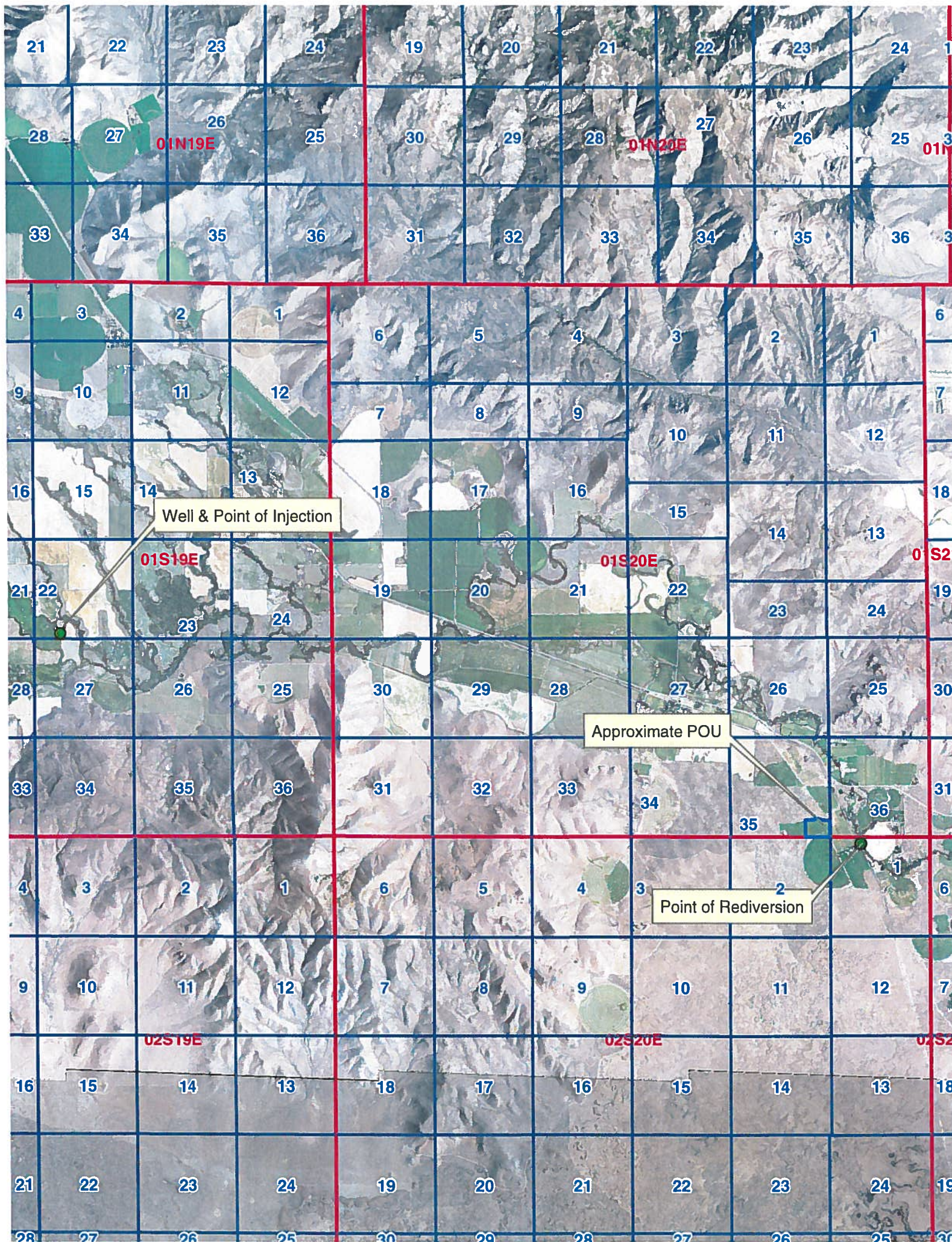
Let me know if you need any more information to complete the temporary change. Thanks.

Jim

James P. Speck
SPECK & AANESTAD
A Professional Corporation
120 East Avenue North
P.O. Box 987
Ketchum, ID 83340
208.726.4421
208.726.0752 (fax)
jim@speckandaanestad.com

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Bitzenburg, James

From: Kevin Lakey [watermanager@cableone.net]
Sent: Monday, July 21, 2014 9:16 AM
To: Bitzenburg, James
Subject: RE: Temporary change applications

Jim,

I am OK with this transfer, but with these injection/re-diversions we have been charging about a 10% transportation loss. So, if he injects .18 cfs, we would only allow .162 re-diversion. I don't know how the 10% was developed, but that has been standard practice.

Kevin Lakey

From: Bitzenburg, James [mailto:James.Bitzenburg@idwr.idaho.gov]
Sent: Monday, July 21, 2014 8:29 AM
To: watermanager@cableone.net
Subject: Temporary change applications

Kevin-

Jeff Cooper has been working on these two temporary change applications, but he is off this week, so he has asked me to finish them up for him. I am needing Watermaster comments for both, if you could. If you have any questions, I will be out of the office today (Monday), but will be in the office both Tuesday and Wednesday. That doesn't mean I can answer them, but I'll give it a shot. Thanks,

Jim

Jim Bitzenburg
Water Resource Agent
Southern Regional Office
Phone (208)-736-3033
Fax (208)-736-3037
james.bitzenburg@idwr.idaho.gov

Jim B.

Called Don McGrath - 8:06 AM, 7-22-14, to let him know what I heard from Kevin Lakey. Had to leave a message.

Don called back and said he was okay with the conveyance loss.

Cooper, Jeff

From: Jim Speck [jim@speckandaanestad.com]
Sent: Thursday, July 10, 2014 5:27 PM
To: Cooper, Jeff
Cc: 'John Dondero'; 'Don McGrath'; Jim Acquistapace
Subject: Re: Stalker Creek Ranch LLC - Water Right 37-2609B

Jeff,

I represent Stalker Creek Ranch LLC. My client has agreed Don McGrath can move by a temporary change application 0.18 cfs of this water right which irrigates 9.5A. Let me know right away if you need anything more from my client or me to approve this change for the rest of the summer.

Thanks.

Jim

James P. Speck
SPECK & AANESTAD
A Professional Corporation
120 East Avenue North
P.O. Box 987
Ketchum, ID 83340
208.726.4421
208.726.0752 (fax)
jim@speckandaanestad.com

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