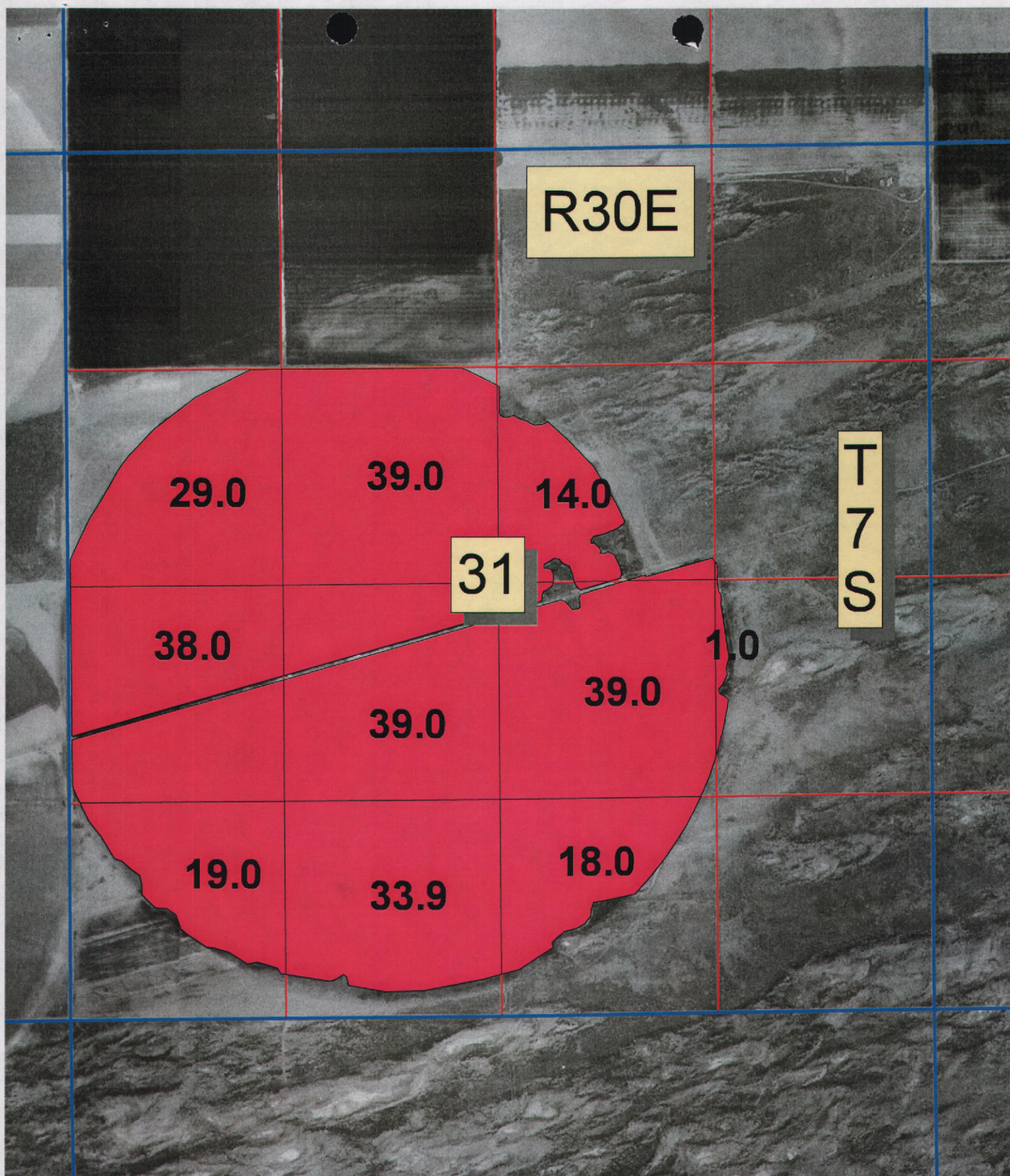




**Whitnah Ranches c/o Roger Whitnah
Temporary Change Place of Use**

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
TEMPORARY CHANGE OF A)
WATER RIGHT 35-7569, 35-24320, &)
35-7391)
_____)

ORDER AUTHORIZING
TEMPORARY CHANGE

Tc- 35-04

WHEREAS, a drought emergency has been declared for Power 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 authorized under water rights when the director determines that such changes can be accomplished in accordance with the provisions of section 42-222A, *Idaho Code*; and

WHEREAS, on October 29, 2004, Roger Whitnah submitted the attached Temporary Change Application Tc- 35-04 to the Department; and

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

ORDER

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

1. Diversion and use of right no(s). 35-7569, 35-24320, & 35-7391 is authorized only at the point of diversion and place of use described on the application.
2. This temporary Change approval does not authorize construction of a new well as a new point of diversion.
3. The applicant assumes all risk of curtailment or mitigation should the diversion and use of water under the temporary change approval cause injury to other water rights, constitute an enlargement in use of the original right, be inconsistent with the conservation of water resources within the state of Idaho, or not be in the local public interest.
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.

**ORDER AUTHORIZING
TEMPORARY CHANGE**

TC-35-04

5. Right(s) 35-7569, 35-2432D, 35-7391D are limited to the irrigation of a total of 269.9 acres in a single irrigation season
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 applicants agree 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. The applicant is subject to all conditions and limitations listed on the application under the section titled "ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES"
10. The applicant shall measure the amount of water diverted and shall report the amount of water diverted under this approval.
11. The Water master of Water District No. 120 is authorized to administer the temporary change approval.
12. This Temporary change approval expires on November 1, 2004 unless rescinded or extended by the director. Thereafter, the water right shall revert to the point of diversion, place of use, and nature of use existing prior to the temporary change approval.

DATED this 8th day of November, 2004.


Ronald D. Carlson
Eastern Regional Manager

#50

Form 42-222A
12/99

Ident. No. TC-35-04

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TEMPORARY CHANGE APPLICATION

(To change point of diversion, place of use or purpose of use)

Name of Applicant Whitnash Ranches Phone 226-2760
Post Office Address 29545 Whitnash Rd American Falls, Id 83211

A. PURPOSE OF TRANSFER 35-2432D

1. ☒ Change point of diversion 35-7391D Add diversion point(s)
☐ Change purpose of use ☐ Other

☒ Change place of use 35-2432D
35-7391D
35-7569

2. Describe the proposed change(s) and the reason(s) thereof RE ARRANGE ACRES
and lease of 33 acres from Ralph Breding (35-2432D + 35-7391D)

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>35-7569</u>	<u>12/19/1975</u>	<u>2.83</u>	<u>IRR</u>	<u>4/1</u> to <u>11/01</u>
<u>35-2432D</u>	<u>8/17/1995</u>	<u>0.43 cfs</u>	<u>IRR</u>	<u>4/1</u> to <u>10/31</u>
<u>35-7391D</u>	<u>3/13/1974</u>	<u>0.24 cfs</u>	<u>IRR</u>	<u>4/1</u> to <u>10/31</u>

2. Total amount of water being transferred 3.30 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water GW tributary to _____

4. Point(s) of Diversion:

Ident No.	Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion
		NE	NW	SW	31	7S	30E	Power	

5. Lands irrigated or place of use:

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
7S	30E	31			14				29	39	39	38	19	33.9	1	39	18		237
																			269.9

Total Acres 237.269.9

TC-35-04

6. General Information:

- a. Who owns the water right to be changed? Applicant
- b. Describe the arrangement allowing use of the right Lease Agreement see enclosed copy
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
it will be dry
- d. Has the water right sought to be transferred been used this year? yes If yes, explain. Used under circles. No for Ralph Breeding
- e. Absent the changes, how would the right be used for the remainder of the year? —
- f. Describe other water rights used for the same purpose.
NONE
- g. Remarks: —

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.

Roger J Whitman, E.P.
(Signature of applicant)

FOR DEPARTMENT USE ONLY

Received by KCW Date 10/29/04 Fee 50.00

Receipted KCW # E030376 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-35-04

And said application is hereby —, subject to the following limitations and conditions:

Witness my hand this 8th day of November, 2004.

Ralph Breeding
For the Director

R30E

31

7
3

**Whitnah Ranches c/o Roger Whitnah
Temporary Change Place of Use**

To Whom It May Concern:

I, Ralph Breeding, do hereby authorize the temporary change (transfer) of water rights, of the amount necessary, to Roger Whitnah from water rights 35-2435D & 35-7391D, for a total of 33 acres and 0.47 cfs.

11/4/04
Date

Ralph Breeding
Signature
Ralph Breeding

2002 JAN 31 AM 11: 53

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA

Case No. 39576

ORDER OF PARTIAL DECREE

For Water Right 35-02432D

On November 13, 2001, a *Special Master's Report and Recommendation* was filed for the above water right. No Challenges were filed to the *Special Master's Report and Recommendation* and the time for filing Challenges has now expired.

Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 13f, this Court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report* and wholly adopts them as its own.

Therefore, IT IS ORDERED that water right 35-02432D is hereby **decreed** as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED January 31, 2002.



ROGER S. BURDICK
Presiding Judge
Snake River Basin Adjudication

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 35-02432D

2002 JAN 31 AM 11:49
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

NAME AND ADDRESS: RALPH BREIDING
2875 S VISITING RD
AMERICAN FALLS, ID 83211

SOURCE: GROUNDWATER

QUANTITY: 0.43 CFS
132.00 AFY

USE OF THIS RIGHT WITH RIGHT NO. 35-07391D IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 0.47 CFS AND TO A TOTAL
COMBINED ANNUAL DIVERSION VOLUME OF 132 AF.

PRIORITY DATE: 08/17/1955

POINT OF DIVERSION: T07S R29E S25 SESW Within Power County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.43 CFS 132.00 AFY

PLACE OF USE:	Irrigation		Within Power County
	T07S R29E S36	SNNW 26.0	SENW 7.0
	33.0 Acres Total		

USE OF THIS RIGHT WITH RIGHT NO. 35-07391D IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 33 ACRES IN A SINGLE
IRRIGATION SEASON.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Roger Burdick

Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

2002 JAN 31 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)

Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 35-02432D

CERTIFICATE OF MAILING

I certify that a true and correct copy of the PARTIAL DECREE
PURSUANT TO I.R.C.P. 54(b) for WATER RIGHT 35-02432D was mailed
on January 31, 2002, with sufficient first-class postage prepaid
to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

RALPH BREDING
Represented by:
JEFFREY C. FEREDAY
PO BOX 2720
BOISE, ID 83701-2720
Phone: 208-388-1200

STATE OF IDAHO
Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449

DIANA DELANEY
Chief Deputy Clerk

CERTIFICATE OF MAILING

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01/31/02