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In the District Court of the United States for the
District of Idaho, Eastern Division.

UTAH POWER & LIGHT COMPANY,

Plaintiff

vs.

THE LAST CHANCE CANAL COMPANY,
Limited, et. al.

Defendants.

In Equity

No. 203.

FINAL DECREE

Before HON. F. S. DIETRICH,
District Judge.

Filed July 14, 1920.

W. D. McREYNOLDS,
Clerk.

By PEARL ZANGER,
Deputy.

MAY 14 1996

In Equity No. 203

**In the District Court of the United States
for the District of Idaho, Eastern Division**

UTAH POWER & LIGHT COMPANY, a Corporation, *Plaintiff,*

vs.

The Last Chance Canal Company, Limited; The Tanner Canal Company, Limited; The Central Canal Company, The North Extension Canal Company, Limited; West Branch Canal Company, Limited; The Turner Canal Company, Limited; The East Branch Canal Company, The Bench Canal, and Budge Land & Live Stock Company, Limited, corporations; W. H. Larkins, Jas. Ellsmore, Geo. Hogan, Lewis S. Pond and Alex Harris as Trustees of the Gentile Valley Irrigation Company, Limited, late a corporation; The Thatcher Irrigation Company, Limited, a corporation; Nathan D. Thatcher, J. A. Folkman, Milton Robbins and Geo. M. Smith, as Trustees of Thatcher Canal & Power Company, Limited, late a corporation; Nelson Ditch Company, a corporation; A. J. Nielson, B. R. Meek, Henry McCuen, C. S. Burton and Eli Fosgreen, as Trustees of Riverdale-Preston Irrigation Company, late a corporation; The Riverdale Irrigating Company, Nielson-Meek Company and West Cache Irrigation Company, corporations; E. P. Johnson, Albert Johnson, Hyrum Johnson, Geo. D. Anderson, Joseph T. Pond, Frank W. Harris, A. C. Bosen, Hyrum J. Smith, John E. Hill, Melvin Green, Robert L. Smith, Charles Westerburg, Peter Westerburg and David P. Evans.

Horace Howard, Henry Rhinehart, Harvey W. Higley, James Monroe (or Munro), Nellie Simmons, John Baird, William Monroe (or Munro), Orrin Monroe (or Munro), Charles Monroe (or Munro), Charles Foster, Hyrum Foster, Mary Baird, John Woodall (or J. D. Woodall), George Ellis, Skinner Irrigation Company, a corporation; Heber Crane, Fred Bartschi, Charles Bartschi, David Chugg, Phillip Chugg, Fred Stauffer, William Williams, Sr. (or William Morgan Williams), William Williams, Jr. (or William Mormon Williams), Oliver Williams, E. M. Lindsay, Georgetown Irrigation Company, a corporation, and Thomas Freeman.

MAY 14 1996

254
0254
Budge Land and Livestock Company,
Limited:
(a) 1889—May 1 24 c.f.s.
April 20 to July 1 9.6 c.f.s.
July 2 to October 1. 0.6 c.f.s.

ter corner of Section 34, Township 10 South, Range 43 East, B.M. and used for irrigating 60 acres of land in the North half and Southeast quarter of the Southwest quarter, Section 34, and the Northeast quarter of the Southeast quarter of Section 33, Township 10 South, Range 43 East, B.B.M.

0254

Budge Land and Livestock Company,
Limited:

(a) 1889—May 1 24 c.f.s.
April 20 to July 1 9.6 c.f.s.
July 2 to October 1.

Said water to be diverted from the main channel of Bear River at a point North 61°10' East 1495 feet from the quarter section corner, on the North boundary of Section 31, Township 10 South, Range 43 East, B.B.M., for the irrigation of 963.3 acres of land in Sections 30 and 19, Township 10 South, Range 43 East, and Sections 12, 13, 24 and 25, Township 10 South, Range 42 East, B.B.M.

11 0255

(b) 1889—May 1, 2 c.f.s.
April 20 to July 1, 1 c.f.s.
July 2 to October 1.

Said water to be diverted from the main channel of Bear River at a point South 40°30' East, 1500 feet from the Northwest corner of Section 19, Township 10 South, Range 43 East, B.B.M., for the irrigation of 82.8 acres of land lying east of Bear River in Sections 24 and 13, Township 10 South, Range 42 East, B.B.M.

11 0256

(c) 1889—May 1 2.5 c.f.s.
April 20 to July 1, 1 c.f.s.
July 2 to October 1.

Said water to be diverted from the main channel of Bear River at a point North 14°30' East 1350 feet from the quarter corner on the north boundary of Section 13, Township 10 South, Range 42 East, B.B.M., for the irrigation of 93.8 acres of land, lying north and east of Bear River, in Sections 12 and 11, Township 10 South, Range 42 East, B.B.M.

Said water decreed in paragraph 3a, 3b and 3c immediately above, may be diverted and used through all or any of said ditches.

15

MAY 14 1996

All the foregoing reservations of jurisdiction shall extend after the term at which this decree is entered, and during any subsequent term prior to January 1, 1924, at which time, or at such earlier time as the court may determine these matters, this decree shall be closed. In all other respects this decree shall be final.

The court further retains jurisdiction, however, at all times, and from time to time, to make all reasonable rules touching the manner of diverting, measuring and distributing the waters, and the devices to be installed and used for such purposes where it may be impracticable to fully comply with the terms of this decree, and to direct that the parties keep accurate and detailed records of the amounts of water diverted, and to require reports to be filed from time to time of the amount so diverted, and generally to make such orders as may be found reasonably necessary to give effect to the decree, and to appoint commissioners or water masters to make distribution in accordance with its terms, and to punish the parties hereto, their officers, agents and employes, and their grantees and successors in interest, for any violation of the provisions thereof.

Done in open court this 14th day of July, 1920.

FRANK S. DIETRICH,
Judge.

MICROFILMED

MAY 1 4 1996

117

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

RECEIVED

AUG 20 2001

Department of Water Resources

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF A) ORDER AUTHORIZING
WATER RIGHT IN THE NAME) TEMPORARY CHANGE
OF 11-254, -256 (Part))
Robert Harris)

WHEREAS, a drought emergency has been declared for Caribou 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 (A 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 July 25, 2001 the 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 right no(s) 11-254, -256 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 a new well as a new point of diversion.
3. This temporary change approval may only be used to provide a

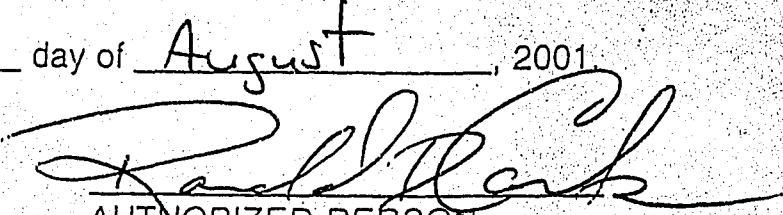
ORDER - Pg 1

MICROFILMED
OCT 02 2001

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. Right(s) U-254, 256 are limited to the irrigation of a total of 180 acres in a single irrigation season.
5. 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.
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.
8. The applicant shall measure the amount of water diverted and shall report the amount of water diverted under this approval. (If this condition or a similar one is used, describe the required frequency of measurement and when and where to report the amount of measured water).
9. The watermaster of Water District No. 11 is authorized to administer the temporary change approval.
10. This temporary change approval expires on 10-01-01 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 10 day of August, 2001.


AUTHORIZED PERSON
IDWR

07/19/2001 09:57 20852571

IDWR EASTERN

PAGE 02

7/92

Ident. No. TC-11-02

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TEMPORARY CHANGE APPLICATION
(To change point of diversion, place of use or purpose of use)

RECEIVED**JUL 25 2001**Department of Water Resources
Eastern RegionName of applicant Robert HarrisPhone 208-427-6604Post Office address 406 Fish Hatchery Rd Grace, ID 83241**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) therefor I want to dry up 180
acres in Sec 1 T10S R42S that is irrigated from my
river pump & put my water in the Last Chance Canal for
delivery to 180 acres I own in Sec 7 & 8 T11S R41E.

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

- | 1. Right Number | Priority | Amount | Nature | Period of Use |
|-------------------|------------------|-----------------|-------------------|--------------------------------|
| wt) <u>11-254</u> | <u>5-01-1889</u> | <u>1.54 cfs</u> | <u>Irrigation</u> | <u>July 2</u> to <u>Oct. 1</u> |
| wt) <u>11-256</u> | <u>5-01-1889</u> | <u>0.40 cfs</u> | <u>Irrigation</u> | <u>July 2</u> to <u>Oct. 1</u> |

2. Total amount of water being transferred 1.94 cubic feet/second and/or _____ acre-feet per annum.

3. Source of water Bear River tributary to Great Salt Lake

4. Point(s) of Diversion:

Ident No.	Gov't Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
			SW	SE	30	9S	41E	Caribou	Last Chance Canal Diversion
			NE	NE	1	10S	40E	Caribou	Bench "B" Canal Diversion

5. Lands irrigated or Place(s) of Use:

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11S	41E	7													A	A	A	A	100
11S	41E	8													A	A	A	A	80

MICROFILMED
OCT 02 2001

07/19/2001 09:57

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IDWR EASTERN

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07/19/2001 09:57

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IDWR EASTERN

07/19/2001

6. General Information:

- a. Who owns the water right to be changed? Applicant
- b. Describe the arrangement allowing use of the right Last Chance Canal will provide a permission letter.
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application: This land will be dry.
- d. Has the water right sought to be transferred been used this year? yes If yes, explain. _____

* e. Absent the changes, how would the right be used for the remainder of the year? Leased to Mike Harris

* f. Describe other water rights used for the same purpose.

#11-6697 - #11-6698 Middle Fork Merced Creek
#13-7096 Harris Sprung Crystal Lake

g. Remarks: _____

I hereby assume all risk in accordance with House Bill No. 4 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.

* Robert Harris
(Signature of applicant)

FOR DEPARTMENT USE ONLY

Received by HUT Date 7-25-01 Fee \$50
Receipted 7-25-01 # B026955 Recommend: ✓ approve _____ deny _____
Watermaster recommendation _____

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

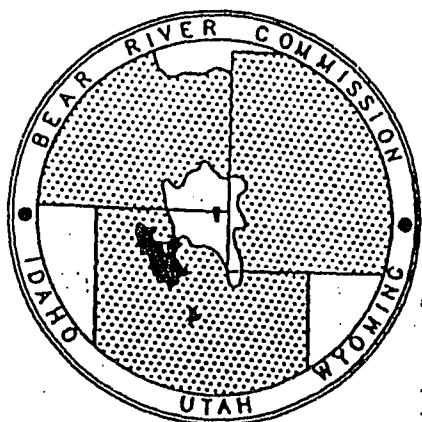
This is to certify that I have examined Temporary Change Application No. TC-11-02
And said application is hereby _____, subject to the following limitations and conditions:

Oct 1, 2001
1. This approval expires November 1, 1999 and thereafter the right reverts to the use existing prior to the temporary change.

MICROFILMED

OCT 02 2001

Witness my hand this 10th day of August, 2001



BEAR RIVER COMMISSION

106 West 500 South, Suite 101
Bountiful, UT 84010-6232
(801) 292-4662
(801) 524-6320 (fax)

RECEIVED

SEP 27 2000

MEMORANDUM BR00-46

TO: Records & Public Involvement Committee Department of Water Resources

JB FROM: Jack A. Barnett, Engineer-Manager

SUBJECT: RECORDS OF DIETRICH DECREE

DATE: September 22, 2000

COMMISSION MEMBERS

Chair

Donice Wheeler

Idaho Members

Karl J. Dreher
Rodney Wallentine
Don W. Gilbert

Utah Members

D. Larry Anderson
Blair Francis
Charles W. Holmgren

Wyoming Members

Gordon W. Fassett
James Crompton
John A. Teichert

ENGINEER-MANAGER

Jack A. Barnett
Suite 101
106 West 500 South
Bountiful, UT 84010

Recently I was gifted two large boxes that have in them copies of materials that have been preserved in the National Archives at the Pacific Alaska Region in Seattle for now some eighty years. The documents all are related to background material associated with the litigation that led to the Dietrich Decree. I think that it is great that the Commission can have in its files this valuable, historical information. However, it takes on less value unless the three states are aware of the material and where to locate it. Therefore, I propose that I bring these two boxes to the next Records & Public Involvement Committee meeting prior to our, so to speak, putting them away on a shelf.

The committee would briefly review the materials and report the existence of these materials to the Commission so that the appropriate parties within each of the states have a heads up as to the existence of these documents. I am sending a copy of this memorandum to the TAC and to the Assistant Attorney General in each of the three states.

np

cc: TAC Members
Phil Rassier, Norm Johnson, Tom Davidson

*Phil -
Jodi gave
this all to
SAC. They
will be send
it to the
Commission
Office.*
JD

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

RECEIVED

JUL - 1 2003

Department of Water Resources

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF A)
WATER RIGHT Robert & Ruth)

ORDER AUTHORIZING
TEMPORARY CHANGE TC - 11 - 03

Harris 11-7474 & 11-0256)

WHEREAS, a drought emergency has been declared for CARIBOU
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 6/20/03, Robert & Ruth Harris submitted the attached
Temporary Change Application TC - - 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). 11-7474 & 11-0256 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

**ORDER AUTHORIZING
TEMPORARY CHANGE** TC-11-03

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) 11-7474
11-256 are limited to the irrigation of a total of 180 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. 11 is authorized to administer the temporary change approval.
11. This temporary change approval expires on 10/31/03 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 20th day of June, 2003.


**RONALD D. CARLSON
EASTERN REGION MANAGER**

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 Robert or Ruth Harris Phone (208) 427-6604
Post Office Address 406 Fish Hatchery Rd. Grace Id 83241

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 Div up 180 acres in Sec 1, T10S, R42E
that is irrigated from my river pump + put water in Lost Chance Canal for
Delivery to 180 ac in Sec 7+8 T10S R41E

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

1.

Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>11-7474</u>	<u>5/1/1889</u>	<u>3.85 cfs (11.5 ft)</u>	<u>IRRIGATION</u>	<u>4/20</u> to <u>7/1</u>
		<u>1.54 cfs</u>	<u>"</u>	<u>7/2</u> to <u>10/1</u>
<u>11-0256</u>	<u>5/1/1889</u>	<u>1.00 cfs (2.5)</u>	<u>"</u>	<u>4/20</u> to <u>7/1</u>
		<u>0.40 cfs</u>		<u>7/2</u> to <u>10/1</u>
2. Total amount of water being transferred 4.85 cfs until 7/1 acre-feet per annum
1.94 cfs after 7/1 cubic feet per second and/or
3. Source of water BEAR RIVER 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	30	9S	41E	CARIBOU	LOST CHANCE 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	
11S	41E	7																	100+
		8																	80+

Total Acres 180

6. General Information:

TC-11-03

- a. Who owns the water right to be changed? APPLICANT
- b. Describe the arrangement allowing use of the right Last Chance Canal Agreement
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
Land will be 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? could not use
- f. Describe other water rights used for the same purpose.
11-697, 11-698, 13-7096
- 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.

Ruth C. Harris
(Signature of applicant)

FOR DEPARTMENT USE ONLY

Received by KCW Date 6/20/03 Fee \$50.00
Received KCW # E028908 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-11-03

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

Witness my hand this 20th day of June, 2003.

Ronald B. Clark
For the Director