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STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
TEMPORARY CHANGE APPLICATION

RECEIVED

AUG 13 2004

DEPARTMENT OF  
WATER RESOURCES

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

Name of Applicant Darrell E. McDonald Phone 527-3413  
Post Office Address P.O. Box 102 - Arco, Id 83213

## 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

irrigate potatoes - to take care of shrink charged by District

## 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>34-7205</u> | <u>8/01/1977</u> | <u>4.67 cfs</u>    | <u>irrigation</u> | <u>4-01</u> to <u>11/01</u> |
|                |                  |                    |                   | to                          |
|                |                  |                    |                   | to                          |
|                |                  |                    |                   | to                          |

2. Total amount of water being transferred 4.67 cubic feet per second and/or \_\_\_\_\_ acre-feet per annum.3. Source of water Groundwater tributary to \_\_\_\_\_

## 4. Point(s) of Diversion:

| Ident No. | Lot | 1/4 | 1/4 | 1/4 | Sec | Twp | Rge | County | Local name for diversion |
|-----------|-----|-----|-----|-----|-----|-----|-----|--------|--------------------------|
|           |     | SW  | SW  | SE  | 03  | 4N  | 26E | Butte  | East side to Arco 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>3N</u> | <u>27E</u> | <u>5</u> | <u>40</u> | <u>35</u> | <u>40</u> | <u>40</u> |        |    |    |    |        |    |    |    |        |    |    |    | <u>145</u> |
|           |            |          |           |           |           |           |        |    |    |    |        |    |    |    |        |    |    |    |            |
|           |            |          |           |           |           |           |        |    |    |    |        |    |    |    |        |    |    |    |            |
|           |            |          |           |           |           |           |        |    |    |    |        |    |    |    |        |    |    |    |            |
|           |            |          |           |           |           |           |        |    |    |    |        |    |    |    |        |    |    |    |            |

Total Acres 145

## 6. General Information:

TC-34-58

- a. Who owns the water right to be changed? Larry E Rasmussen
- b. Describe the arrangement allowing use of the right rent for
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:  
No Land being irrigated
- 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 used
- f. Describe other water rights used for the same purpose.  
34-43 (7-22-1901) <sup>BLR</sup> 34-2509 (10-5-1960) <sup>GW</sup> 34-7112 (5-15-1975) <sup>BLR</sup>
- 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.

James E McDonald  
(Signature of applicant)

## FOR DEPARTMENT USE ONLY

Received by KCW Date 7/29/04 Fee 50<sup>00</sup>

Receipted KCW # E030092 Recommend: ☒ approve ☐ deny

Watermaster recommendation Approved

## ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Temporary Change Application No. TC-34-58

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

Witness my hand this 2 day of August, 2004.

R. McDonald  
For the Director

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

IN THE MATTER OF APPLICATION FOR )  
TEMPORARY CHANGE OF A )  
WATER RIGHT 34-7205 )  
\_\_\_\_\_  
DARRELL McDonald )

**ORDER AUTHORIZING  
TEMPORARY CHANGE**

TC-34-58

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 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 July 29, 2004, Darrell McDonald submitted the attached Temporary Change Application TC-34-58 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:

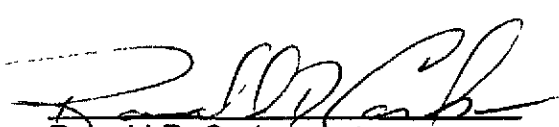
1. Diversion and use of right no(s). 34-7205 is authorized only at the point of diversion and place of use described on the application.
2. This temporary Change approval does not authorize construction of a new well as a new point of diversion.
3. The applicant assumes all risk of curtailment or mitigation 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-34-68

5. Right(s) 34-7205 are limited to the irrigation of a total of 179 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 shall measure the amount of water diverted and shall report the amount of water diverted under this approval.
10. The Water master of Water District No. 34 is authorized to administer the temporary change approval.
11. This Temporary change approval expires on October 31, 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 2 day of August, 2004.

  
Ronald D. Carlson  
Eastern Regional Manager

State of Idaho  
Department of Water Resources  
Transfer of Water Rights

7C-34-5B

## RECOMMENDATION OF WATERMASTER

Transfer Application No:

Water Right No(s): 34-7205

Transfer Applicant's Name: Darrell E. McDonald  
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 30<sup>th</sup>, day of July, 2004

Water District No: 34

  
Watermaster's Signature

To: Idaho Department of Water Resources

August 2, 2004

From: Larry E. Rasmussen:

RE: Use of Water right 34-7205 by Darrell E. McDonald for 2004 irrigation season.

I Larry E. Rasmussen hereby authorize Darrell E. McDonald of P.O. Box 102 Arco, ID 83213, to use all of my groundwater right 34-7205 for irrigation purposes for the 2004 irrigation season. The original place of use is in summer fallow and water has not been used this year.

  
Larry E. Rasmussen

8-2-04  
Date

  
Witness

## Important Information About Your Water Right

December 14, 2001

LARRY E RASMUSSEN  
SHERRY A RASMUSSEN  
1779 E HWY 101  
LOGAN, UT 84321

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 34-07205. 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

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 )

Water Right 34-07205

Case No. 39576 )

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: 04-01 11-01

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

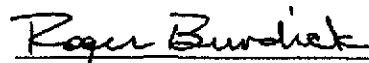
This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the court at a point in time no later than the entry of a final unified decree. I.C. section 42-1412(6).

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  
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 34-07205

DEC 15 PM 1:01  
DISTRICT COURT-SSE  
TWIN FALLS CO., IDAHO  
FILED

NAME & ADDRESS: JOSEPH R JOHNSON  
ELSIE M JOHNSON  
RT 1 BOX 187  
ARCO ID 83213

SOURCE: GROUNDWATER

POINT OF INJECTION INTO AND POINT OF REDIVERSION FROM BIG LOST  
RIVER.

QUANTITY: 4.67 CFS

USE OF THIS RIGHT WITH RIGHT NO. 34-02484 IS LIMITED TO A  
TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 665 AF.

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO A  
TOTAL COMBINED DIVERSION RATE OF 5.43 CFS.  
COMBINED RIGHT NOS.: 34-00089A AND 34-07205.

PRIORITY DATE: 08/01/1977

POINT OF DIVERSION: T04N R26E S03 S26 SWSWSE Within BUTTE County  
NNWNW (INJECTION)  
NNWNW (REDIVERSION)

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE     | QUANTITY |
|-------------------------------|----------------|-------------------|----------|
|                               | IRRIGATION     | Irrigation Season | 4.67 CFS |

| PLACE OF USE: | IRRIGATION          | Within BUTTE County |          |         |         |  |
|---------------|---------------------|---------------------|----------|---------|---------|--|
|               | T03N R27E S05 Lot 3 | (NENW)32 Lot 4      | (NNNW)33 | SWNW 29 | SENW 35 |  |
|               |                     | NESW 11             | NESE 24  | NWSE 26 |         |  |
|               | 190 ACRES TOTAL     |                     |          |         |         |  |

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO  
THE IRRIGATION OF A COMBINED TOTAL OF 190 ACRES IN A SINGLE  
IRRIGATION SEASON.  
COMBINED RIGHT NOS.: 34-00089A AND 34-07205.

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