

MEMORANDUM

To: Water Management Division Staff Administrator's Memo  
From: R. Keith Higginson, Director *RKH* Transfer Processing No. 17  
RE: IMPLEMENTATION OF HOUSE BILL NO. 4 - TEMPORARY CHANGE  
AUTHORITY FOR EXISTING WATER RIGHTS  
Date: July 29, 1992

Attached is a copy of House Bill No. 4 passed by the First Extraordinary Session of the 1992 legislature to allow IDWR to respond to emergency drought related needs. The legislation was signed by the Governor and is effective immediately through November 1, 1992. The legislation allows expedited approval of changes to existing water rights without the need to provide public notice of the change. I anticipate that the authority will be used to authorize rotation between canals and perhaps to allow water rights now used on lower value crops to be switched for use on higher value crops and uses.

I want to emphasize to you that the new authority does not allow the expedited approval of applications to appropriate water for new or expanded uses or to transfer existing rights to such uses. It does not authorize the construction of new wells.

The authority to approve temporary changes in accordance with the provisions of House Bill No. 4 is hereby delegated to Norm Young, Glen Saxton, Gary Spackman, Loren Holmes, Dave Tuthill, Bob Haynes, and Ron Carlson. Applications may be approved when complete information on the proposed change is received on the Temporary Change Application form, the required fee of \$50 per application is submitted and a brief review of the application indicates that the proposal meets the following requirements provided in House Bill No. 4:

1. The purpose of the change is to provide a replacement water supply to lands or for other uses which normally have a full water supply except for the drought condition. I understand this to mean that the lands intended to receive the transferred water have a water supply from surface and/or groundwater sources adequate to allow the usual irrigated crops for the area to be grown successfully during years of normal precipitation. A change that will improve the water supply to a use normally water short or that extends the season of use beyond that normally available should not be approved.

2. The change will not result in a new use of water or

expand an existing use. A change that will result in continued use of a water right which has been curtailed for the season because the crops have matured should not be approved.

3. The proposed change can be properly administered. Problems with administration can result if the change proposes a switch in water sources, changes in districts, or requires complex or rigid administrative conditions to allow delivery or accounting for delivery to prevent injury to other rights.

4. Information is not available to the department to indicate that the change will injure other rights.

5. If the water right to be changed is administered by a watermaster, the recommendation of the watermaster must be obtained. To expedite the processing, the watermaster comments should be obtained by telephone contact and recorded on the application form. If the watermaster recommends denial, the change should not be approved unless the concerns can be resolved with the watermaster.

The applicant should be the user of the water right sought under a Temporary Change Application.

A proposed change which involves unrelated water rights such as several different ground water rights being changed to a common place of use will require the filing of more than one change application.

Temporary change applications can be considered in connection with previously filed applications for transfer. In this case, a temporary change application must also be filed but the department will not require a separate filing fee. If a transfer has been protested, a change application can not be approved in lieu of completing the usual protest procedure.

Temporary Change Applications should be processed as follows:

1. Staff review to insure that the information provided adequately describes the change and that the proper fee is submitted. Correspond by telephone with the applicant if possible to resolve any problems or deficiencies with the application.
2. The Temporary Change Application should be identified as described below:
  - Call the State Office for the next transfer number.
  - On Part B of the Temporary Change Application, use an "X" prefix on the water right(s) identified for transfer:

i.e.

1. Right Number	Priority	Amount	Etc.
<u>X63-02140</u>	<u>May 1, 1953</u>	<u>1.0 cfs</u>	

- Fill out the rest of the application form as usual.

When the original Temporary Change Application form is received in the state office, the change information will be entered into the data base using the X prefix. An X will also be entered into the Stage of the changed water right. All other entry should follow existing data entry standards.

Data base search of approved temporary changes can be accomplished using WRS10 (enter X for Stage).

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 \_\_\_\_\_ Phone \_\_\_\_\_

Post Office address \_\_\_\_\_

**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 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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

1. Right Number	Priority	Amount	Nature	Period of Use
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____

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

3. Source of water \_\_\_\_\_ tributary to \_\_\_\_\_

4. Point(s) of Diversion:

Ident No.	Gov't Lot	¼			Sec.	Twp.	Rge.	County	Local name for diversion
		NE	NW	SE					

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

TWP	RGE	SEC	NE				NW				SW				SE				Totals			
			NE	NW	SW	SE																

Total acres \_\_\_\_\_

6. General Information:

a. Who owns the water right to be changed? \_\_\_\_\_

b. Describe the arrangement allowing use of the right \_\_\_\_\_  
\_\_\_\_\_

c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:  
\_\_\_\_\_  
\_\_\_\_\_

d. Has the water right sought to be transferred been used this year? \_\_\_\_\_ If yes, explain. \_\_\_\_\_  
\_\_\_\_\_

e. Absent the changes, how would the right be used for the remainder of the year? \_\_\_\_\_  
\_\_\_\_\_

f. Describe other water rights used for the same purpose.  
\_\_\_\_\_  
\_\_\_\_\_

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.

\_\_\_\_\_  
(Signature of applicant)

**FOR DEPARTMENT USE ONLY**

Received by \_\_\_\_\_ Date \_\_\_\_\_ Fee **\$50**

Received \_\_\_\_\_ # \_\_\_\_\_ 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:

1. This approval expires November 1, 1992 and thereafter the right reverts to the use existing prior to the temporary change.  
\_\_\_\_\_  
\_\_\_\_\_

Witness my hand this \_\_\_\_\_ day of \_\_\_\_\_, 1992.  
\_\_\_\_\_

LEGISLATURE OF THE STATE OF IDAHO

Fifty-first Legislature

First Extraordinary Session - 1992

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 4

BY WAYS AND MEANS COMMITTEE

AN ACT

RELATING TO THE DROUGHT CONDITIONS IN THE STATE OF IDAHO; DECLARING LEGISLATIVE INTENT TO PROVIDE EMERGENCY AUTHORITY TO THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES, PROVIDING FOR TEMPORARY CHANGES IN THE POINT OF DIVERSION, PLACE AND PURPOSE OF USE OF WATER, AND SPECIFYING CONDITIONS; AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. The legislature finds and declares that water conditions throughout the state of Idaho are extremely critical at the present time due to deficient precipitation during the winter and spring of 1991-1992 and similar below-average moisture received during the previous five seasons. As a result, the water supply available to Idaho's important agricultural industry and other water uses is inadequate to sustain normal operations. It is, therefore, necessary to provide emergency authority to permit temporary changes of point of diversion, place and purpose of use of valid existing water rights when the director of the department of water resources determines that such change(s) can be accomplished in accordance with the provisions of this section.

Application for a temporary change shall be made upon forms provided by the department of water resources and shall be subject to an application fee of fifty dollars (\$50.00) per application.

No notice of the proposed change is required to be published pursuant to section 42-222(1), Idaho Code, and the director of the department of water resources is not required to make findings as provided in said section. A temporary change may be approved upon completion of the application form and payment of the filing fee and a determination by the director of the department of water resources that the proposed change can be properly administered and the director of the department of water resources has no information that the change will injure any other water right. If the water right to be changed is administered by a watermaster within a water district, the director of the department of water resources shall obtain the recommendations of the watermaster before approving the application.

All temporary changes approved pursuant to this act shall expire on November 1, 1992, and thereafter the water right shall revert to the point of diversion and place of use existing prior to the temporary change. Nothing herein shall be construed to permit a new well to be drilled as a new point of diversion.

The recipient of an approved temporary change issued pursuant to this act shall assume all risk that the diversion and use of the water may cause injury to other water rights, that the change constitutes an enlargement in use of the original right, that the use is not consistent with the conservation of Idaho's water resources and that such use is not in the local public interest. Any applicant for a temporary change who is aggrieved by the director of the department of water resources' denial of a temporary change pursuant to this

1 act is entitled to request a hearing and to obtain judicial review pursuant to  
2 section 42-1701A, Idaho Code.

3 Temporary changes shall only be approved for the purpose of providing a  
4 replacement water supply to lands or other uses which normally have a full  
5 water supply except for the drought condition. Temporary changes may not be  
6 approved for new uses or to allow expansion of the use of water under existing  
7 water rights.

8 SECTION 2. An emergency existing therefor, which emergency is hereby  
9 declared to exist, this act shall be in full force and effect on and after its  
10 passage and approval.