

TC-37-69

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

JUL 10 2013

DEPT. OF WATER RESOURCES
SOUTHERN REGION

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 Big Wood Canal Company

Phone (208) 886-2331

Mailing Address 409 North Apple StreetShoshone, IdEmail lynnhamon@cableone.n83352

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.

To temporarily add new point of diversion (SWSWNE S4 Township 5S, R19E) in order to provide water to existing shareholder during drought emergency. Shareholder will pump water to be diverted from new POD to irrigate lands with pivot. Will use existing diversion system: headgate, open ditch, John Deere pump station and mainline

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

See Attached ListAll Rights are fortoIrrigationtotototo

2. Total amount of water being transferred 4 cubic feet per second and/or acre-feet per annum.

3. Source of water Little Wood River tributary to

4. Point(s) of diversion: - New

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag number
5S	19E	4		SW	SW	NE	Lincoln	Little Wood River	
							<u>See attached for list of existing PODs</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	
5S	19E	4							X										35
5S	19E	4								X									10
5S	19E	4									X								14
5S	19E	4										X							38
4S	19E	5				X													13

Total Acres 121

6. General Information:

- a. Who owns the water right to be changed? Big Wood Canal Company
- b. Describe the arrangement allowing use of the right. Shareholder has leased water and will divert through existing POD (existing water right is junior priority) during drought emergency
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application: Will enable shareholder to continue to irrigate land during drought.
- d. Has the water right sought to be transferred been used this year? ☒ Yes ☐ No If yes, explain. Little Wood decreed water is diverted along with canal shares until Magic goes off and then used separately if needed
- e. Absent the changes, how would the right be used for the remainder of the year? Rts would be pumped at other points of diversion
- f. Describe other water rights used for the same purpose. Shareholder usually uses rights 37-471 and 37-1125
- g. Remarks: Additional Place of Use: Township 5S, Range 19E, Section 5, NESE 11 acres; IDWR previously approved temporary change to add new POD for shareholder use. This is additional POD for nearby crops.

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]
Signature of Applicant

7-9-13
Date

FOR DEPARTMENT USE ONLY

Received by AD Date 7/10/13 \$50 fee receipted by AD Receipt No. 5033376
Recommend: ☒ Approve ☐ deny Watermaster recommendation 7/11/13

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Temporary Change Application No. TC-37-69 and said application is hereby approved, subject to the following limitations and conditions:

Subject to attached order dated 7/11/13

Temporary Change Expiration Date 11/15/13

Signed this 11th day of July, 2013

For

[Signature]
For the Director

Description of Water Rights (cont'd from first page):

Right No.:	Priority:	Amount:
37-13043	11/13/1907	303.6 cfs
37-13112	6/1/1920	69.3 cfs
37-13113	5/27/1899	150 cfs
37-13114	11/6/1905	87.02 cfs
37-21401	5/15/1885	5.3 cfs
37-21402	4/6/1883	3.55 cfs
37-21403	4/1/1887	5.2 cfs
37-21404	7/1/1896	15.3 cfs
37-21405	4/1/1884	2.61 cfs

Points of Diversion (cont'd from first page):

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local Name or Tag #
4S	19E	25		NE	SW	SE	Lincoln	Little Wood River	
5S	14E	33		NW	NE	SE	Gooding	Little Wood River	
5S	16E	29		SW	SW	SW	Lincoln	Little Wood River	
5S	19E	5		SW	NW	SE	Lincoln	Little Wood River	
6S	14E	30		SE	NE	SW	Gooding	Little Wood River	
6S	14E	30		NE	SE	SW	Gooding	Little Wood River	
6S	15E	3		SW	NW		Gooding	Little Wood River	
5S	14E	35		SE	NE	NE	Gooding	Little Wood River	

TC-37-69

RECEIVED

JUL 10 2013

DEPT. OF WATER RESOURCES
SOUTHERN REGION

BRODY LAW OFFICE, PLLC
P.O. BOX 554
RUPERT, IDAHO 83350
Telephone: (208) 434-2778
Facsimile: (208) 434-2780
robynbrody@hotmail.com

July 9, 2013

URGENT – PLEASE EXPEDITE

Idaho Department of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301

Re: Temporary Change Application
Application for Temporary Addition of POD
Big Wood Canal Company/R & L Lezamiz, Inc.

Dear Gentlemen:

Enclosed please find Big Wood Canal Company's Temporary Change Application. This application is to allow a new, temporary point of diversion to irrigate crops on land leased by R & L Lezamiz, Inc., my client. This application is being submitted pursuant to the Order Declaring Drought Emergency in Lincoln County dated May 14, 2013. Unfortunately, the Water Master in this District just notified R & L Lezamiz that Water Rights Nos. 37-471 (Priority Date of April 30, 1884) and 37-1125 (Priority Date of May 20, 1908) which are usually used to water the ground in this area are being shut off. This means that R & L is now in danger of losing its corn crop. As such, I would appreciate it if you would do everything possible to expedite this application. Thank you.

Very truly yours,

BRODY LAW OFFICE, PLLC

By: _____

Robyn M. Brody

Merritt, Allen

From: Merritt, Allen
Sent: Wednesday, July 10, 2013 2:17 PM
To: Peppersack, Jeff; Baxter, Garrick
Cc: 'lynnharmon@cableone.net'; Skinner, Corey
Subject: RE: Big Wood Canal Company Part 2
Attachments: DRAFT approval.pdf

Jeff,

It appears to me if the overall acre limit of the BWCC suite of Little Wood River rights is being met with the addition of these 121 acres it would not be an issue.

Attached is the approved transfer No. 74717 involving BWCC rights that we issued yesterday. Some of the Little Wood River rights have a limit of 39683 acres in the 101903 acre overall limit from all sources.

Actually I just got off the phone with Lynn Harmon and he indicates that there is not 39683 acres being watered from the Little Wood River currently and likely not for some time. He also indicated that the identified 121 acres should be included in the BWCC service area and was likely an oversight. I suggested he get with Corey to modify things since Corey is currently moving forward with processing the BWCC's transfer to add POD's. Updating the service area could be accomplished in this same process.

Allen

From: Peppersack, Jeff
Sent: Wednesday, July 10, 2013 1:49 PM
To: Merritt, Allen
Cc: Baxter, Garrick
Subject: RE: Big Wood Canal Company Part 2

Allen,
In addition to the change in service area, doesn't the idea to switch back and forth create an enlargement situation?

Jeff

From: Merritt, Allen
Sent: Wednesday, July 10, 2013 1:20 PM
To: Kevin Lakey
Cc: Peppersack, Jeff; robynbrody@hotmail.com; Baxter, Garrick
Subject: RE: Big Wood Canal Company Part 2

Our office received the application in the mail today. On the application it indicates only a POD addition to BWCC rights however looking at the land list it is now clear that the land intended to be supplied water is covered by private rights and not within the BWCC service area. It would seem the request is also to change the BWCC service area. This is a different situation that the temp change TC-37-65 approved 6/18/13 for the BWCC where the additional POD was for BWCC rights and the lands to be served were within the BWCC service area.

Jeff,
Please give me a call so we can discuss further. Possibly also involve Kevin.
Allen

7

From: Kevin Lakey [<mailto:watermanager@cableone.net>]
Sent: Wednesday, July 10, 2013 12:28 PM
To: Merritt, Allen
Cc: Peppersack, Jeff; robynbrody@hotmail.com; Baxter, Garrick
Subject: RE: Big Wood Canal Company Part 2

To all concerned:

When I informed the water user of the curtailment of the 4/3/1884 priority, he asked if he could move the BWCC water back and forth between the original emergency transfer POU and the additional POU where the 4/3/1884 water right has been curtailed. That is how I believe I described the situation to Allen, because that is how the water user described it to me. The water user has rented 2.5 cfs from the BWCC. Both diversion points need at least 2 cfs to run pivots at their respective locations. The water would have to be moved back and forth about every 2 days according to the water user. I hope this helps clarify the situation.

Kevin Lakey
Watermaster, Water Districts 37 & 37M

From: Merritt, Allen [<mailto:Allen.Merritt@idwr.idaho.gov>]
Sent: Wednesday, July 10, 2013 8:03 AM
To: Peppersack, Jeff
Cc: watermanager@cableone.net
Subject: RE: Big Wood Canal Company Part 2

I do not see any additional concerns to just add another pod if they are using Big Wood Canal or AFRD water. Kevin Lakey asked the other day about someone wanting to swap back and forth between diversions and land for a right and I told him it was not possible. I understood this was a private right. Maybe Kevin could clarify if this is the same situation.

From: Peppersack, Jeff
Sent: Tuesday, July 09, 2013 2:16 PM
To: Merritt, Allen
Subject: FW: Big Wood Canal Company Part 2

Allen,
See the messages below. I don't know of any restrictions for multiple temporary change applications. Any concerns?

Jeff

From: Baxter, Garrick
Sent: Tuesday, July 09, 2013 1:16 PM
To: Peppersack, Jeff
Subject: Fwd: Big Wood Canal Company Part 2

Jeff,
Any thoughts on this email.
Garrick

Begin forwarded message:

From: "Robyn Brody" <robynbrody@hotmail.com>
To: "Garrick Baxter" <garrick.baxter@idwr.idaho.gov>
Subject: Big Wood Canal Company Part 2

Dear Garrick,

Hi there. Hope your Summer is going well. I am sorry to bother you again, but it looks like we may need to submit another Temporary Change Application for Big Wood Canal Company to use an existing POD about ¼ mile from the one that was just approved (a copy of the proposed app is attached). My guy leases ground adjacent to this POD (corn crop in progress) and just received word of a curtailment of an April 6, 1884 water right. To avoid losing his crop he wants to be able to move some of the water from the new POD that was just authorized to this other existing POD.

My guy and Big Wood have received second or third hand information that another Temporary Change Application cannot be processed – that only one is allowed. It doesn't sound right, but I couldn't seem to find the correct regs to clarify this. Do you know if this is correct? Could you give me the cite?

Thanks so much.

Robyn

Robyn M. Brody

Brody Law Office, PLLC

PO Box 554

Rupert, ID 83350

New Telephone: (208) 434-2778

New Facsimile: (208) 434-2780

Idaho Department of Water Resources Receipt

Receipt ID: S033376

Payment Amount \$50.00 Date Received 7/10/2013 4:09 PM Region SOUTHERN

Payment Type Check Check Number 1242

Payer Brody Law Office, PLLC

Comments BWCC temp change

Fee Details

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
\$50.00	TRANSFERS	64106	0229	21		1155



Signature Line (Department Representative)