

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

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF A)
WATER RIGHT TC-37-39)
IN THE NAME OF SABALA FARMS INC.)
_____)

**ORDER AUTHORIZING
TEMPORARY CHANGE**

WHEREAS, a drought emergency has been declared for Gooding 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 August 11, 2004 Sabala Farms Inc. ("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 portion of right no. 37-7649(decree) is authorized only at the point of diversion and place of use described on the application or as otherwise approved in this order.
2. This temporary change approval does not authorize construction of new points of diversion (wells) or allows modification of the pumps in the wells to increase diversion capacity.
3. 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.

4. The portion of right 37-7649 involved in this temporary change is limited to 2.00 cfs, 36.0 acre feet and the irrigation of a total of 122 acres during the remainder of the irrigation season.
5. This temporary approval does not authorize the use of diversion works or a delivery system owned by or managed by the Big Wood Canal Company or others but may be subject to the private agreement with the Big Wood Canal Company for conveyance of water through their delivery system.
6. 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.
7. 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. This change may be subject to private agreement with the water right owner of 37-7649 for the temporary use of the water right and their well.
8. The watermaster of Water District No. 130 is authorized to administer the temporary change approval.
9. 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 12th of August, 2004.



Allen Merritt
Southern Region Manager