

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

IN THE MATTER OF APPLICATION )  
FOR TEMPORARY CHANGE OF A )  
WATER RIGHT TC-37-53 IN THE NAME )  
OF ROY E. HUBERT )  
\_\_\_\_\_ )

**ORDER AUTHORIZING  
TEMPORARY CHANGE**

WHEREAS, a drought emergency has been declared for Lincoln 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 September 2, 2005 Roy E. Hubert ("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**

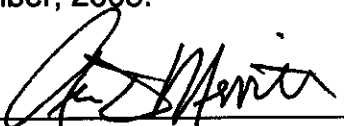
IT IS HEREBY ORDERED that the application is **APPROVED** subject to the following conditions:

1. Diversion and use of portions of right no. 37-7454 are authorized only at the point of diversion and places of use described on the application or as otherwise approved in this order. (A total of 17 acres are authorized to be irrigated, 16 acres under the pivot in Lt. 8 and 1 acre of the field in Lt. 10)
2. Use of these portions of said rights are subject to a private agreement between the applicant and the Alton & Paula Huyser Trust, (water right owner).
3. This temporary change approval does not authorize construction of a new

well.

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. The portion of right no. 37-7454 identified on the application is limited to the irrigation of a total of 17 acres during the remainder of the irrigation season. Water shall not be rotated to other acres owned by the applicant or for other purposes.
6. 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.
7. 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.
8. 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.
9. To prevent injury to other water rights the watermaster of Water District 130 is authorized to administer the temporary change approval.
10. When the portion of the right identified on the application and shares in the American Falls Reservoir District No. 2 or shares in the Big Wood Canal Company are combined 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 November 15, 2005 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 13<sup>th</sup> day of September, 2005.

  
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Allen Merritt  
Southern Region Manager