

208-434-2780

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TC-37-65

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JUN 14 2013

DEPT. OF WATER RESOURCES
SOUTHERN REGION

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 Big Wood Canal CompanyMailing Address 409 North Apple StreetPhone (208) 886-2331Email lynnhamon@cableone.n**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 (4S 19E Sec. 33 SE SE) 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. Diversion system to consist of pump, gate valve ahead of pump on intake, and flow meter on outlet.

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 List _____ _____ All rights are for _____ to _____
_____ _____ _____ Irrigation _____ to _____
_____ _____ _____ _____ _____ to _____
_____ _____ _____ _____ _____ to _____
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: _____

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag number
4S	19E	33		SE	SE		Lincoln	Little Wood River	NEW Proposed POD
							See Attached List		
							for Current Diversions		

5. Lands irrigated or place of use:

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	
4S	19E	33																	
													X	X	X	X	X	X	320

Total Acres 320

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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 agreed to lease/divert water from new POD when water under existing rights is exhausted due to drought conditions
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application: Will enable shareholder to continue farming when existing water rights are insufficient due to drought
- d. Has the water right sought to be transferred been used this year? ☒ Yes ☐ No If yes, explain. The Little Wood decreed water is diverted along with canal shares until Magic goes off then used separately if needed
- e. Absent the changes, how would the right be used for the remainder of the year? Right would be pumped at new POD to irrigate crops on shareholder farm
- f. Describe other water rights used for the same purpose. Shareholder normally irrigates with canal shares
- g. Remarks: BWCC has applied for a permanent addition of point of diversion, but requests that this temporary application be approved so water can be provided to shareholder during drought.

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

6-13-2013
Date

FOR DEPARTMENT USE ONLY

Received by Adm Date 6/18/13 \$60 fee receipted by Adm Receipt No. 5033327

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-37-65, and said application is hereby approved, subject to the following limitations and conditions:

See approval order dated 6/18/13

Temporary Change Expiration Date 11/15/13

Signed this 18th day of June 2013

[Signature]
For the Director

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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	

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SOUTHERN REGION**

**BRODY LAW OFFICE, PLLC
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robynbrody@hotmail.com**

June 13, 2013

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

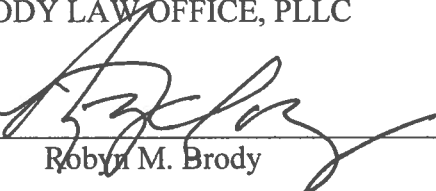
Re: Temporary Change Application
Application for Temporary Addition of POD
Big Wood Canal Company/R & L Lezamiz, Inc.

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 belonging to 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 available from Magic Reservoir that is available to R&L this season is expected to run out in early July. I would appreciate it if you would do everything possible to expedite this application so that R & L does not have to stop irrigating. Thank you.

Very truly yours,

BRODY LAW OFFICE, PLLC

By: 

Robyn M. Brody

Merritt, Allen

From: Merritt, Allen
Sent: Thursday, June 13, 2013 9:04 AM
To: Baxter, Garrick; Peppersack, Jeff
Cc: Skinner, Corey
Subject: RE: Big Wood Canal Company

I sent the application via email to Kevin Lakey asking for comments. He already knew about it.
Note that I'll be out of the office until next Tuesday. Hopefully we could issue the order then if all the paperwork is complete.

From: Baxter, Garrick
Sent: Thursday, June 13, 2013 9:02 AM
To: Peppersack, Jeff; Merritt, Allen
Cc: Skinner, Corey
Subject: RE: Big Wood Canal Company

I'll contact Robyn and ask her or the consultant she is working with to work with Corey to get the application in and to answer any additional question of the Department.
-Garrick

From: Peppersack, Jeff
Sent: Thursday, June 13, 2013 8:49 AM
To: Baxter, Garrick; Merritt, Allen
Cc: Skinner, Corey
Subject: RE: Big Wood Canal Company

I reviewed past admin. memos on the subject; some interesting conclusions. The 1992 memo indicates no new wells, but doesn't prohibit sw diversions. The memo also includes the following language:

Temporary change applications can be considered in connection with previously filed applications for transfer. In this case, a temporary change application must also be filed but the department will not require a separate filing fee. If a transfer has been protested, a change application can not be approved in lieu of completing the usual protest procedure.

There is a 1993 memo that includes most of the 1992 memo language, but it omits the paragraph above.

I'm not proposing we waive fees. I do think we should consider the temporary transfer because of the urgency. We might need more information about the diversion system proposed and then we should get watermaster input (expedited by phone) to see if there are any concerns. I agree with Allen's proposed condition about the pending permanent transfer.

Jeff

From: Baxter, Garrick
Sent: Thursday, June 13, 2013 8:31 AM
To: Merritt, Allen
Cc: Skinner, Corey; Peppersack, Jeff; Baxter, Garrick
Subject: Re: Big Wood Canal Company

I agree with Allen about the condition.

On Jun 13, 2013, at 8:29 AM, "Merritt, Allen" <Allen.Merritt@idwr.idaho.gov> wrote:

FYI the temp change order template indicates no new PD to be constructed however the statute only mentions no drilling of new wells. Maybe there is some wiggle room here. If we do issue a temp for this we should condition that approval does not pre-determine pending permanent transfer.

From: Skinner, Corey
Sent: Thursday, June 13, 2013 8:14 AM
To: Peppersack, Jeff; Baxter, Garrick; Merritt, Allen
Subject: RE: Big Wood Canal Company

If it matters, the proposed new point of diversion on the temporary change application appears to be the same as the proposed new point of diversion on the Big Wood Canal Company transfer that they filed (at least the same legal description).

From: Peppersack, Jeff
Sent: Wednesday, June 12, 2013 5:16 PM
To: Skinner, Corey; Baxter, Garrick; Merritt, Allen
Subject: RE: Big Wood Canal Company

All,

Although 42-222A does not specifically prohibit new pod's, our general policy is to avoid approving construction of new pods (primarily wells). I wonder how extensive the construction of a new diversion system might be. We should probably discuss this tomorrow.

Jeff

From: Skinner, Corey
Sent: Wednesday, June 12, 2013 5:06 PM
To: Baxter, Garrick; Peppersack, Jeff; Merritt, Allen
Subject: RE: Big Wood Canal Company

The application mentions adding a "new point of diversion" (temporarily). The application also mentions the "Lezamiz farm". This name rings a bell and is probably who we talked to &/or talked to Lynn Harmon about.

From: Baxter, Garrick
Sent: Wednesday, June 12, 2013 5:01 PM
To: Skinner, Corey; Peppersack, Jeff; Merritt, Allen
Subject: FW: Big Wood Canal Company

Robyn just forwarded me a copy of the proposed application...

From: Robyn Brody [<mailto:robynbrody@hotmail.com>]
Sent: Wednesday, June 12, 2013 4:41 PM

To: Baxter, Garrick
Subject: Big Wood Canal Company

Dear Garrick,

I thought I'd attach the Big Wood Canal Company's temporary change application. It has not yet been submitted.

Robyn

Robyn M. Brody
Brody Law Office, PLLC
PO Box 554
Rupert, ID 83350
New Telephone: (208) 434-2778
New Facsimile: (208) 434-2780