

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF A)
WATER RIGHT TC-72-07 IN THE NAME)
OF ANTHONY GAMMACHE)
_____)

**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 August 15, 2007, Anthony Gammache ("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 (1.22 cfs for irrigation of 75.1 acres) of right nos. 72-12D is authorized only at the points of diversion and places of use described on the application or as otherwise approved in this order. The 0.50 cfs portion intended to be used in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ S08, T14N, R19E is limited to irrigation of no more than 30.8 acres. The 0.72 cfs portion intended to be used in the W $\frac{1}{2}$ NW $\frac{1}{4}$ S16, T14N, R19E is limited to irrigation of no more than 44.3 acres.
2. Use of the remaining unchanged portion of right no. 72-12D shall be limited to 0.90 cfs for irrigation of no more than 55.5 acres within the

original place of use for the remainder of the irrigation season.

3. This temporary change approval does not authorize construction of a new point of diversion.
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 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.
5. 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.
6. 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.
7. 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.
8. To prevent injury to other water rights the watermasters of Water District 72-A and/or 170 are authorized to administer the temporary change approval.
9. When the changed portion of right 72-12D identified on the application and other rights associated with the proposed places of use (rights 72-12B, 72-25E, and 72-4164C for the lands in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ S08, T14N, R19E and rights 72-4163 and 72-10138 for the lands in the W $\frac{1}{2}$ NW $\frac{1}{4}$ S16, T14N, R19E) are available no more than 0.02 cfs per acre may be diverted at any one time at the field headgate.
11. This temporary change approval expires on October 31, 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 15th day of August, 2007.


Allen Merritt
Southern Region Manager