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TC-34-20

BEFORE THE DEPARTMENT OF WATER RESOURCES RECEIVED
OF THE STATE OF IDAHO JUL - 1 2002

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF A)
WATER RIGHT 34-2431)
Leon William)

Department of Water Resources

ORDER AUTHORIZING
TEMPORARY CHANGE

WHEREAS, a drought emergency has been declared for
counties 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 6/19/02, Leon William 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;

ORDER

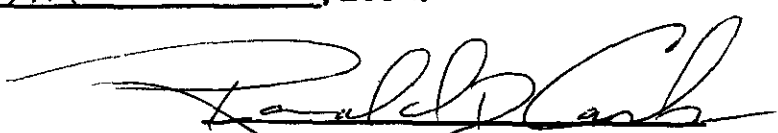
IT IS HEREBY ORDERED that the application is APPROVED subject to the
following conditions:

1. Diversion and use of right no(s). 34-02431 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 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) 34-02431 are limited to the irrigation of a total of 156 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 11/1/2002 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 21st day of June, 2002.


RONALD D CARLSON
EASTERN REGION MANAGER

MICROFILMED

JUN 24 2002

Ident. No. TC-34-20

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TEMPORARY CHANGE APPLICATION

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

RECEIVED
JUN 19 2002
Department of Water Resources
Eastern Region

Name of Applicant Leon Williams Phone 588-2239

Post Office Address Route 1 Box 20 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 Open discharge into Burnett
up stream of my pumps. Reason is to offset shrink caused by
Drought conditions *

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>34-02431</u>	<u>06-29-1961</u>	<u>2.67</u>	<u>irrigation</u>	<u>04-15</u> to <u>10-15</u>
				to
				to
				to

2. Total amount of water being transferred 2.67 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	SE	SW	11	6N	25E	Butte	McGowan & Burnett
		SE	NW	NW	34	7N	24E		" "

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	
6N	26E	05											61	48					
		06																40	
		07	38																
		08					40	40	40	40	13	10	40						
		17			39	33									19	23	39		

0907hrs 6/21/02
* As per telephone conversation w/Leon Williams

Total Acres 721

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JUN 23 2003

6 General Information:

- a. Who owns the water right to be changed? Robert Gilbert
- b. Describe the arrangement allowing use of the right lease agreement
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
will remain dry
- 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? would go unused
- 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.

Sam L. Will
(Signature of applicant)

FOR DEPARTMENT USE ONLY

Received by Kaw Date 6/19/02 Fee \$50⁰⁰
Receipted Kaw # E027888 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 _____, subject to the following limitations and conditions:

Witness my hand this 21st day of June, 2002.

Ronald R. Korb
For the Director

MICROFILMED

JUL 23 2003

Water Resources

I, Robert Gilbert have agreed to
lease my deep well to Leon Williams
for the 2002 irrigation season.

Robert E Gilbert

RECEIVED
JUL 13 1997

MICROFILMED

JUL 23 2003

District Court
Snake River Basin Adjudication
PO Box 2707
Twin Falls, ID 83303-2707

Important Information About Your Water Right

December 14, 2001

ROBERT E GILBERT
JUANITA F GILBERT
RT 1
DARLINGTON, ID 83231

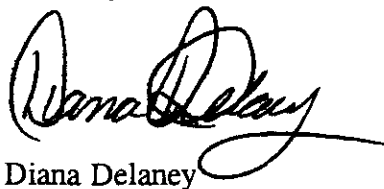
Dear Water Right Claimant(s):

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 34-02431. 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

MICROFILMED

101 2 3 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 34-02431

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 10-31

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

MICROFILMED
11/21/2003

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 34-02431

1978 JUN 15 PM 1:08

DISTRICT COURT-SRBA
TWIN FALLS, IDAHO

NAME & ADDRESS: ROBERT E GILBERT
JUANITA F GILBERT
RT 1
DARLINGTON ID 83231

SOURCE: GROUNDWATER

QUANTITY: 2.67 CFS
546.0 AFY

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 4.08 CFS.
COMBINED RIGHT NOS.: 34-00485, 34-00486B AND 34-00732.

PRIORITY DATE: 06/29/1961

POINT OF DIVERSION: T06N R26E S07 NESWNE Within BUTTE County

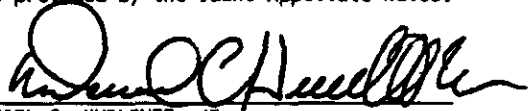
PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	IRRIGATION	Irrigation Season	2.67 CFS 546.0 AFY

PLACE OF USE: IRRIGATION Within BUTTE County
T06N R26E S07 Lot 2 (SWNW)38 SENW 39 NWSE 39 SESE 40
156 ACRES TOTAL

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 156 ACRES IN A SINGLE
IRRIGATION SEASON.
COMBINED RIGHT NOS.: 34-00485, 34-00486B AND 34-00732.

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