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JUN 20 2003

BEFORE THE DEPARTMENT OF WATER RESOURCES

Department of Water Resources

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF A)
WATER RIGHT Jay Andersen)
34-10665)

ORDER AUTHORIZING
TEMPORARY CHANGE TC-34-25

WHEREAS, a drought emergency has been declared for Butte
County to allow administrative actions to lessen the severe impacts of the drought
conditions in the counties; 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 when the director determines that such
changes can be accomplished in accordance with the provisions of section 42-222A,
Idaho Code; and

WHEREAS, on 6/11/03, JAY ANDERSEN submitted the attached
Temporary Change Application TC-34-25 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). 34-10665 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

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ORDER AUTHORIZING
TEMPORARY CHANGE TC-34-25

replacement water supply to lands or other uses which 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. Right(s) 34-10665 are limited to the irrigation of a total of 104.5 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 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. The applicant shall measure the amount of water diverted and shall report the amount of water diverted under this approval.
10. The watermaster of Water District No 34 is authorized to administer the temporary change approval.
11. This temporary change approval expires on Oct 31, 2003 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 6 day of June 2003.


For **RONALD D. CARLSON**
EASTERN REGION MANAGER

Form 42-222A
12/99

Ident. No.

TC-34-25

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 Gay Andersen Phone 208-527-3341Post Office Address Rt 1 Box 41 Moore, ID 83255

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 the reason(s) thereof Changing point of diversion to facilitate delivery of water.

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>34-10665</u>	<u>9/28/1876</u>	<u>2.33</u>	<u>Irrigation</u>	<u>5-1</u> to <u>10-15</u>
				to
				to
				to

2. Total amount of water being transferred 2.33 cubic feet per second and/or 4.62 acre-feet per annum.

3. Source of water Surface tributary to Big Lost River

4. Point(s) of Diversion: Big Lost River Sinks

Ident No.	Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion
		NW	SE	SE	4	5N	26E	Butte	Moore Canal

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	
<u>4N</u>	<u>26E</u>	<u>5</u>			<u>39</u>				<u>34.5</u>		<u>39</u>	<u>34.5</u>	<u>31</u>						

Total Acres 104.5

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JUL 23 2003

TC-34-25

6. General Information:

- a. Who owns the water right to be changed? Jay Andersen
- b. Describe the arrangement allowing use of the right Agreement with owner
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
This ground is not being farmed.
- d. Has the water right sought to be transferred been used this year? No If yes, explain.
- e. Absent the changes, how would the right be used for the remainder of the year? Not possible to get water to place of use without transfer/change POB
- f. Describe other water rights used for the same purpose.
Mr. Andersen's water right new place of use
- g. Remarks: Due to shrink need water to irrigate land (new POB)
See right 34-615

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.

Jay A. Andersen
(Signature of applicant)

FOR DEPARTMENT USE ONLY

Received by KCW Date 6/11/03 Fee 50⁰⁰
Received KCW # E028866 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. _____

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

Witness my hand this 6 day of June, 2003:

H. J. Jones
For the Director

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JUN 23 2003

TC-34-25

State of Idaho
Department of Water Resources
Transfer of Water Rights

RECOMMENDATION OF WATERMASTER

Transfer Application No:3410665

Water Right No(s):

Transfer Applicant's Name: Jay Andersen
Watermaster's Recommendation.

- a) X I do not oppose approval of this application.
- b) I do not oppose approval of this application if it is conditioned as follows:
- c) I oppose approval of this application for the following reasons:
- d) Additional Comment:

Dated this 10th day of June, 2003

Water District No: 34

Robert E. Weber
Watermaster's Signature

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JUN 25 2003

Important Information About Your Water Right

December 14, 2001

JAY A ANDERSEN
JEAN P ANDERSEN
RT 1 BOX 41
MOORE, ID 83255

Dear Water Right Claimant(s):

The reverse side of this letter contains a copy of an *Order Amending Irrigation Period of Use Element in Partial Decree, Nunc Pro Tunc* (hereinafter "*Order*") for water right number 34-10665. According to Idaho Department of Water Resources (IDWR) records, you are the current owner of this water right. If you are not the current owner, please contact IDWR immediately at:

Idaho Department of Water Resources
1301 North Orchard
Boise, ID 83706
800-451-4129

The Purpose of the *Order* is to set forth beginning and ending dates for the irrigation period of use for this water right. As stated in the face of the *Order*, this action was necessary following the decision of the Idaho Supreme Court in *A&B Irrigation Dist. v. Idaho Conservation League*, 131 Idaho 411, 423, 958 P.2d 568, 580 (1998). This *Order* also incorporates into the *Partial Decree* an express statement that the *Partial Decree* is subject to such general provisions necessary for the definition or for the efficient administration of the water right. This express statement is necessary to comply with the requirements of Idaho Code section 42-1412(6). This *Order* in combination with the *Partial Decree* that was issued for this water right on January 15, 1998, sets forth all of the elements of your water right. The Snake River Basin Adjudication (SRBA) Court suggests that you keep this document in a safe location together with a copy of the *Partial Decree* to show evidence of the water right. The original of this *Order* and the original of the *Partial Decree* for this water right are on file with SRBA Court. If you do not have a copy of the original *Partial Decree*, one can be obtained by contacting the SRBA Court at (208) 736-3011. Please note that the *Order* is entered *Nunc Pro Tunc*, meaning that the *Order* will be treated as if it were issued the same date that the *Partial Decree* was originally issued.

Sincerely,



Diana Delaney
Case Administrator

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JUL 23 2003

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)

Water Right 34-10665

ORDER AMENDING IRRIGATION PERIOD OF USE ELEMENT
IN PARTIAL DECREE AND INCORPORATING INTO PARTIAL
DECREE AN EXPRESS STATEMENT REGARDING GENERAL
PROVISIONS, *NUNC PRO TUNC*

A *Partial Decree* was entered for the above-captioned irrigation water right on January 15, 1998. The period of use element was decreed as "irrigation season." In *A&B Irrigation Dist. v. Idaho Conservation League*, 131 Idaho 411, 423, 958 P.2d 568, 580 (1998), the Idaho Supreme Court remanded with the directive to include specific dates for the period of use element. Following remand, IDWR filed a *Supplemental Director's Report, Reporting Area 1, IDWR Basin 34, Regarding Revision of Period of use (For Irrigation Water Uses) and Conjunctive Management General Provisions*, which included an irrigation period of use recommendation for this water right. No objections were filed to this recommendation and the time period for filing objections has now expired.

THEREFORE, IT IS ORDERED that the period of use for the irrigation element of the above-captioned water right is hereby amended and decreed as:

PERIOD OF USE: 05-01 10-15

THE PERIOD OF USE FOR IRRIGATION DESCRIBED ABOVE MAY BE EXTENDED IN SEASONS OF UNUSUAL CHARACTERISTICS TO A BEGINNING DATE OF 04-20 AND AN ENDING DATE OF 10-31 AT THE DISCRETION OF THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES

IT IS FURTHER ORDERED that the *Partial Decree* for the above-captioned water right is hereby amended and decreed to contain the following:

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).

This order is being entered *nunc pro tunc* as of the date the *Partial Decree* was issued and is not intended to modify any subsequent administrative changes for the water right, if any, which occurred following entry of the *Partial Decree*.

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.

Dated December 14, 2001

Roger Burdick
ROGER BURDICK
Presiding Judge
Snake River Basin Adjudication

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JUL 23 2003

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 34-10665

1970 JUN 15 PM 1:12
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

NAME & ADDRESS: JAY A ANDERSEN
JEAN P ANDERSEN
RT 1 BOX 41
MOORE ID 83255

SOURCE: BIG LOST RIVER TRIBUTARY: SINKS

QUANTITY: 2.33 CFS

PRIORITY DATE: 09/28/1896

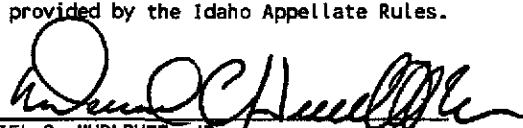
POINT OF DIVERSION: T04N R26E S26 NWNWNW Within BUTTE County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION		Irrigation Season	2.33 CFS

PLACE OF USE:	IRRIGATION	Within BUTTE County
	T03N R26E S02 Lot 2 (NWNE)29.4	
	T04N R26E S35 NESE 23	SWSE 30.6 SESE 21.5
	104.5 ACRES TOTAL	

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.


DANIEL C. HURLBUTT, JR.
PRESIDING JUDGE
Snake River Basin Adjudication