

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

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF A)
WATER RIGHT TC-72-06 IN THE NAME)
OF ANTONY AND MADGE YACOMELLA)
_____)

**ORDER AUTHORIZING
TEMPORARY CHANGE**

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 purpose of use for valid existing water rights or temporary exchanges of water, as provided in section 42-240, Idaho Code, when the director determines that such changes can be accomplished in accordance with the provisions of section 42-222A, Idaho Code; and

WHEREAS, on July 31, 2007, Antony and Madge Yacomella ("applicant") submitted the attached Temporary Change Application ("application") to the Department; and

WHEREAS, the Department has reviewed the application and has determined the application can be approved with certain conditions; and

WHEREAS, The applicant assumes all risk and is the responsible party if diversion and use of water under the temporary change approval causes injury to other water rights or constitutes an enlargement in use of the original right;

ORDER

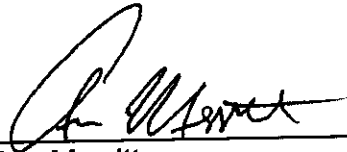
IT IS HEREBY ORDERED that the application is **APPROVED** subject to the following conditions:

1. Diversion and use of a portion (15.84 acre feet for irrigation of 22 acres) of right nos. 72-2149B is authorized for use only at the points of diversion and places of use described on the application or as otherwise approved in this order. The described place of use is intended to be the land normally irrigated by rights 72-32H and 72-32J in the SESE S17, T14N, R19E.
2. Diversion and use of the portion of right 72-2149B identified above shall cease to be use on the property of Stephen G. Bauchman and/or Challis

Creek Cattle Co LLC who is leasing the portion identified above to the applicant.

3. This temporary change is subject to the private lease agreement between Antony and Madge Yacomella (applicant) and Stephen Bauchman acting in behalf of Challis Creek Cattle Co LLC dated June 5, 2007.
4. Use of the remaining unchanged portion of right no. 72-2149B shall be limited to 160.14 acre feet or what ever lesser amount is stored and available in Mosquito Flat Reservoir to be delivered from storage for irrigation of no more than 679.7 acres within the original place of use for the remainder of the irrigation season.
5. This temporary change approval does not authorize construction of a new point of diversion.
6. 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 condition. 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.
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 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.
9. This temporary change approval does not grant any right-of-way or easement to use the diversion works or conveyance works of another person or entity.
10. To prevent injury to other water rights the watermaster of Water District 72-A and/or watermaster of Water District 170 are authorized to administer the temporary change approval.
11. This temporary change approval expires on September 1, 2007 unless rescinded or extended by the director. Thereafter, the water rights shall revert to the point of diversion, place of use and nature of use existing prior to the temporary change approval.

DATED this 31st day of July , 2007.


Allen Merritt
Southern Region Manager

