

TWIN FALLS CANAL COMPANY
WATER TRANSFER POLICY

Twin Falls Canal Company (TFCC) has always permitted the transfer of water within the TFCC system within Twin Falls County from one plot of land to another if physical and legal conditions could be met. Presently, TFCC Articles of Incorporation, By-laws, Chapter 25 of Title 42, and § 42-108 of the Idaho Code, Bureau of Reclamation contract requirements, and the recent Snake River Basin Adjudication mandates and guidelines require a specific evaluation of each proposed transfer.

In order to make logical and consistent decisions which are legal and in accordance with the storage contracts, and protect the TFCC system and its stockholders, the undersigned Board of Directors of TFCC hereby reviews and readopts this Water Transfer Policy effective August 14, 2007.

WATER TRANSFERS ARE "PERMANENT", "SEASONAL", OR "OPERATIONAL",
AND THE APPLICATION FORM IS SO MARKED.

- I. General TFCC Policy applicable to all Water Transfers
 - A. TFCC water may only be used for irrigation, stockwater, and domestic purposes. Transfers for other uses will generally be denied.
 - B. Permanent, Seasonal, and Operational transfers will only be made to lands lying within the boundaries of the American Falls Reservoir District (AFRD) and within Twin Falls County.
 - C. Stockholders of TFCC may not transfer water represented by Twin Falls Canal Company shares of stock to lands that cannot be served by the delivery system of this corporation or if the transfer would result in injury to another TFCC stockholder in any way. Transfers will generally be denied if they increase transmission loss, increase company operation and maintenance cost, or cause additional water quality or seepage problems.
 - D. There can be "no net loss" of water to the system resulting from any transfer. Any transfer that would result in additional TFCC water being required will be denied.
 - E. All Transfers must comply with TFCC's Water Quality Criteria as set forth in the Company's *First Amended Restated By-Laws* Article VI, Paragraph 5.
 - F. All Transfers must include the written permission of the legal owner of the Transferor land.
 - G. Every application to transfer water represented by TFCC stock to acres which were previously dry, will require drying the same amount of Transferor acres. Documentation may be requested for seasonal transfers to verify drying of acres.

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- H. If the transfer will allow or facilitate spreading water to more than one (1) acre per share, it will generally not be allowed. There shall be no transfer which shall result in more than one and one-half ($1\frac{1}{2}$) shares appurtenant to any acre.

No transfer requiring a new headgate will be approved to a new diversion unless at least ten (10) shares of water will thereafter be diverted at said diversion. A proposed transfer will be denied if the result is that less than 10 shares would remain in the Transferor lateral.

- J. The TFCC tract is divided into divisions by major south to north flowing streamhaving pronounced topographical depressions forming subbasins: (1) East of Rock Creek, (2) Rock Creek to Cedar Draw (3) Cedar Draw to Deep Creek, and (4) Deep Creek to Salmon Falls Creek. Return flows and ground water flows are intercepted by these streams. Consequently, to retain a similar return flow and drainage pattern, water will generally not be transferred out of a division.

K. Upstream and Downstream Transfers.

1. An upstream transfer within a division will be generally approved, unless the Transferee delivery lateral will not accommodate additional water.
2. Downstream transfers will generally be disapproved. No transfer of water represented by TFCC stock shall be approved that proposes a transfer downstream in the high line canal.

L. High Line to Low Line Transfers

Transfer of water from the High Line to the Low Line (for example, 2HL to 2LL) is permissible.

If a TFCC farm West of Highway 93 with High Line water appurtenant, is in proximity to the Low Line Canal and could be served by a diversion from the Low Line Canal, a transfer would be approved to facilitate the use of Low Line water so that more capacity would be available within the High Line system for use by a fanner who owned farms under both canals, or for transfers or exchanges of the High Line water to others. Such transfers or exchanges must also comply with this "Twin Falls Canal Company Water Transfer Policy" in all other respects.

M. Low Line to High Line

The High Line is over fifty miles long and has gravel beds it transverses in the upper reaches. Due to its length, evaporation and normal seepage result in substantial losses. Thus, in normal water years, carrying capacity is a constraint and in drought years, seepage and evaporation result in losses. When these operating constraints are considered, transfers are normally denied.

N. Double Duty Water

TFCC considers all water developed by drainage tiles, drainage tunnels, as well as ~~waste-water~~ and seepage water from other parts of the tract as part of TFCC's legal water supply so long as the water is within the overall system and under the control of TFCC for delivery down the canal as "live" water. Where such water is utilized to irrigate a tract of land within the project, the water shares appurtenant cannot be transferred, but must remain with and continue appurtenant to the land because TFCC cannot prevent the delivery of such water to that shareholder because of the peculiar location of his land.

O. Dry Acres

1. The transfer of all or essentially all of the water from a tract of land which would leave acres dry within the project is not in the best interest of TFCC. Applications for a permanent transfer of water from lands currently being farmed which would leave a tract dry or essentially dry will not be approved. Permanent transfers to previously irrigated acres shall be prioritized if the system can physically accommodate the water without the violation of this policy and injury to other stockholders.
2. Applications for a seasonal transfer of water which would leave a tract dry or essentially dry may be approved if the circumstances of the transfer indicate there will be no adverse effects.

P. Subdivisions

New subdivisions and commercial properties will continue to be developed. It is the policy and in the interest of TFCC, to require subdividers and developers of all properties to provide a conveyance system so that water represented by TFCC stock can continue to be used for irrigation.

Q. Specific Conditions for Mud Creek and Lateral 44

TFCC diverts water from Mud Creek into Lateral 44. The flow in Mud Creek is made up of seep flows and return flows. In the spring, the low flow in Mud Creek is supplemented with water from the Low Line Canal through N Coulee. The capacity of the N Coulee is limited which physically limits the flow in Mud Creek.

Because additional water beyond the capacity of N Coulee cannot be physically transferred into Mud Creek, the transfer of water to Lateral 44 is not permitted.

II. Permanent Transfers

- A. Permanent transfers are defined as transfers that move water represented by TFCC shares of stock from one parcel of land to another on a permanent basis.
- B. In order to affect a permanent transfer of water within the project, an application for water transfer must be completed. This Transfer Application must include the number of shares to be transferred, and a specific metes and bounds land description, lateral and gate number of both the land from which the water will be transferred and the land to which the water is proposed to be transferred. Both a Transfer Application and a Transfer Deed must be properly executed by the transferor. The transferor must obtain the written and notarized consent of each lien holder on transferor's property as required in Idaho Code § 42-2509.
- C. All transfer applications for permanent transfers must be filed by the first Tuesday of the month to be considered at the Board meeting on the second Tuesday.
- D. After filing the Transfer Application with TFCC, and the payment of the appropriate filing fees, the Transfer Application will be first reviewed by the appropriate TFCC watermaster who notes whether TFCC facilities can physically accommodate the transfer. The Watermaster also provides pertinent comments for the TFCC Board to better understand the transfer.
- E. When the Transfer Application is presented to the Board, the Board either approves, approves with conditions, denies, or holds the application for further investigation.
- F. If the Transfer is approved, TFCC will require the recording of the Water Transfer Deed at the Twin Falls County Courthouse, and TFCC records will be changed to reflect the transfer. The Transferor must also deliver the original Stock Certificate properly endorsed to be cancelled so a new Certificate can be issued to the transferee. If the Certificate is lost, the parties must execute a "Lost Certificate" Affidavit and comply with TFCC's requirements therefore.
- G. A permanent Transfer Application which is approved changes the point of diversion and place of use of the water permanently, and upon the recording of the Water Transfer Deed and the approval of the Transfer by the American Falls Reservoir District (AFRD), the water thereafter becomes appurtenant to the transferee tract.

III. Seasonal Transfers

- A. Seasonal transfers are: (1) transfers for the entire irrigation season or (2) mid-season transfers for the remainder of the irrigation season.

- B. All seasonal transfer applications must be on TFCC's form and received by TFCC no later than the Thursday preceding the Board meeting on the second Tuesday of each month to be considered at such meeting. All seasonal transfers require Board approval and are subject to the "General TFCC Transfer Policy applicable to all Water Transfers."

IV. Operational Transfers

Operational transfers are defined as temporary in-season transfers that are either transfers within the same lateral or within the immediate vicinity of the Transferor land. Operational transfers are subject to the "General TFCC Transfer Policy applicable to all Water Transfers."

- B. To assist water users in making a crop when deliveries are less than 5/8" allocation, TFCC will make every attempt to accommodate operational transfers. However, operational transfers will be closely scrutinized to minimize adverse impacts to other water users and to ensure the transfer can be accomplished within the parameters and conditions of the system.
- C. Operational transfer requests are submitted to the appropriate watermaster for his consideration and approval, and are also reviewed by the Manager. In the event the transfer is denied by the watermaster or Manager, the "ansfer request can be submitted to the Board for its consideration.
- D. Water transferred pursuant to an operational transfer will remain in the transferred headgate for a minimum of five (5) days.
- E. Operational transfers will not be allowed if the transfer would impact any other water user. In addition, approved operational transfers may later be revoked if an impact to another water user is discovered after the water is transferred.
- F. Additional Criteria:
 - (a) No unacceptable fluctuations in flows of the Transferor lateral will occur as determined by TFCC's watermaster.
 - (b) The Transferee lateral must have adequate carrying capacity to accommodate the additional flow as determined by TFCC's watermaster.

V. Compliance with U.S. Storage Contract Requirements in TFCC Water Transfers.

Transfers will not be permitted if they result in violation of any provision of TFCC's or AFRD's contracts with the United States as to the use of storage water from federal reservoirs as part of the water supply represented by TFCC shares appurtenant to TFCC land, which is also in AFRD. These include contract requirements as to expansion of use, water spreading, conservation, water quality, etc. All transfers shall be hereafter scrutinized and a determination

made by TFCC that a proposed transfer will not violate contracts with the United States, applicable rules of the Idaho Department of Water Resources (IDWR), including any conditions that would hereafter be decreed in the Snake River Basin Adjudication.

This policy is hereby adopted by the Board of Directors of TFCC effective this 14th day of August, 2007.

/s/ _____
Dan Shewmaker

/s/ _____
Charles Coiner

/s/ _____
John Honcik

/s/ _____
Phil Blick

/s/ _____
Gerald Tews

Revised August 14, 2007

PERMANENT TRANSFER OF WATER STOCK

Water shares to be removed from the property

CURRENT STOCKHOLDER:

1. Do you still own all of the land that is described on your current stock certificate?
2. Have you ever split off any of your property? If yes, did you give them water shares? If you did not give them water shares, we need something in writing that states that TFCC shares were not to be conveyed with this property.
3. Do you own approximately the same amount of acres as you have shares?
4. Do you have any mortgages or liens on this property?

WE NEED:

1. Original stock certificate (check with mortgage Co.) . An affidavit of lost certificate can be executed if the original stock certificate is lost. This costs \$10 extra.
2. Release from lien holders if applicable.
3. Payment of a transfer fee of \$30. Plus \$3 per sheet for papers to be recorded at the courthouse.
4. All assessment paid current.

BUYER:

1. Do you currently have water shares?
2. How much land do you own and where is it?
3. Is this property within the American Falls Reservoir District?

WE NEED:

1. A recorded copy of your deed.

The permanent transfer of water shares has to be approved by the Board of Directors of the Twin Falls Canal Company and the American Falls Reservoir District. This can take three months or more to complete.

LONG FORM
TRANSFER FROM ONE PARCEL
TO ANOTHER

GRANTEE:

WATER TRANSFER DEED

FOR VALUE RECEIVED, _____, hereinafter the Grantor, hereby grants, bargains, sells and conveys _____ shares of the water represented by Certificate Number _____ of the Twin Falls Canal Company (TFCC) and the storage water appurtenant, part through the American Falls Reservoir District (AFRD) from the hereinafter described real property previously owned by Grantor in Twin Falls County, as follows:

of Section Fifteen (15), Township Ten (10) South, Range Sixteen (16), East, Boise, Meridian

Unto _____, hereinafter Grantee, to be appurtenant to real property in Twin Falls County, as follows:

of Section Twenty-three (23), Township Ten (10) South, Range Sixteen (16) East, Boise Meridian .

Grantor further warrants that:

_____ There is no mortgage, lien or other encumbrance on Grantor's land above described; or

_____ The consent of the mortgagee(s) or lienholders(s) is attached hereto as Exhibit "A"

By execution hereof, Grantor represents that all assessments to TFCC and AFRD are current, and that Grantor will indemnify and hold harmless TFCC and AFRD from any and all claims, suits, damages, costs, losses and expenses, including legal fees, in any manner arising out of claims or demands of third parties, including other water users, and including the United States as to the U.S. reservoir storage water represented by said TFCC shares, or through the AFRD, by reason of this proposed transfer.

By the recordation hereof, Grantee represents that the transferee lands are in the AFRD, and Grantee's property above described shall be subject to all subsequent charges and assessments of TFCC and AFRD and subject to liens therefor. Grantee acknowledges that the shares herein transferred are limited to use only on the acres of Grantee above described.

Grantor and Grantee both agree that they have reviewed this transfer and represent and that this transfer will not result in violation of any provision of TFCC's or AFRD's contracts with the United States as to the use of storage water from federal reservoirs, including contract requirements as to project boundaries, expansion of use, water spreading, conservation, water quality, etc., and herein release TFCC, its directors, officers, and agents if this transfer is subsequently disallowed or overturned as a part of reviews or objections by the Idaho Department of Water Resources, the Snake River Basin Adjudication, or the United States Bureau of Reclamation.

DATED this _____ day of _____, 2008

GRANTOR: _____

STATE OF IDAHO)
County of Twin Falls)

On the _____ day of _____, 2008, before me, a Notary Public, in and for said County and State personally appeared _____, known or identified to me to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

NOTARY PUBLIC FOR STATE OF IDAHO
Residing at: _____
My Commission expires: _____

STATE OF IDAHO)
County of Twin Falls)

On the _____ day of _____, 2007, before me, a Notary Public, in and for said County and State personally appeared _____, known or identified to me to be the individual whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

NOTARY PUBLIC FOR STATE OF IDAHO
Residing at: _____
My Commission expires: _____

TFCC:

_____ Transfer approved by TFCC.
Date: _____ Initials _____
New Certificate No. _____

_____ Transfer disapproved by TFCC.
Date _____ Initials _____
Reason: _____

AFRD:

_____ Grantee's land is within AFRD and transfer is approved.
Date: _____ Initials _____

**Twin Falls Canal Company
Transfer Order**

Date _____	Assessment Paid _____	Yes	No	
Seasonal _____	Seasonal Fee Paid _____	_____	_____	
Mid Season _____	Permanent Fee Paid _____	_____	_____	
Permanent _____				

Number of Shares _____

FROM:

Name _____ **Bill#** _____ **Cert#** _____

Address _____ **City** _____

Telephone _____ **Zip Code** _____

Legal _____ **Sec** _____ **T.** _____ **R.** _____

Tap _____ **Cou** _____ **Lat** _____ **Gate** _____ **Div** _____ **Ride#** _____

By Order of Landowner _____ **Transferor**

TO:

Name _____ **Bill#** _____ **Cert#** _____

Address _____ **City** _____

Telephone _____ **Zip Code** _____

Legal _____ **Sec** _____ **T.** _____ **R.** _____

Tap _____ **Cou** _____ **Lat** _____ **Gate** _____ **Div** _____ **Ride#** _____

Approved: TF Canal Co. _____
Supervisor's Comments

By Board Action: _____ **Date** _____

Copies To: _____
