

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

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF)
WATER RIGHT NOS.: 34-7075)
_____)
_____)
_____)

**ORDER AUTHORIZING
TEMPORARY CHANGE**

TC-34-209

WHEREAS, a drought emergency has been declared for Butte 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 purposes of use for valid existing water rights or temporary exchanges of water authorized under 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 May 16, 2022, Sunset Farm & Ranch LLC submitted the attached temporary change 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 34-7075 is authorized only at the point(s) 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 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 that normally have a full water supply, except for the drought conditions. 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 34-7075 is limited to a total combined annual diversion volume of 38.5 af.
6. Rights 34-7075, 34-7181, 34-12421 and 34-14772 when combined shall not exceed a total diversion rate of 7.07 cfs.
7. Rights 34-7075, 34-2491E, 34-796, and 34-10484 when combined shall not exceed a total diversion rate of 0.28 cfs and the irrigation of 11 acres.
8. 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.
9. The applicants agree 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.
10. This temporary change does not grant any right-of-way or easement to use the diversion works or conveyance works of another person or entity.
11. The Watermaster of Water District No. 34 is authorized to administer the temporary change approval.
12. This temporary change approval expires on October 15, 2022 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 17th day of June, 2022.



James Cefalo
Eastern Region Manager

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

MAY 16 2022

TC-34-209

TEMPORARY CHANGE APPLICATION Department of Water Resources
Eastern Region

(To change point of diversion, place of use, or purpose of use of a water right upon declaration of a drought emergency in accordance with Section 42-222A, Idaho Code.)

Name of Applicant Sunset Farm & Ranch LLC Phone 208-431-5957
Mailing Address 1450 W. Highway 24, Paul, ID 83347 Email _____

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 explain the reason(s) they are needed. _____

~~Applicant is leasing WR 34 7075 which is diverted from Applicant's well under Applicant's 34 14472. This transfer will authorize use of groundwater to irrigate 80 acres of land leased by Applicant from the owner of 34-7075 (Larry Quist) as surface water is not likely available for this property.~~

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
34-7075	8/18/1974	0.21 cfs	Irrigation	4/15 to 10/15
				to
				to
				to

2. Total amount of water being transferred 0.21 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Ground water tributary to None listed on WR

4. Point(s) of diversion:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag number
04N	26E	3		SE	SE	NW	Butte	Ground water	Quist Exchange Well

5. Lands irrigated or place of use:

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	27E	8											40	40					78.80
													38						

Total Acres 78.80

6. General Information:

- a. Who owns the water right to be changed? Larry Quist
- b. Describe the arrangement allowing use of the right. Applicant is leasing WR 34-7075 from Larry Quist.
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
11 acres of land will not be irrigated under 34-7075 or any other stacked WR. See attached map.
- d. Has the water right sought to be transferred been used this year? ☐ Yes ☒ No If yes, explain. _____
- e. Absent the changes, how would the right be used for the remainder of the year? Because of lease agreement with Applicant in prior years, all water diverted from well has been used by Applicant.
- f. Describe other water rights used for the same purpose. 34-13413 (Ferris Slough WR)
- 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.

Robert L. Harris
Signature of Applicant

May 16, 2022
Date

FOR DEPARTMENT USE ONLY

Received by C+H Date 5/16/22 \$50 fee received by C+H Receipt No. E048151
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:

see attached order

Temporary Change Expiration Date _____

Signed this _____ day of _____, _____.

For the Director

IDAHO DEPARTMENT OF WATER RESOURCES

WATER RIGHT REPORT

5/16/2022

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 34-7075

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	LARRY QUIST 2210 N 2900 W ARCO, ID 83213-8798 2085416339
Original Owner	ARTHUR W QUIST RT 1 BOX 54 ARCO, ID 83213

Priority Date: 08/18/1974

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	4/15	10/15	0.21 CFS	
Total Diversion			0.21 CFS	

Location of Point(s) of Diversion:

GROUND WATER	SESENW	Sec. 03	Township 04N	Range 26E	BUTTE County
GROUND WATER Injection	NWNWNW	Sec. 26	Township 04N	Range 26E	BUTTE County
GROUND WATER Rediversion	NWNWNW	Sec. 26	Township 04N	Range 26E	BUTTE County

Place(s) of use:

Place of Use Legal Description: IRRIGATION BUTTE County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
03N	27E	8		NENE	11									

Total Acres: 11

Conditions of Approval:

1. POINT OF INJECTION INTO AND REDIVERSION FROM THE BIG LOST RIVER.
2. USE OF THIS RIGHT IS LIMITED TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 38.5 AF. USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.28 CFS. COMBINED RIGHT NOS.: 34-02491E, 34-00796 AND 34-10484. THIS RIGHT AND RIGHT NOS. 34-14772, 34-12421 AND 34-07181 ARE LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 7.07 CFS.
3. THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS APRIL 1 AND MAY CONTINUE TO AS LATE AS OCTOBER 31, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE APRIL 15 AND AFTER OCTOBER 15 UNDER THIS REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.
4. USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 11 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 34-02491E, 34-00796 AND 34-10484.
5. C18 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. SECTION 42-1412(6), IDAHO CODE.
6. WATER IS DELIVERED THROUGH THE ISLAND DITCH AND THE ARCO CANAL. RIGHT NOS. 34-07181 AND 34-14772 ARE ALSO DIVERTED THROUGH THE POINT OF DIVERSION DESCRIBED ABOVE.

Dates:

Licensed Date:

Decreed Date: 12/14/2001

Permit Proof Due Date: 10/1/1979

Permit Proof Made Date: 10/11/1979

Permit Approved Date: 10/9/1974

Permit Moratorium Expiration Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date: 08/09/1974

Protest Deadline Date:

Number of Protests: 0

Other Information:

TEMPORARY TRANSFER



Legend

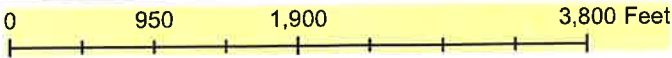
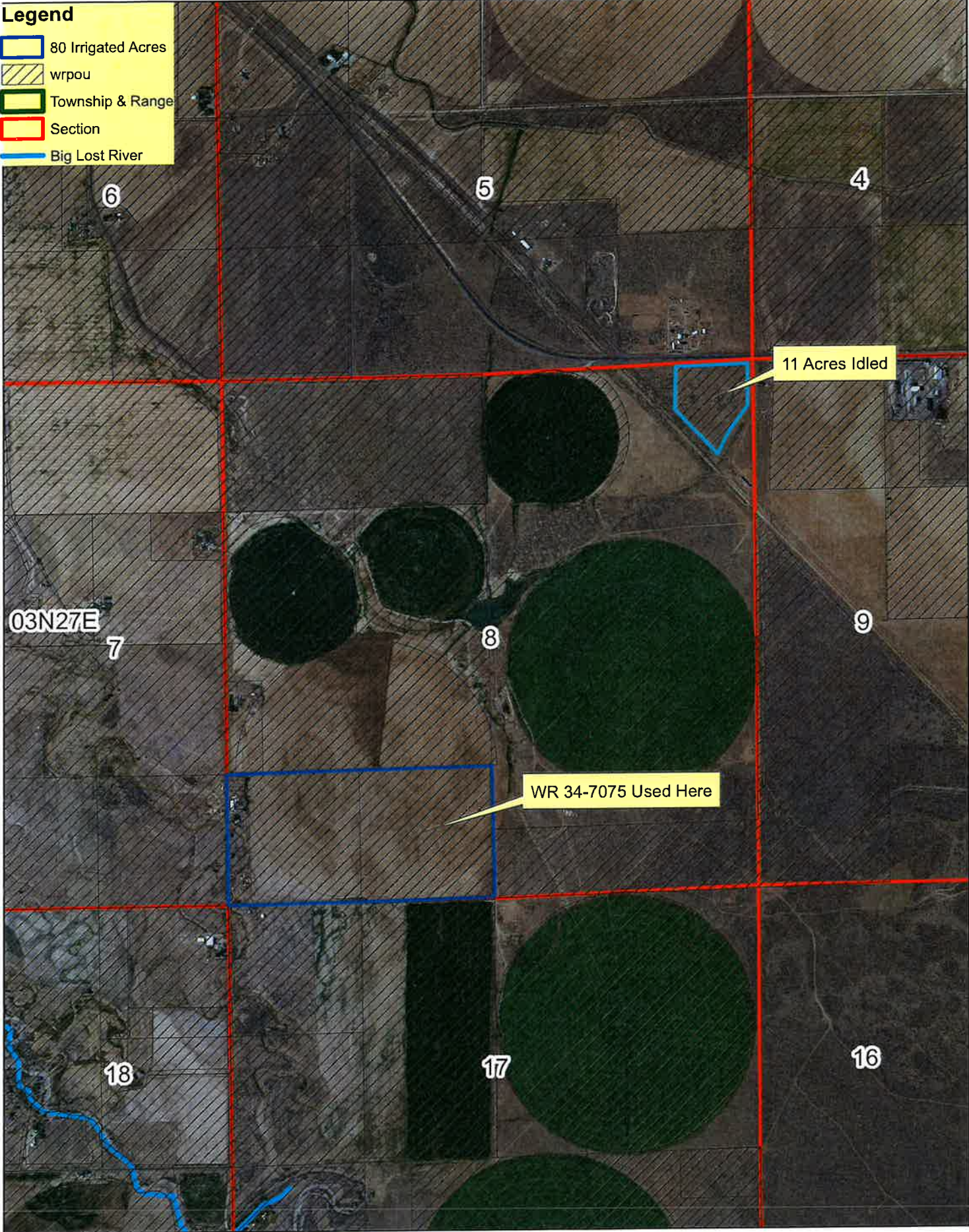
80 Irrigated Acres

wrpou

Township & Range

Section

Big Lost River



Holliday, Michael

From: Rob Harris <rharris@holdenlegal.com>
Sent: Monday, June 13, 2022 5:51 PM
To: Holliday, Michael
Subject: TC-34-209
Attachments: 83745 Preliminary Order Approving Transfer & Transfer Approval.pdf; DOC061322.pdf

Michael:

I received three Telford/Sunset temporary transfers today, and thank you again for all of your work on these.

This email relates to TC-34-209. Attached is an amended 1st page of Sunset's lease with Larry Quist, which now includes WR 34-7075. This should allow for approval of TC-34-209.

Also attached is a preliminary order affirming defenses to forfeiture to WR 34-7075 (which is now an 11-acre portion of the original 34-7075) on pages 7-9. Sunset owns the majority portion of what was 34-7075, so the same analysis applies to the current 34-7075. If you would like me to discuss this with you further by phone, just let me know.

Thanks,



Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, PLLC
1000 Riverwalk Drive, Suite 200
P.O. Box 50130
Idaho Falls, ID 83405-0130
Phone: (208) 523-0620
Fax: (208) 523-9518
E-Mail: rharris@holdenlegal.com

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Agricultural Lease Agreement

(Cash Rent)

RECEIVED
JUN 14 2022
Department of Water Resources
Eastern Region

THIS AGRICULTURAL LEASE AGREEMENT (this "Agreement") is made and entered into to be effective as of the 10 day of MAY 2022 (the "Effective Date"), by and between Larry Quist, a single man whose address is 2210 North 2900 West, Arco, Idaho 83213 (hereinafter, "Lessor"); and Sunset Farm & Ranch LLC, an Idaho limited liability company, whose address is 1450 W. Highway 24, Paul, Idaho 83347 (hereinafter the "Lessee"). Lessor and Lessee are individually a "Party" and together the "Parties".

RECITALS:

- A. Lessor is the owner of farm property and certain water rights. Lessor desires to lease all his water rights and a portion of his farm property consisting of approximately one hundred eighty (180) acres to Lessee. The property and water rights are described as:

SW1/4SW1/4 and SE1/4SW1/4, Section 8, Township 03N., Range 27E.B.M.

East 100 Acres of the NW1/4, Section 17, Township 03N., Range E.B.M.

Water Right No's. 34-7149, 34-7181, 34-7225, 34-10678, 34-10679, 34-10680, 34-7075, 34-12421, and 34-13414; Storage water from the Big Lost River Irrigation District associated with the above-described property.

A map depicting the above-described land is attached hereto as Exhibit 1. The above-described property and water rights are referred to hereafter in the Agreement as the "Leased Property".

- B. Lessor desires to lease to Lessee the Leased Property pursuant to the terms and conditions of this Agreement.

IN CONSIDERATION of the mutual representations, warranties, and covenants contained herein, the Parties, intending to be legally bound hereby, agree as follows:

AGREEMENTS:

1. **Leased Property:** Upon and subject to the terms and conditions of this Agreement, the Lessor hereby leases to Lessee, and Lessee hereby leases from the Lessor, the Leased Property.
2. **Term:** Subject to the renewal provisions of this paragraph, the term for this Agreement is for an effective date of May 10 2022 terminating on Jun 1 2023. Parties to agree no later than Oct 1 22 for renewal of lease.

12/99

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
RECOMMENDATION OF WATERMASTER**

Application No: TC-34-209

Applicant's Name: SUNSET FARM + RANCH

Watermaster's Recommendation:

a) LY I do not oppose approval of this application.

b) _____ I do not oppose approval of this application if it is conditioned as follows: _____

c) _____ I oppose approval of this application for the following reasons: _____

d) _____ Additional Comment: _____

Dated this 24 day of May, 2022

Water District No: 34

[Signature]
Watermaster's Signature

Use reverse side of page if you need more space.

Holliday, Michael

From: General Manager <blridgm@atcnet.net>
Sent: Thursday, June 16, 2022 4:27 PM
To: Holliday, Michael
Subject: RE: TC-34-209

The BLRID does not oppose this application.

Thanks

From: Holliday, Michael <Michael.Holliday@idwr.idaho.gov>
Sent: Wednesday, June 15, 2022 2:54 PM
To: General Manager <blridgm@atcnet.net>
Subject: TC-34-209

Lucas,

Attached is temporary change application TC-34-209. I already have the watermaster comment for this one, but I still need BLRID consent. Thanks.

Michael Holliday
Water Rights Supervisor
Phone: 208-525-7161
Fax: 208-525-7177